
Report to: Council

Date of Meeting: 10th November 2016

Subject: Review of the Working Week (Unsocial Hours Payments)

Report by: Head of Resources and Governance

1.0 Purpose

- 1.1. To put to Council a proposal to implement the £363k saving (MCB 039 Review of the Working Week) which was agreed by Council in February as part of the 2016/17 Budget.

2.0 Recommendations

- 2.1. It is recommended that Council:
- a) notes the management proposal to implement the saving, progress on negotiations with trade unions and the JTUC formal response;
 - b) takes a view on how it wishes to proceed in light of the above.

3.0 Considerations

- 3.1. Council agreed to £363k of savings for this year related to redefining the working week, role flexibility and other terms and conditions (MCB 039).
- 3.2. This followed on from the previous year's recommendation that formal negotiations are started with the Trade Unions (TUs) on redefining the working week. Budget savings were identified in 15-16 across two financial years of £150k per year which have not so far been met. Specific discussions with the TUs began in October 2015.
- 3.3. Further analysis has been undertaken to fully establish the value of payments and to whom they are paid. A full saving related to this activity was then proposed for 16-17. The £363k saving was identified.

4.0 Payments Summary

- 4.1. Unsocial hours payments are those payments paid to staff who within the normal working week (defined for this purpose as the first 37 hours) work any

hours between 20:00 and 07:00 Monday to Friday or at any time during the weekend.

- 4.2. Hours worked between 20:00 and 22:00 on weekdays are paid at time and a quarter and all other time is paid at time and a third.
- 4.3. The Council pays the minimum living wage (MLW). In effect this has eradicated Bands 1 and 2 of the Council's pay scale.
- 4.4. The Scottish Local Government Living Wage level is now £8.33. The MLW is expected to rise in Scotland to £10 per hour by 2020.
- 4.5. Unsocial hours payments are in addition to the plain time rate which the Council is currently paying on the MLW rate not the substantive rate.
- 4.6. Unsocial hours are paid on either a contractual basis or a non-contractual basis. If paid on a contractual basis the employee has unsocial hours detailed in their contract of employment so that is their personal agreement between themselves and the Council and are, in effect, a fixed payment. If they are non-contractual the payments are covered by the Council's general terms and conditions applicable to any employee covered by the single status agreements and so they vary based on the hours that an employee works.

5.0 Negotiation Progress

- 5.1. A Contract of employment is in law an agreement between an employer and an individual employee and any variations to the contract need that individual's agreement. However, in the Council, relevant changes in terms and conditions can be negotiated with Trade Unions on behalf of groups of staff irrespective of whether individual employees are members of the recognised trade unions.
- 5.2. Discussions have been taking place since October 2015. Two meetings were specifically held at that time between senior representatives from services and the JTUC at which the management position was put forward and responses received from the TUs. Offers were made at that point to share information as broadly as possible with the TUs. As a result of TU feedback, the management position was altered to recommend that Council offer a buy out of contractual terms.
- 5.3. Throughout the first half of 2016, unsocial hours updates were provided at the regular management and trade union meetings on progress with elected members. Following the change in administration, a series of meetings took place from July onwards covering both redeployment and unsocial hours. The management position on taking forward changes to unsocial hours was highlighted and TU intentions on taking forward the consultation process with their members were explicitly requested. The offer of any further information or analysis was also made to help TUs with their deliberations.
- 5.4. An article was placed on Connect on 20th September alerting staff to the potential changes that were being put to Council. Arrangements were made for the TUs to consult with their membership on the proposals and a series of meetings took place at Alloa Town Hall on the 20th October.

- 5.5. Feedback from the meetings provided by the TU leadership indicates a negative reaction to the proposals and members at the meetings voted unanimously to reject the proposals. The TU leadership highlight perceptions of unfairness because the changes affect those at the lower end of the pay scale and women disproportionately. They also question the spending priorities of the Council and the impact on morale and goodwill if changes are imposed. A statement has been prepared for elected members by the JTUC.

6.0 The Proposal

- 6.1. The key reasons for these proposed changes are:
- the contribution to reducing the budget gap,
 - the long term affordability of the MLW,
 - the preservation of employment,
 - the flexible working choices that weekend and evening working represents.
- 6.2. Following negotiations and taking on board the TU feedback the Management proposal is that Council pay a one year compensation payment to those staff receiving contractual elements as a lump sum. The lump sum would be the value of the payment received in 2015/16 by the individual staff member and would be paid for from the employment fund.
- 6.3. This payment would buy out the condition from individual contracts where applicable. It is possible that a staff member could refuse and The Council would then need to consider the legal implications of imposing the change. In effect the staff member would be dismissed and re-employed on revised terms and conditions.
- 6.4. This offer cannot be made unless the overall change in terms and conditions (i.e. change to the White Book) to remove the unsocial hours payments is either agreed by the TUs or the change is imposed by the Council. Without this agreement the Council would be paying a lump sum to remove the condition from those with contracted payments only to replace it with a payment the staff member would be entitled to as part of the single status agreement.
- 6.5. Night shift work would still attract an enhanced payment at the rate of time plus one third and would be payable for any hours worked between 22:00 and 06:00. Following negotiation with the TUs, management listened to the feedback and the position altered. Originally the recommendation would have been for the payment to have been for a full night shift only but the disruption to staff who have to stay on late in certain circumstances, such as late lets of Council buildings, has been acknowledged.
- 6.6. In summary, the proposal is that Council introduces the changes to non-contractual unsocial hours payments in addition to buying out contractual elements.

7.0 Comparable Situations

- 7.1. Research carried out by HR in 2015 demonstrated that different local authorities had very different approaches to unsocial hours including different rates and different time periods.
- 7.2. The most obvious parallel is in the National Museums (NMS) where the PCS Union represents the staff. In 2010 new staff were employed on the plain time rates for unsocial hours leading to what was described as a 2 tier workforce. This led to prolonged industrial action. Efficiency savings and Scottish Government support helped NMS and PCS resolve the dispute. Weekend allowances were bought out and the pay rates of the lowest paid were enhanced.

8.0 Financial Analysis

- 8.1. Appendix 1 provides a breakdown of unsocial hours payment by service and element. In 2015-16 unsocial hours payments amounted to £676, 061 in total. Of this 37% (£252,228) was spent on contractual hours and 63% (£423,888) on non-contractual.
- 8.2. Overall Social Services is the biggest user of unsocial hours payments and accounts for 64% (£435,430) of expenditure.
- 8.3. Management are of a view that allowances for night working should continue to attract an allowance at the current rate. Appendices 2 and 3 shows that with current working patterns for contractual and non-contractual hours such an arrangement would cost £83, 309 for contractual hours and £58, 999 for non-contractual. This is a total cost of £142, 308.
- 8.4. Appendix 2 also shows that to take forward the Trade Union suggestion to pay 1 years worth of contractual hours payments to buy out the entitlement would cost £168,919.
- 8.5. Appendix 3 also shows that to remove all the remaining unsocial hours payments would save the Council £364, 834 although this would reduce to around £356, 980 if all night hours, not just the continuous night shift working, are included.
- 8.6. If Council does not wish to pursue Management's proposal, it will lose the opportunity to make a revenue saving of around £90k in the remainder of this financial year and the opportunity to make an annual reduction in the pay bill of £363k.

9.0 Sustainability Implications

- 9.1. None

10.0 Resource Implications

- 10.1. *Financial Details*

10.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes

10.3. Finance have been consulted and have agreed the financial implications as set out in the report. Yes

10.4. Staffing

10.5. Staff costs will be reduced by approximately £363k per annum. Approximately £168k will need to be invested for a one year buy out of contractual terms

11.0 Exempt Reports

11.1. Is this report exempt? Yes (please detail the reasons for exemption below) No

12.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box)

The area has a positive image and attracts people and businesses

Our communities are more cohesive and inclusive

People are better skilled, trained and ready for learning and employment

Our communities are safer

Vulnerable people and families are supported

Substance misuse and its effects are reduced

Health is improving and health inequalities are reducing

The environment is protected and enhanced for all

The Council is effective, efficient and recognised for excellence

(2) **Council Policies** (Please detail)

13.0 Equalities Impact

13.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes No

An EQIA was carried out as part of the development of Business Case MCB 039 Review of the Working Week on which these proposals are based. The EQIA concluded the following:

An EQIA may indicate a disproportionate impact on low paid female workers although this should be offset by the Council's policy of paying everyone the Minimum Living Wage. Any changes to Ts and Cs are likely to affect women more because the Council employs far more women (79%) than men

14.0 Legality

- 14.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes ✓

15.0 Appendices

- 15.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Appendix 1 Unsocial Hours By Service and Element

Appendix 2 Contractual Unsocial Hours With Night Payment Remaining and Cost of 1 Year Compensation

Appendix 3 Non-contractual Unsocial Hours With Night Payment Remaining and Full Year Saving in Year 1

Appendix 4 Connect Message

16.0 Background Papers

- 16.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)



Yes (please list the documents below) No

BBC report on NMS/PCS dispute <http://www.bbc.co.uk/news/uk-scotland-edinburgh-east-fife-36054118>

Author(s)

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Approved by

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Appendix 1: Unsocial Hours By Service and Element

	R&G	S&CS	SWS	Edu	D&E	H&CS	Element Total
Contractual							
Nights	£42,090	£158	£78,432			£4,878	£125,557
Saturday	£6,507	£13,791	£24,460	-£8	£6,174	£6,076	£57,000
Sunday	£3,804	£5,741	£21,231		£6,174	£6,926	£43,876
Unsocial	£2,306	£12,519	£6,172	£651		£4,146	£25,795
Service Total	£54,707	£32,210	£130,295	£643	£12,348	£22,026	£252,228
Non-Contractual							
Night hours	£796	£5,489	£58,999	£1,500			£66,784
Night Hours (non pen)		£35	£34				£69
Night/Weekends	£2,128	£3,313	£11,691	£143	£14,599	£4,841	£36,715
Night/Weekends (Pen)	£6,616	£5,298	£29,780	£49	£24	£270	£42,036
Unsocial	£252	£1,005	£967	£706	£537	£1,205	£4,672
Unsocial (Pen)	£662	£411	£2,531			£104	£3,709
Unsocial Hours	£968	£11,481	£41,286	£4,869			£58,603
Unsocial Hours (non pen)		£3	£26				£29
Weekend hours	£3,814	£30,802	£159,531	£16,407			£210,554
Weekend hours (non pen)		£271	£391				£662
Service Total	£15,236	£58,109	£305,236	£23,673	£15,160	£6,420	£423,833
Grand Total	£69,943	£90,319	£435,530	£24,316	£27,507	£28,446	£676,061

Appendix 2: Contractual Unsocial Hours With Night Payment Remaining and Cost of 1 Year Compensation

	R&G	S&CS	SS	Edu	D&E	H&CS	Buy Out Costs	Night Costs Remaining
Contractual								
"Full Nights"			£78,432			£4,878		£83,309
Nights	£42,090	£158						
Saturday	£6,507	£13,791	£24,460	-£8	£6,174	£6,076		
Sunday	£3,804	£5,741	£21,231		£6,174	£6,926		
Unsocial	£2,306	£12,519	£6,172	£651		£4,146		
Total	£54,707	£32,210	£51,863	£643	£12,348	£17,148	£168,919	

Appendix 3: Non-contractual Unsocial Hours With Night Payment Remaining and Full Year Saving in Year 1

	R&G	S&CS	SS	Edu	D&E	H&CS	Potential Yr 1 Savings	Night Costs
Non-Contractual								
"Full Nights"			£58,999					£58,999
Night hours	£796	£5,489		£1,500				
Night Hours (non pen)		£35	£34					
Night/Weekends	£2,128	£3,313	£11,691	£143	£14,599	£4,841		
Night/Weekends (Pen)	£6,616	£5,298	£29,780	£49	£24	£270		
Unsocial	£252	£1,005	£967	£706	£537	£1,205		
Unsocial (Pen)	£662	£411	£2,531			£104		
Unsocial Hours	£968	£11,481	£41,286	£4,869				
Unsocial Hours (non pen)		£3	£26					
Weekend hours	£3,814	£30,802	£159,531	£16,407				
Weekend hours (non pen)		£271	£391					
Total	£15,236	£58,109	£246,237	£23,673	£15,160	£6,420	£364,834	

Discussions with trade unions - proposed changes to allowances for non standard hours (single status/craft)

Last Updated on Tuesday, 20 September 2016 10:52

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12.0 Written by Karen Payton

13.0 Over several weeks Council officers have been in discussions with Trade Union representatives regarding proposed changes to allowances for non standard hours ie unsocial hours/weekend work/night working which cost the Council almost £1m for 2015/2016

The key reasons for proposing these changes are:

- the preservation of employment,
- the flexible working choices that weekend and evening working represents,
- the contribution to reducing the budget gap,

The current arrangements for single status and craft staff are:

Unsocial hours – time plus one quarter for any hours worked between 2000 – 2200 Monday to Friday

Night and Weekend Work – time plus one third for any hours worked between 2200 and 0700 midnight Monday – midnight Friday or at any time on a Saturday or Sunday.

The proposed changes to the single status and craft agreements would remove enhanced payments for unsocial hours and weekend working. Night hours would however be unaffected by the change. These changes would save almost £400K*.

At present unsocial hours/weekend hours can be paid on either a contractual basis or a non-contractual basis. For those staff who are in receipt of payment for contractual unsocial/weekend work, the Council will write individually to you should the proposed changes be agreed with a proposal to “buy out” your contractual allowance.

Trade Unions will shortly arrange briefing sessions to discuss these proposed changes with staff and seek views on the above. Staff are encouraged to attend and managers are asked to release staff wherever possible to attend

Thereafter Trade Unions will provide feedback to Officers which will be included in a paper to be submitted to Elected Members for their consideration and decision.

* Based on an average Grade 7 salary this equates to 13 FTE

Chris Alliston
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