



# JOINT NEGOTIATING COMMITTEE

## AGENDA

3 MARCH 2013 AT 6.30 PM

GADE ROOM, CIVIC CENTRE, HEMEL HEMPSTEAD

### MEMBERS:

Councillors: Adeleke, Harden (no voting rights), McLean, D Rance, G Sutton (Chairman), Whitman and Wood

### TRADE UNION:

Will Cherry (Vice-Chair), Janet Colyer, Maggie Harvey, William O'Gorman and Christopher Plested.

### OFFICERS:

Matt Rawdon, Group Manager (People); Helen Price, Corporate Safety, Health and Care Officer; and Pat Duff, Member Support Officer

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## **1. APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

## **2. MINUTES**

To confirm the minutes of the meeting held on 3 September 2012 (Appendix A, page 10).

## **3. MATTERS ARISING**

To discuss any matters arising from the last meeting held on 3 September 2012.

## **4. UNION FACILITY TIME**

1. The branch secretary is allowed ten hours per week for union duties, 3.00 – 5.00 pm daily.
2. We are asking that Conduct and Disciplinary hearings be arranged for when the branch secretary is on union duty as above. There have been a number of cases when the hearings have been arranged for the morning when he is doing his normal Council duties as Team Leader in Clean Safe and Green. Consequently, he has to interrupt his work to come down to the Civic Centre to represent members at these hearings. Matt Rawdon had promised previously that hearings would be arranged after 3.00 pm, but this has not happened.
3. Secondly, the branch secretary needs to undergo an Employment Law Course, which involves one day a week at college for an academic year. Management have said that the branch secretary can go on this course provided he works every Saturday to compensate for the loss of the weekday's working. This is necessary training if the branch secretary is to fulfil his role properly and the union is asking that the Council allows the time off with pay to attend college without the requirement to work for no pay on Saturdays.
4. Thirdly, insufficient notice is given for many of these hearings. The branch secretary needs at least a week's notice in order that he can liaise with the member and prepare a case.
5. If there are a number of cases going on at the same time, we ask that facility time off is given to departmental representatives even if the case involves members outside their own department.

## **5. ABSENCE MANAGEMENT POLICY**

(Janet Colyer, Unison – Supported Housing Officer)

Unison seeks agreement that a review of the current Absence Management Policy be undertaken with a view to the formulation of an agreed additional process should the nature of an illness be caused or exacerbated, by work related stress.

Section 33 of the current policy deals with stress related absence. However, the only guidance where work related stress is a factor, is that the matter must be discussed with HR.

In light of a recent case (which may be subject to litigation) we believe it would be prudent for DBC to agree an additional process specific only to work related stress and the suspension of occupational sick pay.

Where work related stress and/or industrial injury are the cause of long term sick absence we do not agree that these should be dealt with under the 2 week reference period. In these cases the period must be extended in order to support an employees' return to work.

Given the levels of stress experienced throughout the Council and the lack of understanding of the condition by some line managers, we also seek a compulsory, up to date, comprehensive training programme to be implemented as soon as practicably possible.

6. **AGREEMENT ON DISABILITY LEAVE**

**Agreement on  
Disability Leave**

This Agreement is made between

Dacorum Borough Council

and

Dacorum Branch of UNISON

This agreement comes into force on: .....

This agreement will be reviewed on: .....

Signed on behalf of Dacorum Borough Council ..... Date

Signed on behalf of Dacorum Branch of UNISON ..... Date

## **1 Introduction**

- 1.1 The purpose of this agreement is to provide disabled employees with reasonable paid time off work for reasons related to their impairment.
- 1.2 This agreement covers all disabled employees of Dacorum Borough Council (see section 5) and sets out what disability leave is available and the procedures for using it (see section 6).
- 1.3 This agreement complements, but is not restricted by other equal opportunities policies and agreements.

## **2 General Principles**

- 2.1 Disabled people face discrimination and disadvantage in the workplace and society. The skills and experience of disabled employees are highly valued and UNISON and Dacorum Borough Council are committed to supporting disabled employees by removing access barriers, tackling discrimination that they face, and implementing best employment practice.
- 2.2 Dacorum Borough Council and UNISON are committed to resolving any issues relating to disabled employees by negotiation and agreement where possible, and avoiding recourse to Employment Tribunals.
- 2.3 In accordance with the Equality Act 2010 Dacorum Borough Council will not discriminate against disabled employees but will consider and accommodate all reasonable adjustment needs.
- 2.4 In accordance with the Equality Act 2010 Dacorum Borough Council will work actively to eliminate discrimination against and harassment of disabled people, promote positive attitudes to disabled people and encourage disabled people to participate in public life.

## **3 What is disability leave?**

- 3.1 Disability leave is paid time off work for a reason related to someone's disability. It may be for a long or short period of time, and may or may not be pre-planned (see section 6).
- 3.2 The Equality Act states that the duty to make reasonable adjustments requires employers to take positive steps to ensure that disabled people can access and progress in employment. This goes beyond simply avoiding treating disabled workers, job applicants and potential job applicants unfavourably and means taking additional steps to which non-disabled workers and applicants are not entitled.
- 3.3 Disability leave should be considered as a "reasonable adjustment" under the Equality Act, and is in accordance with good employment practice as recommended by the Equality and Human Rights Commission. However, not all disabled employees will necessarily need to take disability leave.
- 3.4 Disability leave will not be included for the purposes of assessing performance, promotion, attendance, selection for redundancy, and similar issues. To do so might discriminate against the disabled employee.
- 3.5 There is no maximum duration of disability leave, with advice from Occupational Health and in consultation with the employee, UNISON and other relevant parties the length and frequency of Disability Leave may be anticipated.

- 3.6 In rare situations it may become clear that the employee is not being able to return to their previous job. In this case other reasonable adjustments, including redesigning the job, retraining and redeployment, will be considered. Where no other option is possible consideration will be given to ill health retirement.

#### **4 Disability leave and sick leave**

- 4.1 Disability leave is distinct from sick leave, and includes time when an employee is well but absent from work for a disability-related reason.
- 4.2 If an employee is on sick leave and it becomes clear that they now qualify for disability leave, they will be transferred onto disability leave.
- 4.3 If time off work due to ill health is for a reason not disability-related, then it will be recorded as sickness absence under the standard sickness management policy and procedure.
- 4.4 A high level of sickness absence for an employee may be associated with a new situation of a person's disability. This possibility will be investigated and may trigger a change in the person's status to being disabled; absences that are disability related will be reclassified as disability leave and amendments made to the sickness management records.

#### **5 Who is entitled to disability leave?**

- 5.1 All employees who are disabled using the definition in the Equality Act are entitled to disability leave.
- 5.2 The Equality Act 2010 defines disability as "a mental or physical impairment that has a substantial and long-term effect on a person's ability to carry out normal day-to-day activities". "Long-term" typically means 12-months or more, and HIV infection, cancer, and multiple sclerosis are included from the point of their diagnosis.
- 5.3 People who have had a disability in the past but no longer have one, still qualify as disabled under the Equality Act 2010 and are entitled to disability leave for disability related absences.
- 5.4 Disabled employees may choose to inform Dacorum Borough Council and Occupational Health that they are disabled. While this is not obligatory, it is recommended that they do so to facilitate making reasonable adjustments. This information will be kept confidential.

#### **6 Disability leave procedure**

- 6.1 The effect of an impairment depends on the individual and their circumstances. To accommodate this requires some flexibility, so employees may take planned disability leave or unplanned disability leave, as appropriate.
- 6.2 Disability leave is one of a range of possible reasonable adjustments, also included are working from home and flexible working.
- 6.3 Where disability leave is needed, agreement must be reached on the approximate number of days and approximate date of the leave. This may not be exact but will help in planning service delivery and managing the needs of other staff.
- 6.4 Planned disability leave is agreed in advance. It may be a number of individual days each year that a disabled person needs to take off. Typically this would be for treatment, rehabilitation or assessment related to their disability. It may also be a longer block of time needed for a specific reason, as indicated in 6.4.3.

6.4.1 The procedure for agreeing planned disability leave is as follows:

6.4.1.1 First stage

The disabled employee will meet with their Manager on a confidential, individual basis and discuss what reasonable adjustments they need, and the effect of the disability on performance objectives. Employees may choose to be accompanied by a union representative.

6.4.1.2 If agreement cannot be reached then the procedure goes on to the second stage.

6.4.1.3 Second stage

Further evidence and advice will be sought before a formal meeting. Information will be sought from other parties to help determine what constitutes a reasonable adjustment in the specific circumstances. This will include some or all of:

- a GP or specialist's report (with the employee's consent)
- a report from Occupational Health (with the employee's consent)
- other information from the employee
- advice from Human Resources
- consultation with a UNISON representative
- advice from the Disability Employment Advisor at the local Job Centre Plus or another Department for Work and Pensions' resource
- Advice from specialist organisations with expertise in the field of the employee's particular impairment or condition.

6.4.1.4 A meeting will then be held that will include the employee, the manager, a representative from Human Resources, and a trade union representative. All the evidence will be circulated to attendees prior to the meeting.

6.4.1.5 The following issues should be considered:

- is the employee disabled under the Equality Act 2010 ?
- the effectiveness of the proposed adjustment
- the practicability and cost of the proposed adjustment
- the resources of Dacorum Borough Council and other financial assistance available (for example, Access To Work funding)

6.4.1.6 The impairment itself (as opposed to its relationship with the work environment) should not be considered, as it may be discriminatory to do so.

6.4.1.7 If agreement still cannot be reached then the employee has the option of utilising the grievance procedure.

6.4.2 Some examples of reasons for planned disability leave include (but are not limited to):

- hospital, doctors, or complementary medicine practitioners appointments
- hospital treatment as an outpatient
- assessment for such conditions as dyslexia
- hearing aid tests

- training with guide or hearing dog
- counselling/therapeutic treatment
- appointment time and recovery period relating to blood transfusion or dialysis treatment
- physiotherapy (sessional or residential)

6.4.3 A longer block of disability leave might be also appropriate. This could be so that a newly disabled employee can make changes inside and outside of work; while physical or environmental adjustments are being made to an employee's work environment; or if an employee has to undergo a more prolonged period of treatment, rehabilitation or recuperation.

6.4.4 Some examples of longer disability leave include (but are not limited to):

- a period of time off work while reasonable adjustments are made at work
- an operation, and recuperation and rehabilitation afterwards
- time while the employee is suffering from depression, stress, or mental illness
- a phased return to work or period of time off work for an employee who is newly disabled

6.5 Unplanned disability leave covers disability-related absences that may previously have been recorded as sick leave. Not to separate disability leave from sick leave may discriminate against disabled workers.

6.5.1 These will be recorded in the same way, but separate from, the sickness absence procedure, and clearly identified as disability leave.

## **7 Review of planned disability leave**

7.1 Where disability leave is agreed, it will be reviewed on an annual basis to assist in planning. These reviews will be supportive, and will not be used to pressure employees into taking less disability leave than they need.

7.2 Staff who become disabled, or whose impairment or circumstances change, may request a review of their disability leave (or other reasonable adjustments) at any time.

## **8 Other Issues**

8.1 If an employee is on disability leave for more than two weeks, their manager will brief them on their return to work of any changes that have occurred while they were off. In addition job advertisements, internal newsletters and similar materials will be sent to them in an accessible format so being on disability leave does not disadvantage them.

8.2 Consultation will take place at a local level about the impact of a member of staff taking disability leave, and if necessary centrally funded backfill will be provided.

8.3 Time spent on disability leave is counted as continuous service for all contractual benefits, including accruing annual leave, sick leave, pension rights and bonus.

8.4 Medical information about employees will be kept strictly confidential unless they agree to disclosure. Its use will conform to Data Protection.

8.5 The amount and duration of planned and unplanned disability leave will be recorded when it is actually taken, using designated forms.

- 8.6 Appeals about the amount of disability leave allowed, on correctly following the procedure, or on other aspects of this agreement will be dealt with under the grievance procedure.
- 8.7 Abuse of the disability leave scheme is a serious disciplinary offence, and will be dealt with under the disciplinary procedure.

**7. ANY OTHER BUSINESS/FUTURE WORK PROGRAMME**

To discuss any other business that may have arisen since the last meeting/any future agenda items.

**8. DATES OF FUTURE MEETINGS**

<b>Meeting Date – start time 6.30 pm</b>	<b>Date agenda to be circulated</b>
Monday 3 March 2014	Monday 10 February 2014
Monday 2 June 2014	Monday 12 May 2014
Monday 8 September 2014	Monday 18 August 2014
Monday 8 December 2014	Monday 17 November 2014
Monday 2 March 2015	Monday 9 February 2015

## JOINT NEGOTIATING COMMITTEE

MONDAY 3 SEPTEMBER 2012

## MINUTES

**Attending:****Councillors:** McLean, Sutton (Chairman), Whitman and Wood.**Trade Union:** Maggie Harvey, William O’Gorman and Christopher Plested.**Officers:** Matt Rawdon, Human Resources Team Leader and Pat Duff, Member Support Officer (Minutes)

The meeting began at 6.30 pm

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received on behalf of Councillor Harden, W Cherry and J Colyer.

**2. MINUTES**

The minutes of the meeting held on 21 May 2012 were agreed by the members present and were signed by the Chairman, subject to the following amendment:

The date on the minutes to be changed from Monday 12 March 2012 to Monday 21 May 2012.

**3. MATTERS ARISING**

There were no matters arising.

**4. HEALTH AND SAFETY UPDATE**

The Human Resources Team Leader agreed to send a Health and Safety update to members of JNC.

**5. CAR USERS ALLOWANCE**

The Human Resources Team Leader summarised the report and gave the background on the current situation.

The options discussed at JNC were taken to the Assistant Directors Group in May. Their view was to look at criteria that may apply for staff to be entitled to a car user allowance and to look at possibly removing the mileage threshold. This would support the environment sustainability agenda and it would appear to make the allowance fairer to staff who had raised concerns.

The revised criteria was taken back to the Assistant Directors Group in July to consider the financial aspect. After a debate the view was that the criteria and taking out the mileage may have a significant financial impact on the Council. It was perceived that the staffing bill, in terms of mileage, would increase with that criteria. The advice from the Assistant Directors Group was that the scheme had to be cost neutral and, with the announcement of the Comprehensive Spending Review, the cost neutral element became more important to the Group who wanted to have a fair policy with due consideration to cost.

It was disappointing that no further progress had been made with a cost neutral scheme, but it appeared to be a difficult task. However, there were now two options:

1. To leave the policy as it is.
2. Management to sit down with recognised trade unions of the Council to see what other cost neutral options there were. It was hoped that the trade unions could help by presenting effective car user policies that other Local Authorities used, maybe with assistance from the regional office.

Councillor Whitman said that at the last meeting Councillor Rance had pointed out that any allowance over 45p would be taxed.

The Human Resources Team Leader confirmed that anything above the HMRC rate of 45p was taxed at 20%.

Councillor McLean asked the context of cost neutral.

Councillor Wood arrived at 6.40 pm.

The Human Resources Team Leader said that if the mileage threshold was reduced to 500 miles per year rather than 1000, the new scheme would cost approximately £30k.

W O’Gorman suggested sitting down and seeing what the unions wanted to do about it.

M Harvey said at the last meeting, J Colyer had given a figure of £16k and asked if the cost neutral aspect was for this financial year only.

The Senior Human Resources Officer said that at the last meeting, four options were considered. The trade union option cost £16.5k.

M Harvey said she had done 800 miles last year and she would have made this up to 1,000 miles if she could have done. It was very unfair to take this allowance away. Staff could not do the job without a car which had to be maintained, taxed and insured. Some people had been given bigger areas so that they could easily do 1,000 miles per year but others just could not achieve that and shorter journeys meant more wear and tear on the car. These staff could not get lease cars or car loans.

Councillor Sutton sympathised with the problem but unfortunately, as far as the budget was concerned during this financial year, the Council would have to keep the current scheme. This would come up for review in the pre budget discussions but it was not feasible that there would be a lot of change in any policies. Many commercial companies were finding that changing car allowances was a way to cut costs and the Council had to look at this as well.

There was always going to be criticism of the scheme and Councillor Sutton suggested leaving it to the officers to negotiate with unions. The Council did not want to spoil the efficiency and good will of the staff. If the Council kept the scheme, the £16.5k would have to be taken from somewhere else. The committee would keep it monitored and would do whatever it could.

The Human Resources Team Leader said it was important to arrange further time to consider it. Obviously staff were not happy with this approach and the Council needed to listen to concerns raised. The Green Fleet Group had received a presentation on pool cars recently and this was being looked at practically and financially.

C Plested suggested looking at pool cars for people with lower mileage.

Councillor Sutton suggested this topic be left for this financial year but it was a work in progress for the future.

**Action**

The Human Resources Team Leader to meet with the trade unions to consider this further.

**6. ANY OTHER BUSINESS/FUTURE AGENDA ITEMS**

The following items to be considered at the next meeting:

1. Christmas pay slips. Last Christmas there had been problems with some staff's money on the Friday before Christmas. (MR).
2. The Probation Procedure. This was currently being reviewed. (MR).
3. The Sickness Procedure – Trade Union Issues. (WO'G/MR).

**Action**

1. The Senior Human Resources Officer to provide an update on Christmas pay slips prior to the next meeting in December. **MR**
2. W O'Gorman to provide Matt Rawdon with the issues regarding the Sickness Procedure before 12 November to enable these to be answered. **WO'G**

**7. DATES OF FUTURE MEETINGS**

<b>Meeting Date – start time 6.30 pm</b>	<b>Date agenda to be circulated</b>
Monday 3 December 2012	Monday 12 November 2012
Monday 4 March 2013	Monday 11 February 2013

This was agreed and noted.

The meeting ended at 6.55 pm.