



Appointments Board

24 October 2011

Dismissal Policy under Pay and Grading

1. Summary of Report

On the 11 July 2011 a report went to council regarding the Implementation of Pay and Grading. The 1997 national Single Status agreement required all Local Authorities to implement, a single pay structure for all employees covered by that agreement. As a collective agreement could not be agreed by the Council with the Unions, in spite of positive negotiations on both sides, the council has had to proceed with pay and grading by way of dismissal and re-engagement. This means that unless employees sign to accept new terms and conditions in relation to pay and grading by 1st November 2011, they will be dismissed.

Recommendation

1. The Appointments Board is requested to approve the policy for managing appeals against dismissal in relation to dismissals effected under the pay and grading scheme. as set out in Appendix 1 attached herewith.

2.0 Background

Single Status Agreement

2.1 The 1997 Single Status Agreement requires all local authorities to implement a single pay structure for all employees covered by that agreement. In short, this is all staff except teachers, youth workers, craft workers and chief officers.

2.2 Where it is not possible to agree changes to contracts of employment to effect changes in terms and conditions of employment these changes have to be implemented by dismissing staff on their own terms of

employment and reengage them on new terms and conditions of employment. In spite of meaningful negotiations by both the council and the unions it has not proven possible to reach a collective agreement with the unions in respect of pay and grading, which is why on the 11 July 2011 council recommended pay and grading be implemented by way of dismissal and re-engagement. All employees were given 12 weeks notice of termination of contract on the 19th July 2011, this was the maximum permitted notice, with Pay and Grading being implemented on 1st November 2011.

2.3 Since this date the council has continued to negotiate with the Trade Unions, and consult with employees in respect of Pay and Grading.

2.4 If employees do not agree to re-engagement by the 1st November 2011 they will be dismissed on the grounds of, "some other substantial reason for dismissal" or SOSR. There is no policy in existence at the council which provides for appeals on the basis of this type of dismissal, therefore to effect a lawful dismissal the council needs to provide for an appeal against dismissal.

2.5 The council cannot permit employee to work on separate terms and conditions of employment as this would create a two-tier workforce and would risk further equal pay claims being brought against the council in the future.

2.6 The appeals dismissal policy has been presented to the council's Employment Relations Forum on the 12th October 2011, and the unions have commented on the same.

2.5 If these new contractual terms and conditions are agreed the affected employees will only receive pay protection up until 31 October 2011, if they suffer a loss in their basic pay. If they do not suffer loss pay protection will not apply.

3.0 Financial Implications

There are no financial implications of this policy.


4.0 Legal implications

The council need to apply personnel policies in a lawful and objective manner. The council has to ensure that where dismissals take place such dismissals are fair. To enable dismissals to be procedurally fair the council has to provide an effective mechanism for an appeal against dismissal.

Signed: 

Bethany Evans
Head of Human Resources and Development

Date: 21/10/11

Signed: 

Tony Cox
Head of Legal and Constitutional Services

Date: 21/10/11

APPOINTMENTS BOARD

24th OCTOBER 2011

APPENDIX 1

Pay & Grading

Dismissal Policy

Walsall MBC

Single Status Implementation

Termination of Employment Following Refusal of New Terms and

Conditions of Employment

Appeal procedure

[Note that this is NOT the appropriate procedure in respect of any appeal against grading – those appeals are being dealt with under different procedure.]

1. NOTIFICATION OF APPEAL HEARING

1.1 The appellant will be given at least 5 working days' notice in writing of the date of the appeal hearing. The letter will contain the following information:

- the date, time and place of the appeal hearing
- the ability of the appellant to be accompanied by his/her union representative or a work colleague, subject to their reasonable availability

2. INVITATION TO ATTEND APPEAL HEARING

2.1 The appellant will be invited to the appeal hearing.

2.2 The appellant will have the opportunity to put forward the case orally at the hearing, however written statements from the appellant may be submitted to the Council's hearing Officer ("Officer"). The Officer will be an Executive Director, an Assistant Director or Head of Service.

2.3 The appellant has the ability to be accompanied to the hearing by a colleague or Trade Union representative, provided that they are reasonably available. A representative from one or more or

all three trade unions (Unison, Unite and GMB) may attend the appeal hearing. The appellant's representative will be permitted to address the hearing on the appellant's behalf.

3. THE APPEAL HEARING

- 3.1 The appeal will be heard by the Officer.
- 3.2 The appeal will be heard at the Council offices. The Officer will introduce those present and their role and outline the procedure to be followed.
- 3.3 A HR Officer will be available to offer advice to the Officer].
- 3.4 Arrangements will be made for notes to be kept of the appeal hearing.
- 3.5 The appellant will state their case as to the reasons for their appeal. They may refer to any written submission. Their employee/Union representative(s) may support the appellants.
- 3.6 The Officer may ask questions of the appellant.
- 3.7 The Director of Human Resources or her nominee ("HRD") will state the management reasons for the implementation of single status and new terms and conditions of employment and answer any questions put forward by the appellant.
- 3.8 The appellant and/or their Trade Union representative may ask questions of the HRD.
- 3.9 The Officer may ask questions of the HRD.
- 3.10 The Officer and the appellant and/or their employee/Trade Union representative may sum up their respective cases if they so wish.

- 3.11 The employee and their employee/Union representative(s) and the HRD will remain present throughout the hearing, but withdraw whilst the decision is considered. The Officer may call an adjournment at any time s/he considers appropriate, including where further information/clarification is required.
- 3.12 The decision of the Officer will be final and there will be no further right of appeal.
- 3.13 The result of the appeal will be communicated to the appellant via letter within 5 working days of the day of the appeal hearing and, where practicable, the representative will be informed by copy.