

## **DURHAM COUNTY COUNCIL**

At an Extraordinary Meeting of the County Council held in the Council Chamber, County Hall, Durham on **Wednesday 14 September 2016 at 9.00 a.m.**

**Present:**

### **Councillor E Bell in the Chair**

Councillors E Adam, J Allen, B Armstrong, J Armstrong, A Batey, A Bell, D Bell, R Bell, J Blakey, A Bonner, D Boyes, J Brown, C Carr, J Carr, J Chaplow, J Charlton, J Clare, J Clark, P Conway, J Cordon, K Corrigan, R Crute, K Davidson, M Davinson, M Dixon (Vice-Chairman), N Foster, D Freeman, I Geldard, J Gray, O Gunn, C Hampson, T Henderson, S Henig, G Holland, A Hopgood, K Hopper, L Hovvels, E Huntington, I Jewell, O Johnson, B Kellett, A Laing, P Lawton, J Lindsay, A Liversidge, R Lumsdon, J Maitland, C Marshall, J Maslin, P May, B Moir, A Napier, T Nearney, M Nicholls, H Nicholson, R Ormerod, T Pemberton, M Plews, L Pounder, G Richardson, J Rowlandson, K Shaw, M Stanton, B Stephens, P Stradling, A Surtees, L Taylor, P Taylor, O Temple, K Thompson, F Tinsley, A Turner, A Watson, M Wilkes, A Willis, R Yorke and S Zair

Apologies for absence were received from Councillors L Armstrong, G Bleasdale, D Hall, J Hart, K Henig, D Hicks, J Hillary, M Hodgson, S Iveson, H Liddle, L Marshall, N Martin, O Milburn, S Morrison, P Oliver, C Potts, J Robinson, S Robinson, A Shield, M Simmons, H Smith, W Stelling, J Turnbull, M Williams, S Wilson and R Young

Prior to the commencement of the meeting the Chairman of the Council with great sadness formally reported the following deaths:-

- Alderman, former Easington District Councillor and former Chairman of Easington District Council, George Laidler
- Ian Sanders, Street Cleaner who started employment with former Derwentside District Council in 1975 and worked in the north of the County.
- Monica Buist, a School Crossing Patrol who had worked on the Durham Road, Chilton crossing site since 2001.

The Council stood for a moments silence as a mark of respect.

### **1 Declarations of Interest**

The Legal Manager – Governance and Elections referred to the advice previously provided to enable Members to determine whether they needed to declare an interest. The Legal Manager Governance and Elections then advised of declarations that had been made.

The following Members declared an interest as having a close family member who was a Teaching Assistant, or other prejudicial interests, and withdrew from the meeting during consideration of the business:-

Councillors J Carr, E Huntington, K Shaw, A Surtees, L Taylor and E Tomlinson.

The following Members declared their interests as School Governors and remained in the meeting.

Councillors J Armstrong, A Batey, D Bell, E Bell, R Bell, J Blakey, A Bonner, D Boyes, J Brown, C Carr, J Chaplow, J Clark, P Conway, K Corrigan, R Crute, K Davidson, M Dixon, N Foster, O Gunn, C Hampson, T Henderson, G Holland, A Hopgood, K Hopper, I Jewell, O Johnson, P Lawton, J Lindsay, C Marshall, B Moir, T Nearney, H Nicholson, T Pemberton, M Plews, J Rowlandson, M Stanton, P Stradling, K Thompson, F Tinsley, A Willis and M Wilkes.

Councillor O Temple declared a personal interest which was not prejudicial and remained in the meeting.

## **2 Teaching Assistants - Review of Terms and Conditions**

The Council considered a joint report of the Interim Corporate Director Resources and the Interim Corporate Director Children and Young People's Services which provided an update on the position regarding proposals for changes to the terms and conditions of employment for Teaching Assistants, and advised of an alternative proposal with regard to settling this matter in order to reduce the risk of equal pay challenges to the Council (for copy see file of Minutes).

In **Moving** the report, Councillor Brown, Portfolio Holder for Corporate Services informed the Council that, as had been said at the Council meeting in May 2016, the review of the terms and conditions of Teaching Assistants had been a hugely difficult task. It was not the case that the Council did not care or value the work of Teaching Assistants, nor that it was a cost-cutting exercise. Savings achieved would have no bearing on Council budgets, but would impact upon the budgets of individual schools.

Attempts had been made to reach a collective agreement but unfortunately it would not be possible to retain the existing terms and conditions. Members and Officers had consistently demonstrated a real willingness to find a solution which would avoid the need for dismissal and re-engagement, continuing to work with Trade Unions with a view to settling the ongoing dispute.

The revised proposals had been developed as a result of discussions with Trade Unions with the support of ACAS, and had to be the final offer. She hoped that when balloted Teaching Assistants would accept the revised proposals which would mean that employees should not experience any reductions until April 2019. It would also encourage those schools that had not already done so to offer 37 hours

per week work and to review the roles of Teaching Assistants where appropriate on a case by case basis. If the offer was not accepted the Council would continue with the ongoing dismissal and re-engagement process.

Councillor Brown urged Members to support the recommendations.

In **Seconding** the report Councillor Johnson, Portfolio Holder for Children and Young People's Services wished to recognise the efforts of Councillors Brown and Napier, and senior colleagues for their ongoing negotiations with Trade Unions, and with ACAS to reach the revised offer. This had been a hugely difficult process to date but one which needed addressing. Teaching Assistants played an important role in schools, improving the lives of schoolchildren. He hoped that the revised offer would be accepted; it was significant that the proposals had been developed through ACAS and that Trade Unions had agreed to ballot its members. He encouraged all Teaching Assistants to carefully consider the offer reiterating that this was a best and final offer. Human Resources would work with all schools to encourage them to offer 37 hour week contracts and to review the roles of Teaching Assistants.

Councillor May informed the Council that he could not support the revised offer. He had spoken in support of Teaching Assistants at the Council meeting in May 2016 and his view had not changed. Teaching Assistants were the backbone of schools, yet worked under different terms and conditions to Teachers. Teaching Assistants were part of a team and should be treated equally. He believed that if the proposals were accepted the recruitment of Teaching Assistants would be difficult in future. He would prefer the roles of Teaching Assistants to be re-evaluated with a view to a national agreement, whilst retaining existing contracts until the matter was resolved.

Councillor Temple was of the view that the revised offer showed that the repeated assertion that there was no alternative to the original proposals was false. The revised offer had been made in that if it was not accepted the dismissal and re-engagement process would proceed. There had been additional pressure placed on Teaching Assistants recently with hundreds leaned upon to sign up for extra hours within their schools. Teaching Assistants were talented, creative and determined, and should be rewarded and retained. The ballot would result in Teaching Assistants being less motivated, less enthusiastic, and less well-off.

Councillor Watson stated that the current contract of employment for Teaching Assistants was legally binding and had been in place since 2004. The responsibilities of Teaching Assistants had increased and all had a nationally recognised qualification. They provided added value to schools and the reference to non-teaching roles in the 'green book' was outdated. Extending the compensatory payment was unlikely to resolve the matter and even if the revised offer was accepted, he believed that this would create disharmony in schools.

Councillor Watson **moved** the following amendment to the substantive motion:

'That the change in terms and conditions for Teaching Assistants should be phased in and applied only to new employees'.

Councillor Maslin **seconded** the amendment.

Before voting on the amendment the Interim Corporate Director Resources advised that this option had been explored but legal advice had advised that this would not mitigate a risk of equal pay challenges against the Council.

Upon a vote being taken the amendment to the substantive motion was lost.

Councillor Thompson spoke in support of the Teaching Assistants; he could not support dismissal and re-engagement and was aware that some Teaching Assistants would be unable to take up the new terms and conditions because of family and financial circumstances.

Councillor Napier, Portfolio Holder for Finance informed the Council that he supported the recommendations in the report. In the years since local government reorganisation the Council had been required to make difficult decisions and he hoped that the Teaching Assistants would accept the revised offer. He appreciated that they were fearful and devastated but he hoped that they understood the Council's position. The Council had undergone single status and job evaluation where it was known that 15% of employees would experience a reduction in salaries and in some cases not for the first time. When the decision had been made in May 2016 it was made for the right reason because of the inequality that existed in terms of rates of pay. The Council had to mitigate the risk of equal pay claims.

Councillor Wilkes referred to Councillor Napier's comments and asked how, when in 2012 the equal pay issue had been resolved through job evaluation, the Council was now in a position where employees were having their pay slashed. He could not support the proposals and reiterated the comments of Councillor Temple that Members had been told in May 2016 that the Council could go no further yet a revised offer had now been proposed. The Member asked why the Council could not go even further and offer more.

Councillor Hopgood stated that existing terms had not been in place since job evaluation in 2012, but since 2004. Teaching Assistants had always been employed by Durham County Council and until recently all Council employees were allowed 2 years salary protection. She asked why this protection could not be offered whichever way the Teaching Assistants voted which would be morally right. The Member was informed that the salary protection policy did not apply in this case.

Councillor R Bell commented that the revised offer extended the compensatory payment from one year to two years and seemed reasonable to avoid dismissal and re-engagement, a route which no-one wished to pursue.

In response to the comments of Members, Councillor Brown stated that there had been reference to employees in schools being treated equally yet there had been no mention of caretakers and secretaries who were on the same terms and conditions, and was therefore a matter for the National Joint Council to negotiate. This was a local agreement and was therefore within the Council's remit to change.

The revised offer had been recognised by Trade Unions and ACAS as a negotiated agreement. There had been no directives to lean on Teaching Assistants.

Durham County Council was one of the remaining Authority's in the region to implement changes to terms and conditions and was in the minority nationally. This was an improved offer which had resulted from careful listening and negotiation.

**Resolved that:**

- (i) the alternative approach and revised final offer developed as a result of discussions with Trade Unions and supported by an ACAS mediator as outlined in paragraph 17 of the report, be noted;
- (ii) as a final attempt to resolve the ongoing dispute with Teaching Assistants, and subject to agreement through a Trade Union consultative ballot process, the amount of compensation associated with the move to term time working be extended to two years with changes to be implemented from 1 April 2017, whilst continuing to implement the Council decision of 16 May 2016 within the agreed timescales;
- (iii) the process as referenced in paragraph 21 for implementing the original Council decision of 16 May 2016, including the process for dealing with appeals should it be necessary to progress to dismissal and re-engagement, be noted.