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Supplement - Agenda Item 26

Questions under Standing Order No. 20.

Cllr Paul Stone has asked for responses to a number of questions under Standing Order 20 on the matter of zero hours contracts.

Cllr Graham King, Executive Member for Governance and Organisational Development, has provided written responses to these questions.

Attached are the questions and written responses, the Council's Zero Hours Policy and the Equalities Impact Assessment in relation to this policy.

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Agenda Item 26

QUESTIONS UNDER STANDING ORDER 20

Cllr Paul Stone has asked for responses to a number of questions under Standing Order 20 on the matter of zero hours contracts.

Cllr Graham King, Executive Member for Governance and Organisational Development, has provided written responses to these questions.

1. Is it true, that in October 2014, Chesterfield Borough Council were using 218 Zero Hour contracts?

This answer was provided in response to an earlier question raised by Cllr Paul Stone and based on the numbers in October 2014. The figures were also provided in the Equality Impact Assessment (EIA) appended to the Council's new Zero Hours Policy, which was presented to the Employment & General Committee on 3 November 2014.

A copy of the Policy and EIA are attached for ease of reference.

As at 17 December 2014, there are 183 staff employed in 222 zero hours contract roles. Many of these staff already fulfil full or part time roles with the Council and other local employers, and choose to work on zero hours contracts at our cultural venues and sports facilities to supplement their income. 29 of the 183 staff hold two or more roles. And 30 of the staff are employed as fitness instructors where the flexibility offered by zero hours contracts supports the peripatetic nature of their roles.

2. Will staff be treated any differently, because they are unable to work outside of their contracted hours, due to other employment?

Employees on zero hours contracts have the same rights and terms and conditions as those employed on contracted hours.

These benefits include the accrual of continuous local government service and incremental progression through pay scales. In return for these benefits, there is an expectation that employees will regularly be available to work shifts when offered.

The Council recognises that employees on zero hours contracts may have other work commitments. A zero hours contract with the Council may be in addition to other full-time work. It should be acknowledged that the needs of the service and

the personal circumstances of employees will change over time. However, where there is evidence that an employee regularly refuses or is unavailable to work then a decision may be made to terminate the contract of employment in accordance with the Council's Disciplinary and Dismissals Policy and Procedures.

See also Section 2 of the attached Policy.

3. Do staff have the right to compensation if shifts are cancelled at short notice?

Generally if a shift has to be cancelled then as much notice is given as possible. It is rare that the Council cancels the shift of a zero hours contracted employee at short notice but if this was to happen, then in the first instance, the employee would be offered an alternative shift.

4. Do staff have the right to request a contract with a 'minimum amount of work' after six months of employment?

No, there is no right to request 'a minimum number of hours' contract after six months. If there is a vacancy for a fixed hours role, then zero hours contracted employee(s) are routinely given the first opportunity to apply for the role. This has happened recently in the sports and leisure service.

5. Do staff have an automatic right to a fixed-hours contract after 12 months?

There is no automatic right to a fixed hours contract after 12 months. If a vacancy for a fixed hours role arises, then again zero hours contracted employees will be given the first opportunity to apply for the position.

6. When managers are covering hours with staff on zero hour contracts, how are hours distributed fairly between the staff?

Section 2 of the policy refers to the allocation of shifts:

Fairness and transparency should apply when allocating available shifts to employees on zero hours contracts. Managers should be aware of employees' 'protected characteristics' (e.g. age, ethnicity, race, gender, gender reassignment and marriage and civil partnership, disability, religious and belief, sexual orientation or political allegiance) and be mindful of the Council's Equality, Diversity and Social Inclusion Policy when developing rotas for work.

The Council recognises that often the need to utilise employees on zero hours contracts is as a result of an unplanned shortage in available staff. Failure to cover a shift may have a serious impact on the Council's ability to deliver

services and meet customer expectations. During such situations there may be an urgency to ensure that a particular shift is covered and that service delivery is guaranteed. Where this is the case, managers should continue to apply the principles of fairness and transparency.

Managers should balance the need to reward staff who are regularly available to cover shifts and the need to avoid favouritism of individuals. Regular reviews of employee availability may help when managers are required to cover shifts at short notice.

Furthermore, regular use of all available staff will help to maintain skills and knowledge as well as commitment to the organisation.

7. What methods are in place to balance the unfair distribution of hours, between male and female staff?

There is no evidence that there is an unfair distribution of hours and the response at Q6 above provides guidance on the allocation of hours. There are currently slightly more females than males on zero hours contracts, reference to which is made in the attached EIA.

8. How many part and full time posts have been created at the leisure centres, for staff who were previously employed on zero hour contracts?

When contracted hours posts become vacant, these are advertised internally first to give zero hours contracted employees the first opportunity to apply.

In addition, there has recently been a review of zero hours posts and 5 new posts created with annualised hours totalling 90 hours per week. This provides employees with a guaranteed number of hours per year, whilst still enabling the flexibility required for the delivery of the service.

9. Have any 'contracted hours' posts within the last 2 years been replaced by zero hour contracts?

No. Any 'contracted hours' posts that become vacant are always filled on a like for like basis.

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Zero Hours Policy

Prepared by: Human Resources
Date: November 2014
For Review: November 2017
Approved by Employment and General Committee on: 3rd November 2014

Preface

Chesterfield Borough Council is committed to the fair treatment of its workforce regardless of the different contractual arrangements that they are engaged on.

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SECTION 1: Policy for Variable / Zero Hours

The term 'variable hours' or 'zero hours' refers to a contract of employment where the Council is not obliged to provide a minimum number of working hours and where the employee is not obliged to accept any hours that are offered.

Chesterfield Borough Council recognises the valuable role played by employees on variable hours contracts in delivering a wide range of services. The flexibility provided by these staff is essential in ensuring that service delivery is maintained at the highest possible standards. Variable hours contracts also allow flexible employment opportunities for people wanting to work around their personal circumstances.

Zero hours contracts should primarily be used where there is an immediate short term need to cover services. Where there is a recognised and ongoing requirement for work, then some form of contracted hours should be established.

The Council is committed to ensuring that variable hours staff are not exploited as a result of their zero hours status. This will be achieved through:

1. Engaging staff on the same terms and conditions as employees with contracted hours.
2. Regular reviews (at least once per annum) on the use of zero hours staff to determine whether a contracted position is required.
3. Not implementing exclusivity clauses within contracts which prevent zero hours staff working for other employers.

Scope

The Council recognises that there are variations of 'zero hours' contracts which have different employment statuses. Staff engaged on 'Casual' agreements are considered to be workers (i.e. non-employees) while those engaged on 'Variable Hours' contracts are considered employees.

Workers are not considered employees of the Council and will therefore not accrue continuous service. In addition, incremental progression through pay scales will not be achieved. Instead 'casual workers' will remain at the base spinal column point of the appropriate pay grade.

This Policy will apply to all established and temporary employees employed by Chesterfield Borough Council. However, the principles of fairness will apply to all workers irrespective of their employment status.

Alternatives to variable hours contracts

Before taking on additional zero hours staff, managers should conduct a review in order to determine whether a contracted position is required. Where it has been identified that a

contractual hours post is appropriate, managers may seek to establish one or more of the following contracts on a permanent or fixed term basis: -

1. Full-time contract – where there is an ongoing requirement of 37 hours per week and where the role would ideally be filled by one person.
2. Part-time contract – where there is an ongoing requirement of less than 37 hours per week or where the role would ideally be filled by more than one person. Filling a post with two or more part-time contracts may help provide flexibility for occasional cover during periods of sickness and annual leave through the use of additional hours. However, managers should continue to review the use of additional hours in case there is a need for further contractual hours to be established.
3. Annualised hours contract – where there is an ongoing requirement for work but where this requirement follows a pattern of peaks and troughs. The use of annualised hours may allow managers to issue contractual hours while maintaining the flexibility to cover peaks in demand.

SECTION 2: General Terms and Conditions – Guidance

Employees on variable hours contracts will be engaged on the same main terms and conditions of employment as those employees with contracted hours.

Continuous Service

Employees on variable hours contracts will accrue service with Chesterfield Borough Council. This service will commence from the date of the first shift (including induction / training) completed by the employee.

Annual Leave

Staff working on a variable hours contract shall have their annual leave calculated every 13 weeks in arrears. The allowance will be given and taken in hours.

Sickness Absence

Employees on variable hours contracts should adhere to the Council's Managing Attendance Policy.

Variable hours staff who cannot attend work due to sickness should follow the same local reporting procedures as those employees with contracted hours. All employees are required to attend return to work interviews following every period of absence due to sickness. Periods of absence up to seven days may be self-certificated. Absences longer than 7 days will require an appropriate Fit-Note.

Variable hours staff will receive a payment based on the average earnings in the 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned. Entitlements to sick pay are dependent on the length of accrued continuous service.

Expectations for conduct

Employees on variable hours contracts must adhere to all of the Council's policies and procedures.

Expectations for availability

Employees on variable hours contracts benefit from the same terms and conditions as those employees on contractual hours. These benefits include the accrual of continuous local government service and incremental progression through pay scales. In return for these benefits, there is an expectation that employees will regularly be available to work shifts when offered.

The Council recognises that employees on zero hours contracts may have other work commitments. The zero hours contract with the Council may be in addition to other full-time work. It should be acknowledged that the needs of the service and circumstances of employees will change over time. However, where there is evidence that an employee regularly refuses or is unavailable to work then a decision may be made to terminate the contract of employment in accordance with the Council's Disciplinary and Dismissals Policy and Procedures.

Induction / Training

It is a mandatory requirement for all employees to attend the Council's corporate induction programme. The Council recognises that employees on variable hours contracts may have other commitments which prevent them from attending the usual induction programme during normal office hours. Employees on variable hours contracts will be invited to attend a shortened version of the full induction programme and will be paid at the appropriate rate for attending. Similar arrangements should be put in place where there is a corporate mandatory requirement for all employees to attend a particular training course.

Employee Performance Development (EPD)

Line managers should follow the same process for completing EPDs as they would for those employees with contracted hours. However, where appropriate, managers may choose to conduct EDPs as a group or team. If this is the case, then employees will also have the option to have an EPD on an individual basis if they wish to do so.

Allocation of shifts

Fairness and transparency should apply when allocating available shifts to employees on variable hours contracts. Managers should be aware of employees' 'protected characteristics' (e.g. age, ethnicity, race, gender, gender reassignment and marriage and civil partnership, disability, religious and belief, sexual orientation or political allegiance) and be mindful of the Council's Equality, Diversity and Social Inclusion Policy when developing rotas for work.

The Council recognises that often the need to utilise employees on zero hours contracts is as a result of an unplanned shortage in available staff. Failure to cover a shift may have serious impact on the Council's ability to deliver services and meet customer expectations. During such situations there may be an urgency to ensure that a particular shift is covered and that service delivery is guaranteed. Where this is the case, managers should continue to apply the principles of fairness and transparency.

Managers should balance the need to reward staff who are regularly available to cover shifts and the need to avoid favouritism of individuals. Regular reviews of employee availability may help when managers are required to cover shifts at short notice. Furthermore, regular use of all available staff will help to maintain skills and knowledge as well as commitment to the organisation.

Notice for shifts

Employees on variable hours contracts should be given as much notice as possible where managers are aware of planned absences such as annual leave and training. This will help to ensure that shifts are covered and reduce the need to contact staff at short notice. Where less than 24 hours' notice has been given to attend a shift, then this should be taken into account when considering the employees' overall availability to work.

Chesterfield Borough Council

Equality Impact Assessment - Full Assessment Form

Service Area: Human Resources

Section: Human Resources

Lead Officer: Jane Dackiewicz

Title of the policy, project, service, function or strategy the preliminary EIA is being produced for: Zero Hours Policy and Guidance

Is the policy, project, service, function or strategy:

Existing

Changed

New/Proposed

STEP 1 – MAKE SURE YOU HAVE CLEAR AIMS AND OBJECTIVES

What is the aim of the policy, project, service, function or strategy?

- To ensure the fair treatment of the Council's workforce regardless of the different contractual arrangements that they are engaged on.
- To ensure the flexible delivery of a wide range of Council services
- To provide flexible employment opportunities for people

Who is the policy, project, service, function or strategy going to benefit and how?

The policy will benefit:

- Council staff who are engaged on a zero hours basis – through benefiting from the same terms and conditions as employees on contracted hours, and through guidance on the fair allocation of shifts.
- People wanting more flexibility to work around their personal circumstances
- Where there is a more long-term ongoing requirement, zero hours employees will benefit from opportunities to gain contracted hours.

What outcomes do you want to achieve?

The Council is committed to ensuring that variable hours staff are not exploited as a result of their zero hours status. This policy also ensures that a process is in place to monitor and review the use of zero hours contracts, so that the most appropriate employment contract is in place.

What barriers exist for both the Council and the groups/people with protected characteristics to enable these outcomes to be achieved?

Reviews of contracts may lead to a reduction in the use of staff on zero hours contracts.

STEP 2 – COLLECTING YOUR INFORMATION

What existing data sources do you have to assess the impact of the policy, project, service, function or strategy?

Workforce profile.

STEP 3 – FURTHER ENGAGEMENT ACTIVITIES

Please list any additional engagement activities undertaken to complete this EIA e.g. met with the Equalities Advisory Group, local BME groups, Employee representatives etc. Could you also please summarise the main findings.

Date	Engagement Activity	Main findings
26/06/2014	Policy Working Group	Meetings to discuss and agree policy
23/07/2014	Policy Working Group	Meetings to discuss and agree policy
08/09/2014	Policy Working Group	Meetings to discuss and agree policy
29/08/2014	Distributed to Council Managers and Trade Unions	Please see the attached summary of the feedback and responses.

STEP 4 – WHAT’S THE IMPACT?

Is there an impact (positive or negative) on some groups/people with protected characteristics in the community? (think about race, disability, age, gender, religion or belief, sexual orientation and other socially excluded communities or groups). You may also need to think about sub groups within each equalities group or protected characteristics e.g. older women, younger men, disabled women etc.

Zero Hours Contract Equality Profile

These figures are correct as of 3rd October 2014. Total ‘zero hours’ contracts employees – 218. Please note that the profile is based on the employee in each role – there are some employees that have more than one zero hours contract.

Table 1: Zero Hours roles by service area		
Service	No.	Percentage of all zero hours employees in service area
Leisure	103	47%
Tourism and Town Centre	71	33%
Support Services	14	6%
Democratic Services	8	4%
Public Protection and Health	7	3%
Transport and Engineering	7	3%
Environmental Control and Sustainability	5	2%
Landscape Services	2	1%

Table 2: Zero Hours roles by gender		
Gender	No.	Percentage of all zero hours employees
Female	123	57%
Male	94	43%

Table 3: Zero Hours roles by age		
Age Group	No.	Percentage of all zero hours employees
24 years and under	40	18%
25 - 34 years	50	23%
35 – 44 years	35	16%
45 – 54 years	46	21%
55 – 64 years	35	16%
65 years and over	11	5%

Table 4: Zero Hours roles by disability		
Age Group	No.	Percentage of all zero hours employees
Disabled	4	2%
Non-disabled	195	90%
Unknown	18	8%

Table 5: Zero Hours roles by ethnicity	
Ethnicity	Percentage
Indian	0.5%
Italian	1.4%
Mixed background	1.8%
Other White background	1.8%
White British	86.6%
White Irish	0.5%
Prefer not to say	7.4%

Table 6: Zero Hours roles by religion	
Religion	Percentage
Christian	52.7%
Muslim	0.5%
Jewish	1.0%
Sikh	0.5%
Other religion	3.0%
Prefer not to say	3.0%
No Religion	39.3%

Please describe the potential impacts both positive and negative and any action we are able to take to reduce negative impacts or enhance the positive impacts.

Group or Protected Characteristic	Positive impacts	Negative impacts	Action
Overall Impact	<p>Employees will benefit from greater job security through establishing contractual hours where there is a need.</p> <p>The policy ensures that employees employed through Zero Hours contracts benefit from the same terms and conditions as employees with contracted hours – eg. training, appraisals, annual leave, sickness absence and continuous service.</p> <p>The policy also provides guidance to ensure the fair allocation of shifts taking into account protected characteristics of employees.</p>	There is a potentially negative impact through the possible reduction in the use of staff on zero hours contracts.	Provisions included in the policy for reviews of the use of zero hours contracts, and for the fair treatment of employees employed through zero hours contracts.
Age – including older people and younger people.	<p>An analysis of the employees currently engaged on zero hours contracts has shown that there is a relatively even spread of employees across the age groups employed on these contracts. The average age of all CBC employees is the same as the average age of CBC’s zero hours employees (45 years).</p> <p>The policy is not anticipated to have a disproportionate impact on this group.</p>		See overall impact
Disabled people	<p>An analysis of the employees currently engaged in zero hours contracts has shown that 2% of employees have identified themselves as disabled, compared with 7.9% of all employees. The policy is not anticipated to have a disproportionate impact on this group.</p>		See overall impact above
Gender – men, women and transgender.	<p>An analysis of the employees currently engaged in zero hours contracts has shown that there is a slightly higher percentage of female employees than male employees (57% and 43%)</p> <p>The policy is not anticipated to have a disproportionate impact on this group.</p>		See overall impact above
Marital status	See overall impact above - The policy is not anticipated to have a disproportionate impact on this group.		
Pregnant women and people on maternity/paternity.	See overall impact above - The policy is not anticipated to have a disproportionate impact on this group.		

Also consider breastfeeding mothers.	
Sexual Orientation	See overall impact above - The policy is not anticipated to have a disproportionate impact on this group.
Ethnic Groups	93% of the entire CBC workforce is White British, however, an analysis of the employees currently engaged in zero hours contracts has shown that 87% of these employees are White British, with 6% having other ethnic backgrounds. The policy is not anticipated to have a disproportionate impact on this group.
Religions and Beliefs including those with no religion and/or beliefs.	See overall impact above - The policy is not anticipated to have a disproportionate impact on this group.
Other groups e.g. those experiencing deprivation and/or health inequalities.	See overall impact above

From the information gathered above does the policy, project, service, function or strategy directly or indirectly discriminate against any particular group or protected characteristic?

Yes

No

If yes what action can be taken to stop the discrimination?

Please see table above.

STEP 5 – RECOMMENDATIONS AND DECISION MAKING

How has the EIA helped to shape the policy, project, service, function or strategy or affected the recommendation or decision?

Undertaking the EIA and workforce profiling has facilitated an understanding of the characteristics of the employees that will be affected by the policy, and to anticipate the impact on them.

How are you going to monitor the policy, project, service, function or strategy, how often and who will be responsible?

The policy will be monitored by HR, and Managers will be responsible for monitoring and reviewing the use of zero hours contracts.

STEP 6 – KNOWLEDGE MANAGEMENT AND PUBLICATION

Please note the draft EIA should be reviewed by the appropriate Head of Service/Service Manager and the Policy Service before WBR, Lead Member, Cabinet, Council reports are produced.

Reviewed by Head of Service/Service Manager

Name:

Date:

Reviewed by Policy Service

Name: Katy Marshall

Date:

Final version of the EIA sent to the Policy Service

Decision information sent to the Policy Service

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