

HR Committees and Sub Committees

Staff management

In employment law and equality legislation terms, a local council is generally no different from any other employer as a recruiter and an employer. There are additional statutory responsibilities conferred on a local council by the Equality Act 2010. A council should ensure that its structures, policies and practices enable staff development (via appraisals, promotions, training and other support) and accommodate the handling of staff grievances and disciplinary matters. They must also safeguard against bullying and harassment and discrimination, ensure the health and safety of staff, and protect the unnecessary disclosure of or use of information about individual staff members.

As an employer, a local council must make decisions about the recruitment, management and dismissal of staff. In most workplaces, day to day line management is traditionally undertaken by one person. This model does not work in relation to management of staff by a single councilor. An individual councilor has no statutory authority to make decisions.

Other Staff

A council may formally delegate some recruitment and staff management functions to staff. The job description of a member of staff will accordingly confirm any responsibilities that relate, for example, to recruiting staff, supervising the work of other staff, managing their development and training needs, recording and monitoring their absences, approving leave arrangements and the handling of informal grievances and disciplinary matters.

Even if a council has delegated some recruitment and staff management responsibilities to staff, it is undesirable for decisions about the management of staff to be made by the whole council. It is recommended that responsibility for the general management of staff rests with a committee of the council. Unless a council decides otherwise, such a committee may delegate its responsibilities to a sub-committee (a committee of the committee)²⁴. It is recommended that responsibility for the management of a council's most senior member of staff (the Proper Officer or Clerk) is delegated to an HR sub-committee.

When a council appoints an HR committee (with or without a sub-committee) to perform any of its responsibilities as an employer or recruiter, the responsibilities of the committee must be clear from the outset. A council achieves this by deciding the terms of reference for the HR committee. If the HR committee is permitted to appoint a sub-committee, it is the HR committee that decides the terms of reference for the sub-committee. The terms of reference for a sub-committee cannot be broader in scope or unrelated to the terms of reference for the committee. The terms of reference for any committee or subcommittee of a council should be available to the public via the council's publication scheme. When a council delegates recruitment or staff management responsibilities to a committee (with or without a sub-committee), legal responsibility for the decisions and actions of the HR committee (or sub-committee) remains with the council as a whole. Whether or not a council delegates its responsibilities as an employer and recruiter to an HR committee or an

HR sub-committee, the Data Protection Act 1998 imposes obligations about the council's use of information about individual staff members and candidates for jobs at the council.

From another perspective, if an HR committee decided to withdraw an offer of employment after it had been accepted, the council not the committee is at risk of a breach of contract claim.

If an HR sub-committee dismisses an employee unfairly, the unfair dismissal claim will be against the council, not the sub-committee.

Below is an example of a council's terms of reference for a committee that it appointed to discharge its HR functions (as updated to FCMPC heading).

FIKERTON CUM MORTON PARISH COUNCIL

HR COMMITTEE - TERMS OF REFERENCE

Purpose of HR committee:

This committee is appointed to make decisions about all HR matters, subject to budget and expenditure limits decided by the Council.

Terms of Reference

1. To establish and keep under review the HR structure in consultation with the Council.
2. To draft, implement, review, monitor and revise policies for staff.
3. To establish and review salary pay scales for all categories of staff and to be responsible for their administration and review.
4. To oversee the recruitment and appointment of staff.
5. To arrange execution of new employment contracts and changes to contracts.
6. To establish and review performance management (including annual appraisals) and staff training programmes for staff.
7. To oversee any process leading that may lead to dismissal of staff (including redundancy).
8. To keep under review staff working conditions, and health and safety matters.
9. To monitor and address regular or sustained staff absence.
10. To make recommendations on HR related expenditure to the Council.
11. To consider any appeal against a decision in respect of pay.
12. To consider a grievance or disciplinary matter (and any appeal).
13. To supervise and performance manage The Clerks work, to administer their leave requests, record and monitor absences, and handle grievance and disciplinary matters and pay disputes.

Using the example above, the committee would have significant responsibility even if the council employed only one or two people. The nature of its responsibilities means that the committee would need to meet regularly (perhaps quarterly) but also when it is required e.g. to handle the recruitment of temporary staff.

There will be some responsibilities of an HR committee that are best handled by a subcommittee of the HR committee. The most obvious example is the handling of a grievance or disciplinary matter. Any such sub-committee should be made up of three councillors. If an employee appeals a decision made by an HR sub-committee about a

grievance or disciplinary matter, then the appeal must be heard by another sub-committee of three councillors of the HR committee who have not previously been involved in the grievance or disciplinary matter. There may be insufficient councillors on the HR committee who have not previously been involved. If so, the sub-committee handling the appeal should be made up of three councillors who may include members of the HR committee.

The other responsibilities suited to a HR sub-committee include the management of the Proper Officer/Clerk. It will be necessary for the HR sub-committee to appoint one of its councillors as the day to day contact to support, supervise and appraise the work of the Proper Officer/Clerk, handle leave requests, absences from work, informal grievances and disciplinary matters etc. The standing orders of a council may be used to confirm the responsibilities of Individual members of the HR sub-committee².

Sub Committee

There will be some responsibilities of an HR committee that are best handled by a sub-committee of the HR committee. The most obvious example is the handling of a grievance or disciplinary matter. Any such sub-committee should be made up of three councillors. If an employee appeals a decision made by a HR sub-committee about a grievance or disciplinary matter, then the appeal must be heard by another sub-committee of three councillors of the HR committee who have not previously been involved in the grievance or disciplinary matter. There may be insufficient councillors on the HR committee who have not previously been involved. If so, the sub-committee handling the appeal should be made up of three councillors who may include members of the HR committee.

The other responsibilities suited to an HR sub-committee include the management of the Clerk employees including the day-to-day contact to support, supervise and appraise the work of the employees, handle leave requests, absences from work, informal grievances and disciplinary matters etc. The standing orders of a council may be used to confirm the responsibilities of the HR sub-committee.

Below is an example of the terms of reference for an HR sub-committee, appointed to discharge some of the responsibilities of its parent committee.

FISKERTON CUM MORTON PARISH COUNCIL HR SUB-COMMITTEE - TERMS OF REFERENCE

Purpose of HR sub-committee

This sub-committee is appointed to consider grievance or disciplinary matters (not including any appeal therefrom) referred from the HR committee and to manage the Clerk.

Terms of reference

1. To consider grievance or disciplinary matters in accordance with the council's grievance or disciplinary policies.
2. To manage, supervise and appraise the Clerk, administer leave requests, record and monitor absences from work.
3. To consider any appeal by employees against a decision on pay.

When a council appoints an HR committee, it also needs to decide the number of councillors and their terms of office for that committee. As an HR committee is recommended to appoint sub-committee(s) to handle any grievance and disciplinary matters (and related appeals) and to manage the council's Clerk, the number of councillors appointed to the HR committee should, if possible, be sufficient for the appointment of these sub-committees.

Substitute Councillors

An HR committee is likely to benefit from the availability of substitute councillors. The number and term of office of substitute councillors is decided by the council at the same time that it decides the number and terms of office of the ordinary councillors of a committee.

A meeting of the whole council, an HR committee or HR sub-committee will inevitably decide matters that relate to an individual staff member or are otherwise confidential between a member of staff and their employer. A meeting of the full council or an HR committee may exclude the public when it is considering information about an individual staff member or confidential matters and it is expected to do so. Using the example terms of reference for the HR sub-committee above, it is undesirable for a meeting of an HR sub-committee like this to be notifiable or accessible to the public. It is recommended that the standing orders of a local council confirm that the public has no advance notification or right to attend a meeting of an HR sub-committee whose decisions, under delegated responsibilities, will always concern individual staff members, disclosure of which would breach the obligations of a council under the Data Protection Act 1998 or be confidential.