

# Employment Matters Committee – Supplementary agenda

**A meeting of the Employment Matters Committee will be held on:**

**Date:** 18 February 2014

**Time:** 7.00pm

**Venue:** Meeting Room 2 - Level 3, Gun Wharf, Dock Road, Chatham ME4  
4TR

## Items

**5 Pay and Grade Review**

**(Pages  
3 - 16)**

Further to the agenda published on 10 February 2014, attached is the report on the Pay and Grade Review.

This report will also be considered by the Joint Consultative Committee on 18 February 2014

**For further information please contact Wayne Hemingway, Democratic Services Officer on Telephone: 01634 332509 or Email: [democratic.services@medway.gov.uk](mailto:democratic.services@medway.gov.uk)**

**Date: 14 February 2014**



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## **EMPLOYMENT MATTERS COMMITTEE**

**18 FEBRUARY 2014**

### **PAY AND GRADE REVIEW**

Report from: Tricia Palmer, Assistant Director, Organisational Services

Author: Tricia Palmer, Assistant Director, Organisational Services

#### **Summary**

To update the Committee on the progress of the Pay and Grade Review Project and the collective dispute with the trade unions and to agree any recommendations from the Joint Consultative Council.

#### **1. Budget and Policy Framework**

- 1.1 The staffing implications of pay and grading are a matter for this committee, which can decide on the policies and processes supporting any changes in staffing.

#### **2. Background**

- 2.1 On 6 February 2014 the Committee agreed to recommend to Full Council the revised pay structure (known as Option 4). In addition the Committee also decided the following:
- Agreed the current protection arrangements be increased to 100% for years one to three, 75% for year four and 25% in year five.
  - Agreed the revised annual leave and notice periods as detailed in section 7 are adopted for those staff below service manager.
  - Agreed the principles of pay progression as set out in Section 4 of the report.
  - Noted that consultations with the trade unions will continue on the job evaluation appeals procedure, the competency framework, and the detail of the pay progression scheme.
  - Agreed in the event that a collective agreement cannot be reached that the Assistant Director, Organisational Services is delegated authority to undertake the necessary dismissal and reengagement process. Should it be necessary to unilaterally change individual contracts of employment, that the dismissal appeal process be amended as set out in decision vi) below.

- Agreed to delegate the power to consider, hear and determine appeals against dismissal resulting from the Pay and Grade Review to the Council's Directors, Assistant Directors and Service Managers.
  - At the Joint Consultative Committee prior to the Employment Matters Committee the trade unions made it clear they were in collective dispute with the employer, but also put forward some alternative proposals for consideration. This paper updates the Committee on the collective dispute and the alternative proposals.
- 2.2 This means that subject to decision on funding by Full Council on 20 February 2014, the new pay and grade scheme will be implemented from 1 April 2014.

### **3. Collective Dispute**

- 3.1 However, the trade unions are continuing to maintain that they are in collective dispute with the Council for failing to undertake meaningful consultation with them in relation to the implementation of the new pay and grade scheme and in particular the detail of the introduction of a pay progression scheme. The Collective Disputes Procedure is attached at Appendix 1. The background is as follows.
- 3.2 On 17 January 2014 the trade unions e mailed the AD, Organisational Services requesting further details on the pay progression scheme and these details together with the proposed JE appeal procedure and the Equality Impact Assessments were emailed to them on Monday 20 January 2014. The trade unions then lodged a collective dispute saying that the consultation had not been meaningful as they had not had sufficient detail on the pay progression proposals. The Chief Executive and the AD, Organisational Services then meet with the trade unions on 27 January and 3 February 2014 under stage 2 of the collective disputes procedure in an attempt to resolve the position. At the 27 January meeting the trade unions were given until 19 February to comment on the proposed pay progression scheme and the job evaluation appeals procedure. No comments have been received so far.
- 3.3 At the meeting on 3 February the Chief Executive put forward a proposal (subject to the funding being agreed by Full Council on 20 February 2014) of a payment equivalent to an overall 0.5% to all employees affected by the pay and grade review. The trade unions indicated that they would not be recommending this to their members, but would put it to them at a meeting on 4 February and come back to the employer. The Council has had no feedback from the trade unions on their meeting, but they did put forward alternative proposals at the JCC on 6 February. The Chief Executive wrote to the trade unions on 6 February as a formal response within the Stage 2 of the Collective Disputes procedure, giving them until 13 February 2014 to accept or reject the proposal of a lump sum payment. To date no formal response has been received on this.
- 3.4 Stage 3 of the Collective Disputes procedure allows for the matter to be considered by a JCC and this is being held on 18 February 2014. A verbal update on the outcome will be given at this meeting.
- 3.5 The trade unions also dispute that we are now at stage 3 of the Collective Disputes procedure, as the Council did not undertake Stage 1 of the procedure. Stage 1 is an informal part of the process and allows for informal

resolution by the Head of HR. As the trade unions had requested a meeting directly with the Chief Executive this was agreed and a formal meeting was held. Stage 1 was not requested or appropriate as the Head of HR did not have the authority to resolve such a significant matter.

- 3.6 The trade unions have now submitted a written collective disputes form stating the following:

Unions have agreed that the grievance is as follows:

1. Critical documentation was not supplied in time for meaningful consultation. As a result the Unions cannot recommend any option to members.
2. Current procedures are not fit for purpose and need consultation if they are to be used for Contribution based pay.
3. The proposed new procedures and the current procedures to be used must be formally consulted upon and this will take some time.
4. Manager training is a significant issue. This must be completed before any PRP scheme begins
5. An appraisal monitoring scheme must be in place with adequate resources before the PRP scheme begins
6. The Council appear to be failing to follow the collective Disputes Procedure.

- 3.7 The Chief Executive heard all the issues above, apart from point 6 of the grievance. As a result the consultation period was extended by a further month to 19 February 2014. However the Council does not agree that the current procedures in point 2 are not fit for purpose. It would appear that this relates mainly to the capability procedure, which has been previously agreed by this Committee and remains unchanged. There is no dispute that this is a significant change and that management training will need to take place and this is planned for March, April, May with further sessions in the Autumn.

- 3.8 In addition the Council has confirmed that it is prepared to consider a pause before implementation of the new pay progression scheme to enable further discussions to take place and appropriate training to be given. It is therefore difficult to understand what is still at dispute here.

#### **4. Alternative Proposals from the Trade Unions**

- 4.1 At the Joint Consultative Committee the trade unions put forward the following alternative proposals:

- Continue with option 1 as a holding position together with a 0.5% pay award. (This would cost the Council £400,000).
- Accept option 4, delay the implementation of the pay progression scheme for 12 months together with a 1% pay award. (This would cost the Council approximately £1.2m.)

- 4.2 This was discussed at the previous Employment Matters Committee but not considered for decision.

## 5. Trade Union Pay Claim

- 5.1 The trade unions submitted a pay claim on 5 February 2014 and this is attached at Appendix 2. The claim asks for the following:
- That Medway council recognises and commits to the National living wage.
  - Medway will be aware the Employees have not had any pay award since 2009 and this has amounted to a 20% pay cut due to the increase in the cost of living therefore staff side find (stet) a 5% pay claim for 2014; or
  - Nationally the Trade Unions who represent government Employees have made a pay claim for £1 per hour for staff, this would help staff close a significant gap in earnings that they have lost over the past 5 years and will help to protect staff from inflation that is expected to remain high for 2014 / 2015.

The cost of a 5% pay award would be in the region of £4m and an additional £1 per hour would be a similar sum.

- 5.2 Throughout the discussions with the trade unions it has been made clear that there is no money on the table for a cost of living rise and any funding available will be used to implement a new pay and grade scheme. In addition the agreed protocol for negotiating cost of living pay rises requires the trade unions to submit any claim in October of the preceding financial year to enable discussions and any proposals to be included in the budget setting process. Clearly this has not occurred.

## 6. Advice and Analysis

- 6.1 The Council is concerned that it has not been able to resolve this matter and get a collective agreement, which will enable a smooth transition from one pay scheme to another. Discussions will continue with the trade unions with a view to reaching some form of consensus. The outstanding issue at stake here appears to be the detail of the pay progression scheme which can be resolved through continuing dialogue.

## 7. Risk management

<b>Risk</b>	<b>Description</b>	<b>Action to avoid or mitigate risk</b>
The funding of a new pay and grade scheme.	Year one costs incurred by potential increases in grade.	Robust financial pay modelling.
Possible detrimental impact on the morale of the workforce.	The risks of implementing a new pay and grading structure are related to the morale and goodwill of employees, who may see this as a further attempt by the council at eroding their pay following the freezing of increments and the withdrawal from pay-related NJC terms.	Ongoing consultation and communication as well as robust training and briefings for managers and staff to allay fears.
Breakdown in relationships with the trade unions and the impact on employees.	The risk here is a deterioration of employee relations with the consequent difficulties in resolving issues informally and working together harmoniously on employee related matters.	Continue dialogue with the trade unions and attempt to find common ground to resolve the issues.

## **8. Consultation**

- 8.1 Consultation with the trade unions has been undertaken via the Corporate Consultative Committee, Joint Consultative Committee and ad hoc meetings when required. Employees have been formally and informally consulted on the proposals.
- 8.2 This paper covers in detail the on-going consultations and dialogue with the unions. In addition the Chief Executive and the AD, Organisational Services have meet with managers and employees in roadshows and workshops over the last two weeks to update them on the issues and answer concerns and questions.

## **9. Financial and legal implications**

### **9.1 Financial implications**

The financial implications of the trade unions alternative proposals and their pay claim are shown in sections 4 and 5. This Committee can only recommend to Full Council any proposals which are outside the current budget.

### **9.2 Legal Implications**

The implementation of a new grading structure and the introduction of the MedPay Progression Award Scheme would necessitate a change to the current contractual terms and conditions of employment for council employees. In order to implement these changes, it will be necessary for the council to enter into a collective agreement with the recognised trade unions or reach individual agreements with employees to vary existing contracts or terminate existing contracts and re-engage employees on new contracts including the new terms. The effect of a collective agreement is that the proposal would become binding on individual contracts of employment.

- 9.3 In the absence of a collective agreement, the council could reach agreement with individual employees to agree a variation to their current contracts of employment where upon the employees new grade and salary would be incorporated into the individual employee's contract of employment.

- 9.4 The council would have the ability to vary unilaterally the existing contracts of employment, by issuing the employee with the contractual notice to terminate their current employment contract and then issue the new contract of employment incorporating the new terms and conditions of employment. If the individual employee maintains an objection to the new terms imposed, a right of appeal would be available and details of the appeal process would be provided at that time There is a risk that legal challenges may be brought should agreement not be reached with employees either individually or collectively with the trade unions as the termination and offer of re-engagement amounts to a dismissal in law.

- 9.5 In the absence of a collective agreement to the proposed changes to employees' terms and conditions, the Council would need to dismiss employees and offer to re-engage them on the new terms. Even though the Council would offer employees continuing employment on revised terms, the termination of the existing contract would constitute a dismissal in law.

Appeals against such a dismissal would therefore need to be considered and determined by Employment Matters Committee.

9.6 The Council must ensure that the process for any changes to contracts of employment complies with the required statutory obligations to inform and consult employees both collectively and individually under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 and in addition complies with its re-organisation procedures.

9.7 In order to minimize the impact and anxiety for employees the Council proposes to request individuals to voluntarily sign up for the new contracts, thereby avoiding the need to dismiss and re-engage.

## **10. Recommendations**

10.1 The Committee is asked to:

- (i) Note the position of the employer and the trade unions on the collective dispute and consider any proposals from the JCC.
- (ii) Note the trade unions pay claim and make a recommendation to full Council not to accept the pay claim
- (iii) Review the alternative proposals from the trade unions
- (iv) Confirm the proposal for a pause on the implementation of the pay progressions scheme until the end of June to allow for further discussion and training of managers

Lead officer contact

Tricia Palmer, Assistant Director, Organisational Services

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### **Background papers**

Employment Matters Committee Report 18 April 2013

Employment Matters Committee Report 4 July 2013

Employment Matters Committee Report 26 September 2013

Employment Matters Committee Report 20 November 2013

Employment Matters Report 6 February 2014





# **Medway Council Collective Disputes Procedure (April 2012)**



## **1.0 Introduction**

- 1.1 Medway Council and the Trade Unions recognise how important it is to maintain constructive relationships whilst resolving collective disputes and differences and to work together, using agreed procedure, to resolve disputes.
- 1.1 This procedure sets out agreed stages for resolving collective disputes fairly, with the minimum of delay and with the intention that issues are settled at the lowest operational level, after informal discussions have taken place and the matter has not been settled.

## **2.0 Equalities Statement**

- 2.1 Medway Council is committed to providing equal opportunities and access to all. This procedure embraces the spirit of managing a diverse workforce and those dealing with collective disputes must ensure that no employee(s) are discriminated against either directly or indirectly or victimised on the grounds of their race, disability, sex, sexual orientation, religion or belief, age, marital or civil partnership status or any stage of gender reassignment.

## **3.0 Core Values and council objectives**

- 3.1 This policy supports the council's Core Values. The council believes that a consistent approach to employee management, and well-being is fundamental to the delivery of quality services to the public.

## **4.0 Scope**

- 4.1 This policy applies to all staff excluding those covered by the School Teachers Pay and Conditions Document.

## **5.0 Principles**

- 5.1 A dispute, in the context of this procedure, is defined as a matter concerning a number of employees, which is pursued on their behalf by one or more representatives of the trade unions recognised by Medway Council. Such matters would be connected with the employees' work or working environment and would exclude those items dealt with through other agreed procedures.
- 5.2 The status quo (i.e. the working and management arrangements which applied before the dispute) should operate until the procedure has been exhausted.
- 5.3 This procedure has been agreed between representatives of the recognised trade unions and Medway Council and it is therefore in the interests both of employees and of Medway Council that this is adhered to.

- 5.4 Disputes should be dealt with as speedily as possible and the time limits expressed are those regarded as the normal maximum time although they may be extended in order to continue negotiations. The aim is that any dispute should be resolved within two months of the date when it was first brought formally under Stage One of the procedure. If a dispute is identified as requiring referral to the next stage this should normally be undertaken within a time limit of five working days and should be made in writing setting out the issues in dispute

## **6.0 The Procedure**

### **6.1 Stage One - Informal Process**

- 6.2 Issues raised by the recognised trade unions relating to corporate matters should be referred, in writing, to the Head of HR Services. The Head of HR Services will convene a Stage One meeting with the trade unions within ten working days of the request being received to attempt to resolve the matter informally.

### **6.3 Stage Two - Formal process**

- 6.4 If the matter cannot be resolved informally the trade union should complete the Collective Disputes Complaint Form (appendix one) and submit it to the Assistant Director, Organisational Services within five working days of the Stage One informal meeting. The form must include the remedy that the trade unions are seeking on behalf of the workforce.

- 6.5 The Assistant Director, Organisational Services will convene a Collective Disputes Meeting with the trade unions within ten working days of the request being received to attempt to resolve the matter.

- 6.6 The result of the Collective Disputes Meeting will be notified in writing within five working days (or other period agreed by both parties). It may be necessary to hold more than one meeting. Timescales will be agreed between the parties.

### **6.7 Stage Three – Final Stage**

- 6.8 If the decision remains in dispute the trade unions will respond to the Assistant Director, Organisational Services in writing, within five working days of receiving the decision. The Assistant Director, Organisational Services, will arrange at the earliest convenience for the Joint Consultative Committee to consider the issues and seek resolution of the dispute, either by recommending a course of action which can be undertaken either under officers' delegated authority or the Employment Matters Committee.

- 6.9 If the dispute cannot be resolved internally the matter will be referred to an external body for the purposes of mediation, conciliation or arbitration with the agreement of all parties.



## Medway Council Collective Disputes Complaint Form

This form is intended for use by the trade union (s) submitting the collective dispute.

Trade Unions should try to resolve the matter informally by raising the issue initially with the Head of HR Services.

Where informal discussions have not resulted in resolution of the issue, this form should be completed and Stage Two of the Collective Disputes Procedure will be invoked.

This form should be completed and sent to the Assistant Director, Organisational Services, Gun Wharf, Dock Road, Chatham, Kent. ME4 4TR

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**.You must complete all boxes:**

**Summary of dispute:** Set out the details of the dispute. (Use continuation sheet if necessary)

**Informal action to resolve the issue:** State the date you met with the Head of HR Services to resolve the dispute informally and why the issue was not resolved. (Use continuation sheet if necessary).

**Outcome requested:** Set out the remedy you are seeking from the dispute, and why and how you believe that this will resolve the issue (Use a continuation sheet if necessary).

**Form completed by:**  
Enter name (s) and signature (s) and Trade Union (use a continuation sheet if necessary).

<b>For completion by the Head of HR Services</b>	
Informal meeting undertaken	Date:
Collective Dispute Form Received	Date:
Collective Dispute Meeting Scheduled for	Date:

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## Medway Branch

Dear Neil,

Re: 2014 pay claim.

In my role as chair for staff side I am writing to in regard to the 2014 pay claim.

Claim 1/

That Medway council recognises and commits to the National living wage.

Claim 2/

Medway will be aware the Employees have not had any pay award since 2009 and this has amounted to a 20% pay cut due to the increase in the cost of living therefore staff side find a 5% pay claim for 2014.

Claim 2/a (proposed in place of claim 2/)

Nationally the Trade Unions who represent government Employees have made a pay claim for £1 per hour for staff, this would help staff close a significant gap in earnings that they have lost over the past 5 years and will help to protect staff from inflation that is expected to remain high for 2014 / 2015.

Mike Ongley – GMB Union General Branch

Tania Earnshaw – Unison Medway towns local Government Branch

Sue Blanks – Unite Medway Branch

Claire Dent – Prospect

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