

**Personnel Committee – 4 March 2019**

**Dying To Work Voluntary Charter**

**1. Purpose of the report**

To set out the requirements and commitments of signing up to TUC initiative - Dying to Work Voluntary Charter.

**2. Recommendations**

Personnel Committee is recommended to adopt the charter caveated with the recommendations detailed in section 3.6 of this report.

**3. Background**

- 3.1 The Dying to Work Voluntary Charter is a TUC initiative setting out how employers can support terminally ill employees. This is part of the TUC campaign seeking to change the law to see terminal illness recognised as a 'protected characteristic' in order that an employee with a terminal illness enters a 'protected period' where they could not be dismissed as a result of their condition.
- 3.2 Trade Unions are asking employers to sign up to a Charter which supports employees with a terminal illness, provides the security of work, the right to choose the best course of action for themselves without undue financial loss, have adequate employment protection and have their death in service benefit protected (appendix 1). It should be noted that the literature states that the TUs are tasked with being clear what they want from the employer and not just getting a "vague commitment". Trade Unions (GMB, UNISON, UNITE) asked Walsall Council to consider signing up to the Dying to Work Charter in September 2016.
- 3.3 There is no one solution fit for every employee receiving a terminal illness diagnosis and Walsall Council has a proven track record of treating employees with dignity and compassion, as described above, when this situation arises. Employees are supported and furnished with information that enables them and their family to make informed decisions on how they want to deal with their employment e.g. death in service or ill health retirement and associated benefits.
- 3.4 Human Resources have reviewed the TUC literature regarding the Dying to Work Campaign and concluded that it is a positive initiative, providing a commitment to employees diagnosed with a terminal illness and overall reflects current practice across the Council.
- 3.5 There is also a perceived benefit by signing the Charter in terms of employees may be encouraged to disclose health and impairment issues early so that adjustments and support can be implemented sooner rather than later.
- 3.5 On reviewing the literature, a few areas of concern were identified and discussed with the Trade Unions at numerous ERF meetings plus email exchanges with GMB, seeking points of clarification. Lee Baron, Regional secretary for the TUC, at an ACAS event 5 December 2018, was able to give further clarification/confirmation.

3.6 The concerns and recommendations are detailed in the table below:

	<b>Issue</b>	<b>Outcome</b>
3.6.1	Review sick pay for employees with a terminal diagnosis	<p>Lee Baron, Regional secretary for the TUC, confirmed that they are not, and will not be, asking for a review of sick pay entitlement for employees diagnosed with a terminal illness.</p> <p>Lee Baron also acknowledged that the language used in the literature was ambiguous and will consider reviewing the literature.</p>
3.6.2	Review Attendance Procedure – include specific statement that an employee with a terminal diagnosis will not be dismissed because of their condition	<p>The Council's Attendance Procedure was reviewed September 2018, <b>therefore it is recommended to have a positive statement regarding Charter the in the Attendance Procedure Guidance.</b></p> <p>The statement to reflect that the Council will work with the employee, case by case, to ensure an informed decision on how best to manage the absence – death in service, ill health retirement.</p>
3.6.3	The factsheet/poster promoting the campaign states that “a terminally ill employee can be forced to undergo stressful HR procedures and risks losing the positive stimulation of work” appendix 2.	<p><b>Recommended not to allow the use of this poster within Council premises.</b></p> <p>This negative and emotive language does not promote a positive relationship between employees, managers and HR and may add/increase the employees stress when HR become involved in the management of their case as this could be first time they have had to deal with HR. HR's role is to support the manager and employee through the process at a difficult and sensitive time.</p> <p>The local TUs have refused to change the poster. Lee Baron acknowledged our concerns and will consider reviewing their literature.</p>
3.6.4	Provide training to line managers and all HR Staff on dealing with terminal illness.	<p><b>Recommended to utilise existing suite of training available - e.g. Difficult Conversations, Role of the Manager etc</b></p> <p>Trade Unions have agreed that they do not expect all managers to attend bespoke training on this subject.</p>
3.6.5	Adopt the Dying to Work Charter” and notify all employees that they have made the commitments.	<p><b>Recommend this is done via Core Brief, Weekly Bulletin and Team Meetings etc, the Council would not be writing to each individual employee.</b></p> <p>Trade Unions have confirmed that they agree with this method of communication</p>

3.7 The TUC must be informed of the Council's intention to sign the agreement and support the campaign, once both the Council and Trade Unions are satisfied that the commitments within the Charter have been met. Arrangements will then be made for a public signing ceremony, which will be publicised on the TUC website, the Chief Executive is expected to sign the Charter on behalf of the Council.

#### 4. Financial

There are no financial implications

**5. Legal**

There are no legal implications

**6. Risk Management**

There are no risk management implications

**7. People**

The charter may affect any employee diagnosed with a terminal illness.

**8. Consultation**

The charter has been frequently discussed at the Council's ERF meetings and this report was presented to the Council's Corporate Management Team Meeting on the 24 January 2019.

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# DYING TO WORK



Over half a million people have now been protected by the TUCs Dying to Work charter.

**TUC**  
Changing the world of work for good

[www.dyingtowork.co.uk](http://www.dyingtowork.co.uk)



## Terminally ill employees

Many workers get a serious illness at some time in their working lives. They may require time off, often many months, to get treatment or recover. There is good guidance that has been produced by the TUC and others to deal with cases of long-term illness, or return to work for those who are disabled as a result of an illness or injury.

However, sometimes there is no effective treatment. In these cases the worker may face a time of huge emotional stress, fear and uncertainty. Trade unions can try to ensure that when that happens, they try to remove any additional stress and worry.

A terminal illness is a disease that cannot be cured or adequately treated and there is a reasonable expectation that the patient will die within a relatively short period of time. Usually, but not always, they are progressive diseases such as cancer or advanced heart disease.

UK Social Security legislation defines a terminal illness as: "a progressive disease where death as a consequence of that disease can reasonably be expected within 6 months", however many patients can have a terminal illness and survive much longer than 6 months.

## Implications of a terminal diagnosis.

Being told that you are to die as a result of a disease for which there is no cure or effective treatment and that you only have months, or at best a year or so to live is a traumatic event and everyone will react differently.

Sometimes the nature of the illness is such that the person is unlikely to be able to work again. In other cases, a person may decide that they do not want to work anymore and would rather spend their remaining time with their family and friends, getting their affairs in order, or simply doing what they want. However, a lot of workers with a terminal diagnosis decide that they want to continue working as long as they can, either because they need the financial security or because they find that their work can be a helpful distraction from their illness. Whichever choice a person makes, they should be able to expect help and support from their employer. Unfortunately the experience of many workers is that their employer is either unsympathetic or puts up barriers to them continuing in work.

If a worker with a terminal illness loses their job they lose their income. They can also lose any death in service payments they have earned through a life-time of work but are only payable to those that die while still in employment.

### DID YOU KNOW...

Cancer Research UK are projecting that 1 in 3 people will be diagnosed with cancer. Currently 1 in 10 new cancer cases are found in people under 50. (Over 33k cases a year)



## Jacci's story



The following is a real-life account of GMB member Jacci Woodcock who has been diagnosed with terminal breast cancer and her on-going case.

"I knew something was wrong. I went to the doctors and I got diagnosed with terminal breast cancer. I didn't even take any days off until I hit a wall of complete exhaustion."

**"People think the protection is there but I'm categorically saying it isn't!"**

"I visited my GP, he gave me a sick note for a couple of weeks and I sent this into work. At this point, it had never occurred to me that they wouldn't support me."

"When I returned to work, I asked to meet with HR. Over the course of the meeting she questioned my capability to do important aspects of my job, incorrectly claimed they had made adjustments for me and told me that the company had already been kind enough to pay my salary whilst I attended my hospital appointments. Finally, she told me that she had done a lot of research into the benefits I would be entitled to if I wasn't in work."

"For the first time, I began to feel anxious because I now understood that they were trying to get rid of me. I was upset but giving up was not an option. I thought this is not right, not fair and incredibly wrong! I feel strong and determined to use the time I have left to do my utmost to get the law changed to protect terminally ill people. People think the protection is there but I'm categorically saying it isn't!"

## UPDATE

Despite her prognosis, Jacci continues to be an inspiration by speaking out about the importance of additional employment rights for terminally ill employees as a patron of the TUC Dying to Work campaign.

Although her health means she cannot attend as many events as she would like, she remains determined to drive forward the campaign to make sure nobody has to be put through the same treatment that she endured after her diagnosis.

## DID YOU KNOW...

An internal McMillan Survey found that 37% of cancer patients 'experienced discrimination' on their return to work.



# A step by step guide to getting the TUC's Dying to Work charter signed by your employer.

## STEP 1

### CHECK THAT YOUR EMPLOYER HAS NOT ALREADY SIGNED UP TO THE TUC DYING TO WORK CHARTER:

The TUC Dying to Work charter is already protecting over half a million working people in the UK and this number is growing nearly every week.

You can check to see if your employer has already signed up by visiting:  
<http://www.dyingtowork.co.uk/charter-signatories/>

## STEP 2

### INVOLVE YOUR UNION

Raise the campaign with your Trade Union branch and ask your rep to raise the charter with your employer. If your workplace has more than one recognised union then ensure their representatives are also involved in the discussions.

## STEP 3

### ENCOURAGE YOUR EMPLOYER TO SIGN THE VOLUNTARY CHARTER

Unions should be clear about what they want from their employer. Just getting a vague commitment is not enough. Union negotiators should seek agreement that their employer will:

**Review sick pay and sickness absence procedures** and include a specific statement that they will not dismiss any person with a terminal diagnosis because of their condition.

**Ensure that they have an Employee Assistance Programme** that has the capacity and competency to provide support to any person with a terminal illness, including access to counselling and financial advice.

**Provide training to line managers and all HR staff** on dealing with terminal illness, including how to discuss future plans with any worker who has a diagnosis of a terminal illness, and on what adaptations to work arrangements that may be necessary.

**Adopt the Dying to Work Charter** and notify all employees that they have made the commitments contained in it

*(Model HR procedures which have been adopted by other employers are available on request from the TUC via the contact details provided)*



## STEP 4

### INFORM THE TUC

Once the employer and the recognised unions are happy that the commitments within the charter have been met, please inform the TUC of your intention to sign using the contact details provided.

In your correspondence, please include:

- Dates of availability for a public signing ceremony
- The logo of your organisation and union(s) signing the charter
- The names of those signing the charter on behalf of the employer and union(s)
- The names and quotes for draft press releases - The TUC will be happy to liaise with your organisation's press department.
- The number of workers to be covered by the Charter. We will add these to the national total
- Confirmation that photos can be taken at the event which the TUC can share on social media, the campaign website and other outlets

## STEP 5

### SIGN THE CHARTER

The TUC will provide a customised copy of the charter for the public signing ceremony which will be attended by a representative of the campaign.

The TUC will also work with your internal press department to co-ordinate press releases to generate media coverage in both the local and national press and broadcast media.

After the signing, your organisation will have officially joined the growing number of employers from across the public and private sector which have made this important commitment to their employees. Your organisation's details will be added to our website and the charter will be left with the employer to display as they see fit.







This charter sets out an agreed way in which 'Sample Company' employees will be supported, protected and guided throughout their employment, following a terminal diagnosis.

- We recognise that terminal illness requires support and understanding and not additional and avoidable stress and worry.
- Terminally ill workers will be secure in the knowledge that we will support them following their diagnosis and we recognise that, safe and reasonable work can help maintain dignity, offer a valuable distraction and can be therapeutic in itself.
- We will provide our employees with the security of work, peace of mind and the right to choose the best course of action for themselves and their families which helps them through this challenging period with dignity and without undue financial loss.
- We support the TUC's Dying to Work campaign so that all employees battling terminal illness have adequate employment protection and have their death in service benefits protected for the loved ones they leave behind.

Chief Executive of Sample Company

TUC Regional Secretary



## Further information

### Dying to work campaign

<http://www.dyingtowork.co.uk>

### Sickness absence and disability discrimination: A TUC negotiators guide

[https://www.tuc.org.uk/sites/default/files/tucfiles/sickness\\_absence\\_and\\_disability\\_discrimination\\_feb2013.pdf](https://www.tuc.org.uk/sites/default/files/tucfiles/sickness_absence_and_disability_discrimination_feb2013.pdf)

### Working through Cancer, An employers Guide (Macmillan)

<http://www.macmillan.org.uk/Documents/GetInvolved/Campaigns/WorkingThroughCancer/WorkingThroughCancer2010/Workingthroughcancer2010.pdf>

### UnionLearn courses

<https://www.unionlearn.org.uk/>

## Contact us

### E-mail:

[contact@dyingtowork.co.uk](mailto:contact@dyingtowork.co.uk)

### Telephone:

0121 262 6380

### Address:

46 - 48 Summer Lane, Birmingham, B19 3TH

## DID YOU KNOW...

Over 79% of people support making terminal illness a 'protected characteristic' so that an employee with a terminal illness could not be dismissed as a result of their condition.\*

\*Survation poll 2017





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# CAMPAIGN FACT SHEET



## Why do terminally ill employees require additional employment protection?

1. Terminally ill employees often don't have the time to reskill or adapt to the 'reasonable adjustments' that could be put in place by an employer.
2. A terminally ill employee can be forced to undergo stressful HR procedures and risks losing the positive stimulation of work.
3. By losing their job they not only lose their income but also the dignity of dying in work.
4. Termination of their employment will mean the loss of death in service payments that the employee has planned for and earned through a life-time of work.

## A growing issue?

1. As retirement ages are increasing and Cancer Research UK are projecting that 1 in 3 people will be diagnosed with cancer, more people will be receiving terminal diagnosis' during their working lives.
2. Currently 1 in 10 new cancer cases are found in people under 50 (**Over 33k cases a year**).
3. An internal McMillan Survey showed that 37% of cancer patients 'experienced discrimination' on their return to work.

## The campaign

The 'Dying to Work' campaign is calling for terminal illness to be made a 'protected characteristic'.

This would mean that all employees battling terminal illness would enter a protected period within which they could not be dismissed as a result of their condition.

**Only 16%**  
of people would  
oppose a change in  
the law to protect  
employees with  
terminal illness\*

\*2013 poll conducted by IPSOS Mori