

DURHAM COUNTY COUNCIL

At an Extraordinary Meeting of the County Council held in the Council Chamber, County Hall, Durham on **Monday 16 May 2016 at 10.00 am**

Present:

Councillor J Blakey (Chairman)

Councillors J Allen, A Batey, A Bell, E Bell (Vice-Chairman), J Bell, R Bell, H Bennett, G Bleasdale, A Bonner, D Boyes, P Brookes, J Brown, J Carr, J Chaplow, J Charlton, J Clare, J Clark, P Conway, J Cordon, P Crathorne, M Davinson, M Dixon, S Forster, N Foster, D Freeman, I Geldard, B Graham, J Gray, O Gunn, C Hampson, J Hart, T Henderson, K Henig, S Henig, D Hicks, J Hillary, G Holland, A Hopgood, K Hopper, L Hovvells, E Huntington, I Jewell, O Johnson, B Kellett, A Laing, P Lawton, J Lee, J Lethbridge, H Liddle, J Lindsay, A Liversidge, C Marshall, L Marshall, P May, S Morrison, A Napier, T Nearney, M Nicholls, H Nicholson, P Oliver, R Ormerod, T Pemberton, M Plews, G Richardson, S Robinson, J Rowlandson, K Shaw, M Simmons, M Simpson, H Smith, T Smith, M Stanton, B Stephens, D Stoker, A Surtees, L Taylor, P Taylor, O Temple, K Thompson, F Tinsley, E Tomlinson, A Watson, M Wilkes, A Willis, C Wilson and S Zair

Apologies for absence were received from Councillors E Adam, B Armstrong, J Armstrong, L Armstrong, D Bell, C Carr, K Corrigan, R Crute, K Davidson, B Glass, D Hall, M Hodgson, S Iveson, C Kay, J Maitland, N Martin, J Maslin, J Measor, B Moir, A Patterson, C Potts, L Pounder, J Robinson, A Savory, A Shield, J Shuttleworth, W Stelling, P Stradling, J Turnbull, A Turner, M Williams, S Wilson and R Young

1 Declarations of Interest

The Head of Legal and Democratic Services referred to the advice she had provided in advance of the meeting to enable Members to determine whether they needed to declare an interest. The Head of Legal and Democratic Services then advised of the declarations that had been made.

The following Members declared an interest as School Governors and remained in the meeting:

Councillors A Batey, E Bell, J Bell, R Bell, J Blakey, G Bleasdale, A Bonner, D Boyes, P Brookes, J Brown, J Carr, J Chaplow, J Clark, P Conway, M Dixon, S Forster, N Foster, B Graham, O Gunn, C Hampson, D Hicks, J Hillary, G Holland, A Hopgood, K Hopper, E Huntington, I Jewell, O Johnson, J Lethbridge, J Lindsay, C Marshall, L Marshall, S Morrison, T Nearney, H Nicholson, T Pemberton, M Plews, J Rowlandson, M Simmons, H Smith, T Smith, M Stanton, K Thompson, F Tinsley, M Wilkes and A Willis.

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

The following Members declared an interest as having a close family member who was a teaching assistant, or other prejudicial interests, and would withdraw from the meeting during consideration of the Item.

Councillors P Crathorne, J Hart, H Liddle, K Shaw, A Surtees, L Taylor and E Tomlinson.

2 Review of the Corporate Management Team

The Council considered a report of the Chief Executive Officer which proposed a change to the existing Service Groupings within the Council and sought approval to initiate a restructure exercise of the existing Corporate Management Team and to undertake a recruitment exercise through the Chief Officer Appointments Committee to any vacant posts which remained following the restructure process (for copy see file of Minutes).

In **Moving** the report Councillor Henig, Leader of the Council thanked the Chief Executive for his presentation of the proposed restructure and for the time he had taken talking to staff, trades unions and Members about the proposals. It was important that the Chief Executive had the latitude to be able to bring forward such proposals which were appropriate for current times in local government, were cost neutral and would bring forward future savings.

In **Seconding** the report, Councillor Napier, Deputy Leader and Portfolio Holder for Finance informed the Council that the current structure, which had been in place since 2008, had served the Council well. However, some eight years later expectations and local government had changed.

Councillors R Bell and A Hopgood expressed their support for the proposed restructure.

Resolved:

That the recommendations contained in the report be approved.

3 Teaching Assistants - Review of Terms and Conditions

The Council considered a joint report of the Corporate Director of Resources and the Corporate Director of Children and Adults Services regarding proposed arrangements to implement changes to Teaching Assistants terms and conditions in order to reduce the risk of equal pay challenges to the Council (for copy see file of Minutes).

In accordance with Standing Order 16.4 Councillor J Brown sought a named vote on the approval of the report. The requirements were met.

In **Moving** the report, Councillor J Brown, Portfolio Holder for Corporate Services informed the Council that the Council's Head of Paid Service, the Section 151

Officer and the Monitoring Officer had all advised that the risks of not making changes to the Terms and Conditions of Teaching Assistants would be highly likely to result in challenge with regard to the Council acting unlawfully and without financial probity. Additionally, all Council decisions needed to be made with due regard to equalities legislation and the Council had received clear, independent advice with regard to the risk of equal pay claims if the Terms and Conditions were not changed.

In **Seconding** the report, Councillor O Johnson, Portfolio Holder for Children and Young People's Services informed Council that he was doing so with a heavy heart.

Councillor Temple informed Council that he would be voting against the recommendations in the report for the pursuit of fairness and for the exploration of other possibilities. Some 6 months ago the Liberal Democrat Group had put a Motion that the Council pause and review the position on Teaching Assistants Terms and Conditions to compare them with other Authorities in the region, but this was not considered because of time taken on another Motion. At a subsequent Council meeting the motion was voted down. Although the Council had received legal opinion that it would be at risk of equal pay claims if no action was taken on Teaching Assistants Terms and Conditions, this was merely opinion and was not always proved to be correct.

Councillor A Napier, Portfolio Holder for Finance informed the Council that he supported the recommendations in the report. The Council was at risk of equal pay claims if the anomalous position of Teaching Assistants Terms and Conditions was not addressed, and trades unions had confirmed that such claims would be forthcoming.

Councillor A Watson informed the Council he would be voting against the recommendations in the report. Teaching Assistants were loyal, dedicated and professional staff who often worked beyond their contracted hours and were low paid for their level of responsibility. The current Terms and Conditions, which had been in place since 2004 without any legal challenge, should be honoured for existing Teaching Assistants, with new Terms and Conditions being introduced for new recruits. Councillor Watson informed the Council that Councillor J Maslin, who was unable to attend the meeting, had requested that he expressed her contempt for the proposed changes.

Councillor P May informed the Council that he would be voting against the recommendations in the report. Teaching Assistants were the glue in the staff regime of schools, they helped and protected children and were dedicated and enthusiastic members of staff. Councillor May suggested that the Terms and Conditions be revisited over the next few months to discover whether it was possible to introduce anything to mitigate the financial loss Teaching Assistants would be facing.

Councillor Brown informed the Council that two rounds of consultation had taken place with trade unions and Teaching Assistants but no options had been proposed which were legally viable. All members of staff were valuable, however, the current

two-tier system of terms and conditions prolonged the risk to the Council of equal pay claims.

A named vote on the recommendations in the report was taken.

For

Councillors J Allen, A Batey, E Bell, J Bell, H Bennett, J Blakey, G Bleasdale, A Bonner, D Boyes, P Brookes, J Brown, J Carr, J Chaplow, J Clare, J Clark, P Conway, J Cordon, M Davinson, M Dixon, S Forster, N Foster, I Geldard, B Graham, J Gray, O Gunn, C Hampson, S Henig, K Henig, J Hillary, K Hopper, L Hovvels, E Huntington, I Jewell, O Johnson, B Kellett, A Laing, P Lawton, J Lee, J Lethbridge, J Lindsay, A Liversidge, C Marshall, L Marshall, S Morrison, A Napier, T Nearney, M Nicholls, H Nicholson, T Pemberton, M Plews, H Smith, T Smith, M Stanton, B Stephens, P Taylor, F Tinsley and C Wilson.

Against

Councillors A Bell, J Charlton, D Freeman, D Hicks, G Holland, A Hopgood, P May, P Oliver, R Ormerod, S Robinson, M Simmons, D Stoker, O Temple, K Thompson, A Watson, M Wilkes, A Willis and S Zair.

Abstain

Councillors R Bell, T Henderson, G Richardson and J Rowlandson.

Resolved:

- (i) That the termination and re-engagement of Teaching Assistants on revised terms and conditions as outlined in the report be approved;
- (ii) That authority be delegated to a dedicated panel of officers to hear all appeals associated with this process.