



## WMCA Board

<b>Date</b>	14 September 2018
<b>Report title</b>	Dying to Work Charter
<b>Accountable Chief Executive</b>	Deborah Cadman, West Midlands Combined Authority tel: (0121) 214 7200 email: deborah.cadman@wmca.org.uk
<b>Accountable Employee</b>	Tracy Walters, Head of Human Resources and Organisational Development tel: (0121) 214 7007 email: tracey.walters@wmca.org.uk
<b>Report has been considered by</b>	Leadership Board - 22 August 2018 Programme Board - 31 August 2018

**Recommendation(s) for action or decision:**

**The WMCA Board is recommended to:**

- (1) Agree to sign up to the Trade Union Congress' (TUC's) "Dying to Work" Charter which is seeking to provide greater security for terminally ill employees, ensuring that they are not dismissed due to their condition

## **1.0 Purpose**

- 1.1 To inform the WMCA Board of “Dying to Work”, the TUC’s campaign for terminal illness to be recognised as a protected characteristic.
- 1.2 To seek the WMCA Board’s support and approval for the WMCA to sign up to the “Dying to Work” Charter.

## **2.0 Background**

- 2.1 The “Dying to Work” campaign was developed by the TUC to seek greater security for terminally ill employees and began following the case of Jacqui Woodcock, who was ‘forced out of her job’ after being diagnosed with terminal breast cancer. While equality legislation offers some protection for terminally ill employees, it still allows employers to dismiss a terminally ill employee. The campaign is pressing for additional employment protection for terminally ill employees giving people with terminal conditions the choice of how to spend their final months. Employees with a terminal illness would enjoy a protected period where they could not be dismissed as a result of their condition.
- 2.2 Terminal illness is an incurable disease that cannot be treated and is expected to result in the death of the patient. Usually these are progressive diseases such as cancer. Current UK legislation for disability benefits and Universal Credit specifies that the definition of terminal illness is someone likely to die within 6 months though many patients can have a terminal illness and survive much longer than six months.
- 2.3 The “Dying to Work” Charter is a charter that companies can voluntarily sign up to in support of the Dying to Work campaign. The charter sets out an agreed way in which employees will be supported, protected and guided throughout their employment, following a terminal diagnosis. Nearly 600,000 employees are now covered by the Charter from private and public sector employers.
- 2.4 To sign up to the Charter, the WMCA would be required to:
  - Review our sickness absence policy and include a specific statement in the policy that we will not dismiss anyone by reason of a terminal diagnosis of their conditions. We have amended the policy to reflect this.
  - Provide training to managers to cover how to discuss future plans with any employee who has a diagnosis of a terminal illness, and what adaptations to work arrangements may be necessary.
  - Raise awareness internally that we have committed to the Charter.
- 2.5 Further requirements include the provision of an Employee Assistance Programme and Trade Union involvement. We have secured endorsement from Unison, our recognised Trade Union, and have liaised with TUC. A WMCA Employee Assistance Programme is already in place and we are already able to provide support to employees (and their families) with a terminal illness, including counselling and financial advice. We also use our Occupational Health provider for advice and assistance with medical advice and guidance on adjustments.

2.6 Signing up to the Charter will demonstrate that the WMCA treats employees (and their families) with terminal prognosis with dignity and without applying any undue pressure regarding employment/finances. The adoption of the Charter is in relation to the WMCA only and it remains at the discretion of each organisation in the region to consider whether to sign up to the Charter themselves.

2.7 No WMCA employee has ever been diagnosed with a terminal illness. However, the WMCA takes all reasonable measures, as advised by Occupational Health, to aid an employee with a long-term or/and chronic condition to remain in work. This may include:

- Implementing reasonable adjustments to support the employee to remain at work (e.g. working from home, reducing working hours, phased return to work, amending duties etc.)
- Flexibility in working arrangements to support them to attend medical appointments
- Managers and HR always support employees to achieve their choice of outcome with regards to continued employment. No employee has ever been dismissed due to ill health. Signing up to such a charter would not require a change in how the WMCA supports employees facing a terminal illness.

### **3.0 Financial implications**

3.1 There are no financial implications in relation to this report.

### **4.0 Legal implications**

4.1 Employees who are terminally ill are likely to have been diagnosed with conditions that are automatically treated as a disability under the Equality Act 2010. As per the Act, disability is a physical or mental impairment which has a substantial and long-term adverse effect on your ability to carry out normal day- to- day activities.

4.2 As an employer, where it is known, or should be known, that an employee is disabled, and that that the employee is being placed at a disadvantage, there is a duty under the Equality Act to make reasonable adjustments to remove the disadvantage and to help the employee to stay in employment. An employee who is dismissed because of a failure to make reasonable adjustments may make a claim at the employment tribunal for disability discrimination.

### **5.0 Equalities implications**

5.1 Employees diagnosed with a terminal illness are generally classified as having a disability. Employers have a duty to make reasonable adjustments where an employee has a disability. The WMCA's approach to this matter is to consider the options available (for example, part-time employment, transfer within the department to a more suitable role or, if the employee is not able to work, ill health retirement).

## Appendix

### Sample “Dying to Work” Charter



**This charter sets out an agreed way in which our 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 workers 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 have their death in service benefits protected for the loved ones they leave behind.