



**Committee:** PERSONNEL COMMITTEE  
**Date:** TUESDAY 25<sup>th</sup> FEBRUARY 2014  
**Venue:** LANCASTER TOWN HALL  
**Time:** 6.10 P.M.

## A G E N D A

1. **Apologies for absence**

2. **Minutes**

Minutes of meeting held on 20<sup>th</sup> November, 2013 (previously circulated).

3. **Items of urgent business authorised by the Chairman**

4. **Declarations of Interest**

To receive declarations by members of interests in respect of items on this agenda.

Members are reminded that, in accordance with the Localism Act 2011, they are required to declare any disclosable pecuniary interests which have not already been declared in the council's register of interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the register or at the meeting).

Whilst not a legal requirement, in accordance with Council Procedure Rule 10 and in the interests of clarity and transparency, members should declare any disclosable pecuniary interests which they have already declared in the register, at this point in the meeting.

In accordance with Part B Section 2 of the code of conduct, members are required to declare the existence and nature of any other interests as defined in paragraphs 8(1) or 9(2) of the code of conduct.

5. **Vehicle Allowances** (Pages 1 - 4)

6. **Employment Contracts (Casual)** (Pages 5 - 7)

7. **Exclusion of the Press and Public**

The committee is recommended to pass the following recommendation in relation to the following item:

“That, in accordance with Section 100A(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following item of business, on the grounds that it could involve the possible disclosure of exempt information as defined in paragraphs 1 and 2 of Schedule 12A of that Act.”

Members are reminded that, whilst the following item has been marked as exempt, it is for the committee itself to decide whether or not to consider each of them in private or in public. In making the decision, members should consider the relevant paragraph of Schedule 12A of the Local Government Act 1972, and also whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. In considering their discretion members should also be mindful of the advice of council officers.

**8. Restructure - Environmental Services (Pages 8 - 27)**

**ADMINISTRATIVE ARRANGEMENTS**

**(i) Membership**

Councillors Ian Pattison (Chairman), Paul Gardner (Vice-Chairman), Shirley Burns, Jonathan Dixon, Melanie Forrest, Alycia James and Sylvia Rogerson

**(ii) Substitute Membership**

Councillors Keith Budden (Substitute), Kathleen Graham (Substitute), Janet Hall (Substitute), Billy Hill (Substitute), Caroline Jackson (Substitute), David Kerr (Substitute) and David Smith (Substitute)

**(iii) Queries regarding this Agenda**

Please contact Peter Baines, Democratic Services - telephone 01524 582074 or e-mail [pbaines@lancaster.gov.uk](mailto:pbaines@lancaster.gov.uk).

**(iv) Changes to Membership, substitutions or apologies**

Please contact Members' Secretary, telephone 582170, or alternatively email [memberservices@lancaster.gov.uk](mailto:memberservices@lancaster.gov.uk).

MARK CULLINAN,  
CHIEF EXECUTIVE,  
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DALTON SQUARE,  
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Published on Monday 17<sup>th</sup> February 2014.

**PERSONNEL COMMITTEE****Vehicle Allowances****25 February 2014****Report of the Human Resources Manager****PURPOSE OF REPORT**

To review progress on a previous decision taken by the Committee on 25 June 2013 and seek approval of a new set of recommendations in relation to vehicle allowances.

*This report is public.*

**RECOMMENDATIONS**

- (1) To update the current plans in relation to vehicle allowances to take account of new information and options available to the Council in relation to vehicle allowances and the procurement of vehicles, and in doing so approve the arrangements set out in this report.
- (2) To confirm the Council's aim to achieve a position where:
  - (i) No employee of the Council will be under any obligation to use their vehicle for business use and therefore there will be no need for any post to be designated as an "Essential Vehicle User"; .and
  - (ii) The Council moves away from current National Joint Council Car Allowance Rates in favour of the HMRC "AMAP" allowance rates.

**1.0 Background**

- 1.1 On 11 June 2013 the issue of vehicle allowances was considered at the JCC, with a recommendation that the Council move away from any designations of essential and casual car users and adopt a single user allowance scheme. This recommendation did not get the support of the JCC.
- 1.2 On 25 June 2013 Personnel Committee was advised of:
  - The current vehicle allowance arrangements.
  - The consultation process that had so far been undertaken in an effort to secure a collective agreement to move away from the current vehicle allowance arrangements in favour of a single vehicle allowance scheme, and the fact that no agreement could be reached.
  - The potential savings that could be achieved as a result of adopting a revised vehicle allowance Scheme.

The proposed changes were to dispense with the designation of any post as essential or casual user and adopt a single user allowance scheme. The NJC Green Book arrangements do provide for this flexibility.

- 1.3 Members may recall that at its meeting on 25 June 2013 the Committee approved the following recommendations:

*That as of 31 March 2014 no post with the Council will be designated as an "Essential Vehicle User".*

*The Personnel Committee agrees to the principle of moving from the current National Joint Council Car Allowance Rates in favour of the HMRC "AMAP" rates with a target date for implementation being 1 April 2014.*

Following the above decision the Council set in place measures to undertake the transitional arrangements necessary to adopt a new allowance structure. These were:

- Further collective and individual consultation where appropriate.
- Adopt a reasonable period of transition.
- Set a date on which the Council is to replace the current NJC scheme with the HMRC Scheme. Subject to the outcome of the consultation process the aim being to adopt the new arrangement by 1 April 2014.

- 1.4 On 15 January 2014 the JCC were again asked to consider information obtained as part of the consultation process following the decision of Personnel Committee on 25 June 2013. Although the proposal did not secure trade union support the following recommendation was approved:

- (i) That Personnel Committee change the current plans to take account of new information and options available to the Council in relation to the procurement of vehicles.

### **1.0 Background Information.**

- 2.1 All employees currently employed in posts that are designated as essential vehicle users post are under notice that the designation and therefore allowance will cease on 31 March 2014
- 2.2 The consultation process with the essential car users has been completed and as one would expect, the feedback from this process has been very informative.
- 2.3 Changes to the Council's Service Structure will impact on demand for vehicle access.
- 2.4 There may be a business case for certain posts in certain service units to have frequent use of a pool vehicle or the open access to a vehicle.
- 2.5 The number of Council allocated vehicles / pool vehicles that will be required needs to be established more clearly than at present.

## **3.0 The proposed way forward**

3.1 Each Service is to complete a review of the transport needs across each service unit and to establish the business case for:

- The number of pool vehicles that may be required and/or
- The number of posts that will require unrestricted access to a vehicle.

During the consultation process a number of service managers responded by setting out their key operational needs, therefore this information will help inform any additional review and the development of any business cases that are put forward.

3.2 The business cases submitted by the service units are to be reviewed and where appropriate clarified.

3.3 The current needs for vehicle access are to be established and a plan drawn up of how these can be met.

3.4 Each service/postholder will be advised of the arrangement which are to be put in place.

3.5 Posts will be identified that might be suitable to pilot alternative transport options that could be linked to the Council's Renewable Energy Strategy, which is under development, to test and establish the potential benefits of battery powered vehicles.

3.5 Any future service review programme will incorporate a review of travel and transport needs.

3.6 Further consultation will be carried out with the Trade Unions and employees in relation to the Council's stated aim to move away from the National Joint Council arrangements for reimbursement for business mileage in favour of the arrangements defined by Her Majesty's Revenue and Customs (HMRC) under the Authorised Mileage Allowance Payments Scheme (AMAP).

## **4.0 Conclusions**

4.1 The transition from arrangements that have been in place for many years is challenging for any organisation. It is however felt that the recommendations in this report better equip the Council to achieve its longer term aims without compromise to service operations.

4.2 The plans set out in Section 3 above will result in a hybrid set of arrangements to better meet the Council's needs in the short term. The Council can then fully evaluate how best to meet its stated aims whereby:

No post employee of the Council will be under any obligation to use their vehicle for business use and therefore there will be no need for any post to be designated as an "Essential Vehicle User".

The Council will move away from current National Joint Council Car Allowance Rates in favour of the HMRC "AMAP" allowance rates.

<p><b>RELATIONSHIP TO POLICY FRAMEWORK</b> None arising from this report</p>	
<p><b>CONCLUSION OF IMPACT ASSESSMENT</b> <b>(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</b> None arising from this report</p>	
<p><b>Human Resource Implications</b></p> <p>The revised arrangements which are proposed in this report have been developed following further consultation with managers and staff across the Council.</p> <p>The Council continues to have what it considers to be genuine business case for making the changes which are proposed. The NJC “Green Book” provides flexibility in allowing the employer to determine whether a post is casual or essential, therefore the adoption of a position in the future where no employee is under any obligation to use their vehicle for business use is considered within the bounds of the scheme. The risk remains that any such change could be considered to amount to a breach of contract, although this risk is considered small.</p> <p>Ongoing consultation is important in the management of any transitional process in an effort to ensure that good employee/employer relations are maintained.</p> <p>In relation to the longer term aim of a move away from the provision of the National Joint Council Car Allowance Rates in favour of the HMRC “AMAP” rates it could be argued that this action amounts to a unilateral variation of an employees contract of employment.</p> <p>Progress in the development of business travel arrangement across the Council will be reported back to Personnel Committee once a comprehensive Council wide evaluation of business travel needs has been completed.</p>	
<p><b>FINANCIAL IMPLICATIONS</b></p> <p>The original report to Personnel Committee on 25 June 2013 indicated potential savings of £100K per annum could be achieved, however this would be refined as part of establishing alternative options for meeting legitimate transport needs for staff. This is still the case, and as such no savings have been assumed within the current draft budgets.</p>	
<p><b>SECTION 151 OFFICER’S COMMENTS</b></p> <p>The S151 Officer has been consulted and has no further comments.</p>	
<p><b>LEGAL IMPLICATIONS</b></p> <p>None directly arising from this report.</p>	
<p><b>MONITORING OFFICER’S COMMENTS</b></p> <p>The Monitoring Officer has been consulted and has no further comments.</p>	
<p><b>BACKGROUND PAPERS</b> Personnel Committee Report 25 June 2013</p>	<p><b>Contact Officer:</b> Stuart Hampson <b>Telephone:</b> 01524 582076 <b>E-mail:</b> shampson@lancaster.gov.uk <b>Ref:</b></p>

**PERSONNEL COMMITTEE****Employment Contracts (Casual)****25 February 2014****Report of the Human Resources Manager****PURPOSE OF REPORT**

To report to Personnel Committee the current arrangements for the employment of people on casual contractual arrangements

*This report is public.*

**RECOMMENDATIONS**

**(1) That Personnel Committee note the content of the report .**

**1.0 Background**

- 1.1 In December 2013 the Human Resources Manager provided a briefing to the Chair of Personnel on the casual working arrangements at Lancaster City Council. The Chair asked that this briefing be reported to the Personnel Committee for consideration.
- 1.2 As members may be aware there is no legal definition of a casual contract or a zero hours contract for that matter. Neither of these “contract” types confer any special status on the individual. That said, the Officers are keen reassure members that Lancaster City Council does not employ any staff on what is commonly held as the definition of Zero Hour Contracts.
- 1.3 In an effort to provide some clarity on the issue of “casual contract” this report sets out below a number of facts in relation to the casual workers the Council employs.
- 1.4 Across the Council there are around 60 active casual workers employed across a range of activities. The bulk of the casual activities being at Salt Ayre Sports Centre, The Community Pools and The Platform.
- 1.5 A few years ago the HR Team completed a review of casual activities at the swimming pools to establish who was really a casual and who had in our opinion acquired contractual rights. The outcome of this review was that four casual employees were offered permanent contracts of employment due to the characteristics of their working arrangements.
- 1.6 In April 2013 the HR Manager met with service managers from the then Wellbeing service to discuss a number of HR related issues. As part of this discussion it was clear that a more detailed understanding of when and why casual work was offered was

needed, The review which commenced has now been incorporated in to the review of Sports and Leisure Services, the outcome of which will soon be reported to the Personnel Committee. The review is by no means complete although the insight gained so far has helped officers understand more fully what is happening in relation to casual work.

- 1.7 The Chief Officer (Health and Housing) and the Sports and Leisure Manager are keen to ensure that the service structure is geared to have the optimum establishment to meet the demands of the service.

## **2.0 Background to casual/employee status**

- 2.1 Under a casual contract, there is commonly no obligation on the employer to offer work to the individual and, crucially, no obligation on the individual to accept work that is offered. The intention behind this is often that mutuality of obligation does not arise and, therefore, the individual does not have employee status. However, looking at this in the context of the current employment law, if it can be demonstrated that, over a sustained period, an individual has accepted all the work offered, even if he or she has the contractual right to refuse it, there is a significant risk that, in the event of a claim, the Employment Tribunal will take a pragmatic view of the arrangement and find that mutuality of obligation exists and an employment relationship has been established under an overarching or "umbrella" contract.

## **3.0 Background to casual/employee status**

- 3.1 A zero hours contract typically (but not necessarily) differs from casual worker arrangements in that, while the employer is under no obligation to offer work, the individual is usually obliged to be available and to accept the work when it is offered. This is not a characteristic of the relationship which Lancaster City Council has with any Casual workers.
- 3.2 Employers who engage a number of "bank" staff often engage those staff under this type of contract, the Council does not have any "bank" staff. In relation to employment claims The Employment Tribunal may, in certain circumstances, interpret this type of arrangement as being sufficient to fulfill the requirement of mutuality of obligation for an employment relationship to arise. The *Pulse Healthcare Ltd v Carewatch Care Services Ltd and others EAT/0123/12*, is a good example here and one which has been referred to a lot in recent months. In this case the Claimants were engaged under contracts entitled "zero hours contract agreement" but, in reality, they had worked fixed hours on a regular basis over a number of years. Once the Rota had been prepared, the individuals were required to work and the employer was required to provide that work. The Employment Appeal Tribunal concluded that the Claimants were employees. It is this information which is guiding our review of casual working activities within Lancaster City Council.

## **4.0 The way forward**

- 4.1 The service reviews are highlighting the workforce needs. Other data from service operations is also providing valuable management information of how work is offered and accepted.
- 4.2 As part of the wider business improvement process and service development, we will continue to look at service delivery needs. This will inform the staffing needs that are required.



4.3 Although the information available so far does not suggest any intent whatsoever to exploit individuals whilst working for the council, our aim is to ensure we employ people on the most appropriate contractual arrangement as a good employer.

4.4 The need to devote resources to meet the day to day needs of the Council and support the process of service review, has taken away capacity to focus wholly on the review of contracts. However we have ensured that the service restructures that are underway incorporated a strand of enquiry to look at how the demands for work are met.

**5.0 Recommendations**

That Personnel Committee note the content of the report.

<b>RELATIONSHIP TO POLICY FRAMEWORK</b>	
None arising from this report	
<b>CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</b>	
None arising from this report	
<b>Human Resource Implications</b>	
None arising out of this report	
<b>FINANCIAL IMPLICATIONS</b>	
None arising out of this report	
<b>SECTION 151 OFFICER'S COMMENTS</b>	
The S151 Officer has been consulted and has no further comments.	
<b>LEGAL IMPLICATIONS</b>	
None arising out of this report	
<b>MONITORING OFFICER'S COMMENTS</b>	
The Monitoring Officer has been consulted and has no further comments.	
<b>BACKGROUND PAPERS</b>	<b>Contact Officer:</b> Stuart Hampson <b>Telephone:</b> 01524 582076 <b>E-mail:</b> <a href="mailto:shampson@lancaster.gov.uk">shampson@lancaster.gov.uk</a> <b>Ref:</b>
None	

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