

Employment Committee

Meeting to be held on Monday, 29 September 2017

Electoral Division affected: (All Divisions);

Cessation of funding for full-time trade union secondees (Appendix 'A' refers)

Contact for further information:

Deborah Barrow, Tel: 01772 535482, Head of Human Resources,
Deborah.barrow@lancashire.gov.uk

Executive Summary

At its meeting held on the 13th July 2017, Cabinet asked for a report to be prepared for Employment Committee that sets out the arrangements and process to be applied should Council funding of the current full-time trade union secondees cease.

The report describes the current arrangements and the Council's statutory responsibilities together with revised arrangements and implications should funding cease. Currently the Council has agreed funding for trade union secondments until the 31st March 2018. It is proposed that if all funding ceases it is effective from the 1st April 2018. This would enable a transition period to ensure alternative arrangements are in place for on-going corporate negotiations and consultations and that employees returning to their substantive roles/services can be integrated back into the service whilst maintaining a workplace trade union representative role.

Recommendation

Employment Committee is asked to consider the report and decide on future funding arrangements in relation to the Trade Union Facilities Agreement.

Background and Advice

The Council's Agreement on Facilities and Time Off for Trade Union Duties and Activities, more commonly referred to as the Facilities Agreement, is an agreement between the Council and the following trade unions that the Council recognises:

- UNISON
- Unite
- GMB
- Soulbury Unions, which include:
 - National Union of Teachers
 - Education and Children's Services Group of Prospect
 - Association of Educational Psychologists

- National Association of Youth and Community Education Officers (now part of Prospect)

The Agreement is made in recognition of the relevant sections of the Trade Union and Labour Relations (Consolidation) Act 1992 in relation to the law on time off for trade union learning or training activities and facilities for Union Learning Representatives.

It also recognises the requirements of the Safety Representatives and Safety Committees Regulations 1977, as amended by the Management of Health and Safety at Work Regulations 1999, which are made under the Health and Safety at Work etc. Act 1974.

The general purpose of the statutory provisions on time off for trade union duties and activities is to aid and improve the conduct of employee relations. The Facilities Agreement is written in accordance with the ACAS Code of Practice on Time Off for Trade Union Duties and Activities.

A separate agreement applies to schools.

Current membership numbers for both the Council and Schools of the recognised trade unions is set out below.

Unison – 9972
GMB – 744
Unite – 610
Soulbury – 74

Within the current Facilities Agreement, there are five full time trade union representatives seconded by the Council to undertake trade union duties in relation to activities of the Council. Four of the five secondments (three from UNISON, one from Unite) form part of the Facilities Agreement and the full-time secondees are funded by the Council. The fifth secondment, to the Lancashire UNISON Branch Secretary role, is funded by UNISON.

In addition to the full time secondments, and as a temporary additional resource to help support trade union members through the Council's transformation, the Employment Committee under the Urgent Business Procedure, in June 2014, agreed to the establishment of one additional Council funded full time UNISON secondment.

All trade union secondments are normally authorised for a period of 12 months and the posts established for this purpose are currently funded to 31 March 2018. The respective trade unions are responsible for the cost of all travelling and subsistence expenses for the duration of the secondment.

The Council also provides Unison with access to Room A42 in County Hall for administration activities. There are no trade union activities funded by the Council although free access to accommodation for trade union meetings is agreed from time to time on request.

Duties of Trade Union Seconded Representatives

The Council officers currently seconded to undertake the trade union representatives roles are engaged in duties that include:

- Providing advice and guidance to trade union members relating to recruitment and selection, discipline, grievance, capability and attendance issues, and terms and conditions of employment.
- Formal and informal consultation and negotiation.
- Restructures, reorganisations and redundancy consultation.
- Preparing for, and representing trade union members at formal hearings.

The UNISON Branch Secretary undertakes these general duties alongside being the main representative/lead contact between the Council and the trade unions, and managing the work and administration of the Lancashire UNISON branch.

Grading Level of Trade Union Seconded Representative Posts

A review of the grading level of the seconded officer posts was undertaken in 2015, benchmarking what the Council paid seconded officers for the duration of their trade union secondment against what other local government employers paid under similar arrangements.

The approach taken by the Council up to that point had been for seconded officers to retain the terms and conditions of employment associated with their substantive post, including their grading level and any contractual enhancements that applied to their substantive post, for the duration of their secondment. However, this had the potential for seconded officers to be paid differently for undertaking what were essentially the same duties and responsibilities and did not take into account the additional role specific duties that were undertaken by the UNISON Branch Secretary.

In order to ensure a more consistent pay approach going forwards and to mitigate against any equal pay claims, the Employment Committee in July 2015 agreed to apply a minimum grading level to the seconded officer roles, aligning the duties and responsibilities to the Grade 6 role profile for job evaluation purposes on the Lancashire Pay Spine, and a minimum grading level of Grade 7 for the UNISON Branch Secretary post. It was also agreed that where a seconded post holder was receiving a salary in excess of this, as their substantive post had been evaluated at a higher grade, they would continue to receive the grading level of their substantive post for the duration of the secondment in line with the existing pay arrangements set out in the Facilities Agreement.

As set out above, there is no statutory requirement for the Council to provide additional funding for trade union activity. Providing the Council allows reasonable paid time off for trade union representatives to be released from their workplace to undertake trade union activity it will be compliant with the Trade Union and Labour Relations (Consolidation) Act 1992.

Therefore, full cessation of Council funding for full-time secondees will require alternative provision with the recognised trade unions. UNISON and Unite have been asked to consider whether they would fund any reduction in Council funding but have confirmed that they would not.

Should funding cease then all the secondees, with the exception of one, would return to their substantive posts in their service areas. One current secondee does not have a substantive post and would, therefore, be at risk of redundancy. The employee affected is currently funded by schools under the separate Facilities Agreement applied to schools. If this funding remains the employee would not be issued with notice of redundancy. The employees returning to their substantive roles may require induction and training to enable them to transition back into an operational role in addition to being a workplace union representative.

To fulfil its statutory obligations, the Council would be expected to provide reasonable paid time off by releasing workplace representatives/stewards to undertake trade union activity and provide representation at a corporate level which would include the Corporate Joint Negotiation and Consultative Forum (JNCF) and other corporate consultations and negotiations.

Consultations

The recognised trade unions have been consulted and have asked the Employment Committee to maintain funding to support effective employee relations. The trade unions have submitted a collective response to any proposal to cease funding, which is attached at Appendix A.

Implications

UNISON may withdraw the funding it currently provides if the Council no longer provides any funding for full-time secondees. The Council will be required to ensure workplace representatives are able to be released from their role to attend corporate consultation and negotiation meetings, therefore the operational impact on services could increase.

Risk management

The recognised trade unions have expressed concern of the Council's commitment to maintain effective and productive employee relations.

Financial

The total annual budget provision for funding the Trade Union secondees is £153,682, therefore if funding is withdrawn this would be the value of the direct saving to the County Council. However, there will be indirect costs incurred as it will be expected that the County Council releases workplace representatives/stewards to undertake trade union activity and provide representation at a corporate level to fulfil its statutory obligations.

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

Paper	Date	Contact/Tel
N/A		