

EMPLOYMENT COMMITTEE

THURSDAY 24 JANUARY 2013
3.00 PM

Bourges/Viersen Rooms - Town Hall

AGENDA

Page No

1. Apologies for Absence

2. Declarations of Interest

At this point Members must declare whether they have a disclosable pecuniary interest, or other interest, in any of the items on the agenda, unless it is already entered in the register of members' interests or is a "pending notification" that has been disclosed to the Solicitor to the Council.

Members must also declare if they are subject to their party group whip in relation to any items under consideration.

3. Minutes of the Meetings held on:

3.1 **22 November 2012** **1 - 2**

3.2 **7 December 2012** **3 - 4**

4. Changes to Employee Policies and Procedures **5 - 16**

Committee Members:

Councillors: Fitzgerald (Chairman), Holdich (Vice Chairman), Cereste, Lamb, Khan, Swift and Sandford

Substitutes: Councillors: Walsh, Shearman and Fletcher

Further information about this meeting can be obtained from Gemma George on telephone 01733 452268 or by email – gemma.george@peterborough.gov.uk



There is an induction hearing loop system available in all meeting rooms. Some of the systems are infra-red operated, if you wish to use this system then please contact Gemma George on 01733 452268 as soon as possible.

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**MINUTES OF A MEETING OF THE EMPLOYMENT COMMITTEE
HELD AT THE TOWN HALL, PETERBOROUGH ON 22 NOVEMBER 2012**

Members Present: Councillors Fitzgerald, Holdich, Lamb and Cereste

Officers present: Mike Kealey, Acting Head of Human Resources
Karen Craig, Senior Human Resources Consultant – Job Evaluation
Diane Baker, Head of Governance
Amy Brown, Solicitor
Karen S Dunleavy, Governance Officer

1. Apologies for Absence

Apologies were received from Councillors Swift and Fletcher.

2. Declarations of Interest

There were no declarations of interest.

3. Minutes of the Meetings Held on:

3.1 The minutes of the meeting held on 19 July 2012 were approved as a true and accurate record.

3.2 The minutes of the meeting held on 19 September 2012 were approved as a true and accurate record.

4. Changes to Employee Policies and Procedures

The Committee received a report from the Head of Governance on the introduction of the Data Incident Response Policy (DIRP) and the procedure for employees to follow if a data protection breach occurred and the potential employment implications of a breach. The draft DIRP had also been discussed and approved at the Audit Committee meeting held on 7 June 2012.

The Committee received a report from the Acting Head of Human Resources (HR) on the updates to the existing Redundancy Policy which was to include staff employed under teacher's terms and conditions of service. The Policy also made clear that the Council would not agree to a release of pension upon redundancy to teachers. The proposed changes had been made in consultation with the Joint Consultative Forum (JCF).

The Acting Head of Human resources advised the Committee that the Travel and Subsistence Policy had also been amended to provide clear processes for staff to follow when completing a claim form. This was to ensure complete transparency and clarity was provided for employees and their managers. In addition to the policy updates there was inclusion of a statement outlining that those who were employed on a Senior Management scale may not apply for the Travel and Subsistence Key User status.

The report sought the agreement of the Committee to implement the appended employment policies to ensure the Council's policies remained up to date and legal.

The Head of Governance responded to questions from Members in relation to the introduction of the Data Incident Response Policy (DIRP). Key points included:

- The provision of briefing sessions for Members was an option that could be explored and a specialist lawyer would be invited to provide these briefing sessions. Furthermore, guidance on the DIRP would be sent to all Members in due course;
- A Data Protection Act Group (DPAG) had been formed, which provided good employee representation, shared the procedures in place and the robust work plan;
- Budget provision was available for Member training in relation to the DIRP. Extending the training to other Councils in order to share costs would be beneficial.

The Acting Head of Human Resources advised Members that the DIRP had also been presented to JCF for their comment and subsequent approval.

The Head of HR responded to questions regarding the changes to Travel and Subsistence policy. Key points included:

- Those Officers who qualified for the Travel and Subsistence Key User Allowance would be identified based on their salary and the level of responsibility they held. The salary level would be based on senior managers in receipt of and in excess of £50k per annum;
- The changes to the Travel and Subsistence Policy had been completed in consultation with the JCF and agreement had been sought from the Forum to include the Key User salary level. This had been agreed;
- Decisions to approve an Officer as qualifying for Key User Status would be made at Key User Review Panel, rather than at management level;
- The Key User Review Panel would ensure that the job role was assessed for Key User status; and
- In a question regarding cost of increases for employees' insurance fees for Key User status, the Acting Head of HR advised that the majority of insurance companies would not increase their premium for those employees qualifying for Key User Status and employees were entitled to claim £0.45p per mile. This was deemed adequate to cover all car running costs.

The Head of HR further responded to questions regarding the changes to the redundancy policy. Key points included:

- The policy would apply to every teacher or tutor under the Burgundy Book terms of conditions.

RESOLVED:

The Employment Committee agreed to implement the following policies:

- i) Revision to the Redundancy Policy;
- ii) Revision to the Travel & Subsistence Policy; and
- iii) Data Incident Response Policy.

Reasons for the decision

The agreed changes would ensure that the Council operated within frameworks that were lawful, best practice, transparent and consistent.

Chairman
3.00pm - 3.25 pm

**MINUTES OF A MEETING OF THE EMPLOYMENT COMMITTEE
HELD AT THE TOWN HALL, PETERBOROUGH ON 7 DECEMBER 2012**

Members Present: Councillors Fitzgerald (Chairman), Holdich, Swift, Sandford and Shearman

Also Present: Councillor Lee – Deputy Leader and Cabinet Member for Culture, Recreation and Strategic Commissioning

Officers present: John Harrison, Executive Director Strategic Resources
Sue Westcott, Assistant Director, Safeguarding Families and Communities
Lyn Neely, Head of HR
Gemma George, Senior Governance Officer

Also Present: Nev Wilkinson, V4 Services Limited

1. Apologies for Absence

Apologies were received from Councillors Lamb and Khan.

Councillor Shearman was in attendance as a Substitute.

2. Declarations of Interest

There were no declarations of interest.

3. Exclusion of Press and Public

In accordance with Standing Orders, Members agreed that agenda item 5 contained exempt information as defined by paragraphs 1, 2 and 3 of Schedule 12A of Part 1 of the Local Government Act 1972 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information, therefore the press and public were to be excluded for that item.

4. Appointment of Interim Assistant Director for Safeguarding Families and Communities

The Committee received a report which sought its approval to appoint Jean Imray as Interim Assistant Director for Safeguarding Families and Communities, and to delegate the agreement of Jean Imray's term and conditions, and any changes thereto, to the Interim Director of Children's Services.

It was advised that Sue Westcott was the current Assistant Director, Safeguarding Families and Communities. A national recruitment campaign was planned to commence in the New Year to replace her, following her appointment as Executive Director of Children's Services by the Employment Committee on 19 September 2012, with her due to commence her duties on 21 December 2012.

In the interim, the post needed to be covered temporarily and it was proposed that Jean Imray undertake this role. Jean Imray was currently employed through the Council's strategic partnership with Serco as the Interim Head of Quality Assurance. As she would be appointed as an Assistant Director, it was within the remit of Employment Committee's terms of reference to appoint her.

RESOLVED:

The Employment Committee:

1. Appointed Jean Imray as Assistant Director, Safeguarding Families and Communities; and
2. Delegated the agreement of Jean Imray's terms and conditions, and any changes thereto, to the Interim Director of Children's Services.

In accordance with the decision taken to exclude the press and public from item 5, the meeting went into exempt session.

5. Interviews for the Post of Head of Strategic Client Services

One candidate was interviewed for the post of Head of Strategic Client Services.

RESOLVED: to appoint Mr Ricky Fuller, who was currently employed as Director of Transformation at V4 Services Limited.

Chairman
9.30am – 11.45am

EMPLOYMENT COMMITTEE	AGENDA ITEM No. 4
24 JANUARY 2013	PUBLIC REPORT

Cabinet Member(s) responsible:	Cllr Cereste Leader of the Council and Cabinet Member for Growth, Strategic Planning, Economic Development, Business Engagement and Environment Capital	
	Cllr Walsh Cabinet Member for Community Cohesion and Safety	
Contact Officer(s):	Lyn Neely - Acting Head of Human Resources	Tel. (01733) 384500

CHANGES TO EMPLOYEE POLICIES AND PROCEDURES

R E C O M M E N D A T I O N S	
FROM : Trade Union Representatives	Deadline date : N.A.
It is recommended that Employment Committee agrees to implement the following employment policies and procedures:	
<ul style="list-style-type: none"> i) Revision to the Criminal Records Bureau Policy (Appendix 1); ii) Revision to the Access to HR files Policy (Appendix 2); iii) Change to notice period for qualified social workers in Children's Services 	

1. ORIGIN OF REPORT

- 1.1 This report is submitted to the Employment Committee following a referral from the Joint Consultative Forum held on 10 January 2013.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to ensure that the Council maintains up to date and legal employment policies.
- 2.2 This report is for the Committee to consider under its Terms of Reference No. 2.3.1.2 to determine employee procedures, including dismissal procedures' and 2.3.1.4 'to determine local terms and conditions of employment for employees'.

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	NO	If Yes, date for relevant Cabinet Meeting	N/A
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4. BACKGROUND

4.1 Criminal Records Bureau Policy

- 4.2 The previous Criminal Records Bureau (CRB) Policy has been amended to take account of the amalgamation of the CRB and the Independent Safeguarding Authority (ISA) to become the Disclosure and Barring Service (DBS). The resulting DBS policy (attached at

Appendix 1) takes account of the statutory changes in place as a result of the development of the Freedoms Act 2012.

4.3 In addition the Council has further improved its processes regarding the risk assessment of results received following a DBS check; this includes requesting the consent of employees to retain the risk assessment confidentially on their HR (Human Resources) file. Further changes will be applied to the policy as the government introduces changes over the next few months.

4.4 Access to HR Files Policy

4.5 The previous policy has been amended to remove the opportunity for employees to visit the HR office to view their HR file. This is because all files are now held electronically rather than in paper format. The policy confirms that employees will be able to access their full HR record via a 'subject access request' under the data protection legislation.

4.6 The draft Access to HR Files Policy is attached at **Appendix 2**.

4.7 Change to notice period for qualified Social Workers

4.8 To improve recruitment and retention in Children's Social Care and aid workforce stability, the management team are considering introducing a standard notice period of 3 months for qualified social workers. The contractual notice for current employees up to grade 11 is one month. At grade 12 this rises to three months.

4.9 Children's Services are concerned that in the event of a resignation, a replacement cannot be hired within the one month notice period and in addition, this does not allow time for a handover of case load to the new appointee. This creates a potential risk in terms of delivery and could destabilise the department if work load has to be temporarily redistributed whilst recruitment is undertaken.

4.10 If Members of Employment Committee agree to change the notice period then it would be applied in the following way:

4.10.1. All new Social Workers in Children's Services would be appointed on a three month notice basis.

4.10.2 Existing Social Workers in Children's Services would be offered the opportunity of moving to a three month contract if they chose to and agreed to.

5. CONSULTATION

5.1 The joint trade unions were consulted on the DBS Policy, the Access to HR Files Policy and the change to notice periods on 10 January 2013.

6. ANTICIPATED OUTCOMES

6.1 The proposed changes to the DBS policy will ensure that the Council is operating safer recruitment processes that are in line with best practice and legislation.

6.2 The access to HR files policy will ensure that staff are informed regarding the process to follow if they decide to review the documentation held about them by their employer.

6.3 To improve continuity of service delivery and reduce risk Children's Services management team believe that an increased notice period for qualified social workers would be a sensible way forward.

7. REASONS FOR RECOMMENDATIONS

7.1 These proposed changes are to ensure the Council operates within frameworks that are lawful, best practice, transparent and consistent.

8. ALTERNATIVE OPTIONS CONSIDERED

8.1 The policies were considered against:
(a) those published by some other local government employers; and
(b) existing policies, to ensure a sensible, fair approach which took account of current legislation.

9. BACKGROUND DOCUMENTS

9.1 None

10. APPENDICES

- Appendix 1 – Disclosure & Barring Policy; and
- Appendix 2 – Access to HR files Policy

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APPENDIX 1

DISCLOSURE & BARRING SERVICE POLICY – effective 10.09.12*.

1. Purpose and scope

Peterborough City Council is committed to protecting the well being of the public and those individuals in its care who are considered to be especially vulnerable or at risk - children, and vulnerable adults. We will undertake:

- not to knowingly employ in regulated activity or use as a volunteer a barred person
- to refer individuals who have been dismissed, or we cease to use, to the Disclosure & Barring Service** if we believe they have harmed or pose a risk of harm to children or vulnerable adults

The principles of this policy apply to all employees, volunteers, applicants, and others engaged in council service provision with children or vulnerable adults including foster carers and adopters.

The council has a statutory duty of care to vulnerable members of society; this duty will be carried out with due regard to all other relevant legislation, and the council undertakes to treat all individuals fairly.

2. Responsibilities

A DBS check is a very important part of safeguarding, alongside robust recruitment procedures which include face to face interviews and checking identity, qualifications, references, medical and career history.

The city council will check the status of each employee, volunteer, and applicant working or applying to work in the new definition of regulated activity against the government barred lists; it will also undertake an enhanced DBS check. Other posts may be eligible for a DBS check but not a barred list check. DBS check results are not currently portable.

It is the responsibility of each manager to confirm which of the posts in their team are eligible for a DBS check and the level of the check. The manager must maintain this information. The [‘How to’](#) Guide provides more detailed guidance on the eligibility for DBS checks.

3. DBS Checks

- The council will carry out its own DBS check on all applicants who will be engaged in regulated activity. This may be a paper check or an electronic check and will be at the relevant level.
- A risk assessment of each DBS result will be undertaken and all applicants for DBS checks will be asked to sign a consent form to allow the council to retain the risk assessment.
- There are three types of check – basic, standard and enhanced. Certain enhanced checks may also include a check against one of the government barred lists:-

Type of check	Applicable Legislation	Police National Computer	Police Information	Barred Lists
Basic (This check only provides details of unspent convictions under the Rehabilitation of Offenders Act 1974)	Via Disclosure Scotland	√	X	X
Standard	Rehabilitation of Offenders Act (Exceptions Order)	√	X	X
Enhanced	Police Act 1997	√	√	X
New definition of Regulated Activity	Safeguarding Vulnerable Groups Act 2006 as amended by Freedoms Bill 2012	√	√	√ (Can be Barred list Children, Barred List Adults or Barred List Children & Adults)

- The council will follow guidance from the relevant authorities regarding re-checks and portability of checks and may undertake re-checks to strike a balance between the appropriate level of safeguarding and the efficient management of risk, or if a concern arises.
- If a person moves jobs in the same organisation a new DBS check will be carried out if :
 - the new job gives greater access to children or adults or has more responsibility; (including where e.g. a child care worker moves into a senior child care worker role)
 - there has been a break of more than three months between leaving the old post and taking up the new post,
 - there are concerns about the person, which may affect their suitability/fitness.
- A Standard DBS check will continue to be available for positions covered by the Exceptions Order 1975 to the Rehabilitation of Offenders Act 1974 that are not defined as regulated activity in either the Safeguarding Vulnerable Groups Act or the Freedoms Bill.
- DBS disclosures will not generally show offences committed by people whilst living overseas. The council insists on additional checks as outlined in point 10 below.

4. DBS Check Results – Risk Assessment

- Serco Business Support (HR) will undertake a risk assessment on the results of every DBS check received for all employees and volunteers.

- The manager will continue to complete the risk assessment where a positive trace is returned from the DBS. If necessary the manager may convene a panel to make a joint decision on whether or not the individual can be offered employment or continue in their post. The risk assessment form must be completed and authorised in full.
- Where local police records contain additional information that might be relevant to the post an applicant is being considered for/is doing, then the chief police officer may contact the council with further information. This will be sent under separate cover to the council via Serco Business Support (HR). The applicant should **not be alerted to its existence under any circumstances**. The council should never reveal or discuss the information with the applicant or any other person without the permission of the chief police officer.

All employees, volunteers and applicants will be treated fairly and consistently, and kept informed of progress, in accordance with council policy. This process must be dealt with by all those involved in a timely manner.

5. Barred Individuals

Individuals who are barred from regulated activity with either children or vulnerable adults must not work, or seek to work, in regulated activity with that group. Automatic barring arises where a person has been convicted of, or cautioned, in relation to a serious offence (as defined by law). **It is a criminal offence to employ an individual who is barred to engage in regulated activity.**

The barred lists will only be checked for those engaged in the new definition of regulated activity.

Most people will only be barred if they have engaged, are engaging, or might in the future engage in regulated activity.

6. Referral to the Disclosure & Barring Service

The council will refer any employee, volunteer, or applicant who it believes has harmed or may pose a risk of harm to children or vulnerable adults, to the Disclosure & Barring Service.** This will include if the individual resigns, a short term contract expires, if they cease to be used, or if they are absent. This may precede the conclusion of any internal disciplinary process.

7. Data handling

The council will comply fully with the DBS code of practice, the Data Protection Act, and other relevant legislation regarding the correct handling, use, storage, retention and disposal of DBS disclosures and disclosure information.

8. Existing employment

Failure to disclose warnings/cautions or convictions to the employer may result in disciplinary action. Employees and volunteers have a responsibility to report any relevant changes of circumstance to their employer. These include any criminal investigations, convictions or warnings they may become the subject of and/or if a family member becomes involved in any child protection related concern. All employees must comply with the council's [Self Disclosure Policy](#).

The following will usually amount to gross misconduct and be dealt with under the council's disciplinary procedures:-

- failure to comply with the council's policy on Disclosure & Barring,
- failure to comply with the council's policy on Self Disclosure, and/or
- refusal to undertake a DBS check.

Any employee or volunteer engaged in regulated activity who becomes barred by the DBS is likely to be dismissed under section 98(2)(d) of the Employment Rights Act and will be removed from this activity as soon as the council is aware of the position.

9. Recruitment

This section applies to employees, volunteers and applicants.

In **exceptional circumstances** an internal or external applicant may start work without the results of their DBS check provided a [pre-employment risk assessment](#) has been completed and fully signed off. The process which must be followed is detailed in the manager's guide. Supervisory measures will be introduced which must be followed and failure to adhere to the controls will constitute gross misconduct. Any applicant who has disclosed any criminal information must not start prior to their DBS check results being received.

The council undertakes to treat all candidates for positions fairly and not to discriminate unfairly against any candidate who is subject to a disclosure on the basis of conviction or other information revealed. The information will be objectively assessed taking account of safeguarding issues and the requirements of the job.

All information sent to applicants for relevant posts will include information regarding whether a post is covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, whether it is subject to a DBS check and a Barred list check. Both spent and unspent convictions must be declared on application forms.

The council's [Employment of Ex-Offenders](#) policy will be available to applicants for jobs with the council along with full details of the vacancy. Having a criminal record will not necessarily bar an individual from working with the council.

Failure to disclose convictions on an application form will usually result in the withdrawal of an offer of employment as outlined in the Employment of Ex-Offenders policy.

Recruiting managers must ensure that they have checked and signed off each of the recruitment checks including the results of the DBS check, qualifications, references, professional registration, identity, right to work in the UK, and medical checks before an applicant commences employment. The applicant should be asked to sign a consent form.

Managers must exercise caution in relying on checks of those with little residence in the UK and/or those where there is any gap in their career record.

10. Applicants who have worked overseas or been resident overseas in the past five years

In addition to each of the standard recruitment requirements, including a DBS check, a Statement of Good Conduct to cover the time period spent in a country/ies outside of the UK must also be provided by the applicant.

Where the applicant is:-

(a) unable to provide all the documentation requested

OR

(b) the information contained within the documentation gives cause for concern

AND

(c) a risk assessment identifies any risk

Then the decision must be taken not to appoint.

11. Commissioning services

All judgements taken when services are being commissioned will refer to and incorporate this policy which follows the Key Safe Employment Standards adopted by the Cambridgeshire & Peterborough Safeguarding Board.

12. Agency, Contract, Interim or other workers

Heads of Service must ensure that where agency, contract or interim workers are supplied to carry out duties within the council the manager obtains written confirmation from their employer (an agency, employment business, or contractor) that the relevant DBS disclosure check along with all the other required employment checks have been carried out and are satisfactory before the individual commences work with the council.

Where there is a positive trace on the DBS check then the manager must obtain a copy of the DBS disclosure from the employer before the individual commences work with the council to allow a proper risk assessment to be undertaken.

Where there is 'soft information' provided by the Chief Police Officer then the employer cannot provide the council with a copy of that information, and therefore in these circumstances the Head of Service must carry out a repeat disclosure if they still wanted to use that person.

Managers must check that the individual is not barred from working with children or vulnerable adults.

Heads of Service must ensure that the contract with the agency/employment business or contractor imposes an obligation on them to carry out the same checks as the council would for its own employees in advance of the work starting. It is essential that these checks are up to date and renewed in accordance with this policy.

Identity checks should be carried out by the manager to confirm that the individual who arrives for work is the individual that they were expecting and have already checked. Please contact the Training and Development Team, if you require training on identity checking.

** The Independent Safeguarding Authority merged with the CRB in December 2012 to become the Disclosure & Barring Service (DBS). This policy will be amended further to take account of all future statutory changes.

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ACCESS TO HR FILES

If an employee wishes to view their HR file then they should make a formal written application for information under the Data Protection Act 1998. This type of request is called a 'Subject Access Request'. A form can be downloaded from <http://www.peterborough.gov.uk/page-4526> or provided on request. Under the Data Protection Act employees are not entitled to access information in relation to:-

- References provided by the council
- Information that identifies any third party without the consent of the third party (this would include references provided to the council by others if the consent of the referee cannot reasonably be obtained or it could lead to a breach of any duty of confidentiality)
- Any confidential medical reports, correspondence and other documentation – the disclosure of which will in the opinion of the employee's own medical practitioner be detrimental to the health and wellbeing of the employee concerned
- Certain other exemptions.

The Data Protection Act requires that the information is provided within 40 calendar days of a valid request being received

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