

DERBYSHIRE COUNTY COUNCIL**CABINET****24th May 2016****Report of the Strategic Director of Corporate Resources****RELIEF WORK CONTRACT ARRANGEMENTS (COUNCIL SERVICES)****1) Purpose of the Report**

For Cabinet to note the proposals under discussion to change the contractual arrangements of relief employees with a view to offering guaranteed average minimum working hours, and progress in considering potential implementation of a guaranteed hours system as detailed in the report.

2) Information and Analysis

The practice of using relief staff that have no guaranteed minimum contractual hours, but, at the same time, are not required to work if they choose not to, and asking part-time staff to consent to work additional hours, are long-standing in the Council. The basis of such arrangements is that neither employer nor employee have any mutuality of obligation to, respectively, provide work, or to respond to an offer of work. **Appendix 1** provides detail of the numbers of relief employees within scope. This is different from 'zero hours' contracts where there is an obligation on the employee to work if asked to do so.

The potential to offer guaranteed minimum hours has been reviewed. It was recognised that the impact on individual service areas, both beneficial and adverse, needed to be identified in order to inform the development and implementation of any proposal. The key themes were:

- Costs;
- Service;
- Flexibility;
- Recruitment;
- Workforce reductions;
- Quality;
- Continuity of resources and terms and conditions.

Whilst Departments have identified some key areas to be addressed before moving to guaranteeing average hours (**Appendix 2**), these issues will be considered as part of the consideration being given to the proposal, by the Relief Contracts Joint Project Group, which includes the Trade Unions.

The Council values its relief employees and those part time employees who are prepared to work additional hours and seeks to treat them in the same way as permanent staff, in the application of core Council employment policies.

Implementation

There are two considerations to be addressed in any implementation:

- 1) There will need to be extensive consultation by service, communications and engagement programmes with staff, their managers and supervisors and trade unions, to ensure all involved understand the new arrangements and how they will be affected collectively and as individuals;
- 2) A lead-in period will be required, prior to implementation, in order to work out the finer detail of the consolidation and average hours criteria with the relevant operational management, recognising that one model for all services would be the preferred route;

Relief staff covered by this proposal are defined as those who do not have *any* job which has guaranteed hours, and who would be given the choice of opting for a contract which would give them average guaranteed minimum hours over an agreed period, possibly annual.

Under the proposed pay system employees would have a 'virtual' contractual minimum, based on a percentage of average hours worked (e.g. 70% of average hours worked over a three year period has been suggested, to balance certainty of regular remuneration with the need to avoid overpayment).

Employees would *always* be paid at least their guaranteed minimum. However, given the inherent fluctuation in hours worked by relief employees, , in any month during the period an employee might be paid for hours not worked i.e. if they worked fewer hours than their minimum, or, conversely, not be paid for hours actually worked i.e. where they worked more than their minimum.

There would be an ongoing process of managing balances during a defined period, with a final reconciliation at the end of that period. The aim would be to ensure that employees are rewarded appropriately, whilst avoiding overpayment.

Progress towards implementation of a Guaranteed Minimum Contract for Relief Employees

A Project Group has been established, comprising operational managers and HR staff from Departments and Trade Union representatives, with a brief to examine the challenges the introduction of a new system might present in differing service environments, and to identify solutions and a positive way forward.

Once these issues have been identified and resolved, work will begin on the detail of how the pay system and associated conditions of employment will work and on employee communication and manager briefings, with a view to finalising the 'offer' to relief staff, to enable them to consider the choice available to them.

There has been key progress to date on the following issues:-

- A general acceptance that the guaranteed hours system can be applied to most service areas, with a commitment to find ways to adapt it (without undermining the spirit of the scheme), where strict application of the system in its current form might compromise service delivery;
- Use of a 3 year reference period to determine average hours, where an employee has worked this long, and a commitment to look at other ways to reference the average for employees with less service;
- Departments are looking at data aimed at helping them to identify what the percentage average actually means in terms of their service areas, to determine whether the suggested 70% can be applied across the whole Council;
- A positive and co-operative commitment to deliver the change proposed, should it be agreed, is clearly evident within the Group.

The proposed timescale for introduction of a guaranteed minimum hour's system for relief staff, because of the anticipated work involved for example in informing, engaging employees and managers and creating new pay systems and the introduction of the new arrangements, will be the end of 2016.

The experience gained from these proposals will enable the Council to review whether similar arrangements could be extended to other employee groups who may have existing contracts with guaranteed hours, but who also have relief contracts and/or work additional hours which are not guaranteed.

3) Financial Considerations

The introduction of guaranteed minimum contractual hours for relief staff will need to be implemented in a manner that doesn't lead to an increase in the Council's costs or reduce its flexibility in delivering services. In particular, judgements about future levels of service provision need to be factored into decisions about guaranteeing minimum hours.

4) Human Resources Considerations

As contained within the report.

5) Other Considerations

In preparing this report, the relevance of the following factors have been considered: legal, equality of opportunity, prevention of crime and disorder, environmental health, transport and property considerations.

6) Officer Recommendation

That Cabinet:-

- 1) Note the progress made in respect of proposals to change the contractual arrangements of relief workers, in particular the option of guaranteeing average minimum working hours and potential implementation of a guaranteed hours system;

Judith Greenhalgh

Strategic Director of Corporate Resources

APPENDIX 1

Summary of Reliefs with only one contract excluding schools

	Count of Personnel No. Sum of total costs Sum of avg cost mth Sum of total hrs
Adult Care	108
Childrens Services	894
Corporate Resources	164
Economy Transport & Environment	46
Health & Communities	100
Grand Total	1312

Summary of Analysis of Reliefs with Multiple Relief Contracts excluding Schools

	Count of Personnel No. Sum of total costs Sum of avg cost mth Sum of total hrs
Adult Care	207
Childrens Services	176
Corporate Resources	14
Economy Transport & Environment	9
Health & Communities	16
Grand Total	422

Flexibility

There was a view from Services with large numbers of relief staff that guaranteeing average minimum contractual hours may compromise operational efficiency and, in some areas, competitiveness when tendering for contracts. It was felt that the ability to respond quickly to new business opportunities, and to be flexible in meeting changing customer requirements, could be compromised by guaranteeing hours for relief staff.

In service areas which were not subject to competition, the view was that the increased management and administrative time and costs associated with guaranteed hours would be preclusive. Successive cover arrangements for absence such as sick leave were also identified as a problem in several areas, recognising that extended sickness absence is normally covered through fixed term contract arrangements.

However, it is acknowledged:

- *That a substantial proportion of the reliefs have worked regularly over an extended period of at least 3 years.*
- *What is being proposed is a percentage of the hours that have been worked which is significantly less than the 100% worked over the previous 3 years, therefore this would not necessarily reduce flexibility for these staff and, it may be argued, may introduce a little more certainty surrounding the availability and responsibility of staff to work any hours offered.*
- *The opportunity exists to consider the options followed by other Councils and employers in distinguishing between employees, reliefs and casual employees with access to different terms and conditions etc, which reflect the nature of the work and tenure.*

Employee Choice

There is a perception that relief staff are generally happy with existing arrangements and value the control and choice they have over whether they work or not. No Departments have experienced problems with recruitment to relief posts and, in some areas, that vacancies presented regular opportunities to become permanent.

However, it is also acknowledged:

- *The Council itself has not carried out any formal survey of employees on this issue.*
- *Trade unions tell the Council that they have surveyed their part-time & relief members and that this is not the feedback they are receiving from a significant*

proportion of their relief members, although the Council has not been provided with any survey results. The trade unions have been invited to provide associated details through several CJC and associated work stream meetings.

- There has been no qualitative analysis of the skills, knowledge and experience offered by applicants for relief posts, as compared with those expressing interest in established posts with guaranteed hours.*
- The offer of guaranteed hours may attract those more able to provide better standards of service delivery whilst enhancing 'real' employment prospects within localities and across society.*
- These opportunities may prove useful in managing the geographical challenge of workforce realignment and re-deployments. Conversely, relief posts could be seen to widen opportunities for people who are able to offer less initially, but who may subsequently be able to develop into established appointments.*
- These relief opportunities may also suit those who may have other life / dependent responsibilities which mean they cannot commit to regular hours. It is also apparent that under existing proposals current relief employees could be given the opportunity to continue to work under present contract arrangements and so those individuals who wished to continue working as they are would be able to do so. In effect, employees could be given a choice of a contractual guarantee with an associated obligation to work, or to remain as they are, responding to offers to work if they fit in with their individual circumstances, recognising that those accepting the guarantee would normally be offered work first.*
- Any reduction in turnover would reduce the costs associated with recruitment and retraining as fewer employees would need to be replaced; this would reduce costs associated with advertising, management time spent in recruitment processes, necessary training of new staff to the Council's required standards and the resulting consequent loss of productivity and impacts on service delivery.*

Administrative time / costs

Departments were concerned about the impact on staff, and the public, of administering what would necessarily be a manual recording and monitoring system. In direct service situations, there is invariably no remaining 'back office' capacity and any time spent on administration could impair service delivery.

- The intention would be to provide managers with access to data showing hours worked by those on average hours contracts so that they could see those in credit / deficit throughout the year and manage accordingly. Most relief staff groups currently require generation of timesheets and calculation of averages which already require manual intervention by managers in some service areas.*

- *It is acknowledged that, even if consolidation were to be based on a conservative average, managers will need to plan to deploy staff to ensure the Council is not paying for hours not needed or actually worked, but once the necessary reports are configured, this will assist them in that process.*
- *Should a proposal to adopt guaranteed minimum hours be agreed, a key element would be continuous monitoring of overall hours worked against the new contract guarantee; this would include a periodic or year-end comparison that it is intended will be used to inform the annual review and further average hours contract adjustments (both up and down). This is seen as one of the major incentives for staff to fulfil their average contractual guarantee.*

The Options and Pay Models detailed later in this report show the varying consequences for the management of relief employees.

Workforce Reductions

Guaranteeing hours to groups which do not already have such provision, whilst at the same time potentially making permanent or temporary staff compulsorily redundant, is seen to be contradictory, particularly when the perception is that there is no real pressure for change. It is considered that staff morale and motivation could be adversely affected.

- *Relief staff who have worked regularly for over two years will in any event have acquired similar employment rights to permanent part-time and full-time staff, thus negating arguments around perceived flexibility and less problematic or costly re-alignment of staffing resources.*
- *The level of use of relief staff has remained consistent over the previous three years, but is now rising in some areas, possibly, to some extent, in response to reductions in established staff as a result of impending reviews and / or turnover.*
- *There would need to be a dialogue with services and the trade unions, and employees where proposed workforce reductions meant that the area should be exempt from any agreed proposals. It is acknowledged that such decisions would need to be based on genuine business concerns.*

'Hierarchy' of employees

Giving reliefs guaranteed hours, particularly those who work minimal hours on an irregular basis which are difficult to predict, could lead to pressure to use those hours first to avoid 'wasted' costs, leading to potential resentment from part-time staff who may previously have been offered additional hours. Those reliefs who chose not to accept an offer of guaranteed hours with an associated requirement to respond

might ultimately be offered fewer hours, thus being penalised for retaining the right of choice.

- *The original proposal included part-time staff in the consideration for additional hours on a similar basis to the criteria applied to reliefs. The complication for those employees would be that part of their contract might be weekly and part average, unless a condition of the consolidation of hours would be to make all hours average and thus potentially increase flexibility. Part-time staff do, however, have some guaranteed hours, unlike true reliefs.*
- *Any changes to the existing “status quo” will mean some will feel disadvantaged by the proposed changes, until such times as subsequent phases of the project are implemented to encompass these groups also.*
- *Communication and the engagement of managers, employees, trade unions will be key to explaining and gaining support for the proposals.*