

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

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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