

Lancashire County Council

Employment Committee

Monday, 12th March, 2018 at 2.00 pm in Committee Room 'C' (The Duke of Lancaster Room) - County Hall, Preston

Agenda

Part I (Open to Press and Public)

No. Item

1. Apologies

2. Disclosure of Pecuniary and Non-Pecuniary Interests

Members are asked to consider any Pecuniary and Non-Pecuniary Interests they may have to disclose to the meeting in relation to matters under consideration on the Agenda.

3. Minutes of the Meeting held on 12 February 2018 (Pages 1 - 2)
To be confirmed, and signed by the chair.

4. Senior Management Recruitment Arrangements (Pages 3 - 6)

5. Policy on Trade Union Facilities and Time Off for Trade Union Duties and Activities (Pages 7 - 16)

6. Urgent Business

An item of urgent business may only be considered under this heading where, by reason of special circumstances to be recorded in the Minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency. Wherever possible, the Chief Executive should be given advance warning of any Member's intention to raise a matter under this heading.

7. Date of Next Meeting

The next meeting of the Committee will be held on Monday 9 April 2018 at 2.00 p.m. at County Hall, Preston.

8. Exclusion of Press and Public

The Committee is asked to consider whether, under Section 100A(4) of the Local Government Act, 1972, it considers that the public should be excluded from the meeting during consideration of the following items of business on the grounds that there would be a likely disclosure of exempt information as defined in the appropriate paragraph of Part 1 of Schedule 12A to the Local Government Act, 1972, as indicated against the heading to the item.

Part II (Not open to Press and Public)

9. Review of Coroner Salaries

(Pages 17 - 22)

Not for Publication – Exempt information as defined in Paragraphs (1), (2) and (3) of Part 1 of Schedule 12A to the Local Government Act, 1972. It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interests in disclosing the information).

County Hall
Preston

L Sales
Director of Corporate Services

Lancashire County Council

Employment Committee

Minutes of the Meeting held on Monday, 12th February, 2018 at 2.00 pm in Committee Room 'C' (The Duke of Lancaster Room) - County Hall, Preston

Present:

County Councillor Geoff Driver CBE (Chair)

County Councillors

A Atkinson	M Green
L Beavers	T Martin
Mrs S Charles	D O'Toole
J Fillis	

County Councillor John Fillis replaced County Councillor A Ali at this meeting.

1. Apologies

None.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

None.

3. Minutes of the Meetings held on 22 and 23 January 2018

Resolved: That the Minutes of the meetings held on 22 and 23 January 2018 be confirmed and signed by the Chair.

4. The Localism Act 2011 - Pay Policy Statement 2018/19

The Committee considered a report on the County Council's draft pay policy statement for 2018/19.

It was noted that the Localism Act 2011 required local authorities to prepare a pay policy statement each year. The statement must articulate the authority's approach to a range of issues relating to the pay of its workforce, particularly its chief officers and its lowest paid employees. The Full Council was required to approve the statement prior to it coming into force.

A copy of the draft pay policy statement including the proposed Living Wage for 2018/19 was presented at Appendix 'A'. Details of the changes to the 2018/19 pay policy statement were presented.

Resolved:

That Full Council be recommended to approve:

- (i) the annual adjustment to the Living Wage for centrally employed staff for 2018/19, as set out at Appendix 'A'.
- (ii) the 2018/19 pay policy statement, as set out at Appendix 'A'.

5. Urgent Business

None.

6. Date of Next Meeting

It was noted that the next meeting of the Committee would be held on Monday 12 March 2018 at 2.00 p.m. at County Hall, Preston.

7. Exclusion of Press and Public

Resolved: That the press and members of the public be excluded from the meeting during consideration of the following item of business on the grounds that there would be a likely disclosure of exempt information as defined in the appropriate paragraph of Part I of Schedule 12 A to the Local Government Act 1972. It was considered that in all the circumstances the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

8. Waste Company Annual Pay Review

(Exempt information as defined in Paragraphs 1, 2 and 4 of Part 1 of Schedule 12A to the Local Government Act, 1972. It was considered that in all the circumstances of the case the public interest in maintaining the exemption outweighed the public interests in disclosing the information).

The Committee considered a report which set out the GRLOL pay and recognition of services proposals as agreed and recommended by the GRLOL Board in December 2017.

Resolved: That, subject to trade union and employee consultation, the implementation of the pay proposal and recognition of service entitlement, as recommended by the GRLOL Board and set out in the report, be approved with effect from 1 January 2018.

L Sales
Director of Corporate Services

County Hall
Preston

Employment Committee

Meeting to be held on Monday, 12 March 2018

Electoral Division affected: None

Senior Management Recruitment Arrangements

Contact for further information:

Deborah Barrow, Tel: 01772 535805, Head of Service Human Resources,
Deborah.Barrow@lancashire.gov.uk

Executive Summary

Following implementation of the new senior management structure, the posts of Chief Executive and Director of Resources and the Executive Director of Education and Children's Services remain unfilled on a permanent basis.

This report sets out the proposed arrangements to engage a resourcing company(s) to assist with the recruitment to these posts during 2018. The report also reviews the role of the Committee in respect of future senior management recruitment.

Recommendation

The Committee is asked to:

- (1) Authorise the interim Chief Executive and Director of Resources, in consultation with the Chair of the Employment Committee, to approve the engagement of a resourcing company(s) to assist with the recruitment to the posts of Chief Executive and Director of Resources and the Executive Director of Education and Children's Services.
- (2) Note that the temporary amendments to the Committee's Terms of Reference have come to an end, and that the Committee will only be responsible for the appointment and dismissal of those senior officers, as set out in the report.

Background and Advice

The Committee has been given temporary responsibility for all appointment decisions in relation to the Council's new senior management restructure and any dismissals due to redundancy. All positions have now been permanently appointed to with the exception of the Chief Executive and Director of Resources, and the Executive Director of Education and Children's Services.

The Committee will be aware that an Interim Chief Executive and Director of Resources, who also holds the statutory role of s151 Officer, was appointed on a 12 month basis with the intention of the role being recruited to on a permanent basis

during that period. Furthermore, the Council has also appointed an interim Executive Director for Education and Children's Services pending a permanent appointment.

Executive Search – Resourcing Company

In recent recruitment and assessment for senior management roles Resourcing Company, Penna, has been engaged to support the Council with advertising and shortlisting arrangements. It is considered that the use of a resourcing company(s) is an important element to the overall recruitment and assessment process. However, because the Council was unsuccessful in appointing to the post of Executive Director for Education and Children's Services, and planning is required to commence recruitment for a permanent Chief Executive and Director of Resources, it is proposed to assess a number of resourcing companies and select one or more to support the Council by first gathering market intelligence and undertake 'soft' searches to assess the potential talent available and determine the most effective recruitment process to attract high quality applicants. The resourcing company(s) would also be expected to support the Council with advertising, shortlisting arrangements and technical assessment of candidates.

One of the responsibilities of the Interim Chief Executive and Director of Resources is to support the Council in recruiting the senior management structure, in particular a permanent Chief Executive and Director of Resources. Therefore, the Committee is asked to authorise the Interim Chief Executive and Director of Resources to take the necessary steps to identify and approve, in consultation with the Chair of the Employment Committee, the engagement of a resourcing company(s) to assist with the recruitment to the posts of Chief Executive and Director of Resources and the Executive Director of Education and Children's Services

Following which the proposed recruitment and assessment arrangements will be presented to the Committee for consideration at its meeting on 14 May 2018.

Recruitment Timetable

A detailed recruitment timetable will be presented to the Committee at its May meeting, but it is anticipated that there will be separate recruitment arrangements for each role rather than a combined recruitment exercise, and, once market intelligence and 'soft' searches have been undertaken, it is expected that advertising and shortlisting would take place over the Summer and interviews would be arranged for September.

Committee Terms of Reference

In accordance with the Terms of Reference approved by Full Council, the Committee would normally be responsible for the appointment and dismissal of:

- the Chief Executive (Head of the Paid Service)
- Executive Directors
- the Monitoring Officer
- the Chief Financial Officer (s.151 Officer); and
- Directors who hold the following statutory responsibilities:

- Children's Services;
- Adult Services; and
- Public Health.

The Chief Executive and Director of Resources would normally be responsible for the appointment of all other Director positions.

The Committee will be aware that at its meeting on the 14 September 2017, the Urgency Committee resolved "That the Terms of Reference of the Employment Committee be temporarily amended to enable the Committee to make all appointment decisions and any dismissals due to redundancy in relation to the Council's new senior management structure."

This enabled the Committee to make appointments to all posts at Director level and above. As the exercise to appoint Directors to the Council's new senior management structure is now complete and there are no vacancies at that level, the temporary amendment to the Committee's Terms of Reference has come to an end and the Committee shall, once again, be responsible for the appointment and dismissal of those senior officers agreed by the Full Council, as set out above. All other Director appointments and dismissals will be dealt with by the Chief Executive and Director of Resources.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Financial

The costs of engaging a resourcing company(s) to assist with the recruitment process detailed above are not yet known. However, once it is determined which company(s) will be used and the cost assessed, these costs will be funded from the transitional reserve. This will be authorised as part of the engagement process by the Interim Chief Executive and Director of Resources in consultation with the Chair of the Employment Committee.

Risk management

These are critical roles and it is important to attract high quality applicants. Use of executive search will support the Council in testing and attracting the market in order to determine the most effective recruitment and assessment arrangements.

Local Government (Access to Information) Act 1985
List of Background Papers

Paper	Date	Contact/Tel
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N/A

Reason for inclusion in Part II, if appropriate

N/A

Employment Committee

Meeting to be held on Monday, 12 March 2018

Electoral Division affected: None

Policy on Trade Union Facilities and Time Off for Trade Union Duties and Activities

(Appendix 'A' refers)

Contact for further information:

Deborah Barrow, (01772) 535805, Head of Service Human Resources,

Deborah.Barrow@lancashire.gov.uk

Executive Summary

The Council's Facilities Agreement, an agreement on facilities and time off for trade union representatives to undertake trade union duties and activities between the Council and its recognised trade unions, has been revised in light of an Employment Committee decision taken last year to withdraw the funding for five full time trade union secondments with effect from 31 March 2018.

It is proposed that that existing Facilities Agreement be replaced by a new proposed Policy on Trade Union Facilities and Time Off for Trade Union Duties, which sets out the Council arrangements in compliance with the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A), the requirements of the Safety Representatives and Safety Committees Regulations 1977 (as amended by the Management of Health and Safety at Work Regulations 1999, made under the Health and Safety at Work etc. Act 1974) and the ACAS Code of Practice on Time Off for Trade Union Duties and Activities.

Recommendation

The Committee is asked to approve the proposed Policy on Trade Union Facilities and Time Off for Trade Union Duties, set out at Appendix 'A', with effect from 1 April 2018.

Background and Advice

Whilst the Committee's decision, taken on 27 September 2017, to withdraw funding for the five full time trade union secondments does not impact on the statutory requirements placed on the Council to allow trade union representatives reasonable time off to undertake trade union duties and activities, it has necessitated a review of the existing Facilities Agreement to ensure references to the Council funded secondments are removed and that it remains fit for purpose going forwards. What the Council defines as 'trade union duties', which qualify for reasonable paid time off alongside training, and 'trade union activities', which qualify for reasonable unpaid

time off, remain unchanged. It is further proposed, over and above the existing legislative provisions, that reasonable time off with pay be considered to facilitate the attendance of named trade union representatives at the National Conference of their trade union, and trade union representatives elected to appropriate regional and national trade union bodies to attend committee meetings.

It is acknowledged that withdrawal of the Council funded secondments will result in managers receiving more requests for time off from trade union representatives to undertake trade union duties and activities, including time off for training to enable representatives to develop the skills required for the role. Supplementary guidance has therefore been developed to help managers deal with requests for time off for trade union purposes, including the factors they need to take into account when determining what is "reasonable".

Whilst there is no statutory right for facilities to be provided for trade union representatives, except for those engaged in duties relates to collective redundancies and the Transfer of Undertakings, the ACAS Code of Practice on Time Off for Trade Union Duties and Activities advises that employers should, where practical, make available to trade union representatives the facilities necessary for them to perform their duties efficiently and communicate effectively with their members, trade union colleagues and full time officers. The existing Facilities Agreement sets out that reasonable facilities will be made available for this purpose and it is proposed that this provision remains in place, unchanged, within the revised policy. The policy proposes the continued use of Room A42, at County Hall, as a facility that all recognised trade unions can use.

Consultations

The proposed Policy on Trade Union Facilities and Time Off for Trade Union Duties and Activities has been shared with the recognised trade unions at the Joint Negotiating and Consultative Forum.

Implications:

This item has the following implications, as indicated:

Risk management

The Council is under a statutory duty to allow trade union representatives reasonable paid time off to undertake trade union duties and reasonable unpaid time off to undertake trade union activities. The proposed policy complies with the ACAS Code of Practice, the provisions of which are admissible in evidence in proceedings before an Employment Tribunal relating to time off for trade union duties and activities.

Financial

There are no direct financial implications arising from the adoption of the proposed policy. However, there will be indirect costs incurred as it will be expected that the Council releases workplace trade union representatives to undertake trade union duties and activities, including representation at a corporate level, to fulfil its statutory

obligations. This will be closely monitored throughout 2018/19 once the new arrangements are implemented.

**Local Government (Access to Information) Act 1985
List of Background Papers**

Paper	Date	Contact/Tel
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N/A

Reason for inclusion in Part II, if appropriate

N/A

Policy on Trade Union Facilities and Time Off for Trade Union Duties and Activities

1 Introduction

1.1 This Policy describes the arrangements made by Lancashire County Council ("the Council") in compliance with:

- Sections 168, 168A, 169, 170 & 178 (1)-(3) of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A) in relation to time off for trade union duties and activities and facilities for trade union representatives;
- Section 168A of TULR(C)A in relation to time off for trade union learning or training activities and facilities for Union Learning Representatives;
- the requirements of the Safety Representatives and Safety Committees Regulations 1977 ("the 1977 Regulations"), as amended by the Management of Health and Safety at Work Regulations 1999, made under the Health and Safety at Work etc. Act 1974.

The arrangements also comply with the ACAS Code of Practice on Time Off for Trade Union Duties and Activities.

1.2 The recognised trade unions to whom the arrangements apply are UNISON, Unite, GMB, and the Soulbury Unions (National Union of Teachers, Education and Children's Services Group of Prospect and Association of Educational Psychologists). Separate arrangements apply to Schools.

1.3 The Council expects all parties – the management and trade union sides – to conduct themselves in an appropriate manner, in accordance with the Council's Code of Conduct, in their interactions with one another under the terms of this policy.

2 Trade Union Duties and Activities

2.1 Reasonable time off **with pay** will be given to accredited trade union representatives in relation to the following matters:

- terms and conditions of employment or the physical conditions in which workers are required to work;
- recruitment and selection;
- termination or suspension of employment;
- allocation of work or the duties of employment;

- service restructures/reorganisations
- disciplinary, capability, attendance and grievance matters including time off to accompany employees at hearings;
- trade union membership and facilities;
- negotiation and consultation arrangements.

2.2 The duties likely to be undertaken by accredited trade union representatives in relation to the matters set out at 2.1 above are:

- providing advice to trade union members on issues cited above;
- meetings to prepare for and represent/accompany trade union members at formal hearings etc.;
- attending meetings with management side representatives to discuss individual cases/disputes;
- meetings with officer representatives as part of formal/informal consultation/negotiation (such as attendance at JNCF, s188 and other such meetings).

2.3 The Council has also agreed that requests for reasonable time off **with pay** will also be considered to enable:

- The attendance of trade union representatives at the National Conference of their trade union. Named representatives must be nominated by the trade union concerned and requests for time off for this purpose submitted to the Council a minimum of 2 months before the event. The total number of representatives will be subject to agreement by management, in discussion with the trade union, on the occasion of each individual conference, subject to each representative's release to attend being agreed by their Head of Service;
- Trade union representatives elected to appropriate regional and national trade union bodies to attend committee meetings. The names, functions, frequency and duration of time off for this purpose must be notified to the Council a minimum of 2 months in advance, and is subject to the representative's release being agreed by their Head of Service.

2.4 Reasonable time off **without pay** will be given (where business needs allow) to accredited trade union representatives to take part in trade union activities additional to those set out above, for example:

- attending union meetings to discuss and vote on the outcome of consultations/negotiations with the Council;
- voting in union elections;
- having access to services provided by a Union Learning Representative;
- branch meetings of the union where the business of the union is under discussion.

3 Union Learning Representatives

3.1 Reasonable time off **with pay** will be given to accredited Union Learning Representatives to undertake the following functions:

- consulting the employer about carrying out union learning activities;
- analysing learning or training needs;
- providing information and advice about learning or training matters;
- arranging learning or training for members;
- promoting the value of learning or training;
- preparation to carry out any of the above activities;
- undergoing relevant training.

4 Union Safety Representatives

4.1 Reasonable time off **with pay** will be given to Union Safety Representatives as per Regulations 4, 4A and 4(2) of the 1977 Regulations (as amended) to undertake the following functions:

- represent employees generally and consult them about specific matters that will affect the health, safety and welfare of employees;
- represent employees when Health and Safety Inspectors from HSE or local authorities consult them;
- investigate accidents, near misses, and other potential hazards and dangerous occurrences in the workplace;
- investigate complaints made by an employee they represent about their health, safety or welfare in the workplace;
- present the findings of investigations to management;

- inspect the workplace;
- attend Health and Safety Committee meetings.

5 Training

5.1 Training is important for union representatives to enable them to carry out their duties effectively and the trade unions are expected to recruit and train representatives to the standards required to undertake the role. Training must be approved by the Trades Union Congress (TUC) or by the relevant trade union.

5.2 Reasonable time off **with pay** will be given to trade union representatives to undertake training in the following areas:

Trade Union Representative:

- representational skills including accompaniment, negotiation and consultation;
- specialist areas such as collective redundancy and transfer of undertaking (TUPE) where relevant to workplace circumstances;
- familiarisation or updating of TU representatives on the developing needs of the workforce;
- significant proposed changes to the structure and topics of negotiation or changes in the organisation of work;
- legislative changes which may affect employment relations and the reconsideration of existing agreements;
- representational skills at disciplinary and grievance hearings;

Union Learning Representative:

- to undertake the duties of a Union Learning Representative (see point 3.1);

Health and Safety Representative:

- health and safety training as required for Union Health and Safety Representatives.

6 Requests for Time Off

6.1 All requests for time off should be made by the trade union representative to their line manager, giving as much notice as possible for casework matters and a minimum of 2 months for scheduled regional and national committee meetings and conferences. If the request is approved, the line manager will record this on the Oracle HR & Payroll System.

- 6.2 When deciding whether requests for time off (paid and unpaid) should be granted, line managers need to consider each request for time off on its merits and should also consider the reasonableness of the request in relation to the agreed time off already taken (or in prospect) and the needs of the service. A mutually convenient time should be agreed, where possible, which minimises the effect on service delivery.
- 6.3 Time off for trade union duties and activities must be reasonable. What is "reasonable" will be determined through a discussion between the trade union representative and their line manager and will depend upon the reason for the time off. The time off should be sufficient to undertake the duty or activity but will be granted subject to the needs of the service balanced with the need of the employee to be represented, or trade union duty or activity to be undertaken.

7 Payment

- 7.1 Payment for agreed time off will be the trade union representative's normal pay for their contracted hours. Where the trade union representative works flexible hours, such as night shift, and it has been necessary to perform trade union duties or attend training outside of these hours, payment may be made for the hours subject to line manager agreement. Payment will be at the trade union representative's normal basic rate of pay. In all cases, the amount of time off must be reasonable.
- 7.2 For the avoidance of doubt the relevant trade union will be responsible for any expenses associated with the duties for which the time off (paid or unpaid) is granted.

8 Secondments

- 8.1 If the trade union proposes to fund a secondment to undertake trade union activity on its behalf, any such request must be made to the Head of Service Human Resources for consideration. If a request for a secondment is approved, this will be subject to the Council and trade union entering into a Secondment Agreement for the period agreed.

9 Monitoring and Reporting Requirements

- 9.1 Where facility time off has been agreed (both paid and unpaid), the reason for the time off and the amount of time must be recorded using the Oracle HR & Payroll System. This is to ensure that an accurate representation of trade union duties and activities can be measured and, where necessary, reported as detailed in section 9.2 below, and to ensure the Council's compliance with its statutory duties.
- 9.2 The Trade Union (Facility Time Publication Requirements) Regulations 2017 require the Council to publish the total cost of paid facility time before 31st July in the calendar year in which the relevant period to which the information relates ends (1st April to 31st March).

9.3 To support 9.1 and 9.2 above, the trade unions must provide the Head of HR with up to date records of the names, NI numbers (as a unique identifier), type (Trade Union Representative, Union Learning Representative or Union Safety Representative) and locations of trade union representatives annually, as at 1st April each year.

10 Other Facilities

10.1 Reasonable supporting facilities will be made available to trade union representatives in order to perform their duties and communicate with members, fellow lay officials and full time officers.

10.2 Facilities could include use of the following:

- telephone
- rooms for private meetings
- internal mail service
- noticeboards
- email and intranet
- photocopying
- filing space

10.3 Room A42, at County Hall, is available for use by any of the Council's recognised trade unions.

11 Trade Union Membership

11.1 The Council shall provide a system of deductions of union subscriptions at source subject to a charge of 2% together with a monthly report.

11.2 The Council shall provide relevant information on employees at other times, taking into account data protection requirements.

11.3 The Trade Union shall provide the Council with relevant information on trade union membership, including informing management in writing as soon as possible of the appointment or resignation of trade union representatives and the type of role undertaken.

Agenda Item 9

(NOT FOR PUBLICATION: By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A of the Local Government Act 1972. It is considered that all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information)

Document is Restricted

