



## **Notice of a public meeting of**

### **Staffing Matters and Urgency Committee**

- To:** Councillors Aspden (Chair), D'Agorne (Vice-Chair),  
Hook and Kilbane
- Date:** Monday, 20 September 2021
- Time:** 5.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West  
Offices (F045)

### **AGENDA**

#### **1. Declarations of Interest**

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

#### **2. Exclusion of Press and Public**

To consider the exclusion of the press and public from the meeting during consideration of the following:

Annexes A to Agenda Items 8 and 9 on the grounds that they contain information relating to individuals and the financial affairs of particular persons. This information is classed as exempt under paragraphs 1, 2 and 3 of Schedule 12A to Section 100A of

the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

**3. Minutes** (Pages 3 - 6)

To approve and sign the minutes of the meeting of the Staffing Matters & Urgency Committee held on 16 August 2021.

**4. Public Participation**

At this point in the meeting members of the public who have registered to speak can do so. Members of the public may speak on agenda items or on matters within the remit of the committee. Please note that our registration deadlines have changed to 2 working days before the meeting, in order to facilitate the management of public participation at our meetings. The deadline for registering at this meeting is at **5.00pm on Thursday, 16 September 2021**.

To register to speak please visit [www.york.gov.uk/AttendCouncilMeetings](http://www.york.gov.uk/AttendCouncilMeetings) to fill in an online registration form. If you have any questions about the registration form or the meeting please contact Democratic Services on the details at the foot of the agenda.

**Webcasting of Public Meetings**

Please note that, subject to available resources, this meeting will be webcast including any registered public speakers who have given their permission.

The meeting can be viewed live and on demand at [www.york.gov.uk/webcasts](http://www.york.gov.uk/webcasts). During coronavirus, we've made some changes to how we're running council meetings. See our coronavirus updates ([www.york.gov.uk/COVIDDemocracy](http://www.york.gov.uk/COVIDDemocracy)) for more information on meetings and decisions.

**5. Emergency Retention Protocol** (Pages 7 - 16)

This report seeks approval of the introduction of an emergency retention protocol, as an urgent response to emerging service critical conditions.

**6. Work Plan** (Pages 17 - 18)

To consider the Committee's draft work plan for the municipal year 2021-22.

**7. Urgent Business**

Any other business which the Chair considers urgent under the Local Government Act 1972.

**8. Redundancy** (Pages 19 - 24)

This report advises the Committee of the expenditure associated with the proposed dismissal of a number of employees on the grounds of redundancy.

**9. Pension or Exit Discretion** (Pages 25 - 30)

This report advises the Staffing Matters and Urgency Committee of the expenditure associated with pension or exit discretions in accordance with council policy for noting.

Democracy Officer

Robert Flintoft

Contact details:

- Telephone – (01904) 555704
- Email – [robert.flintoft@york.gov.uk](mailto:robert.flintoft@york.gov.uk)

For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

**This information can be provided in your own language.**

**我們也用您們的語言提供這個信息 (Cantonese)**

**এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)**

**Ta informacja może być dostarczona w twoim  
własnym języku. (Polish)**

**Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)**

**یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)**

** (01904) 551550**

## Coronavirus protocols for attending Committee Meetings at West Offices

If you are attending a meeting in West Offices, you must observe the following protocols.

**Good ventilation is a key control point, therefore, all windows must remain open within the meeting room.**

If you're displaying possible coronavirus symptoms (or anyone in your household is displaying symptoms), you should follow government guidance. You are advised not to attend your meeting at West Offices.

### Testing

The Council encourages regular testing of all Officers and Members and also any members of the public in attendance at a Committee Meeting. Any members of the public attending a meeting are advised to take a test within 24 hours of attending a meeting, the result of the test should be negative, in order to attend. Test kits can be obtained by clicking on either link: [Find where to get rapid lateral flow tests - NHS \(testand-trace.nhs.uk\)](https://testand-trace.nhs.uk), or, [Order coronavirus \(COVID-19\) rapid lateral flow tests - GOV.UK \(www.gov.uk\)](https://www.gov.uk). Alternatively, if you call 119 between the hours of 7am and 11pm, you can order a testing kit over the telephone.

### Guidelines for attending Meetings at West Offices

- Please do not arrive more than 10 minutes before the meeting is due to start.
- You may wish to wear a face covering to help protect those also attending.
- You should wear a face covering when entering West Offices.
- Visitors to enter West Offices by the customer entrance and Officers/Councillors to enter using the staff entrance only.
- Ensure your ID / visitors pass is clearly visible at all time.
- Regular handwashing is recommended.
- Use the touchless hand sanitiser units on entry and exit to the building and hand sanitiser within the Meeting room.
- Bring your own drink if required.
- Only use the designated toilets next to the Meeting room.

### Developing symptoms whilst in West Offices

If you develop coronavirus symptoms during a Meeting, you should:

- Make your way home immediately
- Avoid the use of public transport where possible
- Follow government guidance in relation to self-isolation.

You should also:

- Advise the Meeting organiser so they can arrange to assess and carry out additional cleaning
- Do not remain in the building any longer than necessary
- Do not visit any other areas of the building before you leave

If you receive a positive test result, or if you develop any symptoms before the meeting is due to take place, **you should not attend the meeting.**

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City of York Council

Committee Minutes

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Meeting	Staffing Matters and Urgency Committee
Date	16 August 2021
Present	Councillors Aspden (Chair), D'Agorne (Vice-Chair), Hook and Kilbane
Apologies	

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### **11. Declarations of Interest**

At this point in the meeting, Members were asked to declare if they had any personal interests not included on the Register of Interests or any prejudicial or disclosable pecuniary interests that they might have had in the business on the agenda. None were declared.

### **12. Exclusion of Press and Public**

Resolved: That the press and public be excluded from the meeting during the consideration of annexes to Agenda Items 8 and 9 on the grounds that they contained information relating to individuals and the financial affairs of particular persons. This information is classed as exempt under Paragraphs 1, 2 and 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by the Local Government (Access to Information) (Variation) Order 2006).

### **13. Minutes**

Resolved: That the minutes of the Staffing Matters and Urgency Committee held on 21 June 2021 be approved and then signed by the Chair as a correct record.

### **14. Public Participation**

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

### **15. Appointment of Sub-Committee for appointment of Assistant Director, Children's Services**

Members considered the proposal to make create a sub-committee to permanently recruit to the post of Assistant Director,

Children's Services. Members agreed to the creation of the sub-committee but requested that officers provide an update to Members of the Committee on the proportionality of the sub-committee and which groups would provide members before confirmation of Members were agreed. Discussion also took place around when a new Assistant Director would start, it was confirmed that officers would aim for an appointment to start in line with the exit of the current postholder, however, this would depend on the available start date of a successful candidate.

Resolved:

- i. Approved the filling of this post and remuneration package for the Assistant Director posts at a job evaluated salary of £73,488 to £81,644. Establish an Appointments Sub-Committee, subject to the confirmation proportionality for the Sub-Committee to be confirmed to Members of the Committee;
- ii. That a recruitment agency be engaged, as per the councils' procurement rules, to support the appointments sub-committee with the recruitment and selection process. The remit for engagement and appointment to be agreed by the sub-committee;
- iii. The Appointments Sub-Committee be authorised to conduct the final interviews, select a successful candidate and make an offer of employment subject to the necessary employment procedures.

Reason: To allow appointment to the Assistant Director post to be made.

## **16. Work Plan**

Members considered the Committee Work Plan for 2021/22 and noted the addition of a item covering the Guidance on Recommendation One of the City of York Council Action Plan relating to the Public Interest Report for the 20 September 2021 meeting.

Resolved:

- i. That the Committee Work Plan be noted with the addition of the Guidance on Recommendation One of the City of York Council Action Plan relating to the Public Interest Report for the 20 September 2021 meeting.

Reason: To ensure that the committee has a planned programme of work in place.



## **17. Redundancy**

Members considered a report which advised them of expenditure associated with redundancies. Details of the proposals and their implications were set out in the business cases in exempt Annexes A and B.

Resolved:

- i. That the expenditure associated with the proposed redundancies as detailed in the report annexes be noted.

Reason: So that the Committee has an overview of expenditure associated with pension or exit discretions.

## **18. Settlement Agreement**

Members considered a report which advised them of expenditure associated with the mutual termination of a member of staff's contract and the provision of a settlement agreement. Details of the proposals and their implications were set out in the business cases in exempt Annex A.

Resolved:

- i. Noted the expenditure associated with the dismissal on the ground of mutual agreement through the provision of a settlement agreement as detailed in the annex.

Reason: In order to provide an overview of the expenditure.

Cllr K Aspden, Chair

[The meeting started at 5.31 pm and finished at 5.42 pm].

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**STAFFING MATTERS & URGENCY  
COMMITTEE****20 September 2021**

Report of the Head of HR &amp; OD

**Emergency Retention Protocol****Summary**

1. To approve the introduction of an emergency retention protocol, as an urgent response to emerging service critical conditions.

**Recommendations**

2. The Staffing Matters & Urgency Committee is recommended to:
  - a. Approve the emergency retention protocols detailed within this paper.
  - b. Agree to the development of a retention policy as part of the pay policy.

**Reasons for the recommendations**

3. To ensure the council is able to retain key skills in the workforce which are under pressure, to meet the Organisational Development Plan.

**Options**

4. The Staffing Matters & Urgency Committee can chose not to accept the recommendations contained within this report however to do so may result in vacancies in areas leading to pressures on service delivery.

## Background

5. We are proposing to introduce a policy for retention payments to address serious retention concerns within the council. Retention concerns are emerging in specific skill shortage areas and professional areas, which are seen nationally and as part of a response to national skills shortage and the covid pandemic.
6. This emergency protocol could assist two areas who have already raised concerns about service pressure and continuity; Children's Services and Waste. However, agreeing to the emergency protocol does not guarantee either of these would meet the necessary criteria, they would still need to be considered properly and have clear justification.
7. As an interim measure and in order to be responsive to the emerging issues, we are asking for consideration of an emergency protocol to enable us to move quickly to respond to immediate issues that are being highlighted but still within an agreed framework.
8. For a number of years the market supplement arrangements have been used for circumstances that were not true market issues and in some instances this was to address concerns about retaining key staff.
9. Retention Policies can be used to address issues where there is a service critical situation or for projects where retaining specific people is crucial to the delivery of the objectives.
10. SMU Committee are asked to approve an emergency protocol for the introduction of retention payments as an urgent response to emerging service critical situations.
11. A formal policy will be produced in conjunction with the trade unions as soon as reasonably practicable should the proposal be agreed, at which stage these arrangements will be superseded.

## Proposal

12. The aim of the protocol (and ultimately policy) is to provide a facility to make retention payments to address short term retention and workforce stability issues where serious risks to the effective delivery of high profile, statutory or regulatory services have been identified and where other measure have been assessed and considered not able to address these requirements.

## Emergency protocol conditions

13. Payments are for individuals not jobs. The payment aims to provide an incentive to retain specific employees for a particular time frame to mitigate the risk to the council associated with them leaving.
14. Retention payments may not apply to all individuals in a role as they will be targeted to an individual(s) who have the specific knowledge, skills and experience that needs to be retained. The person must be fundamentally important to and have personal impact on the delivery of the service or project.
15. A retention payment will only be made for serious service critical issues and if the following criteria are met;

No.	Criteria	Evidence
1	The service is experiencing pay related retention difficulties in relation to a defined post or posts, and these are having a detrimental impact on service delivery	Turnover data
2	An assurance is received from the service that other non pay related management action has not worked or is not feasible in relation to aiding retention	Chief Officer/Head of Service statement

And/or

No.	Criteria	Evidence
3	The position is key to the successful delivery of a critical time limited project or programme of work and the knowledge, skills and experience required of the post holder are identified as difficult to recruit	Chief Officer/Head of Service statement
4	The time taken to recruit and induct a new recruit would jeopardise the successful delivery of the project or work programme	Chief Officer/Head of Service statement

16. Business case/application must clearly identify the service critical issue, the plan to resolve it and the time frame. It must show what other measures have been considered and why they are not feasible. It must provide the objective justification for payment to the specific individual(s) and how they are critical to the service issue.
17. The service critical situation must be monitored and the steps taken to resolve the issue reviewed regularly at CMT/CCNC.

### **Payment details**

18. Retention payments are not contractual and are entirely discretionary. Payments may be withdrawn or amended at any time.
19. Retention payments are subject to satisfactory performance and attendance. If an individual is subject to disciplinary action, formal performance management or attendance management procedures the retention payment will be withdrawn.
20. Retention payments cannot go beyond 12 months.
21. The annual level of payment will be set at 10% of the individual's basic annual salary. Part time workers will be paid the retention payment pro rata.
22. Unless the payment relates to a critical time limited project, the payment will be split and paid in two six monthly intervals.
23. Authorisation of each payment must be given by the Chief Officer/Head of Service and will occur one month prior to a payment becoming due and will be subject to any conduct, performance and attendance factors above.
24. If the retention payment is related to delivery of specific outcomes or objectives for a project or specific work programme this must be set out in the application and communicated to the individual.

25. No payment will be made if the employee has given notice to resign or is under notice at the date the payment is due.
26. No retention payment will be made to an employee who commences a career break during the agreed retention time frame.
27. Payments are not subject to pay protection.
28. Payments will not count for allowances.
29. Payments will count for pension entitlement

### **Application and Approval**

30. Applications must be made through a business case/ Retention Payment Application Form and approved by:
  - The Departmental Management Team
  - Corporate Management Team (Final approval to sit with the Head of Paid Service and Section 151 Officer)
  - CCNC (Pay Board)

### **Consultation**

31. Consultation has taken place with the council's trade unions representatives prior to the meeting but will be ongoing through the development of a policy. The council's Senior Employment Lawyer has been consulted on the legal issues.
32. CCNC has considered this and whilst supportive request approval from Staffing Matters & Urgency Committee.

### **Implications**

#### **Financial Implication**

33. The costs associated with any retention payments will be met by the service area and they must be able to demonstrate that



these are within budget. It is expected that this will be confirmed in the application by the department finance manager.

### **Equalities Implications**

34. There are potential equality implications in the application of these payments but will be address through risk management interventions.

### **Legal Implications**

35. There are potential equal pay and discrimination legal issues associated with introducing any payment that is only applied to certain individuals. It should be noted that irrespective of the title of the payment it would be regarded as a bonus and as such great care must be taken in its application to avoid legal challenge.
36. The legal risks include:
- Equal pay
  - Indirect discrimination based on a "provision, criterion or practice" (PCP) that has a disparate adverse impact on gender.
  - Unlawful deduction from wages (section 13, ERA 1996).
  - Breach of contract.
  - Automatically unfair dismissal , if there is a serious breach of contract related to maternity and a female treats herself as constructively dismissed (regulation 20, MPL Regulations and section 99, ERA 1996).
  - A claim for pregnancy and maternity discrimination and/or sex discrimination (section 18 EqA 2010.)
  - Disability discrimination claim (e.g. s.15 EqA - unfavourable treatment because of something arising in consequence of the disability)

## Crime and Disorder, Information Technology and Property

37. none directly arising from this report

### Risk Management

38. With regard to potential pay and discrimination issues, having strong criteria for the payment that is as objective as possible will assist in reducing potential for challenge and claims.
39. The application of the arrangements are equally as important and the approval process is a vital part of ensuring proper evidence exists and clearly justifies the agreement of payments.
40. It is essential that the council can show how the agreement of any payment is a "proportionate means of achieving a legitimate aim" in order to give protection from challenge.
41. To elevate the risks from non-payment to individuals who may go on maternity leave or long term sickness absence after a retention payment has been agreed, the proposal is to make any payment in full despite the absence.
42. Whilst in these circumstances the payment has not achieve the objective of retaining the individual in work, for the maternity situation non-payment would not be defensible.
43. The non-payment for long term sickness absence may be defensible if it could clearly be demonstrated that there was no disability issues, however, the council would have to rely on the objective justification test and argue that the unfavourable treatment in question was "a proportionate means of achieving a legitimate aim".
44. There are potentially two further areas of risk identified:
- Public criticism of the use of public funds for awarding retention payments.
  - Audit issues with scrutiny of applications and decision making

45. The same mitigation for these risks would apply, that being having clear evidence, sound objectively justifiable reasons for agreeing payments and clearly justifiable decision making.

**Author** Trudy Forster, Head of HR & OD

**Chief Officer responsible for the report:** Ian Floyd, Chief Operating Officer

**Report**  **Date** 9 September  
**Approved**  2021

**Specialist Implications Officer(s):** Janie Berry, Monitoring Officer  
Debbie Mitchell, Chief Finance Officer

**Wards Affected:** *List wards or tick box to indicate all* **All**

**For further information please contact the author of the report**

**Background Papers: None**

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**Staffing Matters & Urgency Committee  
Draft Work Plan 2021-22**

21 June 2021	<ol style="list-style-type: none"> <li>1. Redundancy, Retirement and Settlement Agreements</li> <li>2. Workforce demographics at 31 March 2021 <ul style="list-style-type: none"> <li>• FTE</li> <li>• Equality Data</li> <li>• Absence and Well Being</li> <li>• Starters and Leavers</li> <li>• Reasons for leaving i.e. retirement, redundancy, dismissal, settlement agreement</li> <li>• Agency</li> </ul> </li> <li>3. Progress in implementing the new Corporate Leadership Group (CLG).</li> </ol>
19 July 2021	<ol style="list-style-type: none"> <li>1. Redundancy, Retirement and Settlement Agreements</li> </ol>
16 August 2021	<ol style="list-style-type: none"> <li>1. Redundancy, Retirement and Settlement Agreements</li> </ol>
20 September 2021	<ol style="list-style-type: none"> <li>1. Emergency Retention Protocol</li> <li>2. Redundancy, Retirement and Settlement Agreements</li> </ol>
18 October 2021	<ol style="list-style-type: none"> <li>1. Redundancy, Retirement and Settlement Agreements</li> </ol>
15 November 2021	<ol style="list-style-type: none"> <li>1. Redundancy, Retirement and Settlement Agreements</li> </ol>

20 December 2021	<ol style="list-style-type: none"> <li>1. Redundancy, Retirement and Settlement Agreements</li> <li>2. Workforce demographics at 31 March 2021 <ul style="list-style-type: none"> <li>• FTE</li> <li>• Equality Data</li> <li>• Absence and Well Being</li> <li>• Starters and Leavers</li> <li>• Reasons for leaving i.e. retirement, redundancy, dismissal, settlement agreement</li> <li>• Agency</li> </ul> </li> </ol>
17 January 2022	1. Redundancy, Retirement and Settlement Agreements
15 February 2022	1. Redundancy, Retirement and Settlement Agreements
21 March 2022	1. Redundancy, Retirement and Settlement Agreements
25 April 2022	1. Redundancy, Retirement and Settlement Agreements
16 May 2022	1. Redundancy, Retirement and Settlement Agreements



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**Staffing Matters and Urgency Committee****20th September 2021**

Report of Chief Operating Officer

**Redundancy****Summary**

1. This report advises the Staffing Matters and Urgency Committee of the expenditure associated with the proposed dismissal of a number of employees on the grounds of redundancy.

**Background**

2. The background and detailed case surrounding each proposal are contained in the individual business cases to be circulated at the meeting as annexes to this report.

**Consultation**

3. All of the proposed redundancies have been subject to consultation in accordance with the Council's statutory obligations.

**Options**

4. The Committee has the power within the Council's procedures to approve discretionary enhancements to redundancy payments. The Committee does not have the power to make lower payments. By law the decisions as to whether or not to make an employee redundant rests with the Chief Operating Officer or Officers nominated by him.

**Analysis**

5. The analysis of each proposal can be found in the respective business case.

**Council Plan**

6. Whilst the actions being proposed in the report are not material to the Council Plan they are consistent with the required outcomes of the Organisation Development Plan.

**Implications**

- 7. The implications of each proposal can be found in the respective business case.

**Risk Management**

- 8. The specific risks associated with each proposal and how they can be mitigated is contained in each business case. In summary, the risks associated with the recommended option are financial, legal, operational and reputational.

**Recommendations**

- 9. Staffing Matters and Urgency Committee is asked to:
  - 1) Note the expenditure associated with the proposed dismissal of the employees on the grounds of redundancy detailed in the annexes.

Reason: In order to provide an overview of the expenditure.

**Contact Details**

**Author:**

Trudy Forster  
Head of HR  
Human Resources  
Ext 3985

**Chief Officer Responsible for the report:**

Ian Floyd  
Head of Paid Service

**Report Approved**



**Date** 20/09/21

**Specialist Implications Officer(s):**

**Wards Affected:**

All



**For further information please contact the author of the report**

**Background Papers:**

None

**Annexes**

Annex A - Confidential Business Case



By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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**Staffing Matters and Urgency Committee****20 September 2021**

Report of the Chief Operating Officer

**Pension or Exit Discretion****Summary**

1. This report advises the Staffing Matters and Urgency Committee of the expenditure associated with pension or exit discretions in accordance with council policy for noting.

**Background**

2. The background and detailed case surrounding each proposal are contained in the individual business cases attached as confidential annexes to this report.

**Consultation**

3. All of the proposed pension or exit discretions have been subject to consultation in accordance with the Council's statutory obligations.

**Approval**

4. In accordance with the updated discretions policy the S151 officer has approved the attached business cases. The Committee has the power within the Council's procedures to approve discretionary enhancements to redundancy. The Committee does not have the power to make lower payments. By law the decisions as to whether or not to make an employee redundant rests with the Chief Operating Officer or Officers nominated by him.

**Analysis**

5. The analysis of each proposal can be found in the respective business case.

**Council Plan**

6. Whilst the actions being proposed in the report are not material to the Council Plan they are consistent with the required outcomes of the Organisation Development Plan.

**Implications**

- 7. The implications of each proposal can be found in the respective business case.

**Risk Management**

- 8. The specific risks associated with each proposal and how they can be mitigated are contained in each business case. In summary, the risks associated with the recommended option are financial, legal, operational and reputational.

**Recommendations**

- 9. Staffing Matters and Urgency Committee is asked to:

Note the expenditure associated with each proposal as detailed in the annexes.

Reason: In order to provide an overview of expenditure.

**Contact Details**

**Author:**

Trudy Forster  
Head of HR  
Human Resources  
Ext 3984

**Chief Officer Responsible for the report:**

Ian Floyd  
Chief Operating Officer

**Report Approved**

**Date** 08/09/2021

**Specialist Implications Officer(s):**

**Wards Affected:** *List wards or tick box to indicate all*

**All**

**For further information please contact the author of the report**

**Background Papers: None**

**Annexes :**

Annex A – Confidential Business Case

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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