

Medway Council
Meeting of Employment Matters Committee
Wednesday, 3 September 2014
7.00pm to 7.32pm

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, Mackinlay and Wicks (Chairman)
- Substitute:** Councillor:
Royle (Substitute for Irvine)
- In Attendance:** Elizabeth Benjamin, Principal Lawyer
Wayne Hemingway, Democratic Services Officer
Tricia Palmer, Assistant Director, Organisational Services
Tim Silver, Employee Relations Manager

274 Record of meeting

The record of the meeting held on 25 June 2014 was agreed by the Chairman as correct.

275 Apologies for absence

Apologies for absence were received from Councillors Clarke and Irvine.

276 Urgent matters by reason of special circumstances

There were none.

277 Declarations of disclosable pecuniary interests and other interests

Disclosable pecuniary interests

There were none.

Other interests

There were none.

278 Review of the Right to Apply for Flexible Working Policy

Discussion:

The Employee Relations Manager introduced this report which provided details of proposed revisions to the Right to Apply for Flexible Working Policy. It was noted that the scope of the Policy had been broadened because the right to apply for flexible working had been previously restricted to only those employees with Child or Adult Care commitments, however, this requirement had now been deleted from the Children and Families Act 2014 and amended to now include all employees with 26 weeks' continuous service.

Consultation on these changes had taken place involving the trade unions and the employee forums, however, no representations had been received.

A Diversity Impact Assessment screening had been undertaken, as set out in Appendix 2 to the report, however, it was considered that a full Diversity Impact Assessment was not required.

The Committee discussed a number of issues including the following:

Whether there was further guidance available to Managers to assist how they would determine applications from employees under this policy and how the Council could ensure consistency from managers, including flexi time/flexible working and home working.

Officers stated that Managers worked with HR Business Partners to ensure that the determination of applications were justifiable and consistent and that a right of appeal was in place for any employees who were refused flexible working. It was considered more beneficial to the Council for Managers and HR to work through requests on a case by case basis rather than providing strict criteria to ascertain whether requests for flexible working were reasonable. Overall, it was considered that flexible working assisted with the retention of staff and would be supported as far as possible subject to there being no impact on service delivery.

Decisions:

- a) The Employment Matters Committee approved the revised Policy as set out in Appendix 1 to the report.
- b) The Employment Matters Committee agreed that this Policy be reviewed in two years' time and any proposed changes are referred to this Committee.

279 Employment Tribunal Settlements

Discussion:

The Assistant Director, Organisational Services, introduced this report which provided details of Employment Tribunal claims over the last five years, following the decision made at Full Council on 24 July 2014 to instruct officers to produce a report to the Employment Matters Committee detailing Medway Council's settlements of employment tribunals for the past ten years to examine any trends and potential improvements in practice. The report noted that records of tribunals were not held for ten years.

The report provided details of claims during the last five years against the Council together with the Council's approach to dealing with such claims.

The Committee discussed a number of issues including the following:

Councillor Paul Godwin informed the Committee that the Labour Group had raised this matter at the last Full Council meeting (24 July 2014) to ensure that this Committee had an overview of this area including the number of cases and the spend on settlements and awards.

The use and costs of external legal representation (specialist Barristers in employment law) at Tribunals and whether this provided value for money compared to the possibility of employing a specialist in-house barrister. Given that the report stated the cost of legal representation was approximately £2,000 per day, it was considered that the overall cost of legal representation and settlements could be in the region of £250,000 for the five year period. The Assistant Director, Organisational Services, informed the Committee that this option had previously been considered and there were not enough cases to justify the Council employing a specialist Lawyer for Employment Tribunals as this option was too costly.

The Principal Lawyer informed the Committee that the Council's in house Legal Team also conducted advocacy at employment tribunals on pre-hearing reviews, case management discussions and unfair dismissal claims. It was noted that that over the years Employment Tribunals had become increasingly formal which had not been the intention when they were first set-up. As employment tribunals are now formal court proceedings it is appropriate and necessary to use specialist barristers.

It was noted that there had been a decrease in the number of claims which could be attributable to the new fees regime in employment. Claimants were now charged fees to apply for an Employment Tribunal whereas in the past there had been no charges.

Decision:

The Employment Matters Committee noted the contents of the report.

280 Budget Proposals and Implications for Staff

Discussion:

The Employee Relations Manager introduced this report which provided an update on new reviews and transfers since the last report to Committee (25 June 2014). The report provided details of individual reviews together with the transfer of schools to academy status.

Decision:

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

281 Early Retirement and Severance Payments

Discussion:

This report provided information on early retirements and severance decisions between March 2014 – July 2014.

Decision:

The Committee noted the report.

Chairman

Date:

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