

## ITEM FOR STAFFING COMMITTEE – 8 APRIL 2014

### ENHANCEMENTS FOR NIGHT WORKING – REVISED PROPOSAL

**Submitted by:** Executive Management Team

**Portfolio:** Finance and Resources

#### **Purpose of the Report**

To obtain the Committee's approval for a revised proposal on the enhanced rates of pay to be paid to employees who volunteer to work during the night.

#### **Recommendation**

**That the revised proposal regarding the enhanced rates to be payable for night working at Appendix B be approved.**

### **1. Background**

- 1.1 The arrangements for staff who volunteer to work in specific civil contingency related roles were considered at the meeting of the Employees Consultative Committee on 17 October 2012. At the meeting it was suggested that discussions be held with the trade unions to establish a rate for night working that would apply in situations where employees work during the night when this is not part of their normal working week.
- 1.2 No employees currently work at night as part of their normal working week. However, there are occasions when employees may be requested to undertake night working for an occasional single night or a period of a few consecutive nights. The most recent occasion involving a significant number of employees was in September 2010 when 9 Streetscene staff carried out cleansing works on the A500 for several consecutive nights on a voluntary basis. On this occasion, a one-off 'double time' payment was made for all hours worked that was based on a 45 hour (summer working) week and on the understanding that this would not be used as a precedent for future occasions (see Appendix A).

### **2. National Conditions of Service (NJC)**

- 2.1 The National Conditions of Service provide for time +  $\frac{1}{3}^{\text{rd}}$  to be paid for all hours worked at night between the hours of 11pm and 6am when this is part of the normal working week. There is no provision for enhanced rates to be paid when night work is carried out when it is not part of the normal working week and this therefore needs to be agreed locally.

### **3. Local Conditions of Service**

- 3.1 There is no local collective agreement on enhanced rates payable for night working when this is not part of an employee's normal working week. Both Stoke City Council and Stafford Borough Council have been contacted for details of what arrangements they have in place to cover such circumstances but unfortunately, neither have been able to provide any relevant information.

### **4. Issues**

- 4.1 Officers initially proposed that an enhanced rate of time +  $\frac{1}{3}^{\text{rd}}$  be paid for all hours worked by volunteers at night (ie, between 11.00pm and 6.00am) when this is not part of the normal working week.

- 4.2 The trade unions subsequently submitted an alternative proposal of time +  $\frac{1}{3}$ <sup>rd</sup> *plus a day off* for each night worked. (It should be noted that in the event that employees volunteer to work at night, this is *instead of* their normal working hours. They would not be required to work the following day. The trade union proposal is time and  $\frac{1}{3}$ <sup>rd</sup> *plus an additional day off in lieu of further payment.*) In effect, this is equivalent to an employee's hourly rate being multiplied by a factor of 2.33.
- 4.3 At its meeting on 18 February 2013, the Employees Consultative Committee resolved:
- (i) To recommend the trade unions' proposal to the Staffing Committee; and
  - (ii) That a further report on the operation of any proposals implemented be submitted in due course, with particular reference to their application to A500 night working cleansing operations.
- 4.4 At the meeting of the Staffing Committee on 13 March 2013, it was agreed that the matter be deferred to allow Officers to have further discussions with the trade unions.
- 4.5 Subsequently, the Head of Operations had discussions with the Secretary of the Employees Side Joint Consultative Committee, raising the council's offer first to time +  $\frac{1}{2}$  and then to time +  $\frac{3}{4}$  in respect of A500 night working.
- 4.6 Both offers were rejected and as it was necessary for a proposal to be clarified in relation not only to A500 cleansing work but also civil contingency situations, the matter was discussed briefly with the trade unions at a meeting with the Head of HR and the Chair of the Employees Consultative Committee on 10 May 2013 when it was agreed that Officers would confirm a revised proposal to cover both scenarios.
- 4.7 Other than several Streetscene employees being asked to volunteer to work at night for approximately one week per year, to undertake cleansing works on the A500, the need for volunteers to work at night on an occasional basis is extremely rare.
- 4.8 It is necessary to ensure that any enhancements/arrangements made to compensate employees who volunteer to change their hours of work on an occasional basis are fair and operationally viable and the associated staffing costs are reasonable and justifiable.

## **5. Revised Proposal**

- 5.1 After further discussions with the Secretary of the Employees Side Joint Consultative Committee, the council's revised proposal is as follows:
- *For all hours worked between the hours of 7pm and 7am by employees who have volunteered to undertake night work instead of working the hours they would work during a normal working week, in addition to their normal pay they be be paid an additional hourly rate equivalent to  $\frac{3}{4}$  of their normal hourly rate (based on a 37 hour working week)*
  - *The additional payment to apply provided the hours worked include a four-hour period from 11pm to 3am.*
  - *The additional payment also to apply during authorised breaks.*

## 5.2 Employees working flexible hours

The enhanced rate would be payable for all hours not covered by Standard and Enhanced Flexible Working Scheme which is 7am to 7pm.

Civil contingency emergency examples:

- (i) An employee on Grade 6 (grade max £21,734 – hourly rate based on 37 hours £11.26) and who is on the Standard Flexible Working Hours Scheme volunteers to work an 8 hour 'shift' assisting at a Rest Centre from 10pm on a Monday evening to 6.00am on the Tuesday morning.

The employee would continue to be paid their normal monthly salary plus a payment of £67.56 ( $£11.26 \times 0.75 \times 8$ ) and they would not be required to attend work on the Tuesday.

- (ii) An employee on Grade 6 who is on the Standard Flexible Working Hours Scheme volunteers to work an 8 hour 'shift' assisting at a rest centre from 10.0pm on a Friday evening through to 6.00pm on a Saturday morning would receive an additional payment of £67.56 and would not be required to attend work on the following Monday.

## 5.3 Summer/winter working arrangements (Streetscene employees/planned A500 nightworking)

Streetscene employees receive a monthly salary based on an average 37 hour working week but their actual hours of work vary between 45 per week during the summer period and 32 per week during the winter period.

The enhanced rate would be payable for all hours worked between the hours of 7pm and 7am by employees who have volunteered to undertake night work instead of working the hours they would work during a normal either summer working or winter working week (whichever applies at the time).

## 5.4 Planned A500 night work

A500 street cleansing work would have to be scheduled so that employees who volunteer to work at night are not required to attend work on the day on which the night work has been completed.

This can be managed either by the night work being scheduled for a full week (Monday to Friday), or employees working for consecutive nights at the back end of the week (with the last night worked being the Friday evening/Saturday morning), or by use of rest days, or in the winter working period using a non-working day, or re-scheduling a non-working day as appropriate.

Streetscene examples:

- (i) During the summer working period (45 hours per week worked – 9 hours per day), a Grade 6 (grade max £21,734 – hourly rate based on 37 hours £11.26) Streetscene employee volunteers to work a 9 hour 'shift' undertaking night street cleansing work for a period of 3 nights (Wednesday, Thursday, Friday) between the hours of 10pm and 7am.

They would continue to be paid their normal monthly salary plus a payment of £228.00 (£11.26 x 0.75 x 9 x 3) (£76.00 per night).

- (ii) During the winter working period (32 hours worked over 4 days – 8 hours per day) a Grade 6 Streetscene employee volunteers to work an 8 hour 'shift' undertaking night street cleansing work for a period of 3 nights (Monday, Tuesday, Wednesday) between the hours of 10pm and 7am.

They would continue to be paid their normal monthly salary plus a payment of £202.68 (£11.26 x 0.75 x 8 x 3) (£67.56 per night)

Their winter 'non-working' day would, if necessary, be re-scheduled to be taken on the Thursday.

Being based on a 37 hour working week, the enhancement paid equates to an hourly payment that is only slightly lower (81p per hour for a Grade 6 employee) than the payment made to Streetscene employees previously when carrying out A500 street cleansing duties and it is envisaged that on this basis, it is likely that a sufficient number of employees would volunteer.

In accordance with current overtime working arrangements, for any additional hours worked by volunteers at night in excess of:

- 7.4 hours – employees on Flexible Working Scheme
- 9 hours – Streetscene employees during summer working
- 8 hours – Streetscene employees during winter working

an overtime payment would be paid based on the employee's standard hourly rate (ie, based on a 37 hour working week) as follows:

- additional hours worked between midnight and 6am – time and three quarters
- all other times – time and a half
- employee on Grade 10 or above to be paid at single time only

- 5.5 It is considered that the above proposal is cost effective, workable, fair, equitable and reasonable having regard to employer's oncosts and current budget constraints.
- 5.6 The trade unions have indicated that they still support the alternative proposal they submitted previously (see paragraph 4.2 above) i.e. time + one third *plus an additional day off in lieu of further payment.*
- 5.7 The revised proposal was discussed at the Employees Consultative Committee on 24 March 2014 when Committee recommended that the revised offer be approved. However, the trade unions were of the view that their existing alternative proposal (detailed at 4.2) should be implemented.

## **6. Options Considered**

- 6.1 Depending on both budget and operational commitments, it may on occasions be appropriate for night work to be carried out by non-council staff as an alternative to use of volunteers.

**7. Legal and Statutory Implications**

- 7.1 As employees would be volunteering to change their working hours, there would be no contractual issues.
- 7.2 It would be necessary to ensure that the number of consecutive nights worked, the pattern of hours worked at night and associated rest breaks are in accordance with the requirements of the European Working Time Directive.

**8. Equality Impact Assessment**

- 8.1 Any enhancements/arrangements approved will be applied equally to all employees.

**9. Financial and Resource Implications**

- 9.1 The cost of any enhanced payments would need to be financed either from within existing approved salary budgets or from income generated by undertaking the work.

**10. Major Risks**

- 10.1 The authority is required to undertake cleansing of verges and the central reservation of the A500 on average, on an annual basis.

**11. List of Appendices**

Appendix A                      Details of agreements on enhanced payments paid to Streetscene employees who volunteered to change their working hours re A500 cleansing works in September 2010.

Appendix B                      Revised Proposal.

**12. Earlier Committee Resolutions**

Employees Consultative Committee – 17 October 2012  
Employees Consultative Committee – 18 February 2013  
Staffing Committee – 13 March 2013  
Employees Consultative Committee – 24 March 2014

**Re: Night Working, A500**

In conjunction with partners from Stoke-on-Trent City Council and Stafford Borough Council, an agreement was reached to carry out cleansing works on the A500 from Junction 15 to 16.

Employees were to be invited to participate in the cleansing operations from Streetscene Services at Newcastle Borough Council. Selection would be carried out by a fair and equitable process agreed with employees who volunteered.

Newcastle Borough Council does not have a night working agreement and discussions have taken place between the Human Resources and Streetscene Management sections of the council.

The sections accept that the employees who have taken part have done so as a good will gesture, knowing that there was no agreement in place at the time of carrying out the cleansing operation of the carriageway indicated.

The Management have made an offer to the Trade Unions, on a one off basis, of double time of the hourly rate received at the time the duties were carried out. Payment would be made for all hours employed, inclusive of any breaks taken.

This would effectively identify that the calculation would be as follows:

Hours of Work x Hourly Rate

e.g.	Monday night start time	8.30 pm
	Tuesday morning finish time	6.00 am
	Rate of pay per hour (taking into consideration season)	45 <sup>th</sup> rate per hour x 9.5

This calculation would follow through the week.

There would be no payment for the normal working day as this would not be worked and would be classed as rest time.

This agreement is accepted as a one off payment and both the Management and the Trade Unions accept the spirit of the agreement.

### NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

#### **Enhancements for Night Working**

##### **1. Employees volunteering to undertake night working**

- 1.1 For all hours worked between the hours of 7pm and 7am by employees who have volunteered to undertake night work instead of working the hours they would work during a normal working week, in addition to their normal pay they be be paid an additional hourly rate equivalent to  $\frac{3}{4}$  of their normal hourly rate (based on a 37 hour working week)
- 1.2 The additional payment to apply provided the hours worked include a four-hour period from 11pm to 3am.
- 1.3 The additional payment also to apply during authorised breaks.

##### **2. Employees working flexible hours**

- 2.1 The enhanced rate would be payable for all hours not covered by Standard and Enhanced Flexible Working Scheme which is 7am to 7pm.

##### **3. Summer/winter working arrangements (Streetscene employees/planned A500 nightworking)**

- 3.1 Streetscene employees receive a monthly salary based on an average 37 hour working week but their actual hours of work vary between 45 per week during the summer period and 32 per week during the winter period.
- 3.2 The enhanced rate would be payable for all hours worked between the hours of 7pm and 7am by employees who have volunteered to undertake night work instead of working the hours they would work during a normal either summer working or winter working week (whichever applies at the time).

##### **4. Planned A500 night work**

- 4.1 A500 street cleansing work is to be scheduled so that employees who volunteer to work at night are not required to attend work on the day on which the night work has been completed.
- 4.2 This is to be managed either by the night work being scheduled for a full week (Monday to Friday), or employees working for consecutive nights at the back end of the week (with the last night worked being the Friday evening/Saturday morning), or by use of rest days, or in the winter working period using a non-working day, or re-scheduling a non-working day as appropriate.
- 4.3 Streetscene employees' winter 'non-working' days will, if necessary, be re-scheduled to be taken on the day following which night working has been completed.

## 5. **Overtime Working**

5.1 In accordance with current overtime working arrangements, for any additional hours worked by volunteers at night in excess of:

7.4 hours – employees on Flexible Working Scheme

9 hours – Streetscene employees during summer working

8 hours – Streetscene employees during winter working

an overtime payment would be paid based on the employee's standard hourly rate (ie, based on a 37 hour working week) as follows:

- additional hours worked between midnight and 6am – time and three quarters
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