

Report To: Cabinet

Date: 8 September

Report Title: Annualised Hours Policy

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**Portfolio Holder: Cllr Clair Bell - Public Interaction & Borough Presentation
Cllr Callum Knowles - Information Technology & Communications**



**ASHFORD
BOROUGH COUNCIL**

Summary:

The introduction of the in-house Grounds Maintenance function and the proposed operating structure includes an annualised hours pattern in order to reflect the seasonality of work of this nature.

Therefore the introduction of an Annualised Hours Policy for all Grounds Maintenance staff is proposed.

Staff currently performing the work associated with the borough's grounds maintenance function are employed by Landscape Services Limited and consultation regarding their TUPE transfer to Ashford Borough Council is ongoing. This grouping of individuals currently work according to an annualised hours working pattern.

Recommendations Cabinet is asked to

- (i) Review, comment on and approve the new Annualised Hours Policy.**

Policy Overview

This policy will form part of the Conditions of Service and will therefore be contractual for those employees who work according to an annualised hours working pattern and are a common way in which an organisation can handle seasonality in demand.

Annualised hours working patterns provide not just flexibility for an organisation, but also stability for both employee and employer as salary costs are fixed and predictable.

The averaging out of working hours across a 12-month period creates some complexities in the way other contractual terms are handled and therefore the proposed policy includes elements such as calculation of hours of work, calculation of salary, holiday entitlement and accrual, overtime payments, sick pay and parental leave payments,

new starters/starting part way through a year and termination of employment.

Financial Implications: No additional financial implications are anticipated although note should be taken of situations in which an employee leaves their employment part way through a leave year and there is a credit or debit of hours. Within the policy managers and employees are encouraged to manage the balance of hours in such situations (where ever possible).

Risk Assessment Yes.

Impact Assessment Yes.

Other Material Implications: None.

Exemption Clauses: None.

Background Papers: None

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Purpose of the Report

1. To introduce, and seek approval of a new Annualised Hours Policy (Appendix One) that sets out clear standards and expectations for employees working an Annualised Hours working pattern.

Background

2. In September 2015 Cabinet agreed to take the Grounds Maintenance function in house, this matter was dealt with in the September Cabinet Paper 'Landscape Management: Improving Presentation of the Borough; Creating an In House Service' and this paper provided delegations to Heads Of Services to take necessary steps to give effect to the recommendations of this report, including developing and consulting on an operational structure for this new service. An Annualised Hours working pattern, and accompanying Policy, is recommended as part of this operational structure whereby operational staff work longer hours in the summer periods and shorter hours in the winter periods. Such a pattern is intended to maximise productivity and reflect the seasonality of the grounds maintenance work.
3. Annualised Hours working patterns form part of an employee's contract of employment and are a common way in which an organisation can handle seasonality in demand. Annualised hours working patterns reflect seasonal peaks and troughs in working hours yet provide a 'flat payment' for employees averaging out their hours worked across a year period. Annualised Hours working patterns provide not just flexibility for an organisation, but also stability for both employee and employer as salary costs are fixed and predictable.
4. Staff currently performing the work associated with the borough's grounds maintenance function are employed by Landscape Services Limited and should TUPE transfer to Ashford Borough Council as part of the service being taken in-house. These staff currently work 39 or 40 hours per week, according to an annualised hours working pattern. Landscape Services Limited have provided some generic information as to how this working pattern is dealt with, namely:
 - a. *Working Pattern - Annualised Hours. Definition – A set number of hours are worked over a year. Manager and employee agree how the work is covered on a flexible basis to match job demands and employee availability.*
 - b. *To calculate the annual hours to be worked: Number of weeks per year, less annual leave and bank holidays, multiplied by the number of working hours per week.*
 - c. *To calculate Salary: FTE Annual Salary ÷ 37 x average notional hours per week = annual salary.*

(taken from The Blue Book Kent Scheme April 2013).
5. Landscape Services Limited have indicated that local working arrangements are in existence and information about such patterns will come forward as part of the formal TUPE consultation process. Consultation regarding these patterns and the proposed application of the annualised hours policy will feature in the consultation process.

Policy Proposals

6. The policy provides guidance for the Council, as the employer, for the employee to follow in the practical application of Annualised Hours working patterns.
7. The policy will enable the new in-house grounds maintenance service, and possibly other services in the future, to implement Annualised Hours working patterns.
8. The policy includes sections on Scope, Annualised Hours Working Patterns, Calculation of Hours Of Work, Flexible Working Hours, Calculation of Monthly salary, Holiday Entitlement And Accrual, Overtime Payments, Sickness Payments, Parental Leave Payments, Starting Employment Part Way Through an Annualised Hours Year, Termination of Employment.

Risk Assessment

9. The policy takes into account the Council's other relevant Policies, i.e. Annual Leave, Flexible Working Hours Policy, Sickness Policy and Overtime and Associated Allowances Policy, and outlines the application of these policies for employees who have an annualised Hours Working Pattern.
10. The Policy also takes into account employees rights to parental leave and ensures that they are not treated less favourably on the grounds of their Annualised Hours working pattern, thus removing the risk of any claims of indirect discrimination based on the demographic of the working group.
11. There is a risk of litigation from transferring employees if the consultation is not handled in a thorough and legally compliant manner. However, the TUPE consultation process has been carefully planned with Landscape Services Limited and an agreed Consultation Plan is being followed.
12. Inconsistent and incorrect application of the Policy could result in employee relations issues arising and possible discrimination claims being brought against the council.

Handling

13. Prior to implementation of the Policy, there will need to be a clear consultation process to ensure all transferring employees are aware of the implications of this policy and other measures associated with the transfer.
14. Employment contracts for new employees working to an annualised Hours Working Pattern will include reference to their Annualised Hours working pattern and they will have a specific and relevant contract of employment.

Community Impact Assessment

15. No adverse impact is anticipated on any particular group with a protected characteristic.

Consultation

16. The Joint Consultative Committee considered this policy on 7th July 2016 and recommended that it was approved.

Conclusions

17. For an effective and efficient Grounds Maintenance Operation it is necessary to introduce an Annualised Hours working pattern to be able to respond to seasonal peaks in workload. To ensure a fair and consistent application of the Annualised Hours working pattern it is important that we have laid out how this working pattern will impact on other terms and conditions such as annual leave and rights to parental leave etc. The attached policy outlines how officers working an Annualised Hours working pattern can expect some of their related terms and conditions to be managed as well as what to expect when they leave and join the working pattern.

Portfolio Holder's Views

18. I support the introduction of this policy, following appropriate consultation with affected individuals, and understand it to be a reasonable method through which to reflect the practical application of an annualised hours working pattern – Cllr C Bell.

Contact

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Appendix One

Annualised Hours Policy

The detail contained within this policy document should only be read in conjunction with your contract of employment (written statement of particulars) if you are employed under an Annualised Hours working pattern.

For clarification as to whether this policy document applies to you please refer to your contract of employment or a member of the Personnel team.

1. Introduction

1.1 Annualised Hours working patterns form part of an employee's contract of employment and are a common way in which an organisation can handle seasonality in demand.

1.2 Annualised Hours working patterns reflect seasonal peaks and troughs in working hours yet provide a 'flat payment' for employees averaging out their hours worked across a 12 month (annual) period.

1.3 Annualised Hours working patterns provide not just flexibility for an organisation, but also stability for both employee and employer as salary costs are fixed and predictable.

2. Scope

2.1 The Annualised Hours Policy applies only to employees contracted to work an Annualised Hours working pattern. An employee's contract of employment (written statement of particulars) will expressly outline whether or not their contract is an *annualised hours contract*.

3. Annualised Hours Working Patterns

3.1 Annualised Hours working patterns can be implemented following an employee's flexible working request which has been accepted by the Council and implemented.

3.2 A wider requirement for an annualised hours working pattern emerges as Services seek to gain stability and reliability in services that either experience predicted, variable demands from service users or require a variable input across a calendar year

3.3 Employee's engaged on an annualised hours contract of employment will be provided with a detailed outline of their specific annualised hours working pattern and applicable future shift pattern. The Council reserves the right to make changes to such specific working patterns following proper consultation with affected employees

3.4 Within an Annualised Hours working pattern a set number of hours are worked over a year. The Head of Service, with advice from the Personnel Team will produce the detailed outline of the specific annualised hours working pattern and the applicable future shift pattern which best meets the demands of the Service and the requirement of service users. Due consideration must be given to appropriate rest breaks and rest days within a shift pattern in accordance with the Working Time Regulations.

4. Calculation of Hours of Work

4.1 The total number of hours to be worked in each year period is agreed at the commencement of employment. Employees will work their contractual hours over an annual period and the number of hours that the employee is required to work is expressed as a net figure after deducting contractual annual leave and statutory bank holiday entitlement.

4.2 *To calculate the annual hours to be worked take the number of weeks per year, less contractual annual leave and statutory bank holiday entitlement, multiplied by the average number of working hours to be worked per week equals the total annual contracted hours. For example 52 weeks – 5.6 weeks x 40 hours per week = 1856 hours.*

4.3 It is the responsibility of the appropriate manager and Head of Service to ensure that employees do not carry anything other than a nominal debit or credit of hours into the following annual period.

5. Flexible Working Hours

5.1 Unfortunately, and in accordance with the Council's Flexible Working Hours Policy, employees engaged on an Annualised Hours working pattern may not utilise the flexi-time system. This is due to the fact that the nature of their work restricts them from working regular hours or they are required to work to a specified shift pattern.

6. Calculation of Monthly Salary

6.1 The Council averages out an annualised hours salary based on total hours contracted to work over the year in addition to annual leave and bank holiday entitlement. This ensures employees receive the same basic amount of pay each calendar month, regardless of actual hours worked in that month.

7. Holiday Entitlement and Accrual

7.1 Annual leave is expressed in units of hours instead of days for all employees regardless of their working pattern in order to ensure fairness for all and equal application of a leave entitlement across a shift pattern.

7.2 All employees on Annualised Hours working patterns must make themselves available to work an appropriate amount of statutory bank holidays as determined by the needs of the service.

7.3 Annual leave and bank holiday entitlement is included as part of the monthly salary for annualised hours contracts. Both contractual annual leave and statutory bank holiday entitlement is deducted from the employees' total available hours and, although it still needs to be booked in accordance with the Annual Leave policy it does not feature within the monthly pay statement.

7.4 Annual leave must be requested and agreed by the employee's line manager in accordance with the Council's Annual Leave Policy.

8. Overtime Payments

8.1 The nature of Annualised Hours working patterns avoid the requirement for significant amounts of overtime to be worked due to the fact that the applicable shift pattern aims to take account of predictable peaks and troughs in work. However, there may be a requirement for overtime to be worked and paid and therefore approval for overtime must be sought in advance from the appropriate Head of Service. Overtime will only be paid if the employee is contractually entitled to receive such payment and only then in accordance with the Council's Overtime and Associated Allowances Policy.

9. Sickness Payments

9.1 Employees engaged on an Annualised Hours contract and working pattern are eligible for normal provisions of the Council's sickness payments scheme. However, entitlement for sickness payment will be based upon the number of days that the employee was scheduled to work, according to the shift pattern, in that sickness period. Payment for that sickness period will be based upon the method of calculating normal monthly salary payments (see above). An appropriate adjustment will be made to the employees bank of contracted hours to be worked.

10. Parental Leave Payments

10.1 Employees are entitled to receive the same rights to parental leave and associated payments as any other employee not engaged on an annualised hours contract of employment. However, owing to the complexity of entitlements in this area employees wishing to gain further information about their specific payments are invited to meet with a member of the Personnel team to discuss this matter or to obtain a specific summary of entitlements and payments. The principal behind this approach is that an employee will not receive less favourable treatment on the basis of their annualised hours contract.

11. Starting Employment

11.1 New employees will receive a pro rata figure for annualised hours from their start date until the end of the Annualised Hours period / year.

12. Termination of Employment

12.1 It is recognised that should an employee on an Annualised Hours working pattern and contract of employment leave the Council's employment within an annualised hours year / period there will be either a credit or debit of hours worked.

12.2 In such situations both employee and manager should endeavour to ensure that the number of hours worked are as near as possible to the number of pro-rata hours required under the terms of the contract.

12.3 The very nature of the annualised hours working pattern means that this may not always be possible but efforts should be made on both sides in a manner which is sympathetic with the reasons for leaving.

12.4 Credits of hours remaining will be paid to the employee within their final payments and similarly any debits of hours will be reasonably deducted from the employee's final payment or recovered separately.