

1. NIGHT WORKING RATES

Submitted by: Executive Management Team

Portfolio: Finance and Budget Management

Purpose of the Review

To determine the level of pay enhancements to be paid to employees who volunteer to work at night on an occasional basis instead of their normal working hours.

Decision Required

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

The trade unions have proposed time + $\frac{1}{3}$ rd plus the number of hours worked to be taken as time off in lieu.

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 Streetscene staff carried out cleansing works on the A500 for several consecutive nights. On this occasion, a 'one-off' payment based on double time for all hours worked was made on the basis that this would not be used as a precedent for future occasions (see Appendix A).

1.3 **National Conditions of Service (NJC)**

The National Conditions of Service provide for time + $\frac{1}{3}$ 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.

1.4 **Local Conditions of Service**

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.

Proposal

Officers have proposed that an enhanced rate of time + $\frac{1}{3}$ 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. Following a meeting with the Chair of the Employees Consultative Committee and the Head of Human Resources on 28 January 2013, the trade unions submitted an alternative proposal as follows:

We the Joint Trade Unions would like to make it known to Chief Officers and Elected members alike, that we understand and sympathise with them over the current financial difficulties that we as a Local Authority face.

But we would also like to make it known that currently we have had no pay rise for what is entering the fourth year now, and cannot agree a payment of time + $\frac{1}{3}$ for night time working, also after doing a consultation with streetscene staff late last year confirming our belief that no volunteers would come forward and agree to work nights on that basis.

However we do appreciate the need to have commitments and procedures in place to overcome any emergency situations such as the Emergency Civil Contingency Procedures and once or twice a year one off requirements such as the A500 Night Work Cleansing.

We believe that we could take to our members a proposal of payment of time+ $\frac{1}{3}$ plus time off in lieu for all night working, on the assumption that the work required would be for a full day comprising of more than half their normal working hours.

Anything below half of the normal working hours we would ask that the current overtime agreements apply.

We would also ask that no Employee be financially worse off than they would have been had they continued to perform their current employed hours of work. The reasoning to this proposal would mean that there would be no financial burden to the employer up and above the agreed time+ $\frac{1}{3}$ and the Employers recognise the commitment of those employees by awarding them time in lieu.

- 1.5 At its meeting on 18 February 2013 the Employees Consultative Committee resolved:
- (i) That acceptance of the trade unions' proposal as set out in the report be recommended to the Staffing Committee;
 - (ii) That a further report on the operation of any proposals implemented be submitted in due course, with particular reference to their applications to A500 night working cleansing operations.

2. **Issues**

- 2.1 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.
- 2.2 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.

3. **Options Considered**

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

4. **Legal and Statutory Implications**

- 4.1 As employees would be volunteering to change their working hours, there would be no contractual issues.
- 4.2 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.

5. **Equality Impact Assessment**

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

6. **Financial and Resource Implications**

- 6.1 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.

7. **Major Risks**

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

8. **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

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 th 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.