

MUNICIPAL YEAR 2017/2018 REPORT NO. 117

MEETING TITLE AND DATE:

Cabinet – 20th December 2017

REPORT OF:

Assistant Director Human Resources

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Agenda - Part: 1

Item: 11

Subject:

TUC Dying to Work Charter

Wards: All

Non key

1. EXECUTIVE SUMMARY

The Dying to Work Charter is a trade union initiative which seeks to gain commitment from employers with regard to protecting employees who are diagnosed with a terminal condition. The Council meets the commitments detailed in the Charter so this report seeks agreement to proceed to signing the agreement with the trade unions.

2. RECOMMENDATION

- 2.1 Cabinet notes the work the Council undertakes to support employees who are diagnosed with a terminal condition.
- 2.2 That with immediate effect, the Council agrees to adopt the Dying to Work Charter.

3. BACKGROUND

- 3.1 The Charter is voluntary and part of a campaign to protect employees who are diagnosed with a terminal condition. The campaign began following the case of Josie Woodcock, a 59 year old sales manager from Derbyshire who was forced out of her job after being diagnosed with terminal brain cancer. The energy company EON was the first to sign the Charter in April 2016 and since that date, over 50 other employers have signed covering over half a million workers.

3.2 To be eligible to sign the Charter, employers will need to demonstrate that they have

- a) reviewed 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;
- b) ensured 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;
- c) provided training to line managers and all HR staff on dealing with terminal illness, including how to discuss future plans with any employee who has a diagnosis of a terminal illness and the adaptations to work arrangements that may be necessary;
- d) adopted the Dying to Work Charter and notify all employees that they have made the commitments contained in it.

In respect of the above, the Council meets the criteria in the following ways:

- i) The sick pay and sickness absence procedures have been reviewed to ensure fair treatment of staff with terminal conditions and contain the following statement:-

Terminal Diagnosis

The Council will take all reasonable measures, as advised by Occupational Health, to aid an employee with a terminal diagnosis to remain in work.

At some stage, it may be beneficial for an employee who is in the Local Government Pension Scheme, subject to meeting the criteria, to opt for Ill Health Retirement. Where this is not the case, the Council will not dismiss an employee with a terminal diagnosis because of the terminal condition.

- ii) The Council's Occupational Health Service provider, Health Management, provides a 24 hour telephone counselling service. The counsellors are trained to provide advice and support to staff who have a terminal illness.
- iii) The Council has a generic managing sickness absence training programme which includes flexible approaches to help sick officers back into work. The Council is also in partnership with Nightingale Trust, who provides a wide-ranging support programme for anyone affected by cancer. The support programme is open to all Enfield residents and, because of our

partnership with the Trust, all Enfield Council employees, wherever they live. This includes support and advice in the event of a terminal cancer diagnosis.

- iv) Upon agreeing this report, staff will be notified via the normal communication channels e.g. Staff Matters, trade union consultation meetings.

3.3 Given the fact that the Council meets the criteria detailed above, it would be expedient to confirm the Council's commitments by signing the Charter. Formalising our approach to this matter will send out a message that the Council is a good caring employer, who does all it reasonably can to support staff with a terminal condition.

4. ALTERNATIVE OPTIONS CONSIDERED

The option of not signing the Charter would be illogical, given that the Council adheres to the commitments contained in the Charter.

5. REASONS FOR RECOMMENDATIONS

Detailed in paragraph 3.3.

6. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE, RESOURCES & CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

Employees entitlement to sick pay increases with length of service up to six months' full and six months' half sick pay, for this with 5 or more years' service, after which further sickness absence would be unpaid. During any period of sickness absence, the employee accrues entitlement to annual leave and would be entitled to be paid for any accrued annual leave that s/he is unable to take. Death in Service grants are payable by the Pensions Board.

6.2 Legal Implications

The TUC Dying to Work Charter is a voluntary mechanism for employers to guarantee the protection of employees who are facing any terminal diagnosis.

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.

Employees who are terminally ill are likely to have been diagnosed with conditions that are automatically treated as a disability under the Equality Act 2010 (EA), including cancer and HIV infection. The EA

defines a disability as a physical or mental impairment which has a substantial and long-term adverse effect on your ability to carry out normal day- to- day activities.

As an employer, where it is known, or should be known, that an employee is disabled, and that that the employee is being placed at a disadvantage, there is a duty under the Equality Act to make reasonable adjustments to remove the disadvantage and to help the employee to stay in employment. An employee who is dismissed because of a failure to make reasonable adjustments may make a claim at the employment tribunal for disability discrimination.

7. KEY RISKS

If the terminal condition runs for a significant time, the Council will not be able to recruit a replacement on a permanent basis. This could result in expensive agency costs and/or problems affecting continuity and stability within the service. For this reason the Council will reserve the right to examine alternative solutions eg; relocation to a supernumerary post, where the terminal condition runs for 2 years or more beyond the first day of sickness absence and it is deemed that the absence is having a detrimental impact on the running of the service.

8. IMPACT ON COUNCIL PRIORITIES

Fairness for All & Strong Communities

The Council's approach to this issue is predicated on the need to ensure staff are treated fairly and not discriminated against.

9. EQUALITIES IMPACT IMPLICATIONS

Staff diagnosed with a terminal illness are invariably classified as having a disability. In law, the employer has a duty to make reasonable adjustments where an employee has a disability. The Council's approach to this matter is to encourage discussions about the practicable options available e.g. part time employment, transfer within the department to a more suitable role or, if the employee is not able to work, ill health retirement.

10. PUBLIC HEALTH IMPLICATIONS

There are not anticipated to be any direct or wider public health implications of the Council signing this charter. However, on an individual level, we know that staying in work is generally beneficial to overall health physically, mentally and socially; and that losing a job, particularly at a vulnerable time, can be a cause of avoidable stress and anxiety.

Background Papers

None