

Classification Open	Item No.
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Meeting:	Employment Panel
Meeting date:	29 th February 2024
Title of report:	Workforce Policy Review
Report by:	Cllr. Tahir Rafiq, Cabinet Member for HR & Corporate Affairs
Decision Type:	Council
Ward(s) to which report relates	All

Executive Summary:

A key component of the Council’s HR improvement and modernisation programme is the review of core HR systems, processes and policies to ensure they are fit for purpose, reflective of modern HR practice and align with the organisational culture described by the LET’S values. As part of this work, Employment Panel agreed revisions to 13 employment policies during 2023.

This report sets out the next phase of this policy review work. Trade Union colleagues have been fully engaged in this work.

Changes are proposed in the following areas:

1. Equality Policy for Employment – a new streamlined policy informed by the revised ACAS equality policy template and with reference to the Council’s Equality Objectives.
2. Officer Employment Procedure Rules – updates informed by a recent Employment Tribunal case and clarity in relation to the process for engaging interim Chief Officers.
3. Learning and Development Policy – a revised and streamlined policy to reflect current best practice and replace three current documents with one.
4. Local Conditions: Section 4, Hours and Leave – a proposal to add the floating day to the contractual leave entitlement for all employees to be taken at any point during the year in response to feedback and in order to ensure effective service delivery.
5. Flexible Working Policy – a consolidation of the existing work life balance documents and update to reflect the Employment Relations (Flexible Working) Act 2023 and new Draft ACAS Code of Practice.

6. Redundancy Procedure – minor updates to reflect the increased protections in the Maternity Leave, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024.

RECOMMENDATION(S)

That the Employment Panel:

1. Agree the revised Equality Policy for Employment.
2. Commend the revised Officer Employment Procedure Rules to Council for approval
3. Agree the new Learning and Development Policy which will replace Local Conditions: Section 2 – Learning, Training and Development, Appendix W: Employee Development Policy and the Equal Access to Learning Policy, all of which will be withdrawn
4. Agree the revised Local Conditions: Section 4 – Hours and Leave
5. Agree the new Flexible Working Policy
6. Agree the proposed amendments to the Council's Redundancy Procedure

Subject to Employment Panel's approval, the revised Officer Employment Procedure Rules will be commended to Council for approval. The other new and revised policies will go forward for endorsement via the Trade Union Consultation Meeting and the Council's Corporate Joint Consultative Committee before being published on the Council's intranet pages and communicated to staff.

KEY CONSIDERATIONS

1. Equality Policy

1.1 Background

1.1.1 The Council's current Equality Policy for Employment was written just after the Equality Act 2010 was introduced.

1.1.2 The policy sets out the Council's commitment to championing equality, diversity and inclusion across the workforce, and eliminating all forms of discrimination, harassment, victimisation and bias. It details key roles, responsibilities and expectations in relation to equality and in support of the Council's statutory Equality Objectives.

1.2 Policy Headlines

1.2.1 The Policy has been updated to reflect the latest ACAS equality policy template. This has also offered the opportunity to simplify and streamline the document to ensure it is more accessible and user friendly to staff. Key sections have, however, been retained which reflect areas of regular inquiry or importance in the Bury

context.

- 1.2.2 The policy has been shared and discussed with the Team Bury Inclusion Working Group, which includes the Chairs of the Council's three employee-led equality groups. It has also been shared with Trade Union colleagues. Feedback from this engagement is included within the draft policy.

1.3 The revised policy and EqIA are attached as appendix 1 and 1A.

2. Officer Employment Procedure Rules and Disciplinary Procedure for the Head of Paid Service, Section 151 Officer and Monitoring Officer

2.1 Background

- 2.1.1 Following a recent Employee Tribunal finding all local authorities have been asked to review their arrangements in relation to the suspension of statutory officers by the National Employers organisation (JNC).

The case in question concerned a chief officer of a council who had been suspended and during the suspension commenced a period of sickness. The council treated that period as sickness absence and paid sick pay in accordance with their sick pay scheme, which led to a reduction in pay. The chief officer claimed they were entitled to full pay during the whole period of suspension, however the wording in the council's procedures was not wholly clear. The Employment Tribunal found that the reference in the chief officer's contract to the JNC for Chief Officers' handbook was important. The Handbook provided a clear contractual statement that suspension was on 'full pay' and so full pay should be retained, even during a period of sickness absence.

In line with the above, a clarification to our Officer Employment Procedure Rules and Disciplinary Procedure for the Head of Paid Service, Section 151 Officer and Monitoring Officer is needed.

Changes have also been made to reflect the Council's current organisational structure and the removal of the post of Deputy Chief Executive.

- 2.1.3 In addition to the above, it has been identified that the current Officer Employment Procedure Rules are unclear on the appropriate procedure to appoint a Chief Officer or Deputy Chief Officer on a temporary basis. A proposal in relation to this is suggested for inclusion.

2.2 Document Headlines

- 2.2.1 The Officer Employment Procedure Rules include the Council's arrangements for disciplinary action (including suspension) in relation to the Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) and other Chief Officers and Deputy Chief Officers. The following additional wording is proposed with reference to pay during suspension:

- 2.2.1.1 "Pay will not be reduced during the period of suspension, for example if the period of suspension coincides with one of sickness absence, and their

entitlement to full pay under the sickness scheme reduces or expires the officer(s) will continue to receive full pay.”

2.2.2 The Disciplinary Procedure for the Head of Paid Service, Section 151 Officer and Monitoring Officer is presented as Appendix A within the Officer Employment Procedure Rules and has been added/amended as follows:

2.2.2.1 Following the senior management restructure, the Council no longer has a Deputy Chief Executive. The responsibility for suspension section has therefore been amended to read “However, should the Chief Executive and/or Monitoring Officer be implicated in disciplinary investigations at the same time, the Executive Director (Strategy & Transformation) in consultation with the Director of People & Inclusion has delegated authority to suspend in relevant circumstances in conjunction with the Leader of the Council and relevant Cabinet Member.”

2.2.2.2 Similarly, the hearing section has been amended to read “Where the IDC recommends to dismiss the officer, the Leader and all members of the Cabinet should be informed. This part of the process should be carried out by the Executive Director (Strategy & Transformation) in consultation with the Director of People & Inclusion and in conjunction with Democratic Services.”

2.2.2.3 The wording regarding pay during suspension has been added to with “Pay will not be reduced during the period of suspension, for example if the period of suspension coincides with one of sickness absence, and their entitlement to full pay under the sickness scheme reduces or expires the officer(s) will continue to receive full pay.”

2.2.3 In terms of recruiting of temporary Chief Officers, that the below text is proposed for inclusion in the Officer Employment Procedure Rules to confirm the position:

When appointing Chief Officers and Deputy Chief Officers on an interim basis, the recruitment process will be undertaken in conjunction with the appropriate Cabinet Portfolio holder or their appointed deputy and in consultation with the Cabinet Portfolio holder for Human Resources.

For interim Statutory Chief Officers (The Head of Paid Service, Section 151 Officer or Monitoring Officer) a full Appointment Panel will meet to agree the appointment, which must be ratified by full Council.

Any extensions to interim arrangements should be agreed with the appropriate Cabinet Member.

Any proposal to move from a temporary to a permanent appointment would be subject to assessment via a sub-group of the Employment Panel (as per normal permanent recruitment).

2.2.4 The proposed changes have been shared with the Trades Unions and their feedback incorporated.

3. Learning and Development Policy

3.1 Background

3.1.1 Policy provision in relation to learning and development is currently complex and set out in a number of different places: Local Conditions Section 2: Learning, training and development, Local Conditions Appendix W: Employee Development Policy and an Equal Access to Learning Policy. These documents are out of date and there is significant overlap between them, which can be confusing.

3.2 Policy Headlines

3.2.1 The new Learning and Development Policy will replace and simplify the 3 documents referred to above. It has been developed as a more engaging and accessible policy document and in keeping with the Council's commitment to development and professional growth.

3.2.2 The proposed changes have been shared with the Trades Unions and their feedback incorporated.

3.3 The revised policy and EqIA are attached as appendix 2 and 2A

4. Local Conditions: Section 4 – Hours and Leave

4.1.1 Background

4.1.1 Under Section 4 (Hours and Leave), 5b, of the Local Conditions of Service, three extra days leave are granted in addition to contractual annual leave entitlement. Two are added to annual leave and one day (floating) is to be taken between the 20th December and 2nd January. The date is determined by Elected Members after consultation with the trade unions.

4.1.2 The Floating Day has traditionally been agreed with Unison on a 3 yearly basis and its date fluctuates accordingly around the Christmas/New Year Bank Holidays and is agreed on a "best fit" basis. Employees usually incorporate their own annual leave entitlement to achieve an extended break over the Christmas period (subject to service requirements).

4.1.3 The Floating Day for 2024 and the following years has not yet been agreed.

4.1.4 In recent years, the Floating Day and its timing have caused operational difficulties, as it does not apply to school-based employees and other partner organisations such as the NHS. Operationally services have increasingly looked to flex arrangements away from a fixed day with the agreement of staff locally and in order to deliver critical services.

4.1.5 Alongside the above, some employees have indicated they would like greater control over the Floating Day, as this arrangement does not always suit their personal circumstances, for example those with caring responsibilities or those

wanting greater flexibility to celebrate different religious holidays.

4.2 Policy Headlines

- 4.2.1 It is proposed to withdraw the Floating Day and add the day to the contractual leave entitlement for all employees. This would require an amendment to the Local Conditions of Service, which currently read:

Leave in addition to Annual Leave

Three extra days to be granted locally on the following basis: a) Two days to be added to annual leave; b) One day to be taken between the 20th December and 2nd January (floating day), the date thereof to be determined each year by Elected Members after consultation with the relevant Trade Unions;

The amended paragraph would read:

Leave in addition to Annual Leave

Three extra days to be granted locally and to be added to annual leave entitlement;

The Council would still encourage and support employees to take a suitable break over the Christmas / New Year period wherever service requirements permit, but in doing this, would retain greater flexibility and be able to maintain a more responsive level of service provision across the period, particularly in times of possible crisis.

- 4.2.2 The proposed change has been shared with the Trades Unions and their feedback incorporated.

5. Flexible Working Policy

5.1 Background

- 5.1.1 The Council has a comprehensive suite of flexible working opportunities that employees can access to help improve their work life balance or to make a workplace adjustment linked to a protected characteristic. This supports the Council's commitments to promote inclusion within the workplace and to champion physical and emotional workforce wellbeing.
- 5.1.2 New legislation in this area has recently been introduced through the Employment Relations (Flexible Working) Act 2023, which comes into force on 6 April 2024, and is supported by a Draft ACAS Code of Practice. Whilst the Council's current policy provision is broadly in-line with these changes there are a small number of areas where changes are needed to ensure compliance.
- 5.1.3 This is also an opportunity to make the Council's policy provision in this area clearer with current arrangements are spread across a number of different policy documents which duplicate and risk causing confusion.

5.2 Policy Headlines

5.2.1 The new Flexible Working Policy consolidates 8 existing documents into a single, consistent document:

- Applications for flexible working or time off for training – guidance, procedures and frequently asked questions for employees
- Applications for flexible working or time off for training – guidance, procedures and frequently asked questions for managers
- Application form for flexible working or time off for training
- Job share scheme
- Voluntary reduced hours policy
- Voluntary term time working policy
- Compressed hours policy
- Purchasing annual leave policy

5.2.2 The wording has also been updated to reflect the Employment Relations (Flexible Working) Act 2023, which comes into force on 6 April 2024, and the associated new Draft ACAS Code of Practice.

5.2.3 Specifically this new legislation has required three changes:

- making the right to request flexible working a day 1 right
- permitting 2 requests to be made each year (previously 1)
- requiring decisions to be made within 2 months (previously 3)

5.2.4 The policy has been shared with the Trades Unions and their feedback incorporated.

5.3 The revised policy and EqIA are attached as appendix 3 and 3A

6. Redundancy Procedure

6.1 Background

6.1.1 Under the Maternity Leave, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024, protection from the risk of redundancy has been increased for those currently absent for a period of maternity leave, adoption leave or shared parental leave to a period of 18 months following their return. There is therefore a need to amend the Council's policy provision to reflect this change.

6.2 Procedure Headlines

6.2.1 The procedure currently reads:

“The beginning of pregnancy to the end of maternity leave is a “protected period” during which a woman is entitled to special consideration if this is necessary to make good any disadvantage she might otherwise experience. The same protection also applies to employees who are on adoption leave or shared parental leave.”

It will be amended to state:

“In line with the Maternity Leave, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024, the beginning of pregnancy to 18 months after childbirth is a “protected period” during which a woman is entitled to special consideration if this is necessary to make good any disadvantage she might otherwise experience. The same protection also applies to employees who are on adoption leave or shared parental leave.”

6.2.2 To align this policy with other arrangements across the Council the proposal is also to amend the guidance on lodging an appeal from 11 to 10 days.

Community impact/links with Community Strategy

A modern and effective employee policy framework is essential to ensuring the effective operation of the organisation and, in turn the delivery of our commitment to the Community Strategy.

Equality Impact and considerations:

Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services.

Equality Analysis	Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.
Where appropriate, Equality Impact Assessments have been carried out in relation to the proposed changes and are appended.	

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
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Trade Union objection to policy changes	Prior discussions have taken place with Unison
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Consultation:

All of the above proposed changes have been shared with the Trade Unions, and where appropriate there have been consultations with HR colleagues and the Inclusion Working Group.

Legal Implications:

Members are asked to review and agree to proposed changes to a suite of reports, these reports have been updated and reviewed to reflect legislative, case law and revised ACAS guidance. In each section reference is made to the source of these changes. As part of good internal governance it is important that these documents are reviewed and updated on a regular basis.

Financial Implications:

There are no direct financial consequences of any of the proposed changes set out within this report.

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Background papers:

Employment Panel 24 January 2023 – Workforce Policy Review Phase 1

Employment Panel 1 March 2023 – Workforce Policy Review Phase 2

Employment Panel 22 June 2023 – Workforce Policy Review Phase 3

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning

Appendix 1: Equality Policy and EqIA (see separate attachments)

Appendix 2: Learning and Development Policy and EqIA (see *separate attachments*)

Appendix 4: Flexible Working Policy and EqIA (see *separate attachments*)