

## AGENDA ITEM NO: 4

### To : Members of the Human Resources Committee

Councillors : Steve Comer, John Bees, Mark Wright, Charles Price, Richard Eddy (subs:

Copy to : Robert Britton, Head of Human Resources  
Minute Book, Pauline Draisey, Evelyn Pearce,  
Jana Richter, Kirstie Macrae, Graham Clarkson, Linda Fitton, relevant report authors.

### HUMAN RESOURCES COMMITTEE

8 JANUARY 2009

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Ian Scott - Public Forum Item - BRISTOL CITY COUNCIL - Human Resources Committee - 8th January 2009

### **Grievance Procedure**

The current Recommendation does not address the issue 'The Committee note the actions already undertaken by the Employee Relations Team'.

To address the issue I believe it is sensible for the HR committee to choose a time limit from the following 3 options.

#### **A - ACAS GUIDANCE - 5 Working Days**

ACAS Code of Practice - Disciplinary and Grievance procedures section 81. The employer should respond in writing to the employee's grievance within a reasonable time and should let the employee know that they can appeal against the employer's decision if they are not satisfied with it. What is considered reasonable will vary from organisation to organisation, but **five working days is normally long enough**.

**If it is not possible to respond within five working days the employee should be given an explanation for the delay and told when a response can be expected**

#### **or B - Ian Scott Compromise Proposal - 15 Working Days**

To agree to amend the grievance procedure to ensure that employees who have submitted employee grievances get regular progress updates every 15 working days, scheduling what has been done to progress their grievance over the previous weeks and what is schedule to be done to progress the grievance over the forthcoming weeks.

#### **or C - Confirmation of the Current Guided Council Position - 28 Working Days**

The Analysis should be treated with caution as it does not cover all departmental investigations and their timescales. Explanations for delays are not always currently given.

**The Grievance Procedure needs to be credible if we genuinely want our employees to use it.**

GMB Submission to HR Committee – 8<sup>th</sup> January 2009

### **Housing Caretaking Review – Tied Accommodation – Agenda Item 5**

The GMB have put forward our proposals in relation to the recommendations put forward to the HR Committee. We hope every member of the HR Committee has had the opportunity to read appendix F1-F4 inclusive and understand why we have taken the unusual step of actually putting forward an alternative structure.

The GMB and it's members are not challenging **constructive** change – we are challenging **negative** management change!

We consider too much emphasis has been placed upon a local agreement signed in 1998 which is totally outdated and irrelevant.

The GMB have undertaken a great deal of time and work in relation to the proposals enclosed in appendix F3 and F4 and we have also worked upon the JEQ, JD and Employee Specification in relation to the community caretaker.

The trade union side consider this post should be graded at a BG5 (subject to evaluation) as the points 'lost' due to removal of supervisory responsibility have been increased through enhanced knowledge and skills (recycling and customer focus).

The GMB would remind this committee that at a full Council Meeting all three political leaders publicly stated how they recognised and valued the work of the caretakers and how they hoped their work would be developed to reflect the needs of the tenants. The GMB do not consider this proposal reflects those wishes and we would therefore urge all three political groups to reconsider agreeing this report in its current format.

The GMB want to find a mutually agreeable solution which increases service delivery; ensures our members feel valued and recognised and the caretaking service is seen as an example of good practice!

### **Grievance Procedure – Agenda Item 7**

The GMB would like to thank Ian Scott for raising this issue. Unfortunately we are not satisfied with the report produced by HR. It is our understanding that the majority of employee grievance submissions are made to the appropriate departmental manager and is either investigated within the department or commissioned through the corporate investigation team.

However the statistics do not tally with outstanding employee grievances I am dealing with without adding on the others individual departmental GMB reps are dealing with. I currently am dealing with:

One from N&HS which was submitted in June 2008 – ongoing Stage II.  
One in legal services submitted in July 2008 – ongoing Stage III  
One from Parks submitted in November 2008 – awaiting initial interview

Again from experience the grievances I have dealt with have taken at least 12-18 months from the submission date to the stage III hearing with elected members which is totally unacceptable.

My own grievance was submitted in September 2007 and I am still waiting to have it heard by elected members. I had to wait over a year to receive the written outcome of my complaint! Sadly I am not the only person having to wait this length of time. Another ex GMB member had their grievance heard two years after they had left the Council!

At the last HR committee meeting I gave HR the names and dates of GMB members who had submitted grievances in relation to their treatment through the Managing Attendance Policy – all of these have taken well over 28 days to be heard and one took over two years to be heard.

Are these the ‘one’ which took over 20 weeks?

This clearly has an impact upon the employee’s ability to take the process forward to an employment tribunal as well as making it very difficult to ensure they are not penalised for submitting a grievance which takes an unacceptable amount of time to resolve with the potential to cause issues within the workplace. This is especially relevant if the complainant is required to move whilst the investigation is undertaken.

If we are including disciplinary investigations then the GMB can give even more examples where employees have been suspended or had to endure disciplinary procedures lasting for an unacceptable amount of time – well over the 28 day timescale.

The GMB is very concerned that yet again under the Equalities Impact Assessment ‘N/A’ is given. It would be helpful to ascertain how many BME employees, Women, Disabled employees, Young/Older employees submit grievances as well as including grievances related to sexual orientation. The way the grievance/disciplinary procedure is implemented may also disadvantage some equalities communities. We are therefore extremely disappointed this important section has yet again been ‘missed’ and would ask the HR Committee why they continue to allow reports to come forward without the EIA being properly completed.

### **New Ways of Working Policy – Implementation Update**

The GMB welcome any initiative that enables our members to remain in paid employment but would ask how much this project is costing in light of budget cuts impacting upon other sections of the City Council resulting in potential job losses/reduced grades.

The GMB was obviously under the misunderstanding the Work Life Balance Policy encompassed both where and when employees worked eg working from/at home and hot desking etc.

The GMB would therefore ask why employees are not being allowed to increase their hours under the work life balance policy – only allowed to reduce their hours – how does this compare with the promotion of a flexible workforce? Reference is made to an employee who is working in a generic post but not technically deemed as a job share but additional hours are available in the generic post but has to go through a competitive interview process in order to increase their hours. The GMB have not raised this as a ‘one-off’ but has in fact occurred on a few occasions. Not sure if this should be dealt with through New Ways of Working Policy and/or Work Life Balance but would welcome a response.

Rowena Hayward  
Organisation Officer

**RE: Caretaking Services HR proposals 8th January 2009**

- **Nearly all caretakers face a cut in pay and benefits.**
- These cuts range from approx **2.54% - 33.52% (£7,433).**
- In fact these figures will be larger as the value of current benefits to residential staff is disputed. Management state the average difference between the figures they use and the real value is approx **£800pa**. This will be an immediate loss to effected workers that will not be recognised or protected.
- A further loss of 25 % of pay protection because tax and NI will now be payable on pay protection paid through the employees wages.
- No pay rise for three years.
- This means roughly 50% of staff will not have had a pay rise for **6 years!!!**
- Demoralised and unmotivated staff.
- Caretakers and their families becoming further in debt and forced into **bankruptcy.**

Caretakers, like all of us, have made financial commitments based on the amount of there disposable income. Some I know have taken for example loans that ranged from 5 to 10 years before the current service review and cannot afford, in three years time, to take the massive drops in take Home pay and disposable income that is proposed.

You will be driving these families into bankruptcy. 50 % are struggling now after not having a real terms pay rise for the last three years. To expect them to suffer another 3 years of the same is unacceptable and may be possibly considered as being tantamount to Constructive dismissal should they be forced to leave.

The offer 18 months compensation in a lump sum does nothing to ease their situation; they will be far better off staying on the 3 years pay protection.

Unite Rejects these proposals and in conjunction with the GMB has submitted a counter proposal that still **saves money, enhances the role of caretakers** and protects terms and conditions. We have a **full mandate from the work force** to ensure the devastating HR proposals set out by management are rejected by any and all means.

The workforce has the right to be angry. Especially as management told them that they would probably be **better off working for MacDonald's.**

We ask that HR Committee reject these proposals, as they stand, as unreasonable. If Policy stands in the way of a Reasonable solution then we suggest it is time for the policies to change.

The GMB would also like to make the following points:

You have been asked to

- 2.1 Approve the proposals set out in Paragraph 8.1 (a) and (b) below and in Paragraph 8.7.
- 2.2 Agree that the 'buy out' will be equivalent to eighteen months pay protection.
- 2.3 Agree that pay protection will be awarded
- 2.4 Consider/note the proposals set out in Paragraph 9 - 'members of residential staff', Paragraph 10 - 'revised role of caretakers', Paragraph 11 'residential community care paperwork', and Paragraph 12 - 'retention of mobile team'.

Firstly 2.1 - 2.3

The two extracts below relating to pay protection refer to 'Contractual Pay'. What firstly needs to be agreed is that this policy can cover Emoluments and if this is so what is their taxable situation.

## NOPS

### **16. Alternative Employment and Contractual Pay Protection**

*16.1 A redeployee's pay will not be affected during their period in the New Opportunities Procedure, even if the individual is temporarily 'seconded' into a lower graded post.*

*Where an employee is offered and accepts a suitable alternative post as a result of organisational change (including re-evaluation of their existing post) and they have not received a redundancy payment:*

- a) Contractual (hourly) pay will be protected. Please see paragraphs below on increasing and reducing hours.*
- b) The employee's contractual pay will be frozen at this protected amount for either three years or until their contractual pay in the new post would meet/exceed their current contractual pay, whichever the sooner.*
- c) Pay awards and increments will not be payable during the period of protection.*
- d) The employee will be paid at the top spinal column point of the grade for the post once the three-year period of protection ends.*

## Managing Change Policy

### **16. Alternative employment and contractual pay protection**

*Where an employee is offered and accepts a 'suitable alternative post' and their contractual pay reduces as a result of organisational change (including re-evaluation of their existing post) and they have not received a redundancy payment:*

- i. Contractual pay will be protected. This includes basic pay plus contractual enhancement covered by the Working Arrangements Policy. This total sum will be pro rata where appropriate. Please see paragraphs below on increasing and reducing hours.*
- ii. The employee's contractual pay will be frozen at this protected amount for either three years or until their contractual pay in the new post would meet/exceed their current*

*contractual pay, whichever the sooner*

*iii. Pay awards and increments will not be payable during the period of protection*

*iv. The employee will be paid at the top spinal column point of the grade for the post once the three-year period of protection ends.*

Caretakers currently receive their emoluments tax free. Thus implementing Pay Protection, to allow for 'Full Pay Protection' on these emoluments should ensure that the initial level of payment results in the benefit after tax being equal to those currently being received. 'tax free'.

If this is not done then HR committee may leave itself open to a legal challenge similar to that of Newbold vs Leicester for failure to adhere to its own policy.

**We suggest that a Policy needs to be in place to cover Pay Protection of Emoluments as there is not one at the present.**

Regarding the 1998 local agreement on emoluments payable to the Pension scheme, it is our understanding that this agreement was to establish a notional value that these payments could be based on.

It was recognised in the agreement that with a number of varying factors affecting this value and that they themselves varied from Caretaker to Caretaker, a notional figure was the best way forward. So that this figure did not have to be calculated every year it was then agreed that it would increase in line with the annual pay award.

This agreement was only related to Pension Emoluments and is now being used out of context to suggest that there is a local agreement regarding the value of emoluments.

If this figure has been used to calculate any other work groups 'Pay Protection' then an error has been made by all those negotiating that agreement and a claim should be forthcoming. However the agreement mentioned does state that it relates to Caretaking staff.

Finally you have been asked -

2.4 Consider/note the proposals set out in Paragraph 9 - 'members of residential staff', Paragraph 10 - 'revised role of caretakers', Paragraph 11 'residential community care paperwork', and Paragraph 12 - 'retention of mobile team'.

We feel slighted as we have not been given the opportunity to discuss our own proposals with the Management Team, to explore it's merits, cost implications, impact on tenants and how it will enhance the service.

As with any proposal we would have been happy to negotiate with the Management team to try and come to an agreement that would provide the best service possible and an equitable outcome for staff and tenants.

It is very interesting to note that during the current climate when management is being restructured and reduced that in the Caretaking Service the opposite is happening. We currently have 120 staff and 8 supervisors/managers, we will have 89 staff and 21 site



coordinators/managers. In effect moving from a ratio of 15 :1 to 4.5:1.

The 'declining' point seems to be that our proposals would cost £400k and mean that the tenants service charges could not be reduced is a red herring.

Firstly our proposals would eventually lead greater savings and an increase in income.

Secondly should we be looking at ways of reducing income? Rather we need to look at redistributing costs and maintaining our current level of income.

I hope you feel that we have given you some valid point to consider.

Jeff Sutton

GMB

Pay Comparison Sept 2008

**Residential Site Team Leaders**

	Salary	Residential	Total	Diff	Loss Tied review	additional loss***	BH	weekend	total
Current	£16,536	£2,973	£19,509		£1,112	£1,500	£418.00	£1,117 x f3+g3	£23,656 £22,156
Site Co-ordinator	£18,430		£18,430	-£1,079	-£1,112	-£1,500	-£418	-£1,117	-£5,226
Snr Comm Caretaker	£15,470		£15,470	-£4,039	-£1,112	-£1,500	-£418	-£1,117	-£8,186
Res Snr Comm Ctkr	£15,470	£2,973	£18,443	-£1,066	-£1,112	-£1,500	-£418	-£1,117	-£5,213
Community Caretaker	£14,197		£14,197	-£5,312	-£1,112	-£1,500	-£418	-£1,117	-£9,041
res Comm Ctkr	£14,197	£2,973	£17,170	-£2,339	-£1,112	-£1,500	-£418	-£1,117	-£6,486

Potential OT Max  
Weekends Min

**Future Weekend proposals**

\*Max = every weekend  
\*Min = 1 in 6 weekends  
\*Level will be dependant on number of volunteers  
\*Minimum staffing = 15 working 3 hours on sat & sun  
\*Weekend working paid as Contractual overtime over and above any protected salary

**Non Residential Site Team Leader**

	Salary	Total	Diff	weekend	total
Current	£16,536	£16,536		£418	£18,071
Site Co-ordinator	£16,536	£16,536	£0	-£1,117	-£1,117
Snr Comm Caretaker	£15,470	£15,470	-£1,066	-£1,117	-£2,183
Community Caretaker	£14,197	£14,197	-£2,339	-£1,117	-£3,456

**Residential Community Caretaker**

	Salary	Residential	Total	Diff	Tied Review	BH	weekend	total
Current	£15,470	£2,973	£18,443		£1,112	£418	£1,045	£21,018
Snr Comm Caretaker	£15,470		£15,470	-£2,973	-£1,112	-£394	-£1,045	-£6,957
Res Snr Comm Ctkr	£15,470	£2,973	£18,443	£0	-£1,112	-£394	-£1,045	-£4,051
Community Caretaker	£14,197		£14,197	-£4,246	-£1,112	-£394	-£1,045	-£8,297
Res Comm Ctkr	£14,197	£2,973	£17,170	-£1,273	-£1,112	-£394	-£1,045	-£5,324

**Non Residential Community Caretaker**

	Salary	Residential	Total	Diff	weekend	total
Current	£15,470		£15,470		£1,045	
Snr Comm Caretaker	£15,470		£15,470	£0	-£1,045	-£1,045
Community Caretaker	£14,197		£14,197	-£1,273	-£1,045	-£2,318

**Mobile Caretaker**

	Salary	Shift	Standby	Total	Diff	weekend	total
Current	£16,536	£1,157	£1,864	£19,557		£0	
Site Co-ordinator	£18,430			£18,430	-£1,127	£0	-£1,127
Snr Comm Caretaker	£15,470			£15,470		0	£4,087
Community Caretaker	£14,197			£14,197			£5,360



Trade Union response for Human Resources Committee 8 January 2009

Agenda item 6 Performance Management Framework Policy for Employees

Paragraph 5.5 of the report states the revised ratings will empower managers to challenge bad performance. I see improving performance as a method for putting in place a package of support in place to bring employees up to an acceptable level of performance.

Section 7 of the report states for the year ending 2007/08 compliance is around 90%. In a workforce of 12,000 this means 1200 employees are not participating in the PMDS process. What is happening to the managers/ supervisors who are not complying with their Bristol Manager obligations?

In the Policy itself paragraph 1.5 stresses the importance of PMDS and that it's the central 'hub' of all processes relating to individual performance management. But over 1000 employees in the Authority are not currently involved in this process.

Paragraph 3.5 states employees scores will be recorded on the Councils computerised training records system so it should be quite easy to establish which areas of the Council are not participating in the process.

Paragraph 5.5 refers to the Improving Performance Procedure if the overall score is 1 or 2. A score of 1 is where the Policy states formal action should be taken. Can a manager proceed straight to the formal stages without doing the informal stages first and implementing a package of support?

In paragraph 6.7 consideration should only be given to withholding incremental progression for a score of 1 and not include 2 which is defined as needs improvement.

#### Agenda item 7 Grievance Procedure

Paragraph 3.1 refers to the Grievance Procedure which states investigations should be undertaken within 28 days which complies with ACAS guidance. Of the fifteen investigations undertaken by the investigation service this year none complied with the time limit. It should also be noted that Departments undertake their own investigations but no information on time periods is provided.

It is accepted that some investigations are complex and there may be a requirement to interview many witnesses. So the suggestion to update complainants on a regular basis (15 days) is supported and should be incorporated into the Procedure.

#### Agenda item 8 New Ways of Working Policy – Implementation Update

Paragraph 5.4 states the take up of pro-rata reimbursements is extremely low. With significant office moves planned for later this year, (Somerset offices) more staff will want to take up the option of partial home working. So there needs to be greater evidence of services trialling home working if the Authority is to achieve its Business Transformation targets for the reduction in number of office buildings.

I agree with the observations in paragraph 5.5 (d) there needs to be greater promotion of touch down areas so employees can make phone calls, check e-mails etc. The provision to work from home should remain option and not be enforced. There should be training and support for managers to assist them in dealing with managing staff remotely.

Steve Paines

Convenor