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NOTICE OF MEETING

EDUCATION EMPLOYMENT SUB COMMITTEE

18 JULY 2006

TO: ALL MEMBERS OF THE EDUCATION EMPLOYMENT SUB COMMITTEE

You are requested to attend a meeting of the above Committee on **18 July 2006 at 5.30 pm** in the Council Chamber, Fourth Floor, Easthampstead House, Bracknell to transact the business set out in the attached agenda.

Alison Sanders
Director of Corporate Services

Members of the Education Employment Sub Committee

Councillors Mrs Beadsley, Edger, Grayson and Leake

Substitute Members of the Committee

Councillors Mrs Barnard, Beadsley, Jones, Mrs Shillcock, Turrell and Worrall

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THE EDUCATION EMPLOYMENT SUB COMMITTEE
18 July 2006 (5.30 pm)
Council Chamber, Fourth Floor, Easthampstead House, Bracknell.

AGENDA

	Page No
1. APOLOGIES FOR ABSENCE/SUBSTITUTE MEMBERS To receive any apologies for absence and to note the attendance of any substitute Members.	
2. DECLARATIONS OF INTEREST Members are asked to declare any personal or prejudicial interest, and the nature of that interest, in respect of any matter to be considered at this meeting.	
3. URGENT ITEMS OF BUSINESS To receive any urgent items of business.	
4. MINUTES To approve as a correct record the minutes of the meeting of the Committee held on 11 October 2005.	1 - 6
5. UPDATING THE LIST OF DISCIPLINARY OFFENCES (Director of Education, Childrens Services and Libraries/Director of Corporate Services – Human Resources)	7 - 12
6. AGE DISCRIMINATION REGULATIONS 2006 (FOR INFORMATION) (Director of Education, Childrens Services and Libraries/Director of Corporate Services – Human Resources)	13 - 16

Agenda Item 4

**EDUCATION EMPLOYMENT SUB COMMITTEE
11 OCTOBER 2005
(5.30 pm to 7.25 pm)**

Present: Councillors Edger (Chairman), Beadsley, Leake and Ward

Apologies: Councillor Mrs Beadsley
Mrs J Graham (NAHT), Mr G Jackson (NASUWT)
and Mr T Wheaton (NUT)

1. Election of Chairman

RESOLVED that Councillor Edger be elected Chairman of the Education Employment Sub Committee for the remainder of the current municipal year.

CHAIRMAN, COUNCILLOR EDGER, IN THE CHAIR

The Chairman noted that the Sub Committee valued the views of the teaching professionals.

2. Appointment of Vice Chairman

RESOLVED that Councillor Leake be appointed Vice Chairman of the Education Employment Sub Committee for the remainder of the current municipal year.

3. Declarations of Interest (Item 4)

There were no declarations of personal or prejudicial interest at the commencement of the meeting.

4. Minutes (Item 6)

RESOLVED that the minutes of the meeting of the Education Employment Sub Committee held on 12 October 2004 be approved as a correct record, and signed by the Chairman.

5. Recruitment and Retention in Schools (Item 9)

The Recruitment Manager presented the report from the Director of Education, Children's Services and Libraries updating the Sub Committee on the initiatives underway and plans for the future to aid the recruitment and retention of teachers in the Borough.

The academic year commenced in September 2005 with no known teaching vacancies in schools. 91 teachers left Bracknell Forest schools at the end of the summer term, approximately half of which were teaching in secondary schools. 99 teachers were appointed to Bracknell Forest schools in the autumn and 65 of these

teachers were Newly Qualified Teachers.

The Sub Committee was reassured that NQTS were supported by the Borough through an induction and being allocated a mentor.

There was a continuing difficulty in fulfilling vacancies in secondary subjects: Mathematics, English, Science, ICT and Design & Technology. The Sub Committee noted that taster courses were being used in Universities to attract degree students into the profession.

DfES data illustrated the trend in vacancies within Bracknell Forest in recent years and the figures showed that the number of unfilled vacancies had decreased considerably, the position in Bracknell Forest was better than other authorities in the region as well as being better than the national average. It was reported that if a vacancy was covered by a supply teacher or a short-term contract this would not be recorded as a vacancy. It was noted that the timing of the snapshot of vacancies took place in January and would therefore not be hiding a higher level of vacancies in schools.

The Sub Committee was reassured that there was a policy framework in place and Human Resources were working closely with Head teachers and Occupational Health regarding sickness.

18 teachers attended the Return to Teaching course funded by the Teacher Training Agency (TTA) and feedback was very positive from both attendees and the University College Winchester who had inspected the course on behalf of the TTA. Many attendees had found teaching positions in Bracknell Forest or neighbouring authorities, although some were still seeking suitable positions.

22 teachers in Bracknell Forest had applied for the Keyworker Living Scheme equity loans since the scheme commenced, of these seven teachers had successfully purchased properties. The Sub Committee noted that Thames Valley Housing had used all of their central government funding for the scheme allocated for 2005, and therefore equity loans were no longer available to teachers in Bracknell Forest. Thames Valley Housing Association would bid for more funds, but it was not clear when or whether they would be successful.

The use of JobsGoPublic to advertise school vacancies on the Bracknell Forest website had been very successful; it offered a number of benefits to both schools and jobseekers and was cost effective. 225 jobs had been advertised and 449 online applications had been received for jobs in schools. The past successes of this method of recruitment suggests that administrative positions and some other support staff posts may be able to be filled by just advertising in this way, reducing advertising costs. However, it is likely that teaching positions will still need to be advertised elsewhere in order to attract a higher number of applications.

The Recruitment Strategy Team would continue to oversee the application process but the Borough's 6 secondary schools would be able to place their own advertisements and deal with their own online applications.

RESOLVED that the actions being taken to assist with the recruitment and retention of teaching and other school staff in the Borough be noted.

6. **Remodelling of School Workforce (Item 7)**

The Assistant Director of Education, Children's Services and Libraries presented the report from the Director of Education, Children's Services and Libraries updating the Sub Committee on the progress made in Bracknell Forest on School Workforce Remodelling.

It was reported that all schools in Bracknell Forest were engaged in remodelling by December 2004 and had completed remodelling training by June 2005. The Remodelling Adviser continued to support schools during the remodelling process. In particular, support was available for schools undergoing major management or organisational changes, brokered through the Remodelling Adviser.

All governing bodies had received input in the remodelling process, through the attendance of at least one governor at a specific training event for governors, a 'bespoke' school training event or through attending tranche training events on behalf of the school.

The Governors' Pack 'School Remodelling: A Guide for Governors IV' had been circulated to schools with copies for Chairs of Governors and Heads.

It was reported that a follow up call to schools as part of a national NRT sample survey had indicated that all Primary and Secondary schools and the Special school had achieved the third stage of the National Agreement.

Compliance was verified with phases 1 and 2 of the National Agreement by all Bracknell Forest schools and it was confirmed by schools that plans were in place for implementation of phase 3. However this was not supported by the results of the Borough Council survey of all staff in May 2005 which sought views of school staff on remodelling matters and those of teachers on the implementation of the National Agreement. Headteachers were subsequently advised to check that compliance was still valid and to remind staff of what is in place to ensure that they do not have to carry out the 24 administrative tasks.

Support for schools during 2005/06 included training on the development of support staff, developing sustainable cover strategies, preparing for exam invigilation requirements and achieving better work life balance.

Using the NRT 'traffic light' system the Borough continued to be graded as green which meant minimal concerns, that good progress was being made and a 'light touch LEA'.

It was reported that the funding for the changes was from within existing budgets. Members of the Sub Committee expressed concern regarding the invigilation of exams by non-teaching staff.

RESOLVED that the progress made in changing the current working arrangements in schools as required by the National Agreement be noted.

7. **School Staff Review in Schools (Item 8)**

The Human Resources Manager presented the report from the Director of

Education, Children's Services and Libraries updating the Sub Committee on the review of school staffing structures being undertaken in schools during the Autumn Term 2005.

As a result of the review, required by the Education (Review of Staffing Structure) (England) Regulations 2005, there would be a change to the pay system for teachers. The resulting changes from the review would need to be implemented by 31 December 2008. These regulations follow the National Agreement "Raising Standards and Tackling Workload" which introduced changes to the teacher's contract to free them to focus on teaching and learning.

The Committee's discussion of the features of the review and the new pay system included that:

- The change to the system would mean the introduction of Teaching and Learning Responsibility Points (TLR's) for teaching staff which would supercede the management allowances for undertaking additional management responsibilities;
- TLR's awarded for additional responsibilities linked directly to teaching and learning
- The review would need to be completed by 31 December 2005;
- Governing bodies were required to set the value of their TLR's within the grading structure of the school and there was a requirement to ensure a minimum £1,500 differential for TLR's within TLR 1 and TLR 2;
- Posts of equal weight were to be allocated an equal value based on factors reflecting the school's individual circumstances;
- To be eligible for a TLR 1 payment the teacher would be required to have line management responsibility for a significant number of people;
- The school had a maximum period of 3 years (to 31 December 2008) to introduce the revised staffing structure but the new structure could be implemented at any time during the three-year period on a phased or complete basis;
- Headteachers had been encouraged to consult with all staff prior to the first meeting of the governing body;
- The formal consultation period was four working weeks;
- With effect from 1 January 2006 teachers who were in receipt of a management allowance would have the value of that allowance protected for a maximum period of up to 3 years;
- However if a teacher in receipt of the safeguarding was awarded a TLR point of greater value then the Safeguarding would cease. Safeguarding could cease before the 3 year period in circumstances where the value of a teacher's incremental progression exceeded the safeguarding amount or where a teacher unreasonably refused to undertake responsibilities commensurate to the level of safeguarding;
- The structure could be reviewed at any time depending on the requirements of the school e.g. when a vacancy occurred within a school; and
- There was no additional government funding to undertake the review but it was expected that the review would cost no more than the current management allowance arrangements.

RESOLVED that the actions being taken by schools to meet statutory deadlines be noted.

8. **Children's Workforce Strategy (Information Item 10)**

The Sub Committee noted the tabled report that provided an update on the work to construct a more integrated approach to support children and their families, which was being coordinated by the Children and Young People's Strategic Partnership. It was noted that the Sub Committee would be kept informed of progress.

RESOLVED that the tabled report on the Children's Workforce Strategy be received and noted.

CHAIRMAN

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EDUCATION EMPLOYMENT SUB-COMMITTEE 18 JULY 2006

UPDATING THE LIST OF DISCIPLINARY OFFENCES (Director of Education, Childrens Services and Libraries/Director of Corporate Services – Human Resources)

1 INTRODUCTION

- 1.1 The Council's current 'Model Disciplinary Procedure for All School Staff' and the 'Model Disciplinary Procedure for Head teachers' contains an outline list of offences considered to be example of gross, serious or minor misconduct. The list is not exhaustive but acts as a guide to head teachers and governors when conducting disciplinary hearings. The list of offences has not been updated for some time and in the light of experience, the purpose of this report is to propose an amended list which picks up some disciplinary offences which have not previously been specifically mentioned, to ensure the example list is contemporary and reflective of cases dealt with by the Council.
- 1.2 It is a very important principle to note that the list is still indicative rather than exhaustive. It is impossible to cover every type of misconduct, so the levels of misconduct shown will be a guide only, as the severity and degree of a particular case, or whether it is a repeated offence, may affect how it is regarded. For example, misuse of the Council's facilities is deemed to be serious misconduct: but the facts of the case and the way in which it was regarded would be very different in the case of an employee who occasionally used the office photocopier to copy magazine articles compared to the case of an employee who used a range of office facilities to run a small business from Council premises. The judgement on the severity of the facts of each case remains that of the manager dealing with the case who is always advised by a professional HR Officer.

2 RECOMMENDATIONS

- 2.1 **That the list shown as Appendix A is adopted as part of the Model Disciplinary Procedures**

3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 3.1 Nothing to add.

Borough Finance Officer

- 3.2 Nothing to add.

4 SUPPORTING INFORMATION

- 4.1 The majority of offences in the list remain unchanged. However, in some cases the list has been updated to include offences which are more prevalent or higher profile at the current time than when the list was first adopted, such as internet abuse,

inappropriate behaviour of a sexual nature, or participating in second employments without permission.

- 4.2 Some offences are simply ones which had not been encompassed in the original list but where experience suggested that managers needed some guidance on the level of misconduct they represented.

Background Papers

None

Contact for further information

Paul Young - Education and Children's Services HT Manager (01344 354060)

Tony Madden - Borough HR Manager (01344 352049)

Doc. Ref

I: HR/Education Employment Committee/Disciplinary Offences –committee report 06

GUIDANCE NOTES

TYPES OF MISCONDUCT AND LEVELS OF ACTION

General

Whilst it is possible to give examples of types of misconduct (minor, serious, gross) it is important that each case is looked at in relation to the type of offence, circumstances, previous record and type of job. What would be a relatively minor breach of discipline in one job may be viewed more seriously in a different job because of the nature of the work, for example contact generally with the public, elderly or vulnerable clients or responsibility for cash.

It is not possible to give a definitive list of penalties which may be awarded for particular offences but there are general guidelines which should be followed. The Education, Children's Services & Libraries Human Resources Manager will give advice in complex cases as to whether a recorded oral warning, written warning, final written warning or dismissal is appropriate, taking account of previous similar cases in the Council as consistency is an important element in the disciplinary process.

Except in cases of summary dismissal for gross misconduct, employees who are dismissed are entitled to a period of notice in accordance with their contract of employment.

Employees would not normally be dismissed for a first breach of disciplinary rules except in the case of Gross Misconduct or specific and/or repeated cases of serious misconduct.

LEVELS OF MISCONDUCT

Minor Misconduct

Minor misconduct is that which does not impact significantly upon the work of the School or Council, employees or the public provided that it is not a repetition of an earlier similar offence.

(If the impact of the behaviour on the School or Council is significant on the facts of the case, it may be regarded as serious.)

Some examples would be:

- Poor timekeeping or non attendance without reason
- Failure to follow instructions/carry out simple tasks
- Minor abuse of flexitime
- Incomplete timesheets
- Smoking in a no smoking area

Penalties

A recorded oral or written warning is the generally accepted penalty for minor misconduct but the Headteacher or Designated Officer will need to make it clear to the employee that repetition may lead to more serious action. The warning will generally be for up to 12 months.

Serious Misconduct

Serious Misconduct is that which impacts to a significant degree upon the work of the School or Council, other employees or the public and/or is a recurrence or continuation of conduct which is unacceptable and has been dealt with previously as minor misconduct.

(If the impact of the behaviour is not very significant on the facts of the case, it may be treated as minor misconduct; if the impact is so serious in the particular case as to make the behaviour intolerable, it may be treated as gross misconduct.)

Some examples would be:

- Improper, disorderly or unacceptable conduct at, during or when arriving for work, including offensive language in front of the public or clients or pupils.
- A breach of a rule which endangers the safety of another person
- A breach of confidential information which might have serious repercussions for the School or Council.
- Neglect of responsibilities
- Dishonest behaviour (depending on the degree and extent), for example a breach of standing orders, contract or financial regulations which falls short of deliberate theft/fraud.
- Malicious or reckless damage to School or Council property (depending on the degree or extent).
- Repeated and significant misuse of the School or Council's facilities (e.g. telephones, fax machines, internet, e-mail).
- Viewing or distributing offensive material whether on the internet, by email or in written form (dependent on the degree and extent, this may be treated as Gross Misconduct).
- Participating without the knowledge or consent of the School or Council in other employment, business or profession which has an adverse impact on work or on the School or Council.
- Unauthorised entry into the School or Council's computer systems including the running of computer games and other unauthorised software.
- Working or indulging in other activities while absent from work on sickness leave.
- Behaviour which is sexist or racist or offensive to those of a particular ethnic origin, religion or belief, nationality or sexual orientation or those with a disability.

Penalties

There are a range of penalties available to the Headteacher or Designated Officer including:

Written warning.

Final Written warning - used for continued minor offences or failure to achieve the improvements required by a written warning. The warning will generally be for up to 24 months but may, in certain circumstances be left on file for an further specified period of time.

Other examples of appropriate action are: transfer to alternative duties or demotion for a specified period of time or permanently; withholding of increments or performance related pay.

Where a judgement is made that an offence may be dismissable (e.g. this may result from failure to heed a final written warning), a referral will need to be made to the Governing Body Disciplinary Committee for a further hearing.

Gross Misconduct

Gross misconduct is that which is so serious in relation to its impact upon the work of the School or Council, other employees or the public that it cannot be tolerated under any circumstances and thus is likely to result in the termination of employment.

Some examples would be:

- Theft, fraud or falsification of records, breach of standing orders or delegation limits
- Serious incapability through alcohol or non prescription drugs.
- Acts of violence or vandalism in course of employment.
- Inappropriate behaviour of a sexual nature towards another employee, client, pupil or member of the public.
- Any act which may result in an action against the School or Council for negligence or for breach of the duty of care.
- Falsification of information when applying for a post and failure to disclose criminal convictions.
- Falsifying pupil records, or assisting pupils to cheat or gain unfair advantages in examinations.
- Drug trafficking and other drug-related offences.
- Wilfully ignoring responsibilities or instructions thereby placing other members of staff and/or pupils in danger.
- Gross negligence in failing to attend or to carry out the duties of the post.
- Any other behaviour which involves an abuse of the headteacher's or member of staff's position of trust, or a breach of the standards of propriety expected of the profession.

Penalty

Dismissal without notice is given in cases of gross misconduct.

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EDUCATION EMPLOYMENT SUB-COMMITTEE 18 JULY 2006

AGE DISCRIMINATION REGULATIONS 2006 (Director of Corporate – Human Resources) (Director of Education, Children’s Services and Libraries)

1 INTRODUCTION

- 1.1 The Age Discrimination Regulations come into force on 1 October 2006. The Regulations will follow the pattern of other discrimination legislation in that discrimination will be unfair in areas such as recruitment, training and promotion; it will also impact on areas related to retirement age and service related benefits.

2 IMPACT ON RETIREMENT

- 2.1 The national default retirement age of 65 will remain in force. A retirement age of 65 is assumed as the standard, except for teachers who can currently retire between the ages of 60 to 65, and so the Council is compliant with the regulations. However as part of its general approach to recruitment and retention issues and recognising the value of older workers, the Council already has a policy of allowing employment beyond age 65.
- 2.2 There are new rules with very specific timescales surrounding the way an employee’s retirement should be dealt with. Employers will be required to write to employees 6 months in advance of the normal retirement date of 65 to inform them that they can request to work past retirement age. The employee then has to indicate if they wish to stay on beyond the age of 65 no later than 3 months before their 65th birthday.
- 2.3 A meeting to discuss retirement and any request to work past retirement age, and any subsequent appeal meeting should the request be refused, must be held within a reasonable period. It will be fair to dismiss an employee for a genuine retirement provided the procedural requirements are met.
- 2.4 At the moment, those who remain in employment with the Council beyond age 65 are offered 12 month contracts, with renewal subject to medical clearance. This will be considered discriminatory and so the medicals will need to be discontinued and replaced with a straight forward extension of contract following the process outlined.

3 IMPACT ON RECRUITMENT

- 3.1 The Council already adheres to “best practice” recruitment processes therefore the current approach does not require a great deal of amendment. It will however, be important to stress the importance of avoiding unfair age discrimination.
- 3.2 Advice will be given to schools on issues such as advertisements and person specifications which must focus on the job needs and the person’s competence, rather than anything which could be construed as discriminatory. References to, for example, “8 years experience” will now be subject to legal challenge if they restrict the ability of a competent younger person to apply.

4 IMPACT ON TRAINING

- 4.1 The Council has a duty to train all managers on dealing with age diversity as it does with all equality issues. Information sessions are planned for schools during the autumn term. The issue will be included in the internal diversity training already run by the Council.

5 IMPACT ON BENEFITS

- 5.1 Where benefits contain a service related criteria (e.g. the benefit is enhanced after so many years) these too may be open to challenge. Many of the Council's terms and conditions of employment for example leave entitlement and sickness pay are nationally set and will be reviewed at that level. However, all locally determined benefits will be examined to ensure they are non discriminatory; Long Service Awards are likely to be considered acceptable despite the service related basis.

6 IMPACT ON REDUNDANCY

- 6.1 The Council's current redundancy policy differentiates between those employees who leave the Council before their 50th birthday (with no access to pension) and those who leave after they reach the age of 50 (and can access their pension). It is possible that this will no longer be justifiable: however further advice has been sought before changes can be considered. The preferred interpretation is that the scheme relates to access to pension rather than age, and it may be that this interpretation is acceptable.
- 6.2 The redundancy policy for teachers allows for access to pension in the case of redundancies from the age of 58. It is possible that this will no longer be justifiable; further advice is being sought. This will not impact on any redundancies in the interim due to the structured programme for teaching reductions having to link with school term times and teachers' terms and conditions of service.
- 6.3 The upper age limit for statutory redundancy payments will be removed, making it possible for the first time for over 65s to get a redundancy payment.

7 AMENDING POLICIES IN RELATION TO EQUALITIES

- 7.1 All employment policies will be reviewed to ensure compliance with the new law and, where necessary, brought to this committee for comment and agreement but it is anticipated that few overall changes will be needed. New internal procedures will be put in place where necessary to ensure compliance with the new Regulations.

8 COMMUNICATING CHANGES

- 8.1 In order to publicise the new legislation to schools, articles will appear in the newsletter Forest Views and on the intranet, written guidance has been issued and information sessions are planned for the autumn term.

Background Papers

None

Contact for further information

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Doc. Ref

[1: HR/Education Employment Committee/Age Discrimination July 2006]

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