

Medway Council
Meeting of Employment Matters Committee
Wednesday, 18 July 2012
7.00pm to 8.05pm

Record of the meeting

Subject to approval as an accurate record at the next meeting of this committee

- Present:** Councillors: Avey, Christine Godwin, Paul Godwin, Iles, Irvine and Mackinlay
- Substitutes:** Councillors:
Kemp (Substitute for Carr)
- In Attendance:** Elizabeth Benjamin, Senior Lawyer - Litigation
Paula Charker, Employee Relations Manager
Ralph Edwards, Head of HR
Wayne Hemingway, Democratic Services Officer
Tricia Palmer, Assistant Director, Organisational Services

193 Election of Chairman

Councillor Avey was elected as Chairman for this meeting.

194 Record of meetings

The record of the meeting held on 11 April 2012 and the Joint Meeting of All Committees held on 16 May 2012 were agreed and signed by the Chairman as correct.

195 Apologies for absence

An apology for absence was received from Councillor Carr.

196 Urgent matters by reason of special circumstances

There were none.

197 Declarations of Disclosable Pecuniary Interests

Councillor Paul Godwin declared a disclosable pecuniary interest in agenda item 10 (Budget Proposals and Implications for Staff) because he was a Non-Executive Director of the Kent and Medway NHS and Social Care Partnership Trust and left the meeting for this item.

Employment Matters Committee, 18 July 2012

Councillor Christine Godwin declared a disclosable pecuniary interest in agenda item 10 (Budget Proposals and Implications for Staff) because her partner (Councillor Paul Godwin) was a Non-Executive Director of the Kent and Medway NHS and Social Care Partnership Trust and left the meeting for this item.

198 Grievance and Harassment Procedure

Discussion:

The Employee Relations Manager introduced a report which set out the proposals to implement new Grievance and Harassment Procedures for non-schools and schools based staff. The new procedures would replace the existing Grievance Procedure and Dignity at Work Policy.

The Employee Relations Manager explained the main changes to the scope of the procedures and informed the Committee that paragraph 4.2 (ii) of the report did not apply and was not reflected in the new procedures.

Members discussed the new procedures and sought clarification on whether there was a collective agreement between the Council and the trade unions. It was reported that no comments had been received from the trade unions in response to the consultation on these new procedures. The process for consulting with trade unions was explained and discussed and the subsequent status of such policies and procedures where a collective agreement had not been achieved.

Decision:

1. The Committee agreed to the implementation of the Grievance and Harassment Procedures for non-school employees and school employees.
2. The Committee agreed to instruct officers to review the two procedures bi-annually and report back to the Committee when necessary with any proposed changes.
3. The Committee agreed to ask officers to clarify in future reports how consultation has been undertaken and where collective agreements with trade unions have been achieved.

199 Capability Procedure

Discussion:

The Head of HR introduced a report which set out a revised Capability Procedure, the aim of which was to encourage good performance, and streamline the processes by which the Council managed employees' poor performance.

Employment Matters Committee, 18 July 2012

He informed the Committee that the current procedure had been agreed in 2008 and that the revised procedure had built upon the strengths and weaknesses of the current policy. He reported that the revised procedure complied with ACAS guidance in that it continued to provide employees with the right to have a formal meeting, to be accompanied and to the right of appeal against a decision to dismiss. He also reported that the trade unions had been consulted but no responses had been received.

Members discussed the revised procedure including: the proposed change to remove the previously automatic step of considering the employee for redeployment to another post within the Council (paragraph 4.1 (vi) of the report); what constituted poor performance of a highly serious nature and whether the revised procedure linked in with the Managing Sickness Absence Procedure (paragraph 4.5.2 of the report) and; the development of the schools' procedure.

Officers responded that the proposed removal of the automatic step of considering the employee to another post would take away the expectation/requirement to do so but would remain in the Managers' Toolkit. Poor performance of a highly serious nature related to, for example, incidents of gross incompetence of a professional nature. The Capability Procedure and the Managing Sickness Absence Procedure did link in around poor performance due to ill health and that following the receipt of Department for Education guidance, it was likely that a schools' Capability Procedure would be presented to the Committee for consideration in September 2012.

Members considered that the issue of considering an employee for redeployment should be consistent in both the Capability Procedure and Managers' Toolkit and that the procedure be amended to reflect that employees be considered for redeployment when appropriate.

Decision:

The Committee agreed the revised Capability Procedure, for non-school employees, as set out in Appendix 1 to the report subject to the inclusion of a suitably worded clause to include a step of considering an employee for redeployment to another post within the Council when appropriate.

200 Collective Disputes Procedure

Discussion:

The Head of HR introduced a report which set out proposals for the introduction of a Collective Disputes Procedure, which would apply on occasions when union representatives may raise issues relating to large-scale council policy that affected all or nearly all employees and where industrial action may be threatened. This could include issues such as car parking or mileage allowances.

Members discussed the proposed procedure including the need for clarification on Stage 3 including the referral of a matter to the Joint Consultative

Employment Matters Committee, 18 July 2012

Committee and whether there was a right to refer the matter to an outside organisation, eg ACAS, for resolution, following the exhaustion of the Council's mechanisms.

Decision:

The Committee agreed to the implementation of the Collective Disputes Procedure subject to:

- Stage 3 of the procedure being amended to include the right to refer the matter to an outside organisation, eg ACAS, for resolution, following the exhaustion of the Council's mechanisms.
- The following amendment to Stage 3 of the procedure: "The Assistant Director, Organisational Services, ~~may~~, **will**, if necessary arrange, at the earliest convenience..."

201 Bribery Act Policy

Discussion:

The Assistant Director, Organisational Services, introduced a report which set out the proposals for an Anti-Bribery Policy in response to the provisions for the Bribery Act 2010. As a consequence, it was proposed to make some amendments to the Employee Code of Conduct, as set out in paragraph 5.2 of the report.

Members were updated on the views and comments of the Audit Committee including the greater emphasis being placed on collective working, and it was noted that the Monitoring Officer had undertaken to strengthen the role of partners within the policy by reinforcing their role in protecting against bribery. Consideration was given as to, as a minimum, expecting other organisations to have a similar anti-bribery policy.

Members sought further clarification as to whether contractors were captured by the policy, and the size of contractors expected to have similar policies in place. The Committee expressed concern that small scale contractors of Council services would not have similar policies in place and that small businesses could be unduly burdened by the Council's expectations.

Decision:

1. The Committee sought further information regarding the definition and types of partners and suppliers that would be expected to have similar policies in place and this be included in the addendum report to Council on 26 July 2012.
2. The Committee noted the views of the Audit Committee and referred the Bribery Act Policy, as set out in Appendix 1, to Council for approval.
3. The Committee referred the additions to the Employee Code of Conduct, as set out in paragraph 5.2 above, to Council for approval.

This record is available on our website – www.medway.gov.uk

202 Use of People Resources

Discussion:

The Assistant Director, Organisational Services, introduced a report which set out the position of the Council's use of external consultants for specific pieces of project work. The Assistant Director informed the Committee that there was specific guidance for managers to use to determine whether an individual within their service was working under a contract of employment (i.e. an employee) or a contract for services (i.e. self-employed). She noted that on some occasions, decisions made on this issue would be reviewed by external bodies, such as HMRC. There would be some occasions where it would be appropriate to use external consultants and that the cost of this would need to be compared against Council employees where on-costs, such as pension contributions, national insurance contributions, training, annual leave, increased the overall cost of employment to the Council.

Members discussed the issues raised in this report and considered that there were issues which fell outside the terms of reference for this Committee, including, in particular, the issue of value for money, therefore, it would be more appropriate for the Business Support Overview and Scrutiny Committee to consider this issue in more detail.

Decision:

1. The Committee noted the information in this report.
2. The Committee endorsed the provision of further guidance for managers to clearly state how and when to engage consultants and to include in the contract for services clauses such as break clauses, output based specifications and how to manage a consultant.
3. The Committee referred the issue of Use of People Resources to the Business Support Overview and Scrutiny Committee for further consideration.

203 Budget Proposals and Implications for Staff

Discussion:

The Employee Relations Manager introduced a report which set out the position on new reviews and staff transfers and a summary of employment tribunals lodged. She highlighted particular issues and updated Members on specific issues if there had been any changes following the despatch of this report including: MACLS (paragraph 3.5) – the Gillingham based caretakers had proposed to carry out cleaning tasks and it was likely that this counterproposal would be accepted; Brook Theatre (paragraph 3.14) – following consideration of the proposal, it was not possible to outsource this service.

Employment Matters Committee, 18 July 2012

Members discussed a number of issues in the report including Deangate Ridge Golf Course where it was confirmed that this related to the pro-shop on site. Members thanked officers for providing a comprehensive and informative report.

Decision:

The Committee noted the present position and the support arrangements for staff.

204 Exclusion of the Press and Public

Decision:

That the press and public be excluded from the meeting during consideration of the exempt material relating to agenda item 12 (Early Retirement and Severance Payments) because consideration of these matters in public would disclose information falling within paragraph 1 of part 1 of Schedule 12A to the Local Government Act 1972 and, in all the circumstances of the case, the Committee considered that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

205 Early Retirement and Severance Payments

Discussion:

This report provided information on early retirements and severance decisions between February 2012 – May 2012.

Decision:

The Committee noted the report.

Chairman

Date:

Wayne Hemingway, Democratic Services Officer

Telephone: 01634 332509

Email: democratic.services@medway.gov.uk