

Agenda Item No.6 (b)

DERBYSHIRE COUNTY COUNCIL

CABINET

15 March 2018

**Report of the Strategic Director of Commissioning, Communities and
Policy**

**REVIEW OF GUARANTEED MINIMUM CONTRACTS (GMC)
FOR RELIEF WORKERS
(Council Services)**

1. Purpose of the Report

To report to Cabinet the findings of the review of Guaranteed Minimum Contracts (GMC) and, in light of the findings of the review, to seek agreement that GMCs should no longer be offered.

2. Information and Analysis

In November 2016 Cabinet approved the introduction of average guaranteed minimum hours contract arrangements for relief workers who had no other contractual hours guaranteed with the Council, with effect from 1 April 2017. The basis of the proposed framework was to offer an average guaranteed minimum contract (GMC) based on 70% of the average hours actually worked over the previous 3 year period or where the period of employment is less, pro rata to the period worked. The approval was subject to the arrangements being reviewed.

In March 2017, 469 variation to contract offer letters were issued to relief workers requiring them to confirm whether they accepted the GMC offer or preferred to remain as a relief worker. In April 2017, 111 individuals (24 %) who had accepted the offer transferred on to the new contractual arrangements.

As the offers were based on employees in post on 25 October 2016, a second offer was issued in August 2017 to 70 relief workers who commenced working for the Council after 25 October 2016 of which 15 employees accepted (21 %) the offer and started their GMC on 1 October 2017 to 31 March 2018.

3. Review of the GMC arrangements

The required review has now been undertaken.

A total of 126 employees accepted a GMC, representing 23% of the relief workers who received the offer. This was much lower than had been anticipated.

For those that accepted a GMC, the HR & payroll system was configured to simplify the inputting and monitoring arrangements for managers to ensure that the number of hours worked against their contractual guarantee was balanced at the end of the financial year. As at 31 January 2018 the total number of hours that employees have been paid for that remain not worked is 698.71 hours which represents a cost of £7k to the Council. A summary of these hours against each department is detailed below.

Department	Employees in a deficit	Total hours in deficit that need to be worked back before 31 March 2018	Employees 0 or in credit	Total hours in credit that will be paid up in May 18
CCP	6	-153.76 hrs	33	549.22 hrs
ADC	5	-217.41 hrs	20	256 hrs
CS	13	-327.54 hrs	33	473.96 hrs
ETE	0	0	1	33.5 hrs
TOTAL	24	-698.71 hrs	87	1312.68 hrs

Individual departments are following up negative balances with managers to ensure that employees in a deficit are allocated more hours prior to 31 March to ensure that the Council is not paying for hours not worked.

It is also worth noting the number of hours held as a credit to offset for periods of not working (1312.68 hours). If these employees continue to work over their GMC these hours will be paid in May 2018 to allow for all hours to be input up to the 31 March 2018.

Following implementation 6 employees requested to revert back to relief prior to the annual review. The reason all 6 gave was that they preferred to receive their pay when they worked the hours and the flexibility of accepting offers of work when they wanted to rather than the requirement to accept offers of work made within reasonable timescales. 7 GMC employees have left the position and a further 9 have moved into other posts with a contractual guarantee within the Council. As at the 21 February 2018 there were 111 employees working on a GMC arrangement.

The following is a summary of the feedback from departments;

- The requirement to bank hours to offset for periods where an employee may not meet their quota hours put employees off accepting a GMC as they preferred to receive the full pay for what they had worked.
- Some employees have found it difficult to accept offers of work as they have another position outside of the Council. This issue accounts for 70% of those who are currently in a deficit.
- Managers have reported that although some employees genuinely preferred a contractual guarantee, others only accepted the offer as there was a fear that their allocation of relief shifts would reduce as priority went to those with a GMC.
- Managers have found it difficult to manage the quota of hours to ensure that the employees with a GMC are allocated the correct number of hours.
- Despite briefing sessions, departmental support and detailed guidance, some employees did not fully understand the implications of what they were accepting, for example, the requirement to accept offers of work made within reasonable timescales.
- Some services were excluded due to the seasonal nature of the work (Outdoor Sports and Education Instructors & Swimming instructors within Children's Services, Sales and Information Assistants in Economy, Transport and Environment and Deputy Registrars within Commissioning, Communities and Policy) or where services (School Crossing Patrol) could not sustain offering a GMC to all reliefs as contract offers in this service are already very low and therefore the minimum offer of 1 hour would represent an unachievable commitment for the service.

A recent exercise to review GMC hours for the forthcoming financial year has also showed that a further 12 employees have indicated that they wish to revert back to relief which would give a final total of 99 employees on a GMC.

The purpose of introducing GMCs was to enhance the status of relief workers by offering them a contract of employment and stability through guaranteed hours and regular and consistent salary payments. However, in considering the outcome of the review, it seems that there are other factors for the majority of the Council's relief workforce which outweigh these benefits. Therefore, in light of the low take up, deficit in hours worked and the feedback above, it is proposed that GMC arrangements are no longer offered to new employees or existing employees not already on a GMC. Those currently on GMCs would have the option to continue with a GMC in accordance with the current Framework or would be given the option to revert to their previous arrangements as reliefs whereby work is offered on an ad-hoc basis when it is available, with no obligation on the employee to accept the work offered, but payment for any hours worked is made upon completion and within normal payroll timescales. Within the Council's relief arrangements, there is nothing to prevent individuals also working for other organisations and there is no penalty should an individual refuse work offered and therefore they do not

represent “zero hours” contracts where employees would have a requirement to accept hours offered.

4. Variation to the Framework Agreement

The Framework Agreement under the terms of which the Council offers GMCs would be amended to reflect that the Council would no longer offer GMCs to new employees or existing employees not already on a GMC. The Framework Agreement would only continue for those already on GMCs who wish to remain on them. It is not proposed that GMCs should be revoked for those individuals who currently have them and wish to remain subject to such a contract. If an existing GMC employee has opted or wishes to opt to revert back to relief they will not be given opportunity to return to a GMC arrangement in the future.

In accordance with the Framework Agreement the hours for existing GMCs are reviewed each year to verify the hours worked over the previous year and review the 70% offers with managers with support from the departmental HR teams. This review has been undertaken and letters to confirm the GMC hours from April 2018 were issued in February 2018.

It is proposed that all future decision making in respect of GMCs is delegated to the Strategic Director of Commissioning, Communities and Policy in consultation with the Cabinet Member for Council Services.

5. Legal Considerations

The Council is not proposing to vary the current GMC terms and conditions of employment other than by consent for those who no longer wish to be bound by them, but simply not to offer them in the future.

6. Financial Considerations

There are no additional costs expected to arise from the revised arrangements.

7. Equality of Opportunity Considerations

The original intention of the GMC was to provide a minimum guaranteed income and more stable employment conditions for relief workers. Following the lower than anticipated take up of the GMC, it seems that there are other factors for the majority of the Council’s relief workforce which outweigh these benefits. Relief working arrangements provides individuals with the flexibility to accept offers of work when required and therefore benefits those workers with other responsibilities. An equality impact assessment is attached at Appendix 1.

8. Other Considerations

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, environmental, health, social value, property and transport.

9. Key Decision

No

10. Is it necessary to waive the call-in period

No.

11. Background Papers

File held in the HR Division.

12. Recommendation

That Cabinet;

1. Agrees that GMCs should no longer be offered and that the Framework Agreement be varied accordingly.
2. Delegates all future decision making in respect of GMCs to the Strategic Director of Commissioning, Communities and Policy.

Emma Alexander
Strategic Director Commissioning, Communities and Policy

Appendix 1 - Equality Impact Assessment

The Cabinet report outlines the proposal to no longer offer Guaranteed Minimum Contract (GMC) arrangements to new employees and existing employees not already on a GMC. The description of the current arrangements, details for the proposed changes and rationale for the proposed changes are outlined in the Cabinet report.

During the review departmental HR teams consulted with managers and employees to gain feedback on the GMC arrangements. During the annual review to determine the hours for 18/19 all managers discussed the proposed hours and this resulted in some employees requesting if they can voluntarily revert back to relief arrangements prior to 31 March 2018.

The analysis of the relief workforce has been limited 'true' reliefs only i.e. those reliefs with no other contractual guarantee with the Council as the GMC framework agreement did not extend to other reliefs who already have another position with the Council where they have a contractual guarantee. For the purposes of this equality impact assessment they will be referred to as 'true' reliefs.

Protected Group	Findings
Age including children and families, older people	The age of employees on a GMC shows a range of ages however there are fewer younger people on a GMC with 77% being over 40 years of age. This is also evident in the population of relief workers.
Disabled people including mobility, sensory, learning, mental health, HIV, and also include carers and relatives	There are 5% of GMC employees who have indicated themselves as disabled compared to 2% of true relief workers.
Gender (Sex) including men and women, boys and girls	There are 39 male GMC employees (35%) and 72 female GMC employees (65%). The gender split for true reliefs shows that 21% are male and 79% are female. This highlights that both those on a GMC and those employees that we are no longer offering a GMC to are mainly female.
Gender reassignment – including impact if any on Transgender people	From the information available it is not believed that the proposals will pose a disproportionately adverse impact on people because of gender reassignment.
Marriage and civil partnership – also include impacts on lone parents and unmarried couples	From the information available it is not believed that the proposals will pose a disproportionately adverse impact on people who are married or in a civil partnership.

Pregnancy and maternity – including new mothers/ parents	From the information available it is not believed that the proposals will pose a disproportionately adverse impact on this group.
Race – including all racial groups, including impact if any on Gypsies and Travellers	The ethnicity of those on a GMC shows that 89% are White British or White Irish compared to 96% of true relief workers.
Religion and belief including non-belief, including religious minority communities, Humanists	From the information available it is not believed that the proposals will pose a disproportionately adverse impact on people because of their religion.
Sexual orientation – including the impact if any on LGB people	From the information available it is not believed that the proposals will pose a disproportionately adverse impact on people because of sexual orientation.

The feedback of consultation is outlined in the Cabinet report.

The EIA shows that the change to the Framework agreement outlined in the attached Cabinet report affects mainly women, over 40 years of age from a White British or White Irish background however the statistics outlined in the report conclude that there is no adverse effect to any particular group.

The purpose of introducing GMCs was to enhance the status of relief workers by offering them a contract of employment and stability through guaranteed hours and regular and consistent salary payments and in turn it was envisaged that this would encourage improved staff retention rates and service continuity for the Council.

The low take up of 23% from the true relief workforce, the numbers of GMC employees that have requested to revert to relief contract arrangements (18 employees), the low take up of GMC arrangements from adverts since 1 June 2017 (7 new starters) and the feedback from employees and managers indicates that there are other factors for the majority of the Council's relief workforce which outweigh the benefits of a GMC. Those roles where relief positions are prevalent generally have permanent vacancies available regularly.

Within the Councils relief arrangements, there is nothing to prevent individuals also working for other organisations and there is no penalty should an individual refuse work offered and therefore they do not represent “zero hours” contracts where employees would have a requirement to accept hours offered. Relief workers also benefit from sick pay and annual leave.

The Cabinet report outlines that existing employees on a GMC will be able to continue on the GMC if they wish to or revert back to a relief worker by voluntary acceptance.