



EMPLOYMENT COMMITTEE - 2 FEBRUARY 2017

“DYING TO WORK” CHARTER

REPORT OF THE DIRECTOR OF CORPORATE RESOURCES

Purpose

1. At the County Council meeting in December 2016, Members agreed to sign up to the Trade Union Congress' (TUC's) voluntary “Dying to Work” Charter (the motion is appended to this report). The purpose of this paper is to seek the Committee's views on whether the Council's existing policies need to be modified to support the principles of the charter.

Background

2. The TUC are campaigning for terminal illness to be recognised as a ‘protected characteristic’ so that an employee with a terminal illness can enjoy a ‘protected period’ where they cannot be dismissed as a result of their condition. They are therefore asking employers to sign up to the charter which states:
 - *We recognise that terminal illness requires support and understanding and not additional and avoidable stress and worry.*
 - *Terminally ill workers will be secure in the knowledge that we will support them following their diagnosis and we recognise that safe and reasonable work can help maintain dignity, offer a valuable distraction and can be therapeutic in itself.*
 - *We will provide our employees with the security of work, peace of mind and the right to choose the best course of action for themselves and their families which helps them through this challenging period with dignity and without undue financial loss.*
 - *We support the TUC's Dying to Work campaign so that all employees battling terminal illness have adequate employment protection and have their death in service benefits protected for the loved ones they leave behind.*
3. According to the TUC's Negotiating Guidelines, a terminal illness is ‘a disease that cannot be cured or adequately treated and there is a reasonable expectation that the patient will die within a relatively short period of time. Usually, but not always, these are progressive diseases such as cancer or advanced heart disease. UK Social Security legislation defines a terminal illness as: “a progressive disease where death as a consequence of

that disease can reasonably be expected within 6 months”, however many patients can have a terminal illness and survive much longer than 6 months.’

Current Local Authority Charter Signatories

4. The following Councils have already signed up to the charter:

- Birmingham City Council
- London Borough of Harrow
- Leicester City Council
- Liverpool City Council
- Mansfield District Council
- Nottinghamshire County Council
- Sandwell Metropolitan Borough Council
- Sheffield City Council
- South Lanarkshire Council

Current Practice

5. Once an employee has been given a terminal diagnosis, HR and management tend to work with the employee to see what support can be provided. This may include:

- Implementing reasonable adjustments to support the employee to remain at work for as long as possible (e.g. working from home, reducing working hours, amending duties, etc.).
- Flexibility in working arrangements to support them to attend medical and related appointments;
- Discussing with the employee whether they want to seek ill health retirement (and therefore receive their pension) or whether they want to remain in employment so that their family can receive their death in service benefits. This only applies where the employee is a member of the pension scheme.

6. An employee who has received a terminal diagnosis would not usually be progressed through either the formal capability or attendance management procedures to the point of dismissal.

7. In addition to the above support for terminally ill employees, the Council also provides the following support to employees who are carers of terminally ill individuals:

- Flexibility in working arrangements to support them with their caring role. This may include flexibility in work start/end times, ability to work remotely including home working, time off to attend appointments, etc.;
- Ability to purchase additional annual leave;

- Possibility of requesting a career break in order to provide full-time care and support for a period of up to one year;
- Encouraging contact with the Council's Counselling Service where appropriate.

Potential Issues

8. Whilst the Council currently meets the requirements of the Charter when managing a terminally ill employee under the Capability or Attendance Management policies, there may be some potential issues in relation to Organisational Change:
- If a restructure was proposing the deletion of all posts then the Council would not be able to maintain the employment of a terminally ill employee unless there was the possibility of redeployment into another role within the Council. Where redeployment was successful then pay protection may apply depending on the details of the new role.
 - In situations where there are fewer posts than people then the employee would still be required to participate in a selection process (as would be the case for other employees with 'protected characteristics'). However, depending on the employee's health at the time, they may be absent from work and therefore being managed under the Attendance Management Policy.
9. As the TUC's campaign appears to focus on terminally ill employees being dismissed as a result of their condition, then it could be suggested that redundancy dismissals under the Organisational Change Policy, depending on the circumstances, are outside of the scope of the Charter as the dismissal would not be as a result of the employee's condition.

Adoption of the Charter

10. The Charter does not require the implementation of specific policies and there does not appear to be an assessment process to confirm that organisations meet its principles. Based on current practice, the Council's policies and practice already support the principles of the Charter with individuals' situations being managed on a case by case basis and appropriate decisions made.

Recommendation

The Committee is asked to consider the points set out in this paper and confirm whether any changes should be made to the Council's existing policies and practice.

Background Papers

None.

Circulation under Local Issues Alert Procedure

None.

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Appendix

Appendix A – Motion from Council relating to the Dying to Work Charter

Equalities and Human Rights Implications

The Dying to Work Charter seeks to ensure that terminally ill employees are treated fairly and are not dismissed during their final months as a result of their condition.