

EMPLOYMENT COMMITTEE

TUESDAY 23 FEBRUARY 2016
7.00 PM

Bourge / Viersen Room - 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 Monitoring Officer.

3. **Minutes of the Meeting Held on 3 December 2016** 3 - 4
4. **Appeals Against Dismissal** 5 - 10
5. **Changes to Employee Terms and Conditions of Service** 11 - 16



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 452460 as soon as possible.

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Committee Members:

Councillors: M Nadeem (Chairman), J Holdich (Vice Chairman), W Fitzgerald, N Khan, N Thulbourn, C W Swift and N Sandford

Substitutes: Councillors: D Lamb, L Forbes, B Saltmarsh and J Davidson

Further information about this meeting can be obtained from Philippa Turvey on telephone 01733 452460 or by email – philippa.turvey@peterborough.gov.uk

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**MINUTES OF A MEETING OF THE EMPLOYMENT COMMITTEE
HELD AT THE TOWN HALL, PETERBOROUGH ON 3 DECEMBER 2015**

Members Present: Councillors Nadeem (Chair), Fitzgerald, Khan, Swift, Thulbourn and Lamb

Officers Present: Mandy Pullen, Assistant Director of Human Resources and Development
Paul Smith, Human Resources Advisor
Lisa Brightey, Reward Advisor
Pippa Turvey, Senior Democratic Services Officer

1. Apologies for Absence

Apologies for absence were received from Councillors Holdich and Sandford. Councillor Lamb was in attendance as substitute.

2. Declarations of Interest

There were no declarations of interest.

3. Minutes of the Meeting Held on 17 September 2015

The minutes of the meeting held on 17 September 2015 were agreed as a true and accurate record.

4. Exclusion of Press and Public

In accordance with Standing Orders, Members were asked to determine whether agenda item 6, 'Terms and Conditions of Service – Agenda for Change', which contained exempt information relating to contemplated consultations or negotiations in connection with a labour relations matter arising between the authority and employees or office holders of the authority as defined by Paragraphs 4 of Schedule 12A of Part 1 of the Local Government Act 1972, should be exempt and the press and public excluded from the meeting when the item was discussed, or whether the public interest in disclosing the information outweighed the public interest in maintaining the exemption.

The Committee unanimously agreed to the exclusion of the press and public for agenda item 6.

5. Changes to Employee Policies and Procedures

The Reward Advisor presented a report to the Committee following presentation to the Unions. The report sought the Committee's agreement to implement the Smoke Free Policy and the Adoption Policy.

The Committee discussed the report and raised several key points:

- The update to the Smoke Free Policy incorporated changes to regulations involving smoking in cars and e-cigarettes.
- The current adoption policy met the statutory criteria for pay, however did not offer the equivalent occupational pay as under the maternity leave scheme. The update amended this so that the employees on adoption leave receive the equity with employees on maternity leave.
- This update followed a number of requests from employees, in light of the Council's role as the Social Services Authority.

- Communication would go out highlighting the changes.

Following a question regarding whether it was appropriate to amalgamate the Adoption Policy with the Maternity Policy, the Human Resources Advisor clarified that the policies would not be combined. They would, however, contribute to a suite of policies in relation to employee rights to time off work.

A motion was proposed and seconded to approve the policies and procedures as set out in the report. This motion was carried unanimously.

RESOLVED that Employment Committee agreed to implement the following employment policies and procedures:

- 1) Smoke Free Policy; and
- 2) Adoption Policy.

Reasons for the decision:

These proposed changes are to ensure the Council operates within relevant employment legislation and is forward thinking in respect of its approach to the needs of its employees.

6. Terms and Conditions of Service – Agenda for Change

As agreed at agenda item 4, the meeting moved into exempt session.

The Committee questioned why this item was to be heard in exempt session. The Human Resources Advisor explained that the item related specifically to on-going discussion regarding the terms and conditions of employees, and discussions with trade unions.

The Assistant Director of Human Resources and Development presented a report to the Committee following discussion with trade unions at the Joint Consultative Forum on 15 October 2015.

The Committee discussed the report and raised several key points:

- In light of the budget setting process currently being undertaken, it was suggested that the status quo remain and a decision be deferred until after the budget was set.
- It was understood that wider negotiations were due to be had with trade unions regarding employees terms of reference as a whole, which may render any such decision obsolete.

A motion was proposed and seconded to defer consideration of the 'Terms and Conditions for Service – Agenda for Change' until such a time that wider negotiations regarding employee terms and conditions had taken place, to return to Employment Committee if required. This motion was carried unanimously.

RESOLVED that Employment Committee defer consideration of the 'Terms and Conditions for Service – Agenda for Change' until such a time that wider negotiations regarding employee terms and conditions had taken place.

Reasons for the decision:

To allow for further wider negotiation to be had with trade unions in relation to employee terms and conditions, and to allow for the budget process to be completed prior to any decision made.

Chairman
7:00pm – 7:36pm

EMPLOYMENT COMMITTEE	AGENDA ITEM No. 4
23 FEBRUARY 2016	PUBLIC REPORT

Contact Officer(s):	Kim Sawyer, Director of Governance	Tel. 452361
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APPEALS AGAINST DISMISSAL

R E C O M M E N D A T I O N S	
FROM : Director of Governance	
That Employment Committee:	
<ol style="list-style-type: none"> 1. Consider the proposal that appeals against dismissal by staff below Deputy Chief Officer are heard by Officers; and 2. Make a recommendation to Council to accept the change to the Council's Constitution Terms of Reference No. 2.3.1.2 	

1. ORIGIN OF REPORT

- 1.1 Since 2001, the law has prevented members from having an involvement in staffing matters below deputy chief officer level (save for being able to hear appeals against dismissal). The purpose of this has been to enable members to spend less time on operational matters which in turn gives them a greater ability to focus on their roles as community leaders. Consequently many Councils have moved the dismissal appeals process to Officers as it fits in with the model of officers managing operational matters

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to propose that the City Council also move appeals against the dismissal process to senior officers.
- 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.

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 Employment issues for staff other than senior officers are the responsibility of the Chief Executive as the Head of Paid Service. At Peterborough City Council we do however allow non-senior employees to appeal to a sub-committee of the Employment Committee against the decision of a senior officer.
- 4.2 The current arrangements for appeals against dismissal by City Council employees are as follows:

Type of Employee	Type of Appeal	Appeal Heard by	Comments
PCC non-school based	Redundancy dismissal	Senior Manager	

PCC non-school based	Sickness dismissal	Senior Manager	
PCC non-school based	Disciplinary Dismissal	Employee Appeals Committee	
PCC non-school based	Dismissal within Probationary period	Senior Manager	
Chief & Deputy Chief Officers (excluding Chief Executive, S151 Officer & Monitoring Officer)	All dismissals	Employee Appeals Committee	These officers are appointed and dismissed by Members
School Based Staff	All dismissals	Governing Body	Under School Staffing Regulations 2009, Governing Body are required to deal with such matters

- 4.2 Previously Employment Appeals Committee heard regarding appeals and final stage grievance appeals. However changes to statutory and contractual processes nationally meant that these must be dealt with by officers and therefore the Appeals Committee remit has reduced over recent years so that only appeals against disciplinary dismissals remain.
- 4.3 Although members hearing appeals against dismissal was once common practice in Councils, many have stopped the practice for a number of reasons but principally:
- (a) Members of the committee may be required to attend tribunals to explain the reasons for their decision (similar to member attendance at planning inquiries).
 - (b) Members of the appeals sub-committee are not trained in employment law and this has resulted on occasion in a lack of understanding of the reasons for the officer decision and is a disadvantage in any tribunal case (for this reason planning law training is compulsory for committee members).
 - (c) Non senior officers would still have the right of appeal internally before the opportunity of direct appeal to a tribunal from the senior officer's decision. There is therefore, sufficient opportunity to have any issues heard internally.
 - (d) The appeal to the sub-committee adds further delay and cost to a process which can already take a considerable amount of time to resolve which benefits neither the Council nor the employee.
- 4.4 Therefore proposals are outlined in this report to revise the arrangements for the hearing of appeals against dismissal by employees.

5. EMPLOYMENT LAW DEVELOPMENTS

- 5.1 In March 2015 ACAS issued a new Code of Practice on Disciplinary & Grievance Procedures. Within this code of practice it states that "appeals should be heard without unreasonable delay"
- 5.2 Currently the time taken for an appeal against dismissal to be heard by the Employee Appeals Committee is over 3 months. By comparison officer appeals on all other employment matters are normally heard within 28 days. Employment tribunals are often critical of employers who do not deal with appeals quickly and this can (and often is) a factor taken into account when considering whether or not the employer acted reasonably. Consequently many Councils have moved the right of appeal to officers for this reason.
- 5.3 Given that an employee's right to appeal is a legal entitlement, the conduct and the outcome of any appeal is considered by the Tribunals. This has often resulted in Members being summoned to attend Tribunal to account for their decisions. In more than one case, a Tribunal has found against a Council where Members have not been able to evidence training in employment matters.

6. OPERATIONAL MATTERS & BEST PRACTICE

- 6.1 The time taken for an appeal to be heard not only puts the City Council at risk of not being able to successfully defend an otherwise sound case, but also the delay creates uncertainty for the service and for colleagues within the workplace.
- 6.3 Clearly it is important that the Council acts consistently and fairly at all times. Experience in many Councils has shown that due to the fact that Members are in effect “lay people” when it comes to such matters consistency, is often difficult for them to ensure (particularly where appeals are heard by different members).
- 6.4 Whilst Members are not precluded from hearing appeals against dismissal, the matter has been discouraged by external inspection regimes. For example, following an inspection of Social care in one Council, the inspectorate recommended that appeals against dismissal be heard by senior officers.

7. PROPOSAL

- 7.1 It is therefore proposed that the appeals procedure is amended so that employees who are dismissed would have the right of appeal to a senior officer.
- 7.2 The senior officer would be either:
- A corporate director
 - A director
 - A service director
 - An assistant director or
 - A head of service who reports directly to a corporate director or director.
- 7.3 The senior officer hearing the appeal would have had no prior involvement in the case and, normally would be from a different service area from which the employee who appeals is based.
- 7.4 In order to hear appeals the senior officer must be trained in handling appeals. Internal courses will be arranged to facilitate this. They would be supported throughout the hearing by a Human Resources officer in any case.

8. CONSULTATION

- 8.1 Trades Unions have been consulted on the proposals and their comments are appended to this report.

9 REASONS FOR RECOMMENDATIONS

- 9.1 The recommendations would ensure that appeals against dismissal are handled quickly and fairly.
- 9.2 The Employment Committee as the Committee responsible for determining HR policies is therefore asked to comment on these proposals prior to their submission to Full Council.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

ACAS Code of Practice on Disciplinary and Grievance Procedures (March 2015)

11. APPENDICES

Appendix A – Joint Union Response to Consultation on Appeals Against Dismissal

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Joint Union Response to Consultation on Appeals Against Dismissal

The joint trade unions are opposed to the proposal of changing dismissal appeals from members to senior officers on the following grounds:

1. The current process is not burdensome and has only been used a handful of times to our knowledge in the last few years and exhausts the internal procedure. This, despite the timeframe on occasions, does not deter unions from preparing and submitting claims to Employment Tribunals, even when the timescale exceeds 3 months from the date of dismissal.
2. Recent legislation requires that ACAS Early Conciliation takes place before any case can be referred to ET. This “stops the clock” on ET submission by up to 28 days in the first instance and, with the agreement of both parties, by a further two weeks should a settlement be likely via conciliation led by ACAS.
3. The consistency of the council acting fairly at all times is no more proven by senior officers hearing such appeals than it is by the current arrangement of Members holding this responsibility.
4. The robustness of the current process where, on occasions, senior managers (documented in proposal) who have dismissed are subject to the scrutiny at dismissal appeals chaired and heard by Members is deemed a fairer system than one which moves upwards within the hierarchal structure of a department or council.
5. The document refers to training in employment law and suggests that in order to hear appeals senior officers must be trained. We argue that this training should be provided to Members to allow the current process to continue.
6. A qualified lawyer (internal or external) currently provides this service to the existing appeals process against dismissal and this would have to continue.

It is therefore the view of the joint trade unions that the current arrangement for dismissal appeals should be maintained.

Mark Plumb

On behalf of Joint Trade Unions

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EMPLOYMENT COMMITTEE	AGENDA ITEM No. 5
23 FEBRUARY 2016	PUBLIC REPORT

Contact Officer(s):	Kim Sawyer, Director of Governance	Tel. 452361
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CHANGES TO EMPLOYEE TERMS AND CONDITIONS OF SERVICE

R E C O M M E N D A T I O N S	
FROM : Director of Governance	
That Employment Committee:	
<ol style="list-style-type: none"> 1. Note the detail of the changes that are being proposed to terms and conditions of employment subject to the approval of the 2016/17 budget by full council on 9 March 2016; and 2. Agree, subject to a Collective Agreement being reached with the Unions, that the honorarium policy be withdrawn from 31 March 2016 and no further honorariums will be paid during 2016/17. 	

1. ORIGIN OF REPORT

- 1.1 As part of the phase 2 budget proposals for 2016/17 and beyond, there is a requirement to make savings from employee terms and conditions of service. The savings required are £440k in 2016/17 rising to £800k in subsequent years. These proposals address the savings required in 2016/17. A further report will be brought forward once proposals for subsequent year's savings have been formulated.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to propose that Employment Committee agree to the removal of the honorarium scheme, and also note the details of other items that are being proposed in the budget, i.e:
- Increment Freeze
 - Reduction in care mileage rates
 - Office Closure between Christmas and New Year
- 2.2 This report is for the Committee to consider under its Terms of Reference No 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 Councils across England are facing significant financial challenges which are predicted to last until at least 2020. The City Council has an excellent track record of managing its

budget fairly and effectively and has achieved savings whilst still maintaining quality services.

- 4.2 The Council will have to achieve savings in order to fund a gap of £24 million next year, rising to over £34m. This places tremendous pressure on the Council and its services.
- 4.3 As it becomes increasingly challenging to achieve savings without significantly impacting on front line services and jobs, the Council is having to consider alternative ways of reducing financial pressures; this includes considering changes to staff terms and conditions. Many other councils, including our neighbours, have already implemented changes to terms and conditions.
- 4.4 Whilst it is not an easy option to consider, the Council's priority has to be to maintain services to Peterborough's residents. Therefore, in times of significant austerity, changes to staff terms and conditions have to be considered.

5. ACTION TAKEN TO DATE

- 5.1 As part of the budget savings considerations, a number of proposals were put to the joint trades unions for consideration. Following discussions with trades unions an outline agreement was reached on 21 January 2016. Trades unions subsequently balloted their members; the outcome will be provided verbally at the Employment Committee meeting as it is ongoing at the point of writing this report. A positive outcome of the ballot and agreement of the budget proposals, would allow officers the opportunity to put in place the necessary measures to effectively manage the proposals ahead of 1 April implementation. This will particularly apply to the office closure proposed to ensure that essential services are delivered efficiently and effectively. Any alternative outcome of the ballot would mean that a further paper would be presented to Employment Committee to consider alternative proposals to meet the budget gap.
- 5.2 The outline proposals were also discussed with Cabinet Policy Forum and Budget Working Group during December 2015 and January 2016.
- 5.3 Consequently, a package of proposals are now put forward for the information of members of this Committee; as noted, these are subject to the overall approval of the budget by the Full Council at its meeting on 9 March 2016.

6. INFORMATION TO NOTE

- 6.1 Employment Committee are asked to note for information, that subject to the approval of the 2016/17 budget by the Full Council, the following changes to terms and conditions of employment are included in the phase two budget proposals. Further detail of which can be found from 6.4 through to 6.14:
- a) Increment Freeze - That staff paid at NJC spinal column point 42 or equivalent do not receive an annual increment during the 2016/17 financial year as set out in section 6.5 of this report,
 - b) That staff paid on senior manager scales receive no increment during the 2016/17 financial year as set out in section 6.6 of this report,
 - c) Reduction in Car Mileage Rate - That the rate for employee car mileage payments be reduced to 25p per mile with effect from 1 April 2016 and remain at this level until 31st March 2019 as set out in section 6.9 of this report,
 - d) Office Christmas Closure - That staff paid at NJC spinal column point 42 or equivalent be required to take 3 days unpaid leave to enable the Council to close offices on the 3 working days between Christmas and New Year public holidays as set out in section 6.12 of this report, and
 - e) That staff paid below NJC spinal column 42 be required to set aside 3 days of their annual leave entitlement or, if they so wish to take 3 days unpaid leave to enable the Council to close offices on the 3 working days between Christmas and New Year public holidays as set out in section 6.12 of this report.

These proposed changes would come into effect from 1st April 2016 and it is proposed that the revised terms and conditions will apply to all staff employed by the Local Authority employed on the following terms and conditions:

- NJC for Local Government Services,
- Soulbury,
- JNC and Senior Managers,
- Youth & Community,
- Staff who have previously been transferred into the local authority under the provisions of TUPE including staff on Agenda for Change terms and conditions,
- School based staff who are employed under the purview of a governing body, including community, voluntary controlled and special school staff, and
- Staff employed by Peterborough City College who are engaged under the purview of the governing body.

6.2 The proposals will not apply to staff on teacher's terms and conditions which are set at a national level by statutory instrument.

6.3 Where possible, proposals have been made to have the least impact upon lower paid staff and as a result of these and other budget changes no redundancies are proposed in the budget proposals to Council on 9th March.

Incremental Freeze

6.4 Staff on NJC, Soulbury, Youth & Community and Agenda for Change terms and conditions of service receive annual increments until such time as they reach the maximum of the pay scale.

6.5 Under this proposal staff who are paid at NJC spinal column point 42 (£36,571), Agenda for Change spinal column point 31 (£37,032) Youth Workers spinal column point 29 (£36,639), Soulbury Educational Psychologists Scale A spinal column point 2 (£36,805) and Soulbury Advisers & Inspectors spinal column point 4 (£36,864) will not receive an increment during the next financial year.

6.6 Staff on senior manager terms and conditions of service do not receive automatic increments but, from time to time staff do progress to another point on the scale. Under this proposal there will be no movement within the salary scale for these employees.

6.7 It is proposed that these provisions are in place until 1 April 2017 during which time it is intended that a performance related incremental progression scheme be drawn up. This will be submitted to this committee in due course.

Car Mileage Payments

6.8 Currently the City Council pays the following business mileage rates to staff:

Staff on Agenda for Change rates			
Regular Car Users	Lump sum per annum	Annual mileage up to 9000	Annual mileage over 9000
Up to 1000cc car	£508	29.7p	17.8p
1001-1500cc car	£626	36.9p	20.1p
Over 1500cc car	£760	44.0p	22.6p
Standard Car Users	Lump sum per annum	Annual mileage up to 3500	Annual mileage over 3500
Up to 1000cc car	Nil	37.4p	17.8p
1001-1500cc car	Nil	47.3p	20.1p
Over 1500cc car	Nil	58.3p	22.6p
Public transport		24p all cars	24p all cars

rate			
All other staff			
		Annual mileage up to 10,000	Annual mileage over 10,000
All cars	No further payments	45p per mile	25p per mile

- 6.9 It is proposed that all car mileage rates are reduced to a flat rate of 25p per mile for all groups of staff. These rates would be frozen for 3 years.
- 6.10 As these rates will be below the maximum prescribed HMRC rates, employees will be able to claim tax relief on each claim. Guidance on how to do this will be issued to employees.

Closure of Offices between Christmas and New Year

- 6.11 Currently Council offices are open for the three working days between the Christmas and New Year public holidays. It is traditionally a quiet time of year for non-essential council business. A number of Councils nationally have introduced a scheme whereby Council offices are closed for these days without difficulty. Emergency and essential services would still be in place as they are on public holidays in any case.
- 6.12 It is therefore proposed that, to facilitate a closure of council offices between Christmas and new year bank holidays, staff who are paid at NJC spinal column point 42 (£36,571), Agenda for Change spinal column point 31 (£37,032) Youth Workers spinal column point 29 (£36,639) and Soulbury spinal column point 4 (£36,864) and above would be required to take 3 days unpaid leave to be deducted from pay over a 12 month period. Staff paid below this would be required to use annual leave but could, if they so choose, take unpaid leave.
- 6.13 This would mean that in effect Council buildings would be closed from the last working day before Christmas until the first working day of the New Year.

7. PROPOSAL

- 7.1 It is proposed that Employment Committee agree that the honorarium policy being withdrawn from the council's employment policies and no further honorariums are paid during 2016/17. Previously honoraria had been used as a form of a one off payment to staff either in respect of undertaking higher graded duties or for exceptional performance. The former is dealt with through the acting up procedure. With regards to exceptional performance, this will be addressed via the proposals to link pay progression to performance. In view of this, it is proposed that the honoraria policy be discontinued with effect from 1 April 2016.

8. IMPLICATIONS

- 8.1 **Legal** – Staff employed by Peterborough City Council are contractually bound by collective agreements reached between the City Council and recognised trades unions (regardless of whether or not they are a trades union member). Subject to the approval of the budget proposals by Council and a positive result of the Unions ballot, a collective agreement will be reached between the Council and these trades unions. Therefore, all employees will be bound by this agreement.
- 8.2 **Financial** – The estimated savings to note from the proposals are £440k.

The savings do not take into account any nationally agreed pay increases. Further discussions will be taking place with trades unions with a view to reaching agreement on the further savings required to achieve the full £800k savings required in 2017/18.

9. ALTERNATIVE OPTIONS CONSIDERED

- 9.1 As part of the consultation process with trades unions, a number of alternative changes were considered. Although, the proposals put forward represent those that are most acceptable and achieve the savings targets. Alternatively the Council could maintain existing terms and conditions of service. However, these savings would have needed to be found via service reductions and redundancies. As things stand, the phase 1 and phase 2 budget proposals have no redundancy implications.

10. CONSULTATION

- 10.1 Trades Unions have been consulted on the proposals. The outcome of the ballot is awaited at the point of writing this report. Employees have been given full details of the proposals, via internal communication channels.
- 10.2 Cabinet Policy Forum and Budget Working Group have also been consulted.

11. REASONS FOR RECOMMENDATIONS

- 11.1 The proposed changes to employee terms and conditions of service are necessary in order for the Council to meet its savings targets over the next 3 years.

12. BACKGROUND DOCUMENTS

None.

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