
BRIEF TO COUNCIL – 13 SEPTEMBER 2017

Oldham's support for the TUC's 'Dying to Work' campaign

Portfolio Holder : Councillor Abdul Jabbar, Cabinet Member for Finance and HR

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1. Summary of the issue:

On 12 July 2017 Council passed a motion as below to support the TUC's 'Dying to Work' campaign:

"This Council supports the TUC's Dying to Work Campaign's charter as being an imperative way of preserving the rights and dignity of its workers who are diagnosed with a terminal illness.

Currently, workers with a terminal illness do not have a 'protected characteristic', and therefore have limited legal protection. Employers are free to dismiss terminally ill workers once they can prove they have made 'reasonable adjustments' to the employee's job to assist with the illness. In addition, this leaves an employee facing the possibility that they will lose their death in service benefits, adding further stress at a time when security for a family's future should be protected.

This Council believes that it should be the right of the employee to choose when or if they leave employment. An employee who is diagnosed with a terminal illness should be properly informed of their options and decide what is right for them, safe in the knowledge that they will not be put under undue pressure by their employer.

This Council recognises that in order to encourage other organisations to respect the rights of any of their terminally ill employees, the Council must lead by example.

Full Council resolved to:

- 1) *Sign the Dying to Work charter and integrate its contents into our HR procedures.*
- 2) *Instruct the Chief Executive to write to the Secretary of State for Work and Pensions lobbying for an amendment to the Equality Act 2010 that safeguards the rights of terminally ill employees.*
- 3) *Instruct the Chief Executive to write to the Borough's three MPs asking them to do everything they can to press for an amendment Equality Act 2010 that safeguards the rights of terminally ill employees.'*

2. Response to the Council Motion and subsequent implementation actions

The TUC's campaign is calling for terminal illness to be made a 'protected characteristic'. If successful, this would mean that persons in work who are diagnosed with terminal illness could enter a protected period within which they may not be dismissed as a result of their condition. At present there is no such protection in law.

A number of employers, including other local authorities in the Greater Manchester area, have adopted or are looking to adopt the TUC's Charter. Approval of the Council motion in July means

that what are thankfully very small numbers of terminally ill employees will have control over their future employment decisions.

To support effective governance and ensure the consistent implementation of what is now a policy commitment, there is a need for clarity and a common understanding of what might be regarded as a terminal illness. A terminal illness is a condition which cannot be cured or adequately treated and one where there is a reasonable expectation that the person will pass away within a relatively short period of time. There is no defined period associated with a terminal prognosis but UK Social Security legislation prescribes that terminal illness is '*a progressive disease where death as a consequence of that disease can reasonably be expected within 6 months*'. Using this as a guide will be to formalise currently supportive and employee centered practice. In addition to the dignity this affords to employees, this will ensure equal treatment of staff, mitigate risk and control case numbers, safeguarding cost and ensure the legitimacy of decisions.

A number of implementation actions, summarised below, are currently being progressed to embed this commitment across the Council:

2.1 Chief Executive Letters

Chief Executive letters have been sent to the Secretary of State for Work and Pensions and the Borough's 3 MPs as per points 2 and 3 of the Council's resolution above.

2.2 Policy and Process

The Council's existing Improving Attendance Policy does not require revision; the commitment with indicative definition, will be featured in supporting guidance. Working jointly with our recognised trade unions, revised guidance is being produced for handling cases of terminal illness where life expectancy is extremely limited. The guidance will be clear that the decision about whether to continue in employment will be vested in the individual and that the organisation will actively support individual wishes.

People Services will deliver briefing sessions to the Senior Leadership Team, to Unity's HR Advisers and cascade this message via Directorate Management Team's to this effect. It is planned that this work be completed by the end of October 2017.

2.3 Occupational Health and our Employee Assistance Programme

Briefings are in plan with the providers of these services to notify the Council's position, ensure that this is reflected in referrals as appropriate and that the relevant medical practitioners, counsellors and financial advisers are also aware.

2.4 Training for line managers and briefings for selected People Services and Unity HR Advisory and Pensions staff on dealing with terminal illness

The Council's' existing e learning training material for Managing Attendance is being updated to include reference to this commitment. This will be rolled out as refresher training with the additional benefit of serving as a reminder about the effective management of other sickness absenteeism. The revision will include how to discuss future plans with those who have been diagnosed with short life expectancy and will cover the likely need for adjustments to working arrangements in those cases where an individual is able to undertake at least some work.

2.5 Reporting and Management Information

It is not considered that this commitment will notably impact the Council's sickness absence statistics. Nevertheless, at individual service or team level this could skew performance and thus, without identifying individuals, statistics may be adjusted to provide figures with and also without

the impact of those cases which are identified as being dealt with in accordance with this commitment.

2.6 Adopt an Oldham Council 'Dying to Work' Charter

In full compliance with the resolution, this commitment will be enshrined in a Charter such as is attached as **Appendix** to this note. This will be communicated and notified to all employees and promoted externally.

2.7 The MioCare Group and Schools / Academies

The Council's position is being shared with the Miocare Group and with schools and academies in Oldham. This will be supported with active communications and outreach work to encourage Board and Governing Body (respectively) adoption.

2.8 Other Partners

The Council has opportunity to influence, through a range of local and regional forums, the position of other organisations with regard to this campaign. This includes work through our close association with the Metro mayor's office, through our joint work with the NHS on the emerging Integrated Care Organisation, via the Wider Leadership forum, through our strategic partnership with Unity, via the GMCA Heads of HR meetings and our work with local businesses, as well as with the third sector and other partner organisations. Commitment to this campaign can also be regarded as strong evidence of fair employment viz our outward facing Fair Employment Charter.

Oldham Council Charter and Commitment to the TUC's 'Dying to Work' campaign



This Charter sets out the way in which Oldham Council employees will be supported, protected and guided throughout their employment, following a terminal diagnosis.

- We recognise that terminal illness requires support and understanding and not additional and avoidable stress and worry.
- Terminally ill employees will be secure in the knowledge that we will support them following their diagnosis and we recognise that, safe and reasonable work can help maintain dignity, offer a valuable distraction and can be therapeutic in itself.
- We will provide our employees with the security of work, peace of mind and the right to choose the best course of action for themselves and their families which helps them through this challenging period with dignity and without undue financial loss.
- We support the TUC's 'Dying to Work' campaign so that all employees battling terminal illness have adequate employment protection and, if they so wish, have their death in service benefits protected for the loved ones they leave behind.

**Councillor Jean Stretton
Leader of Oldham Council**