

Notice of meeting of

Staffing Matters & Urgency Committee

To: Councillors Waller (Chair), Runciman (Vice-Chair), Alexander, Gillies and Simpson-Laing (Substitute for Cllr Fraser)

Date: Monday, 22 November 2010

Time: 12.00 noon

Venue: The Guildhall, York

AGENDA

1. Declarations of Interest

At this point, Members are asked to declare any personal or prejudicial interests they may have in the 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 annexes to Agenda Item 6 (Redundancy – Expenditure), to be circulated to Members at the meeting, on the grounds that they contain information relating to individuals and to 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 - 4)

To approve and sign the minutes of the meeting of the Staffing Matters & Urgency Committee held on 4 October 2010.

4. Public Participation

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. The deadline for registering is **5.00 pm on Friday, 19 November 2010**.

5. Redundancy - Powers of the Staffing Matters & Urgency Committee (Pages 5 - 8)

This report advises the Staffing Matters and Urgency Committee of the extent of its powers in relation to proposed redundancies.

6. Redundancy - Expenditure (Pages 9 - 10)

This report advises Members of the expenditure associated with the proposed dismissal of a number of employees on the grounds of redundancy. Details of the individual cases will be circulated to Members at the meeting.

7. Any Other Matters which the Chair decides are urgent under the Local Government Act 1972.

Democracy Officer:

Name: Fiona Young

Contact details:

- Telephone – (01904) 551027
- E-mail – fiona.young@york.gov.uk

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

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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If you would, you will need to:

- register by contacting the Democracy Officer (whose name and contact details can be found on the agenda for the meeting) **no later than 5.00 pm** on the last working day before the meeting;
- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
- find out about the rules for public speaking from the Democracy Officer.

A leaflet on public participation is available on the Council's website or from Democratic Services by telephoning York (01904) 551088

Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

Access Arrangements

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If you have any further access requirements such as parking close-by or a sign language interpreter then please let us know. Contact the Democracy Officer whose name and contact details are given on the order of business for the meeting.

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Holding the Executive to Account

The majority of councillors are not appointed to the Executive (38 out of 47). Any 3 non-Executive councillors can 'call-in' an item of business from a published Executive (or Executive Member Advisory Panel (EMAP)) agenda. The Executive will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Executive meeting in the following week, where a final decision on the 'called-in' business will be made.

Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

Who Gets Agenda and Reports for our Meetings?

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City of York Council

Committee Minutes

MEETING	STAFFING MATTERS & URGENCY COMMITTEE
DATE	4 OCTOBER 2010
PRESENT	COUNCILLORS WALLER (CHAIR), RUNCIMAN (VICE-CHAIR), ALEXANDER, FRASER AND GILLIES

14. DECLARATIONS OF INTEREST

Members were invited to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda.

Cllr Fraser declared a personal interest in agenda item 4 (Exit and Pension Discretions), as a member of the retired sections of UNISON and Unite (TGWU/ACTS sections).

Cllr Alexander declared a personal interest in agenda item 4, as a member of the GMB.

15. MINUTES

RESOLVED: That the minutes of the Staffing Matters & Urgency Committee held on 18 January 2010 be approved and signed by the Chair as a correct record.

16. PUBLIC PARTICIPATION

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

17. EXIT AND PENSION DISCRETIONS

Members considered a report which sought approval to make a number of amendments to the way in which the Council exercised its exit and pension discretions, to ensure these were fit for purpose and to enable exit costs to be proactively managed. The proposals were supported by the Executive, who had considered the report at their meeting on 21 September 2010. A subsequent call-in of the Executive's decision had resulted in the original decision being endorsed by the Scrutiny Management Committee (Calling In) on 27 September.

The Council's current policy, as summarised in Annex 1 to the report, was to exercise its discretions to enhance statutory redundancy and early retirement provisions only in unusual or exceptional circumstances. This had resulted in a rigid system, under which applications were considered

on an individual basis rather than in the wider business context. Retaining the current process (Option 1) was therefore not recommended.

An proposed alternative approach (Option 2), to allow flexible application of the provisions within an overarching governance framework, was outlined in paragraphs 18 to 24 of the report. It included, among other things:

- Use of continuous, rather than aggregate, local government service in calculating redundancy pay, and an additional discretionary element
- More use of efficiency retirements in order to facilitate change
- A revised appeals panel, chaired by the Chief Executive

The revised process, if adopted, would not apply to chief officers. Consultation on the changes had taken place with UNISON and the GMB, whose views were presented in paragraphs 30 to 44 of the report.

RESOLVED: (i) That Option 2 be approved and the existing approach to exit provisions and pension discretions be amended, allowing flexible application within an overarching governance framework.¹

REASON: So that the Council's redundancy policy and pension discretions can be exercised in a flexible way, to achieve its organisational change objectives.

(ii) That the Staffing and Urgency Committee receive details for all proposed redundancies at future meetings with all relevant paperwork, with personal information being handed out at the start of the meeting and returned at the end of the meeting.²

REASON: To address the concerns raised by Members who had called in the Executive decision, regarding the need for closer Member scrutiny of redundancy payments.

Action Required

- | | |
|---|----|
| 1. Make the agreed amendments to the process | CT |
| 2. Make arrangements to ensure that the Committee receives details of all proposed redundancies | CT |

A WALLER, Chair

[The meeting started at 12.30 pm and finished at 12.40 pm].



Staffing Matters and Urgency Committee**22 November 2010**

Report of the Director of Customer and Business Support Services

Redundancy – Powers of the Staffing Matters & Urgency Committee**Summary**

1. This report advises Staffing Matters and Urgency Committee of the extent of its powers relating to proposed redundancies.

Background

2. The Staffing Matters and Urgency Committee has powers under the Council's constitution to:

“ exercise all functions of Full Council concerning Staffing Matters, (other than those which by law are reserved to Full Council)”

3. Given the apparently wide nature of those powers it is perhaps easiest to start by explaining what the Committee cannot do. Most significantly the Committee does not have the power to decide whether or not an individual member of staff (other than a Chief Officer) should be made redundant. This is because redundancy decisions are technically decisions to dismiss. By law the power to dismiss staff must be discharged by the Chief Executive as Head of Paid Service or an officer nominated by her.
4. Under the current procedures a full business case is prepared, signed off by Officers and approved by the Director of Customer and Business Support Services. This means that not only is a view taken on whether the employment law tests are satisfied in respect of whether there is a redundancy situation but also a view is taken as to whether it is in the financial interests of the Council to pursue a dismissal by way of redundancy.
5. If the Committee were to purport to take redundancy decisions or, if the Chief Executive rubber stamped redundancy decisions being made by the Committee, then the decisions would be open to challenge by way of Judicial Review or, more likely, by unfair or wrongful dismissal claims. Either way the Council would incur significant costs as well as reputational damage. These claims would most obviously arise if Members purported to make a decision that an individual should be made redundant. However, any attempt by Members to purport to decide that an individual should not be made redundant could also open the door to claims from others that a fair and lawful process was not being followed.

6. While it would be perfectly proper for members of the Committee to have an informal scrutiny role, for the reasons described above and additionally so as not to interfere with established appeal procedures, some care need to be taken in how this role is exercised.
7. Decisions around compensation on termination of employment are separate from the decision to make an individual redundant. These are matters which the Committee can lawfully address. Plainly though the Committee cannot attempt to impose lower severance terms than are provided for by statute or by the individual's contract. The Committee's role would be to consider whether to award discretionary enhancements.
8. The constitutional position is that the power to make these decisions is within the delegations of both the Committee and of Chief Officers. It is suggested that any consideration of changing this situation should be deferred until the new arrangements have been given some time to bed in.

Consultation

8. Not applicable.

Options

9. The Committee decision making options are des

Corporate Priorities

10. The report support the Council's corporate priority "Effective Organisation" .

Risk Management

8. The purpose of the report is to mitigate the financial, legal, operational and reputational risk which would arise were the Committee to act beyond its legal powers.

Recommendations

9. Staffing Matters and Urgency Committee is asked to:

- 1) Note the report.

Reason: To ensure that the Committee is aware of the extent of its legal powers.

Contact Details

Author:

Andrew Docherty
Assistant Director Governance and
ICT
Ext 1004

Chief Officer Responsible for the report:

Ian Floyd
Director of Customer and Business Support Services

Report Approved **Date** TBA

Ian Floyd
Director of Customer and Business Support Services

Report Approved **Date** TBA

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

None

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Staffing Matters and Urgency Committee**22nd November 2010**

Report of the Director of Customer and Business Support Services

Redundancy - Expenditure**Summary**

1. This report advises Staffing Matters and Urgency Committee of the expenditure associated with the proposed dismissal of a number of employees on the grounds of redundancy and where discretionary enhancements are proposed seeks the Committee's approval to them.

Background

2. The background and detailed case surrounding each proposal is contained in the individual business case attached 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 and/or pension 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 Executive or Officers nominated by her.

Analysis

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

Corporate Priorities

6. The actions being proposed in this report are designed to support the Council's corporate priority "Effective Organisation" and are consistent with the required outcomes of the More 4 York programme.

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:
- 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:

Chris Tissiman
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(Acting)
Human Resources
Ext 1715

Chief Officer Responsible for the report:

Ian Floyd
Director of Customer and Business Support Services

Report Approved **Date** 12th November 2010

Ian Floyd
Director of Customer and Business Support Services

Report Approved **Date** 12th November 2010

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

Individual Business Cases (confidential - to be circulated at the meeting)