

EMPLOYEES' CONSULTATIVE FORUM MINUTES

10 OCTOBER 2011

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| Chairman: | * Councillor Graham Henson | |
| Councillors: | * Mrs Camilla Bath | * Jean Lammiman |
| | * Bob Currie | * Paul Osborn |
| | * Keith Ferry (2) | * Bill Stephenson |
| Representatives of UNISON: | † Ms L Ahmad | * Mr G Martin |
| | * Mr D Butterfield | * Mr R Thomas |
| | † Mr S Compton | |
| Representatives of GMB: | * S Karia | |

- * Denotes Member present
- (2) Denotes category of Reserve Members
- † Denotes apologies received

56. Attendance by Reserve Members

RESOLVED: To note the attendance at this meeting of the following duly appointed Reserve Member:-

Ordinary Member

Councillor Phillip O'Dell

Reserve Member

Councillor Keith Ferry

57. Declarations of Interest

RESOLVED: To note that the following interests were declared:

Agenda Item 7 – Information Report – Annual Equality in Employment Monitoring from 1 April 2010 – 31 March 2011, Agenda Item 8 – Information Report – Contractual Status of Employment Policies and Procedures, Agenda Item 9 – Information Report – Policies and Procedures Application, Agenda Item 10 – Information Report – Employee Procedure Appeals, Agenda Item 11 – Information Report – Follow Up Actions, Agenda Item 12 – Information Report – Annual Health and Safety Report 2010/11

Councillor Bob Currie declared a personal interest in that he was a retired Unison member and his son worked for the Council. He would remain in the room whilst the matter was considered and voted upon.

Councillor Graham Henson declared a personal interest in that he was a member of the Communication Workers Union and he had a relative employed by the Council. He would remain in the room whilst the matter was considered and voted upon.

Agenda Item 7 – Information Report – Annual Equality in Employment Monitoring from 1 April 2010 – 31 March 2011

Councillor Jean Lammiman declared a personal interest in that she was a member of the Harrow Equalities Centre. She would remain in the room whilst the matter was considered and voted upon.

Councillor Paul Osborn declared a personal interest in that he had received hospitality from Capita which was declared on his Register of Gifts and Hospitality. He would remain in the room whilst the matter was considered and voted upon.

Agenda Item 8 – Information Report – Contractual Status of Employment Policies and Procedures

Councillor Paul Osborn declared a personal interest in that he was the former Portfolio Holder who had made an original decision on the status of employment policies being contractual and the associated Best Practice notes and Toolkits being non-contractual. He would remain in the room whilst the matter was considered and voted upon.

58. Minutes

A Trade Union Member of the Forum commented that he believed there were inaccuracies within the minutes. He proposed three amendments which were as follows:

- to add a further bullet point at the end of page 5 to read “As a large organisation and employer, there was an onus on the Council to follow the relevant ACAS guidelines to ensure that the relevant ‘checks and balances’ had been conducted. It was Unison’s view that this should have been conducted by the Business Support Project Team”;

- to add a sixth bullet point on page 6 to read “Unison had raised during their consultation that they considered this to be a redundancy exercise as there were less posts and more employees, therefore fulfilling the redundancy definition”;
- to add an extra resolution to page 7 to read “That data be provided to the unions on how checks and balances were conducted by the Business Support Project Team”.

Upon consideration, the Forum agreed that only the first two amendments would be accepted.

RESOLVED: That the minutes of the meeting held on 6 July 2011, be taken as read and signed as a correct record subject to the following amendments:

- to add a further bullet point at the end of page 5 to read “As a large organisation and employer, there was an onus on the Council to follow the relevant ACAS guidelines to ensure that the relevant ‘checks and balances’ had been conducted. It was Unison’s view that this should have been conducted by the Business Support Project Team”;
- to add a sixth bullet point on page 6 to read “Unison had raised during their consultation that they considered this to be a redundancy exercise as there were less posts and more employees, therefore fulfilling the redundancy definition”.

59. Petitions

RESOLVED: To note that no petitions were received at this meeting under the provisions of the Executive Procedure Rule 49 (Part 4D of the Constitution).

60. Deputations

RESOLVED: To note that no deputations were received at this meeting under the provisions of Executive Procedure Rule 50 (Part 4D of the Constitution).

61. Public Questions

The public questioners were not present at the meeting. The Chairman agreed that written responses would be provided to the questioners as set out below.

RESOLVED: To note that the following public questions were received:

1.

Questioner: Hitesh Pabari

Question: What lessons have been learnt and implemented to save money for Harrow Ratepayers and the Council?

(i.e. in view of the number of Tribunal cases / appeals is it reflection of the failure of management to resolve matters internal or is it a reflection that policies and procedures are not working properly;

How does this compare with other Local Authorities with similar size;

Are there any concerning patterns e.g. are there more cases in a certain department or related service;

If it is related to a department, is it a reflection that there is a poor culture within that department).”

**Answer:
(Chairman)**

Like any major employer, the London Borough of Harrow runs the risk that occasionally employees who feel they have been treated unfairly will submit ET claims. To mitigate that risk the Council has implemented a ‘Fair Treatment Suite’ of employment policies and procedures and monitors their application, to ensure that they are working effectively.

These procedures have been developed to comply with the necessary legal requirements, in accordance with Advisory, Conciliation and Arbitration Services (ACAS) guidance and best practice principles and through consultation with the recognised Trade Unions.

Monitoring includes identification and analysis of any trends and patterns which may be due to a variety of reasons including an individual or group engaged in multiple processes, significant change affecting a group of staff, problems with management practices or a breakdown in local industrial relations. The numbers of Dignity at Work (Grievance) cases in each Directorate are reported to the Portfolio Holder and Chief Officers at quarterly Improvement Boards

This evening the Employees Consultative Forum will consider a report on ‘Policies and Procedures Application’ and a report on Employee Procedure Appeals. The second report identifies that since Oct 2009, 10 Employment Tribunal claims have been submitted following appeals under the Council’s employment procedures. Of these, to date only 2 have

been upheld by the Tribunal and each of these has been subject to a review involving Legal, HRD and relevant Directorate management.

No comparative data is available for other London Boroughs or local authorities. However, the proportion of ET claims submitted by Council employees compared to the Council workforce is consistent with the proportion of claims submitted nationally compared to the UK working population i.e. around 0.6%.

2.

Questioner: Kamlesh Pabari

Question: "What is the total amount of compensation awards the Local Authority has paid out in Employment Tribunal claims and also the legal fees paid in 2010/2011 and in this current financial year?"

**Answer:
(Chairman)** The total amount of compensation awards paid out by the London Borough of Harrow in Employment Tribunals claims for 2010/11 and in the current financial year is £334.31. No legal fees were paid as all the work was carried out by the Council's in house employment lawyers.

RESOLVED ITEMS

62. INFORMATION REPORT - Annual Equality In Employment Monitoring From 1 April 2010 - 31st March 2011

An officer introduced a report which provided information on recruitment applicant monitoring, workforce profile, take up of corporately organised training courses and application of employment procedures.

The officer explained that the report had been presented in a new format and provided headline information in relation on equalities in relation to employment issues relating to age, disability, race, sex and for pregnancy and maternity. Data relating to schools had been shown separately.

The officer addressed a number of issues as follows:

BAME

- There was a modest increase in the Black and Ethnic Minority (BAME) representation in the whole Council workforce increasing to 34.92%. Excluding schools this figure was 37.79%;

- in terms of recruitment, there was a slight increase in the number of BAME external applicants appointed to 42.9%. There was a substantial increase in the proportion of BAME internal applicants appointed;
- 44% of capability cases and 40% of conduct cases involved BAME staff;
- in terms of leavers, 30% were from BAME background. In the Voluntary Severance Scheme (VSS), 28% leaving were from a BAME background.

Gender

- In terms of gender profile, 75.93% of the workforce in the Council were women. This was higher than the community profile;
- there was an increase in the proportion of external women appointed to 52.3%. There had been a decrease internally;
- 42.9% of conduct cases involved women with 57.1% involving males;
- 66.7% of capability cases involved females and 32.1% involved males;
- in terms of Dignity at Work cases, 67.9% involved Females and 32.1% involved Males;
- 72% of leavers from the Council were female and 28% were male. Under the VSS, 56% of leavers were female and 44% were male.

Disability

- There was a slight decrease in the representation of employees with a disability in the workforce. This was 1.84% and excluding schools this figure was 3.63%;
- there was a slight increase in the proportion of applicants with a disability who had been appointed, up to 4.8%. There had been a reduction in the proportion of applicants with a disability appointed internally to 14.3%;
- in relation to employment procedures, 7.1% of employees involved with conduct cases, 5.6% of employees involved with capability cases and 11% of staff involved with Dignity at Work cases had a disability;
- 1% of leavers had a disability. No employees who had left the Council under the VSS had a disability.

Age

- The highest concentration of employees was in the age range 45-54 years. There were low numbers in relation to the number of staff between 16-24 years. The Council were attempting to address this by introducing apprenticeships. There was also a future predicted increase in the number of employees who would be 65 years and over;
- Conduct and Capability cases involved more staff in the 45-54 age range. Dignity at Work cases involved more staff in the 55-64 age range;
- the highest proportion of leavers was in the 25-34 year age range. The highest leavers on the VSS were in the 55-64 year age range;
- in relation to employees returning from pregnancy and maternity leave, 13 employees left the Council within 4 months of returning. It was thought that this was due the requirement to pay back money relating to maternity leave if they left the Council within a period of 3 months subsequent to return;
- partners of the Council had been requested to provide details of the make up of their workforce. Most of this information had been provided but not by all partners. Concerns had additionally been raised about Capita's workforce not reflecting the local community;
- consultation on the report had been taken place with Trade Unions, Worker Support Groups, Harrow Equalities Centre and the Harrow Association of the Disabled. Comments they had made included concerns about the low levels of recruitment, reduction on the workforce and lack of information on schools;
- in terms of actions, the Corporate Equalities Sub-Group would be reviewing progress on previously agreed actions and consider issues identified in the report;
- next year it was anticipated that there would be more information about redeployments and learning and development activity from coursebooker.

During the discussion on this item, Members of the Forum raised a number of queries which were responded to as follows:

- information relating to redeployees would feature in future reports as this could be obtained from the RedeployR system;
- the Management Development Practitioners Programme had been made accessible for employees at H10 and H11 level. As recruitment levels was currently an issue nationally, these types of training programmes would assist employees to develop and progress when an opportunity arose;

- information reflected in the report had been obtained via the SAP system, which the Council utilised;
- disproportionate number of BAME staff in senior management was a wider public sector issue. The Council was legally obliged to appoint to positions on merit. Information would be circulated to the Forum showing that a similar distribution of BAME staff in senior management positions was reflected in other London Boroughs;
- it was reported that the Springboard Course would not continue to be provided in 2011/12 given financial constraints. However the Council had launched a revised Corporate Training Programme which would support and develop all employees across the Council. A review of the effectiveness of previous Springboard courses would be made;
- in relation to a query on why the Equalities Scheme Framework had not been mentioned in the report, it was important to note the context of the report. This report dealt with issues relating to employment and was a small proportion of the equalities theme throughout the Council. The Council's aim was to be an excellent authority in relation to equalities;
- in relation to a concern on what the format of the report would be for next year, it was proposed that the shorter report would focus on issues of note with supporting information data attached as appendices. The report would focus on identifying issues and actions to address. The reason for a change in report format was due to (a) the high level of resource required to produce it and (b) as a consequence, less time is able to be put to working on the issues the report identifies;
- Individual Performance Appraisal and Development (IPAD) is monitored by directorates. The Chief Executive's Directorate had achieved silver accreditation in the Investor in People award. The effectiveness of IPADs was one of the reasons why this award was achieved. It was acknowledged that there was some difference in the way that they were approached in different directorates. IPADs (appraisals) were not designed with the objective to provide promotion to employees but to appraise and discuss achievement of objectives, set new ones and agree the development needed to achieve them.

During the discussion on this item, Trade Union Members of the Forum made the following comments:

- an issue of concern was some Council partners not providing information relating to the profile of its workforce. The Council should take more robust action in relation to this;

- sometimes talented BAME staff were not provided with opportunities in instances where interim appointments were made. This did not allow affected staff to develop;
- IPADs were not popular and not operated correctly. They were applied differently from department to department and were not achieving their full potential.

RESOLVED: That the report be noted.

63. INFORMATION REPORT - Contractual Status of Employment Policies and Procedures

The Forum received a report which set out progress made to achieving agreement with the unions on the decision that employment policies be contractual and the associated Best Practice Notes and Toolkits be non-contractual.

An officer explained that at the last meeting of the Forum, it had been reported that officers were confident of reaching an agreement with the unions on the employment policies. However since then, officers had not had a formal response from either Unison or GMB. The officer reported that the deadlines had been moved several times for a response, but as of the last deadline on 25 August 2011, no response had been received. The GMB union had responded to officers in October 2011 and indicated that they were not in agreement with the Portfolio Holder's decision as they required more information. As there was no resolution achieved, it was now the intention of officers to refer the issue back to the Portfolio Holder for Performance, Customer Services and Corporate Services.

During the discussion on this item, Trade Union Members commented that they had concerns with the application of how employee procedures were working. They claimed that this had been highlighted by another report due to be discussed at the meeting which supported their arguments. Trade Union Members highlighted issues relating to timescales involved in relation to employment procedures which they claimed were poor. They claimed that this placed their Trade Union members in a position where they were unable to make legal claims. They believed the timescales were poor and had to re-consult with others within the union on the proposals.

The Chairman clarified that no employee procedures could negate an employee's access to the Employment Tribunal. Another Member of the Forum clarified that the issue was now being referred back to the Portfolio Holder.

RESOLVED: That the report be noted.

64. INFORMATION REPORT - Policies and Procedures Application

The Chairman advised the Forum that this Agenda Item and Agenda Item 10, Information Report – Employee Procedure Appeals, would be debated together as they considered similar issues.

An officer introduced the reports which set out the performance and outcomes of the application of employment procedures across the Council. The officer reported that:

- the report had been prepared on the basis of concerns raised by the Trade Unions regarding what they perceived to be inequality of treatment between those staff on H grades and senior managers. The report had demonstrated that there was no difference in treatment. Indeed there had been more cases relating to conduct involving senior managers than those employees on H grades relative to the population size of each group;
- it had been recognised that there was an issue relating to timescales which would be addressed.

In response to questions raised by Members of the Forum, the officer reported that:

- an employee's right to access an Employment Tribunal was not affected by the duration of internal Council processes. The Council did run the risk of an additional award being made if relevant timescales had not reasonably been adhered to;
- the vast majority of cases brought to the Employment Tribunal in 2010/11 had been withdrawn by employees. There had been only a few cases that had found against the Council and in only one of these was compensation awarded. This demonstrated that the Council made the right decisions the vast majority of the time;
- the average time taken for Dignity at Work cases to be resolved had been skewed by one specific case which had taken approximately 14 months in its duration;
- Employment Procedures were not being conducted any slower than at any time in the past. Cases were becoming increasingly complex with significant increases in the amount of paperwork. It was important that managers did a thorough job when dealing with cases.

During the discussion on this item, Elected Members of the Forum made a number of comments which included:

- an Action Plan should be prepared and implemented to address issues relating to timescales and how this was monitored. It would be useful for a report being presented to a future meeting of the Forum on this issue. Information should be broken down by each relevant Directorate;
- there were sometimes mitigating factors as to why timescales were delayed. Personnel Appeals were often complex and each case had different characteristics. Rather than looking at average amount of

time taken, it may be better to set a target for cases to be resolved or look at the lead in time for each appeal;

- employee procedures should usually be dealt with within a month or two.

During the discussion on this item, Trade Union Members of the Forum made a number of comments which included:

- the unions did not wish to use the employment procedures as a prelude to Employment Tribunal cases;
- Unison had dealt with cases, which on average had taken 7 months. In some cases they alleged that it had taken 2 months to respond to the initial complaint;
- GMB's experience was different to Unisons in that they had found employment procedures had taken place in accordance with timescales set out in the procedures.

RESOLVED: That

- (1) the report be noted;
- (2) a report be presented to a future meeting of the Forum on the action taken to address the issue of timescales for Employment Procedures.

65. INFORMATION REPORT - Employee Procedure Appeals

The issues raised in this item were considered together with Agenda Item 9, Information Report – Policies and Procedures Application as they considered similar issues.

RESOLVED: That the report be noted.

66. INFORMATION REPORT - Follow Up Actions

An officer introduced a report providing information relating to follow up actions requested by the Forum since January 2010.

An officer confirmed that this would be a standard item on each agenda to ensure that the Forum were kept up to date on progress made in relation to the actions they had requested.

RESOLVED: That the report be noted.

67. INFORMATION REPORT - Annual Health and Safety Report 2010/11

The Forum received a report evaluating the accident and training statistics during the financial year 2010/11.

An officer reported that:

- the report had been presented to the last meeting of the Forum. Members had requested extra information on the analysis and context of the statistics provided;
- the information provided had been presented to show relevant information by each directorate;
- officers had been liaising with schools in the borough to heighten awareness of Health and Safety issues. This had involved visiting every school in the borough;
- actions were being taken to address disappointing attendance figures for Health and Safety training events.

During the discussion on this item, Members of the Forum raised a number of issues which were responded to as follows:

- the recent figures in relation to the number of accidents in Children's Services was showing signs of beginning to level off having increased significantly in the last few years;
- the item would be placed as an agenda item at the next meeting of the Health and Safety Partnership Meeting;
- staff at schools received physical intervention training. The Trainer within the Council could only train permanent staff. Agency staff were instructed not to intervene. Risk assessments were in place to address the scenarios;
- it was believed that the explanation for an increase in the number of accidents reported from quarter 3 in 2010/11 to quarter 4, was due to a new online tool for reporting accidents. Officers had been to each of the schools in the borough and highlighted the need to be more proactive in reporting accidents;
- training on Health and Safety had been provided to all Headteachers. Officers had not spoken personally with all Headteachers on the significant increase in reported accidents. This would be an action that officers would perform;
- details of the statistics presented to the Forum would be broken down further in the half year report, which would be presented to the Forum at a later date. This report would include more information on analysis.

During the discussion, Elected Members on the Forum also made a number of comments which included:

- schools had been advised to report all accidents and that there were new methods to report accidents;

- it would be helpful if details relating to academies could be shown separately when presenting the half – year report.

During the discussion, Trade Union Members on the Forum also made a number of comments which included:

- they believed there needed to be a greater focus on safety inspection at schools;
- they believed that agency staff not being trained in physical intervention posed a risk to all staff employed. Their pay and conditions should be the same as permanent staff.

RESOLVED: That the report be noted.

(Note: The meeting, having commenced at 7.41 pm, closed at 9.33 pm).

(Signed) COUNCILLOR GRAHAM HENSON
Chairman