

## Personnel Committee

### Minutes of the meeting held on 7 March 2018

#### Present

Councillor Flanagan - In the Chair  
Councillors Bridges, Craig, N Murphy, S Murphy, B Priest, Rahman and Stogia

#### Apologies

Councillors Dar and Leese,

#### PE/18/04 Minutes

#### Decision

To approve the minutes of the meeting held on 7 February 2018.

#### PE/18/05 Children and Education Services – Senior Management Team

The Committee considered a report of the Strategic Director of Children's Services which set out proposals for revised arrangements for the newly integrated Children and Education Services Directorate. Following Children's Services' recent move out of intervention, a review of the directorate's leadership arrangements had been undertaken to continue improvements to targeted and universal services with a focus on outcomes. They were designed to drive improvements, facilitate professional rigour, safeguarding assurances and increase senior capacity to deliver services effectively.

No Trade Union comments were submitted for consideration at the meeting. The Committee subsequently agreed the proposals.

#### Decisions

1. To agree the disestablishment of the following posts:
  - Strategic Lead, Children's Social Care, SS3 (£74,175 - £83,830)
  - Head of Strategic Planning, Access & Inclusion, SS3 (£74,175 - £83,830)
  - Quality Assurance Manager, SS2 (£64,574 - £71,295)
  - Head of Fostering & Adoption, SS2 (£64,574 - £71,295)
  - Head of Contact, Referral & Assessment, SS2 (£64,574 - £71,295)
  
2. To agree the establishment of the following posts:
  - Head of Locality (x3), SS1 (£57,340 - £63,308)
  - Head of Looked After Children, SS1 (£57,340 - £63,308)
  - Strategic Head of School Improvement & Special Education Needs and Disability, SS3 (£74,175 - £83,830)
  - Head of Access & Sufficiency at a grade SS1 (£57,340 - £63,308)
  - The regrade of Senior School Quality Assurance Officer from SS1 (£57,340 - £63,308) to SS2 (£64,574 - £71,295) and increase establishment from 3 to 4

## **PE/18/06     Disciplinary Procedure for the Chief Executive and Certain Statutory Officers**

The Committee considered a report of the Director of HROD which set out changes to the procedure for the potential dismissal of the Head of Paid Service, (Chief Executive), Monitoring Officer (City Solicitor) and Chief Finance (S151) Officer (City Treasurer). The changes had arisen from recent regulatory change and a draft dismissal procedure was appended to the report for approval. The Committee was asked to approve a delegation to the Director of HROD in consultation with the Executive Member for Finance and Human Resources, or the Leader of the Council in his/her absence or inability to act, to suspend any relevant officer in accordance with the dismissal procedure. The Committee was also asked to invite the Council to amend the Constitution, in relation to the appointment of Independent Persons to an Independent Panel and in relation to the power to suspend any relevant officer respectively, when undertaking its annual review of the Constitution.

The Committee noted that the changes would be incorporated into the Council's Constitution and that new procedures would be required to facilitate implementation. No comments from the Trade Unions were submitted for consideration at the meeting, the committee subsequently agreed the Procedure as well as the recommendation that Council is invited to amend the constitution in relation to the appointment of Independent Persons to an Independent Panel when it undertakes its annual review.

### **Decisions**

1. To agree the disciplinary procedure and process flow in Appendices A and B respectively which will apply to the three statutory officers identified in the report.
2. To invite the Council to amend the constitution in relation to the appointment of Independent Persons to an Independent Panel and in relation to the power to suspend any relevant officer respectively, when it undertakes its annual review of the Constitution incorporating the rules of procedure that are appended to these minutes in Part 4 Section F of the Council's Constitution.

## **PE/18/07     Expenses Policy - Amendments**

The Committee considered a report of the Director of HROD which discussed amendments to the Employee Expenses Policy which had been borne out of an internal audit into expense claims the previous year. The changes had been developed to enable greater assurance of the appropriateness of claims and the accuracy of the data associated with them.

The outcome of the audit recommended that the policy be updated to link more clearly to claim form categories and that it should outline what spend is acceptable within the broad category areas already stated to reduce the misclassification of expenses. In response, two additional expense categories had been added in respect of mobile phone charges and a flu vaccinations.

No Trade Union comments were submitted for consideration at the meeting. The Committee subsequently agreed the proposals.

### **Decision**

To approve the introduction of the revised employee expenses policy.

### **PE/18/08 Manchester Minimum Wage**

The Committee considered a report of the Chief Executive which set out a proposal to increase the current hourly rate of the Manchester Minimum Wage to £8.75 in line with the UK 'Living Wage' (as set by the Living Wage Foundation). This had followed a review of the current Manchester Minimum Wage which took account of Manchester's Pay Policy Statement and the Our Manchester Strategy aim to 'Ensure everybody is paid at least a real living wage' and the Council's Living Wage Policy Statement. The report also proposed a number of associated increases to other scale points to ensure the integrity of the pay line. Considerations with regard to procurement and the schools workforce were also set out.

No Trade Union comments were submitted for consideration at the meeting. The Committee subsequently agreed the proposals.

### **Decisions**

1. An increase in the Manchester Minimum Wage for Manchester City Council employees equivalent to £8.75 per hour, with the increase being made through the application of a non-consolidated payment to SCP 7. This would be an increase of 30p per hour to the current Manchester Minimum Wage.
2. An amendment of the existing non-consolidated increases to the hourly rates of SCPs 7 to 12, and the addition of non-consolidated payments to SCP 13 and SCP 14 to retain an appropriate pay differential between salary levels. The details of these payments are set out in paragraph 3.1 of this report.
3. That the values in recommendations 1 and 2 above are implemented with effect from 1 April 2018, and that these values are adjusted following the agreement and implementation of an NJC Pay Award for 2018/19 to retain, at a minimum, this level of remuneration.
4. A continuing commitment to advocating take-up of the Manchester Minimum Wage and its adoption by schools, contractors and agency suppliers, in line with the Living Wage Policy Statement and in support of the aims of the Our Manchester Strategy.

### **PE/18/09 Pay Policy Statement**

The Committee considered a report of the Chief Executive which presented the draft Manchester City Council Pay Policy Statement for 2018/19 for approval prior to its consideration at full Council.

The Statement set out the direction of travel in relation to pay for Manchester's officers for the year ahead and details how this will support the delivery of the City Council's aims and objectives. It had been developed to comply with the legal requirement set out under section 38 (1) of the Localism Act 2011 and took account of the outcomes of the senior pay and grading review undertaken in late 2016 as well as relevant legislative requirements. In addition, the Statement also included information on the Council's 'Gender Pay Gap' and work to proactively promote workforce equality, in accordance with the requirement to carry out Gender Pay Reporting set out within The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017.

The Committee welcomed the report and noted that the Authority's gender pay gap had been determined as 9.1% - significantly below the mean gap for the UK (17.4%). The Committee, however, welcomed the Council's commitment to continue to reduce this figure

No Trade Union comments were submitted for consideration at the meeting. The Committee subsequently agreed to recommend it for adoption by full Council.

### **Decisions**

1. To note the content of the draft Pay Policy Statement as appended to the report and recommend to Council that it be adopted.
2. To note the organisation's Pay and Grading Structure for the financial year 2018/19 as appended to the Pay Policy Statement and recommend it to the Council. As no national agreement has yet been reached in relation to Local Government Pay Awards for 2018/19 the Pay Structure will be amended to reflect any national agreement as and when it is reached.

## **Disciplinary Procedure for the Head of Paid Service, (Chief Executive), Monitoring Officer (City Solicitor) and Chief Finance (s 151) Officer (City Treasurer)**

### **1. Background**

This disciplinary procedure is based on that set out in the Joint Negotiating Committee for Local Authority Chief Executives National Salary Framework and Conditions of Service Handbook (the JNC Handbook) as updated on 13 October 2016. It applies to Manchester City Council's (the Council) Chief Executive, Monitoring Officer and City Treasurer (the Relevant Officers).

### **2. Informal resolution**

In accordance with recommendations in the JNC Handbook the Council and the Relevant Officer will seek an informal resolution before formal disciplinary proceedings are commenced. The Director of HROD will be responsible for seeking an informal resolution with the Relevant Officer. If informal resolution is not possible, the complaint/allegation will be referred to an investigating and disciplinary committee.

### **3. The investigating and disciplinary committee**

The investigating and disciplinary committee of the Council will be a sub-committee of the Personnel Committee established to deal with formal disciplinary matters in respect of the Relevant Officers. The Investigating and Disciplinary Sub-committee (IDSC) will not be a standing committee but will be established as and when required by the Personnel Committee. Wherever possible, it will be politically balanced and comprise five members of the Personnel Committee including at least one member of the Executive.

### **4. Convening the IDSC**

Once it is clear that informal resolution is not possible, the Director of HROD will inform the Chair of the Personnel Committee of the complaint/allegation made against the Relevant Officer and the failure to achieve an informal resolution. A meeting of the Personnel Committee will be convened at the earliest opportunity to establish the IDSC and the Disciplinary Appeals Sub-committee (see paragraph 12 below) and set a date for the meeting of the IDSC.

### **5. Consideration of allegations by IDSC**

At the earliest opportunity, the Director of HROD should inform the Relevant Officer of the complaint/allegation, the evidence provided, the Relevant Officer's right to provide oral evidence to the meeting of the IDSC, the date and time of the meeting and other relevant matters. The Relevant Officer should also be asked for written representations for presentation to the IDSC in relation to the complaint/allegation. In the light of the representations and

any oral evidence, having carefully considered the complaint/allegation, the IDSC may decide on one of the following actions:

- **OPTION 1** - No further action  
This should be immediately communicated to the Relevant Officer and the complainant notified if necessary.
- **OPTION 2** - Informal unrecorded oral warning  
If the matter is not serious but there is some minor fault or error on the part of the Relevant Officer then the IDSC can issue an informal unrecorded warning.
- **OPTION 3** - Case to answer/further investigation required  
If the IDSC believes that the case cannot be dismissed and requires further investigation and that, if the allegations were to be upheld they would result in a sanction greater than an informal warning, the IDSC should appoint an independent investigator (Independent Investigator) and consider suspending the Relevant Officer during the investigation period.

## **6. Suspension**

Ordinarily the IDSC will consider whether it is appropriate to suspend the Relevant Officer; this may be necessary if an allegation is such that if proven it would amount to gross misconduct. It may also be necessary in other cases if the continuing presence at work of the Relevant Officer might compromise the investigation or impair the efficient exercise of the Council's functions, the Director of HROD in consultation with the Executive Member for Finance and Human Resources, or the Leader of the Council in his/her absence or inability to act, will have delegated authority to suspend the Relevant Officer. Suspensions should be reviewed after a period of two months as recommended by the JNC Handbook and only extended following consultation with the Independent Investigator and consideration of any objections/representations from the Relevant Officer.

## **7. Appointment of the Independent Investigator**

The joint secretaries of the JNC (the Joint Secretaries) will maintain a rolling list of potential Independent Investigators. When approached by the Council, the Joint Secretaries will supply three names from the list and if they are acceptable to the IDSC, the Relevant Officer will be asked to choose one of the names. If the Relevant Officer will not agree a name within 14 days, the IDSC will be free to appoint their choice from the three names.

## **8. Role of the Independent Investigator**

In practice it should be for the Independent Investigator to determine the process they will follow. The investigation process will be dependent upon the nature of the allegations and the availability of information. This could be a process of evidence gathering, including oral evidence from witnesses, hearing submissions etc. which will lead to the formulation of recommendations for consideration by the IDSC.

## 9. The report of the Independent Investigator

On completion of their investigation the Independent Investigator must prepare a report with recommendations and full rationale for submission to the IDSC.

## 10. Consideration and decision of the IDSC

The IDSC will then afford the Relevant Officer the opportunity to attend a full hearing to allow them to put their case and challenge the recommendations of the Independent Investigator, call witnesses, etc. At the hearing both parties will be afforded the opportunity to be represented by an individual of their choice, although representation for the Relevant Officer should be obtained at his/her expense.

## 11. Recommendations of the IDSC

Following either consideration of the report of the Independent Investigator or a full hearing of the case the IDSC can make one of the following five decisions:

- **OPTION 1** - No case to answer  
Appropriate communication should be prepared in agreement with the Relevant Officer to ensure that as far as possible there is no damage to the post holder's reputation. The IDSC should consider reimbursement of any reasonable expenses incurred by the employee.
- **OPTION 2** - Recommend informal resolution or other appropriate procedures  
This should be where the IDSC considers that informal resolution is now possible.
- **OPTION 3** - Refer back to the Independent Investigator for further investigation and report  
This option should only be taken where the IDSC considers that further investigation is absolutely necessary to enable it to make its recommendation.
- **OPTION 4** - Action short of dismissal  
A decision to take action short of dismissal should be communicated in writing to the Relevant Officer with its rationale. The Relevant Officer has the right of appeal to the Disciplinary Appeals Sub-committee (the DASC) against this decision.
- **OPTION 5** - Recommendation to dismiss  
If there is a recommendation to dismiss, the reports of the IDSC and the Independent Investigator should then be sent to an independent panel (Independent Panel) for its consideration. The Relevant Officer may also submit written representations to the Independent Panel in advance of its consideration of the matter.

## 12. Disciplinary Appeals Sub-committee

The DASC will be a sub-committee of the Personnel Committee established to deal with appeals by the Relevant Officers against decisions of the IDSC to take action short of dismissal. The DASC will not be a standing committee but will be established as and when required by the Personnel Committee.

Wherever possible, it will be politically balanced and comprise three members of the Personnel Committee including at least one member of the Executive.

- **OPTION 1** - Dismiss appeal and confirm sanction  
Appropriate communication should be prepared in agreement with the Relevant Officer to ensure that as far as possible there is no damage to their reputation. The decision to dismiss should be communicated in writing as soon as is practicable.
- **OPTION 2** - Accept appeal in full  
This decision should be communicated in writing to the Relevant Officer with rationale.
- **OPTION 3** - Accept appeal but impose a lesser sanction  
A decision to take action short of dismissal should be communicated in writing to the Relevant Officer with rationale.

## 13. Compliance with the Local Authorities (Standing Orders) (England) Regulations 2001 (the Regulations)

- 13.1 The Regulations provide for a consultation procedure with the members of the Executive where a Council proposes to dismiss a Relevant Officer. The consultation procedure is set out in Annex 3 of the Officer Employment Procedure Rules in the Council's Constitution. In order to comply with the Regulations and afford the IDSC the opportunity to take into account material objections to dismissal from members of the Executive, the consultation procedure will be carried out prior to the Independent Panel's consideration of the IDSC's recommendations. The Director of HROD shall inform the Proper Officer (currently the Deputy Chief Executive (People, Policy and Reform) of the IDSC's recommendation to dismiss and the Proper Officer will then begin the consultation procedure by informing members of the Executive that the IDSC has decided to recommend dismissal to the Council.
- 13.2 The Proper Officer shall inform the IDSC of the results of the consultation. If a member of the Executive has made an objection to dismissal, the IDSC shall meet to consider whether the objection should affect its recommendation to dismiss or whether other steps should be taken, for example, further investigation. The results of the consultation procedure and their effect, if any, on the IDSC's recommendation will be included in the information to be given to the Independent Panel.
- 13.3 The Relevant Officer shall be informed of what effect the consultation results have on the IDSC's recommendations.



#### **14. Composition, role and process of the Independent Panel**

The Independent Panel appointed by the Council will comprise at least two independent persons (provided with appropriate training and advised by the Director of HROD or his/her representative) as stipulated at Annex 2 to the Officer Employment Procedure Rules contained in the Council's Constitution. The Independent Panel shall meet and receive oral representations from the Relevant Officer and responses to his/her representations from a representative of the IDSC who shall also attend the meeting. The Independent Panel may ask questions of either party. With the agreement of all parties, the Independent Panel may dispense with holding a meeting. The Independent Panel will review the decisions of the IDSC and prepare a report for Council. The Independent Panel report should comprise the recommendation of the IDSC, the Independent Investigator's report, any representations of the Relevant Officer, and any comments on the recommendations of the IDSC from the Independent Panel. Where the Independent Panel disagrees with the reason to dismiss, its report should contain a clear rationale for this.

#### **15. Report to full Council**

Following receipt of the Independent Panel's report, the Council should consider the recommendation to dismiss. The Relevant Officer will be provided with a final right to appeal against the decision and be allowed to attend and address the full Council meeting for this purpose. The Independent Investigator may be invited to attend to provide clarification if required. The IDSC should nominate one of its members to attend the meeting of full Council on its behalf. Following consideration of the Independent Panel's report, the Council will have three options:

- **OPTION 1** - Confirm recommendation to dismiss  
The decision to dismiss should be communicated in writing as soon as is practical. .
- **OPTION 2** - Reject recommendations to dismiss  
This decision should be communicated in writing to the Relevant Officer with rationale. Appropriate communication should be prepared in agreement with the Relevant Officer to ensure that as far as possible there is no damage to their reputation.
- **OPTION 3** - Impose a lesser Sanction  
A decision to take action short of dismissal should be communicated in writing to the Relevant Officer with rationale. Appropriate communication should be prepared in agreement with the Relevant Officer to ensure that as far as possible there is no damage to their reputation.

#### **16. Dismissal**

If the Council decide to dismiss the Relevant Officer, it shall authorise the Director of HROD to effect the dismissal on the Council's behalf.