

CORPORATE MANAGEMENT COMMITTEE

25 JUNE 2009

APPENDIX 'G'

**COMMENTS OF UNISON ON THE PROPOSED
REVISED APPRAISAL AND PRP SCHEME**

CORPORATE MANAGEMENT COMMITTEE - 25 JUNE 2009 -
'PERSONNEL SERVICES MEMBER WORKING GROUP NOTES AND
RECOMMENDATIONS'

APPENDIX 'G'

1. Introduction

The Committee is advised that these comments are not legally binding and have been approved by the Regional Office of UNISON.

Although there has been an unfortunate delay in getting these comments before the Committee, for which we apologise, we urge Members to take our concerns into account. The delay has in part been due to the local branch of UNISON acting, as required, in accordance with guidance issued by UNISON (updated in December 2008) on issues that have potential implications for Equal Pay.

UNISON has received a copy of the notes from the last meeting of the Personnel Services Member Working Group on 14 May 2009 and, on request, a copy of the proposed appraisal system. The Personnel Services Member Working Group is due to meet on 16 June and its recommendations for future options for Performance Related Pay will be presented to the Corporate Management Committee on 25 June as a supplementary item.

UNISON may therefore have to submit supplementary comments depending on the outcome of that meeting.

2. Time for Consultation and contractual issues

UNISON does not have reasonable time in which to consult its members about (as yet unknown) proposals which could affect staff's explicit terms and conditions. The employer is aware of this and presumably that it could lead to a potential breach of contract by the employer with all employees. This could be further complicated by recent case law that has upheld a case for unlawful deduction of wages where an employer withheld a bonus for performance even though it was discretionary part of the employee's contract. Legal advice has been sought on how best to proceed.

3. Equal Pay

As well as potential breaches of contract occurring, this matter also has potential implications for Equal Pay which applies to both male and female employees.

The employer is aware of the Equal Pay Act and of subsequent legislation which is aimed at reducing inequalities in the workplace. An employer is obliged to abide by this legislation if it wants to avoid legal

challenge and the Committee also needs to make decisions with an eye on the forthcoming Equal Pay Audit.

4. The History – pre and post job evaluation

There is a temptation to look at this matter in isolation and Members are asked to recall that the review of the appraisals and PRP originated pre job evaluation in 2003/04 and the aspiration to include competencies in the appraisal process emerged in 2006/07 following the demise of job evaluation in 2006 and a pay benchmarking exercise and Equal Pay Audit that resulted in a significant number of staff being upgraded.

In February 2007, a new pay policy was imposed on staff (our pay and grading structure), and it is against this backdrop that the appraisals and Performance Related Pay are set.

A revised appraisal scheme was proposed in June 2007, to which UNISON gave a 'cautious welcome', but was concerned about the timetable for implementation, the evaluation process, the piloting arrangements and the perception that it could be seen as a cost cutting exercise, much like the revised pay policy.

The scheme was sensibly delayed and then piloted unsuccessfully (we would argue) in 2008. Of the 45 people that originally volunteered to participate, only 29 completed the process. A detailed report was considered by this Committee in September 2008 to which UNISON submitted a comprehensive list of concerns which have been amended to try and avoid duplication with these comments and are attached at Annex '1' (pages 8 and 9), to highlight outstanding concerns that are still relevant.

5. The Recent History

The Personnel Services Member Working Group agreed on 1 October 2008, and reiterated on 14 May 2009, that the new appraisal scheme should include the following elements:

- PRP to be linked with achievement of targets
- opportunities to be available to all staff to achieve high bandings with explicit targets identified that would attract higher bandings if achieved
- competencies to be introduced for appraisal purposes only
- system to be simple, fair and relevant - not demonstrated
- mandatory training/refresher training to be provided for all staff

In January 2009, UNISON compared the scheme that was considered by Corporate Management Committee in September 2008 with the version produced after the meeting of the Personnel Services Member Working Group on 1 October 2008, and submitted to UNISON for

comments on 28 November 2008. Members are asked to note that the scheme is substantially that which was piloted in 2008 and which it is proposed to pilot in tandem this Autumn.

6. Concerns – with the proposed scheme

In January 2009, UNISON submitted further concerns with the proposed scheme for appraisals and Performance Related Pay and these comments have been updated and are set out below.

- How does one objectively assess the relevance of the competency (0, 1 or 2) and the level that the appraisee has reached (0 – 3)?
- people will be tempted to re-write their job description and those of their staff so that the competencies match
- How will people justify the assessment they have made?
- Who will audit that assessment?
- Who will ensure consistency?
- How can people be 'recognised' as an acknowledged expert?
- How do people provide evidence of achievement on the new forms?

The scheme of September 2008 and now of June 2009 therefore does not appear to have been offered in the context of achieving fairness or equality of opportunity for all staff to achieve more.

The proposed scheme also raises the following questions:

- Will people accept a concept of assessing competency for the sake of identifying training needs and areas for staff development? i.e. competency based assessment becomes an appraisal without the banding exercise until you get to the targets section.
- Is there still a place for team appraisals?
- Are we making appraisals for some staff unfair by assessing them on things beyond their control?
- Do we allow staff to challenge the system without being labelled as trouble makers?
- Are the criteria fitting for all posts?
- Are managers given enough training in how to assess staff?
- Who does a health check on if it works? (the previous pilot was most unsatisfactory, as evidenced in previous reports but have any lessons been learned?)
- Will there be the motivation to complete the additional competencies area for managers?
- How is manager defined for the purposes of the management only areas?

7. Concerns – The Appraisal forms of the proposed scheme

We also have the following queries and suggestions with the wording on pages 3, 4 and 5 of the appraisal forms.

2. Standing Orders – Please define 'standing orders', is it the constitution or employee contracts as well?
3. Legislation – why information 'passed on by'? what happens if it isn't passed on, what if your job description says to keep up to date with legislative changes – 'passed on by' then becomes irrelevant.
4. Please explain which statistical returns are relevant as evidence
7. Who judges what 'high' satisfaction is?
8. How do you judge this apart from the number of accidents someone has?
12. Please delete meeting of deadlines as someone may do the first half but not the second.
- 14/25. Sickness absence should be removed from appraisals. It does not appear to fit with the assessment criteria wording and appraisals are not the right place to deal with sickness absence.

8. Concerns – General

The notes of the Personnel Services Member Working Group from 14 May 2009 are clear that whilst the new system might meet Members' objectives, it does not address equalities issues.

UNISON agrees that an emphasis on staff development could be a positive approach. However, caution is needed because of the Council's previous experience with job evaluation and how that became an industry, and ultimately a disappointment. This cannot be job evaluation by the back door which the proposed system looks very much like – this is the point both the Branch and Region have made about transparency. Unfortunately, there is no perfect appraisal system; there are basic principles, which we have tried to cover.

There have to be fair objective criteria which do not automatically exclude pockets of workers through a 'one size fits no-one approach'.

In other words the system must be relevant to the jobs that people do. The inclusion of competencies (or measures of personal effectiveness) have to avoid the creation of divisions and inequalities between individuals, sections and departments and give the potential for all staff



to develop rather than being skewed in favour of more senior posts and those with scope to 'score more highly'.

The Council relies on having well motivated staff, who are clear about their job role, feel valued, and can see an end result for their efforts.

UNISON provided Members and the employer with ACAS material for guidance on Appraisals; on what they should and should not included for example, and has brought to the attention of the employer shortcomings in the way we operate now, namely:

- the appraisal has been used as a way of disciplining perceived poor performance;
- the appraisal has been used to record disciplinary proceedings especially in sections with a high proportion of lower paid workers; and
- inconsistency between departments.

9. Performance Related Pay

PRP –The Concept and concerns

Performance Related Pay (PRP) contains certain inherent problems for staff motivation and morale, fairness and potential discrimination.

Often PRP discriminates against lower paid workers, part-time workers and women because the appraisal process that precedes it can be subject to gender and other bias and stereotypes. For example, women's skills are often undervalued by their managers. Women, part-time and lower paid workers often have fewer opportunities for training and managers can be prone to incorrectly assessing their training needs.

UNISON expressed concern that the existing Performance Related Pay system was not equality proof, and this was admitted by the employer. As such we re-state that we are unable to endorse it and urge an urgent review so that inequalities are not perpetuated. The current system has served a purpose, though of late, a more limited one, as described in the most recent Annual Pay and Workforce Plan.

10. PRP – Review and options

UNISON supports a review of the PRP system, but as we have said before, it can't just be taken away without an improved replacement.

One option put to the Personnel Officer by our Regional Officer, was that instead of PRP, if one cannot demonstrate its fairness, there could or even should, be a return to incremental increases in pay on a pay spine in line with the NJC, and then look for fair and equitable ways to reward performance.

At the moment the proposed system links the achievement of targets only with the payment of PRP. We need to reward good performance, but not to the extent that unhealthy competition creeps in and people become so focussed on achieving targets that delivering the service to the public becomes less of a priority.

11. PRP – The safeguards

Where PRP is introduced, UNISON guidance includes the following safeguards:

- negotiability on objective and design
- transparency
- fairness in operation
- adequate piloting
- adequate appraisal; and
- compulsory training for all managers and staff

12. PRP – The Proposed Scheme as at 14 May 2009

Under the proposed system, which is so transparently target driven, targets are the only things that define whether a PRP payment is made, which raises the questions:

- Will people's day to day jobs suffer whilst stretched staff ensure they meet their targets because this alone determines their banding?
- Will people bother with the first half of the form in any detail when the main prize is setting and assessing the achievement of targets?
- How do you judge whether a target has not been met owing to circumstances beyond the control of the post holder
- What if targets are not achieved because the appraiser has been prevented from filling vacant posts and consequently given more work to existing staff?
- Where is the scope for people with long service and/or in reactive jobs to have SMART targets?
- How do you reward someone that is fully competent but has not met targets – i.e. how do you reward personal effectiveness?
- It is unclear how Grades A, B, C and D equate with the current banding system, although it has been indicated that the 'pot' will be the same.

The number of targets that are chosen, but more importantly the importance attached to them and the level of achievement reached will directly affect the PRP banding.

Staff have to be assessed fairly; on how well they do their job, and not given targets that are unattainable, or which set the post holder up for failure.

There needs to be a careful moderation exercise to check that the targets set are fair and relevant, otherwise, as now, staff will be herded into the middle bracket, or downgraded.

As indicated previously, the Committee is asked to consider options for PRP in the context of the Council's Pay Policy. It is very difficult to have confidence in developments now that are based on an unsound starting point.

13. Summary and Conclusion

Members are advised that an appraisal system which:

- directly or indirectly discriminates through its structure or practice
- has not been the subject of an Equalities Impact Assessment
- has not been properly tried and tested; and
- is not objectively evaluated

can have no legitimacy and will not be endorsed either by UNISON or the staff. There will be little incentive for staff to participate in a pilot on these terms. How will the pilot be conducted differently this time to ensure staff confidence and participation?

There does not appear to be a perfect appraisal system, but there are basic principles and elements; equality and opportunities for all, fairness, objectivity, consistency, relevance to the post, encouragement of good performance, teamwork and customer care and the system to be well understood and communicated with testing, training and assessment.

As previously stated, UNISON would also need time to consult its members (this, like the employers' is an obligation, not optional), about a change to terms and conditions. The Member Working Group Minutes of 14 May 2009 indicate the possibility of removing PRP or facing job cuts, but no firm details are available owing to the timing of the 16 June meeting about what options there might be.

As such, staff and UNISON cannot be informed in good time of the options and recommendations that may arise from this meeting, and as a result, the whole process is flawed.

Set out below is Annex '1' as referred to on page 2 of these comments.

PRP payments usually come from a fixed pot of money so that staff are allocated into what an authority can or cannot afford. In the public sector this is a particular concern whereby cash limits are such that the payments are very small and therefore fail to motivate staff. Unmotivated staff may then suffer in the appraisal process as will service delivery.

A good PRP system motivates staff because it allows for staff to affect directly the achievement of objectives or targets if the amount of PRP in relation to basic pay is significant and if the process and criteria used to decide the award of PRP is seen to be fair and open. However, the system has to guard against financial reward as the only motivating factor. It needs to reward development and encourage staff to stay with the organisation. Career aspirations need to be integrated with organisational needs.

Fairness and transparency must be conclusively demonstrated. To aid transparency in the future and to assist checks that the system employed is not reducing pay equity it is recommended that PRP statistics are provided to all staff; broken down with regard to gender, ethnicity and grade of those who do and do not receive PRP payments. Developments in Equal Pay case law are going to make it difficult for councils to be less forthcoming with such equalities related information without challenge, particularly where there is no formal job evaluation process or a pay policy which UNISON still regards as unsatisfactory.

UNISON is concerned that only 29 of the original 45 completed the pilot. It would be useful to know why 16 people dropped out before completing the process. Without further information, 29 people may not be representative enough for justification to continue with the new scheme in its entirety as it is approximately only 6% of the workforce.

UNISON would like to know which departments were involved in the pilot, and which departments dropped out part-way through. This might explain some of the feedback which suggested that some sections of staff might feel alienated by the new system.

A number of the specific issues made were echoed or duplicated by Directors and were evidenced in the feedback section of the report. UNISON would like to re-state some of these as set out below:

1. Staff alienation - The report acknowledges that some sectors of staff may be or become alienated, and asserts that the system seeks to avoid differential treatment. However, once introduced, if this happens staff have already suffered detriment and there is no remedial action proposed.
2. UNISON is concerned that a significant number of staff will not understand the new system (on the basis that only a few seem to understand the current, less complicated one) and that being the case, it will be easier to bypass some of the exercises to get through it more quickly. Feedback from several members of staff has shown that in a number of cases the process had to be abandoned because the system was not easy to understand and it resulted in once satisfactorily performing staff being downgraded into a poor performing band on the basis of the difficulties of measuring achievements of targets and the way in which the % are configured. It looks at the moment as if the fewer areas that are relevant to your job the better as it means you have less chance of not achieving your targets? The system needs to demonstrate that bias (good or bad) will not happen, and that management will be consistent and objective otherwise a line manager may unfairly influence the pay that their staff receive.
3. There is little guidance for managers about what level of sickness absence is acceptable, and what flexibility they have to take into account unavoidable sickness absence by their staff who are otherwise good workers. Should sickness absence be in the system at all?

4. Having no scope for moderation is not recommended. Why is this a deliberate feature of the new system? There is no appeal mechanism apart from taking out a grievance which can be intimidating for the employee and time consuming for Management. The % are completely confusing, as is the matrix. Staff need to understand and be told explicitly how their pay is calculated and to have a less formal structure for discussing their banding without resorting to lodging an appeal. UNISON seeks re-assurance that Personnel will be following up and checking that things have 'worked' jointly with UNISON.
5. SMART targets need to be more accommodating for reactive service. i.e. those staff that do not necessarily inform or drive policy, but provide the backbone of public service. Targets should avoid 'short term focus' rather than long term service delivery and teamwork. How will team morale be maintained and divisiveness avoided if team targets are not achieved?
6. Training needs to be well communicated and emphasise the importance of all parties taking responsibility for appraisals and doing them properly. However, there is also the issue of maintaining service delivery and accommodating the new system which is going to take longer.
7. The procedure for new members of staff who haven't had a chance to achieve targets by the time of the six months review needs to be further explained as does the process for staff that are on secondment or covering other posts.
8. The performance related assessment appears quite vague, should there be more categories to assess staff, without making it too cumbersome Will merit payments still be available as with the current system??
9. The procedure for what happens to an employee who might be part way through a grievance or disciplinary process at the time of the appraisals needs to be explained.

At the start of this process UNISON expressed concern that the new system could be regarded as 'job evaluation by the back door' through the inclusion of certain of its elements such as measures of personal effectiveness and SMART targets which a manager has to decide how they apply to each job and assess their staff's competence under each, without a framework to support the process.