

WEST DUNBARTONSHIRE COUNCIL

Report by the Chief Executive

Council : 31 August 2011

Subject: Catering Managers - Restructure

1. Purpose

1.1 This report outlines the decision making process and provides full details of the proposed changes to Catering Managers as requested by Council on 29 June 2011.

2. Background

2.1 At the Council Meeting on 29 June 2011 the Catering Managers restructuring exercise was discussed. Council agreed the following resolution “the Council therefore calls on the Chief Executive to bring forward a report to the next Council Meeting outlining the decision making process and providing full details of the proposed changes for consideration by Elected Members.”

2.2 The background to the resolution was a concern that the restructure of catering services had been carried out without the benefit of an equalities impact assessment.

3. Main Issues

3.1 The Catering Managers are part of the Facilities Management Service within Housing, Environment and Economic Development Directorate. While the majority of the Housing, Environment and Economic Development restructure is complete, the Facilities Management Restructure is presently the subject of further consultation with the trade unions to explore the organisational change required to modernise the service, align resources to current and future service needs, discuss roles and responsibilities and develop job outlines. The consultation process and steps taken in the decision making process to date will be detailed later in this report.

3.2 Restructuring proposals such as those relating to Facilities Management are dealt with in terms of the Council’s Organisational Change Policy. Any new job outlines which are significantly altered are submitted for evaluation in terms of the Council’s agreed Job Evaluation Scheme.

3.3 In addition, restructures are also subject to the Public Sector Equality Duty enshrined in Section 149 of the Equality Act 2010. This provides that the public authority in the exercise of its functions have due regard to the need to:-

- Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This involves having due regard to the need to:-
 - Remove or minimise disadvantage suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
 - Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of the persons who do not share it.
 - Encourage persons who share a relevant protected characteristic to participate in public life or any other activity in which participation by such person is disproportionately low
- Foster good relations between persons who share relevant protected characteristics and persons who do not share it. This involves having due regard to the need to tackle prejudice and promote understanding.

The “relevant protected characteristics” are race, sex, gender, re-assignment, disability, age, religion/belief, sexual orientation, pregnancy or maternity. In relation to discrimination, marriage or partnership is also a protected characteristic.

- 3.4** It should be noted that the legal requirement is to “have due regard”. This has two implications. Firstly in the absence of a clear paper trail it may be difficult for a public authority to prove that it had due regard to the impact on equalities groups. For this reason the normal procedure is that an equalities screening is done to establish whether there are any equalities impacts. If there are impacts then an equalities impact assessment should be undertaken to identify those impacts, how the detrimental impacts can be minimised and beneficial impacts maximised. It is however important to stress that there is no legal requirement for an equalities impact assessment although this is good practice. Secondly, the mere fact that there is a detrimental impact on an equalities group does not necessarily prohibit the Council from taking that action. This is because the legal duty is to have “due regard” to impacts on equalities groups.
- 3.5** The Organisational Change and Job Evaluation Policies are complimentary to and align with equalities legislation. The Job Evaluation Scheme was driven by the equal pay requirements stemming from equalities legislation. The scheme was equality assessed. Equalities Commission guidance recommends consultation as a key means of identifying potential equalities impact and such consultation forms a key part of the Organisation Change Policy.
- 3.6** The procedures undertaken to date in relation to the Facilities Management restructure (which includes Catering Managers) are as follows:-

- (1) Draft restructuring proposals were developed by the Service Manager and Head of Service and presented to the Director in November 2010 for consideration. Following discussions with the Director the proposals were released for consultation with Trade Unions and staff in December 2010.
- (2) The draft proposals which were developed for Stage 2 of the Housing, Environmental and Economic Development restructure represented an opportunity to modernise service delivery models whilst identifying savings of approx £1.5m across the department. This sum was agreed by Elected Members as management adjustments which formed part of the Council's budget process for 2011/12 and 2012/13 and can only be delivered by implementing changes across each of the service areas including Facilities Management Catering staff.
- (3) Six briefing roadshows took place with Facilities Management staff and Trade Union representatives during January 2011 to outline to them the proposals for the revised staffing structure. This was followed in early February 2011 with meetings for specific staff groups (Catering Managers, Cleaners, Janitors, etc) and their Trade Union representatives. In parallel with this similar discussions were taking place across the other business units within the directorate.
- (4) Employees and the Trade Unions were asked to provide feedback to the Director of Housing, Environmental and Economic Development by the first week in March. Thereafter the Director considered feedback and comments on the structure prior to finalisation of proposals.
- (5) At this time the Director also arranged for an Equalities Impact Assessment to be undertaken for the departmental staffing changes proposed. This assessment established that due regard had been given to equalities issues.
- (6) In March 2011 the Director met with representatives from the Trade Unions and outlined the content of the final departmental proposals and advised that implementation would commence. It was agreed that there were a number of matters associated with the Facilities Management structure which remained to be considered and the Director agreed for further consultation to be undertaken in relation to the structure proposals for this service.
- (7) In May 2011 a formal 90 day consultation process was commenced with the Trade Unions in relation to the Facilities Management structure and a total of seven meetings have been held with Trade Union representatives during this time to consider a range of issues relating to the proposed staffing structure, job profiles, hours of work, conditions of service, etc. Meetings will recommence when Facilities Management staff return to work following the school holiday break.

- (8) A number of meetings have also been held with representatives from Educational Services to consider client requirements of the service moving forward and feedback from these meetings has formed an integral part of development of the Job Profiles for new posts within the Facilities Management structure.
- (9) Several of the meetings held with the Trade Union representatives have focussed specifically on seeking staff views on the proposed Job Profiles in order to ensure that staff had an opportunity to feed into the outline of job activities.
- 3.7** In relation to Council concerns that an EIA had not been carried out for the Catering Managers' restructure, the following points are relevant. An equalities impact assessment has been carried out in relation to the HEEDs restructure and any posts which involve significantly changed duties will be subject to a Job Evaluation Scheme driven by equalities. Thus it is clear that due regard has been had to the impact on equalities groups.
- 3.8** It should be borne in mind that the Catering Managers' restructure is still at a consultation stage and is not yet complete. That consultation stage provides an opportunity for any equalities impacts to be identified by those affected. If any such impacts are identified then an equalities impact can be undertaken.
- 3.9** Secondly, in a service the size of Housing, Environment and Economic Development it will always be possible to sub-divide the service in a way which produces a grouping of persons who fall predominantly into a protected equalities group, whether by sex, race, age, religion etc. Insofar as the Catering Managers form part of the Facilities Management Service and its restructure, it is not logical to consider the Catering Managers group in isolation. It is more pertinent to consider the equalities impacts of the whole Facilities Management restructure. Given Council's concern about the absence of an equalities impact assessment, an EIA, of the proposed changes to the Facilities Management Service will be carried out at the end of the consultation stage. The consultation response from the unions, employees and others will help to inform this equalities impact assessment. No changes will be implemented until this has been carried out.
- 3.10** As previously stated the Organisational Change Policy and equalities duties align and compliment each other, particularly in relation to consultation. However it is recognised that the Organisational Change Policy does not expressly link to the Council's Equalities Policy and the guidance on equalities screening and equalities impact assessment. It is therefore proposed that Council agree to make the following changes to the Organisational Change Policy:
- i) Firstly, it should expressly state that proposals for restructures or organisational change should have due regard to the elimination of discrimination, the advancement of equality of opportunity and the fostering of good relations on the ground of age, disability, gender re-

assignment, pregnancy and maternity, race, religion and belief, sex and sexual orientation and due regard to the elimination of discrimination on the ground of marriage or civil partnership.

- ii) Any potential equalities impacts should be assessed by undertaking an equalities screening. If the screening shows impacts then an equalities impact assessment should be undertaken in terms of the Council's policies and guidelines in relation to equalities and equality impact assessments.
- iii) The Organisational Change Policy should emphasise that the consultation processes undertaken in terms of that policy should attempt to identify and consult regarding any potential equalities impacts.

4. People Implications

- 4.1 The restructure of Facilities Management and the drive to modernise the service will inevitably have people implications. The aim of the Organisational Change Policy and Job Evaluation Scheme is to ensure that these are handled in a consistent and fair manner, consistent with equalities and employment legislation. The restructure is being managed in terms of these policies and this will continue to be the case.

5. Financial Implications

- 5.1 As part of the 2011/12 budget setting process, Council agreed to accept management adjustments of £1.5M in respect of restructuring within Housing, Environment and Economic Development. Changes to the work of the Facilities Management Service, including Catering Managers, are required not only to modernise the service but also to meet these financial savings required by Council.

6. Risk Analysis

- 6.1 There are two key risks. First is that of failing to have due regard to the equalities impacts of the Facilities Management restructure. If the equalities impact assessment relating to the Housing, Environment and Economic Development and the ongoing consultation process have not already identified such risks, then a specific equalities impact assessment relating to the Facilities Management restructure will address this risk.
- 6.2 The second risk is that Council is inadvertently drawn into considering an individual employment matter. There are clear Council procedures for dealing with employment matters. Members should only be involved in individual employee matters when serving on the Appeals or Recruitment Committees. A decision of Council could stop a grievance being considered by the Appeals Committee, and prejudice the present ongoing consultation. As regards policy issues in relation to employment Members can also deal with these when

serving on the JCF, Corporate and Efficient Governance Committee or Council.

- 6.3** For these reason it is important that Council is not drawn into consideration of individual staffing matters affecting an individual employees terms, conditions or pay.

7. Equalities, Health & Human Rights Impact Assessment (EIA)

- 7.1** This report does not have any equalities impact. The restructure of the Facilities Management Section, including Catering Managers, will require to assess whether there is an equalities impact and have due regard to the equalities duties.

8. Strategic Assessment

- 8.1** Three of the Council's strategic priorities are relevant to the restructure of Facilities Management. The key driver of the restructure is to modernise the service to provide fit for purpose services. The role of Facilities Management is also a key one in terms of the Council's Asset Management Strategy. Finally, financial savings achieved through the restructure and already agreed by Council, form part of the Council's financial strategy.

9. Conclusions and Recommendations

- 9.1** Council is recommended to:-

- i) Note the procedures which have been undertaken to date in relation to the restructure of Facilities Management including Catering Managers, to note that these are still subject to consultation and to note that the restructure will continue to be progressed in terms of the Council's Organisational Change Policy and Job Evaluation Scheme.
- ii) Note that comments from affected employees or trade unions on equalities impacts are welcomed as part of the consultation process on the restructure and to note that following such consultation an equalities impact assessment will be undertaken of the proposals relating to the Facilities Management Service, including Catering Managers.
- iii) Agree that the Organisational Change Policy should be updated to make it clear that restructure proposals and consultation should have due regard to the elimination of discrimination, the advancement of equality of opportunity and the fostering of good relations on the grounds of age, disability, gender re-assignment, pregnancy and maternity, race, religion and belief, sex and sexual orientation. Due regard will also need to be shown to the elimination of discrimination on the grounds or marriage and civil partnership. Council procedures relating to equalities and equality impact assessment should be followed in dealing with organisational change or restructures in terms of the Organisational Change Policy.

.....
David McMillan
Chief Executive
Date: 11 August 2011

Person to Contact: Andrew A Fraser, Head of Legal, Democratic and Regulatory Services, Council Offices, Garshake Road, Dumbarton, G82 3PU.
Telephone: 01389 737800
e-mail: andrew.fraser@west-dunbarton.gov.uk

Appendices: None

Background Papers: Equalities Impact Assessment
Housing, Environment and Economic Development
Restructure

Wards Affected: All