

Briefing note to Staffing and Remuneration Committee meeting – 26 January 2016

This briefing note is in relation to the agenda item 7 – Implementation of new senior pay and grading arrangements including pay review and employment contract.

1. Background

At its meeting on the 14 December 2015 the Committee :-

- 1.1. Agreed the new Senior Manager Employment contract be issued for comment to all senior managers
- 1.2. Noted that there would be a slightly varied version for the Chief Executive, to reflect the fact that there are different line management arrangements which would be issued by the Leader of the Council to the Chief Executive for comment.
- 1.3. Noted that the final version of the Senior Manager Employment contract would be brought back to the Committee on the 26 January 2016 for approval.
- 1.4. Noted that the final version of the employment contract for the Chief Executive would be brought back to the Committee on the 26 January 2016 for approval.

2. Additional recommendation for the Committee to consider at section 3 of the report

3.5 The Assistant Director of Human Resources is authorised in consultation with the Chair of the Committee, in response to any representations made by any senior manager to whom the Senior Manager contract of employment set out in Appendix C has been issued, to make prior to 1st April 2016 such amendments to the contract as she considers are appropriate.

See section 5.2 of this briefing note.

3. Changes made to appendix C

The changes to the clauses below have been highlighted

3.1. Appointment, duration and continuous employment - **clause 2.3**

For the purposes of annual leave ,occupational sick pay, redundancy pay and maternity pay the Executive's continuous employment commenced on [a date to be confirmed]. This contract supersedes and replaces in their entirety any other contractual arrangements between the Council and the Executive. For all other purposes, the Executive's continuous employment commenced on [a date to be confirmed] as the Executive's previous employment with any other employing body will not count as continuous employment with the Council.

The first highlighted change concerns when continuous employment starts for contractual entitlements such as annual leave, occupational sick pay, redundancy pay and maternity pay. These entitlements depend on length of service. The start of continuous employment for these entitlements could be a date prior to the start date of the employee with the Council if there was prior continuous service with a public authority. If there was such a prior date that is the date that will be inserted.

The second highlighted change is confirming that for all other purposes the employee's continuous employment commenced when his/her continuous employment with the

Council started . That is the date that will be inserted, and will be his/her start date with the Council assuming no breaks in continuity since then.

3.2. Maternity Pay and Leave – **new clause 12**

The Council's Maternity Leave and Pay Scheme as varied by the Council from time to time shall apply to the Executive.

This was omitted from the original draft.

4. Chief Executive contract of employment

The Chief Executive contract of employment is broadly the same as the Senior Manager contract of employment with the exception that the relationship is with the Leader of the Council. A copy of this contract is attached at Appendix D

5. Feedback from managers where we have made changes

5.1. The recognition of continuous service with other local authorities was raised and as a result we have clarified this point in clause 2.3. This may mean some contracts may include two start dates where previous service is recognised to which the Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999 (as amended) applies. Entitlement to Occupational Sick Pay , Annual Leave, Redundancy Pay and Maternity Pay may be affected where such previous service is recognised.

5.2. Clause 5 has been a focus of a number of questions querying whether Regulation 20 of the Working Time Regulations does apply to some of those covered by the scope of this contract. If this Regulation applies to an employee then the 48 working hours per week restriction under the Working Time Regulations does not apply to the employee . The contract states:

The Executive shall work such hours as may be required for the proper performance of his/her duties (including work in the evenings and at weekends and attending out of hours meetings if necessary) and without any additional remuneration. The Executive agrees that his/her employment under this Agreement falls within Regulation 20 of the Working Time Regulations 1998 ie.g . the 48 hours working week restriction does not apply to his/her employment.

The response to this is that those covered by the scope of this contract, are senior employees with autonomous decision-taking powers. As a result, working time is not measured or pre-determined and moreover may be determined by the senior manager. Accordingly in officers' view Regulation 20 applies to these employees . This means that the 48 working hours per week restriction under the Working Time Regulations does not apply to these employees

However the questions raised has resulted in officers considering the potential that a small number of senior managers who are categorised as Individual Contributors for

pay purposes and are recognised in the senior structure for their professional contribution may argue that their working time is pre-determined, that contrary to what the contract says Regulation 20 does not apply to them, and may then refuse to sign the contract if Clause 5 is not amended to remove the reference to Regulation 20. It is with this feedback in mind and to mitigate any risk that the Committee is asked to approve the additional recommendation.