

Report

Cabinet



Part 1

Date: 17 April 2019

Item No: 6

Subject Dying to Work charter

Purpose Cabinet to consider adopting the Dying to Work charter

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Ward All

Summary The TUC launched the Dying to Work campaign which seeks to have terminal illness recognised as a 'protected characteristic' so that an employee with a terminal illness would have a 'protected period' where they could not be dismissed as a result of their condition. Employers are asked to sign a charter whereby they would commit to the principles of the campaign and not dismiss an employee with a terminal illness.

Proposal Cabinet is asked to consider signing the Dying to Work charter

Action by Cabinet

Timetable Immediate

This report was prepared after consultation with:

- Cabinet Member for Community and Resources
- Senior Leadership Team
- Employee Partnership Forum
- Head of Law and Regulation
- Head of Finance

Signed

Background

The TUC's Dying to Work campaign would like to see terminal illness recognised as a 'protected characteristic' so that an employee with a terminal illness would be entitled to a 'protected period' where they could not be dismissed as a result of their condition. In the absence of this being legislated for, the TUC are calling for employers to consider making a commitment towards this campaign by signing their charter and agreeing not to dismiss any employee diagnosed with a terminal condition.

In order to meet the requirements of the Charter, the Council would need to commit to the following:

- **Review sick pay and sickness absence procedures** and include a specific statement that no employee with a terminal diagnosis will be dismissed because of their condition.
- **Ensure that an Employee Assistance Programme is in place** that has the capacity and competency to provide support to any employee with a terminal illness, including access to counselling and financial advice.
- **Provide 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 on what adaptations to work arrangements that may be necessary.
- **Adopt the Dying to Work Charter** and notify all employees that they have made the commitments contained in it.

The list above is not complex to comply with – it would be straightforward to make a commitment in the Council's Management of Attendance Policy that the Council will not dismiss any person with a terminal diagnosis because of their condition. The Council already offers an Employee Assistance Programme that provides support to employees with counselling and financial advice. Training could be provided for line managers and HR staff dealing with situations where employees receive a diagnosis of a terminal illness, and will be included in our current learning exchange programme for 2019/20.

Current practice is very much led by the wishes of an individual and their family in such a position. Discussions do take place between employees and their family members with management and HR regarding the employee's preferred wishes. The options available to employees will usually consist of ill health retirement or death in service, both of which have financial implications for individuals and their families. The Council would not dismiss an employee by means of an inability hearing due to receiving a diagnosis of terminal illness. Signing up to this charter would confirm our commitment to this.

The following would need to be arranged in order to be included on the Charter list:

- Dates of availability for a public signing ceremony
- The logo of the organisation and union(s) signing the charter
- The names of those signing the charter on behalf of the employer and union(s)
- The names and quotes for draft press releases
- The number of workers to be covered by the Charter. These will be added to the national total
- Confirmation that photos can be taken at the event which the TUC can share on social media, the campaign website and other outlets

What happens when the Charter is signed?

The TUC will provide a customised copy of the charter for the public signing ceremony which will be attended by a representative of the campaign. The TUC will also work with PR to co-ordinate press releases to generate media coverage in both the local and national press and broadcast media.

After the signing, the Council's details will be added to the campaign website and the charter will be left with the Council to display as deemed appropriate.

The Council's Management of Attendance Policy would be amended to make reference to the charter.

Who in Wales has already signed the Charter?

Caerphilly Council

Cardiff Council

Carmarthenshire County Council

Neath Port Talbot Council

More information on organisations that have signed the charter can be found at www.dyingtowork.co.uk

Financial Summary

- There are no financial implications contained within this report.

Risks

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Failure to comply with the provisions of the Charter once signed	H	L	The Council's Management of Attendance Policy will be revised to take account of the provisions and managers will receive training and support	Head of People and Business Change

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

The Management of Attendance Policy outlines the Council's responsibilities towards the workforce during periods of absence due to ill health. The Council seeks to be supportive in these situations and has a duty of care towards employees with long term medical conditions that need reasonable adjustments to remain in work.

The Council's People and Culture Strategy outlines our commitment to Employee Wellbeing and the increased focus that is needed in supporting people to remain in work wherever possible, balancing this with the understanding that the Council's business has to function effectively, and that employees are individuals with different needs and different levels of support.

Options Available and Considered

The options available are as follows:

1. For Cabinet to agree to sign the Dying to Work charter.
2. For Cabinet not to agree to sign the Dying to Work charter.

Preferred Option and Why

For Cabinet to agree to sign the Dying to Work charter – this step demonstrates the Council's commitment to supporting employees and their families during very difficult times of need, and respecting an employee's wishes not to be dismissed when diagnosed with a terminal condition.

Comments of Chief Financial Officer

There are no direct financial implications of Cabinet signing the Charter. Any financial impact as a result of adhering to the guidance laid out in the Charter would need to be managed by individual managers within service area budgets.

Comments of Monitoring Officer

The proposed action is in accordance with the Council's legal powers under section 112 of the Local Government Act 1972 to set reasonable terms and conditions for the employment of staff. Although signing the TUC Charter, of itself, is simply a commitment to sympathetic employment practices in the management of staff with terminal illnesses, the incorporation of the right to a "protected period" within the Council's Management of Attendance Policy will give rise to enhanced contractual rights for the protected employees. Many terminal illness will already mean that the employees are suffering from a recognised "disability" for the purposes of the Equalities Act, but the Charter would extend the range of illnesses that would be classed as a "protected characteristic". Employees suffering from a disability already have the right not to be disadvantaged or discriminated against, directly or indirectly, as a consequence of their disability and the Council has a duty to make reasonable adjustments and treat them fairly in terms of any sickness absences or working arrangements. However, the Charter would take this further for employees with terminal illnesses and prevent them from being dismissed at any time during the "protected period" because of their illness. There would need to be provision for termination of employment on grounds of permanent ill-health or by mutual consent, where that was in the best interests of the employee.

Comments of Head of People and Business Change

The Council seeks to support employees with health conditions that prevent them from attending work on a short or long term basis, and has a Management of Attendance Policy that demonstrates its supportive actions along with a procedure that enables the organisation to manage attendance levels.

We currently provide a range of supportive tools to facilitate attendance at work whilst managing a health condition – we provide an Employee Assistance Programme that offers ease of access to counselling and information signposting, we have a local occupational health provider available to employees, and are in the process of building a wellbeing hub for staff to access further wellbeing options. Signing the charter would further add to the Council's supportive stance when supporting employees with a diagnosis of terminal illness.

Currently, managers work closely with HR to support individuals and their families in such situations with care and sensitivity. The decision to end employment is at the request of the employee and would usually be through ill health retirement. However, the Council is equally mindful that financial situations for families can be improved should the employee die in service, and on that basis we would not make any decision to dismiss. Signing the charter would confirm our approach in this regard.

In addition, signing this charter supports the Council's Corporate Plan mission of improving people's lives by ensuring any employee with a terminal illness is protected and supported by their employer. This charter contributes to the Well-being goals of a healthier Wales and a more equal Wales.

Comments of Cabinet Member

Supporting vulnerable people is a key priority for Cabinet and making a decision to sign the Dying to Work charter shows our commitment to delivering this support. No employee of the Council who has been diagnosed with a terminal illness should be dismissed because of their condition or absence they have taken as a result of their condition. Managers should treat such staff with sensitivity and respect and work with them and their families to either maintain the ability to attend work at a future point, or allow the individual to best determine when they may wish to consider the right time to cease employment. I recommend that Cabinet approve this report and instruct officers to make arrangements for us to sign the charter.

Local issues

N/A

Scrutiny Committees

N/A

Equalities Impact Assessment and the Equalities Act 2010

Whilst a formal assessment has not taken place, this report would remove or minimize disadvantage suffered by employees due to their protected characteristic of disability.

Children and Families (Wales) Measure

N/A

Wellbeing of Future Generations (Wales) Act 2015

The Dying to Work Charter contributes to the well-being goals for a healthier wales and a more equal wales. The charter will ensure employees with a terminal illness are supported and their well-being considered when they are making choices about their health. The charter will also ensure all employees are treated equally no matter what their background or circumstances.

The five ways of working have been applied when considering this proposal. The Employee Partnership Forum have been involved in this work and by signing the charter the Council is part of a wider collaborative campaign by the TUC. The aim of the campaign is to prevent any employee with a terminal illness from being dismissed by their employer, and the charter focuses on both short term and longer term needs.

Crime and Disorder Act 1998

N/A

Consultation

N/A

Background Papers

None

Dated: