



## ***PERSONNEL COMMITTEE***

***2.00 PM - MONDAY, 8 APRIL 2019***

***COMMITTEE ROOM 1/2 - PORT TALBOT CIVIC CENTRE***

### **PART 1**

1. Declarations of Interest

#### **Report of the Director of Social Services, Health and Housing**

2. Proposal to Create two Permanent Post Safeguarding and Referral Officers within Hillside Secure Children's Home *(Pages 3 - 16)*

#### **Report of the Head of Children and Young People Services**

3. Changes to the arrangements of the Integrated Family Support Service (IFSS) *(Pages 17 - 30)*

#### **Report of the Head of Human Resources**

4. The Workforce Partnership Council (WPC) Principles and Guidance on the Appropriate Use of Non-Guaranteed Hours Arrangements in devolved Public Services in Wales *(Pages 31 - 52)*
5. Term Time only Employees - New Part 4 Guidance *(Pages 53 - 70)*
6. Urgent Items  
Any urgent items at the discretion of the Chairperson pursuant to Section 100B(4)(b) of the Local Government Act 1972.

**S.Phillips**  
**Chief Executive**

**Civic Centre  
Port Talbot**

**Tuesday, 2 April 2019**

**Committee Membership:**

**Chairperson: Councillor D.Jones**

**Vice  
Chairperson: Councillor S.Paddison**

**Members:** Councillors S.Bamsey, D.Cawsey, J.Hale,  
N.T.Hunt, R.G.Jones, S.A.Knoyle, E.V.Latham,  
S.Miller, S.Renkes, A.J.Taylor and A.N.Woolcock

**Non-Voting  
Members:** Councillors C.Clement-Williams, A.R.Lockyer,  
P.A.Rees, P.D.Richards and A.Wingrave

## NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

### Personnel Committee

8<sup>th</sup> April 2019

### Report of the Director of Social Services, Health and Housing – Andrew Jarrett

#### **Matter for Decision**

#### **Wards Affected:**

All wards

#### **Proposal to create 2 permanent Safeguarding & Referral Officers within Hillside Secure Children's Home.**

#### **Purpose of Report:**

The purpose of this report is to seek member's approval to establish 2 Safeguarding & Referral Officer posts Grade 8 within Hillside Secure Children's Home.

#### **Executive Summary**

This report seeks approval for the establishment of 2 permanent Safeguarding Referral Officers at grade 8. The role of this post is to be responsible for the oversight and implementation of safeguarding & child protection procedures, policies and guidance for Hillside Secure Children's Home. It is also necessary to ensure the robust facilitation of the referrals process within Hillside Secure Children's Home. This post does not currently exist on the staffing structure and has been piloted over the last 12 months.

#### **Background**

It was identified that safeguarding and referrals was something which was previously being picked up as an 'add on' to other jobs within Hillside. There was no clear process in place and no one person or area of the business responsible for two of the most important elements of the work undertaken at Hillside. It was decided to pilot the post to determine whether it was

necessary. Expressions of interest were sought from existing Residential Recovery & Intervention Officers with an appointment being made on the basis that this was a trial. Due to the change of duties, an honorarium payment was made.

Following the initial pilot it was identified that the initial role needed expanding to include a resolve clinic for young people to be able to make complaints in a confidential and structured way. This complaint would be investigated independently providing an outcome via a confidential service. It was also identified that there were no efficient cover arrangements in place for annual leave sickness and training. Therefore, in June 2018 a decision was made to increase to two with the same arrangements in place.

Having a structured referral process in place allows the units to streamline the young people being placed to ensure that Hillside are able to meet their needs. The needs are identified prior to the admission stage. In order to allow the young people to have a successful transition, early intervention is essential. The initial needs are identified and a risk assessment is produced on an individual basis; this informs the SONAR (Summary of Needs and Responses).

During the trial period, in addition to setting up essential processes for Safeguarding, Referrals and Complaints, the post holders also deliver training to new starters as part of the Induction Framework and routinely delivery training to all staff.

In previous inspections, it was identified by the CIW (Care Inspectorate Wales) and YCS (Youth Custody Service) that there were gaps in the process of monitoring and compliance. Therefore, a stringent process has been put in place whereby the post holders carry out the QA of incidents and also spot checking to ensure that staff are following the correct procedures. In addition to the standard training, an effective 'lessons learned' process has also been adopted.

## **Proposal**

To create 2 Safeguarding & Referral Officer posts within Hillside Secure Children's Home. The vacancies will be advertised through the normal recruitment process as it is anticipate that there will already be suitably experienced and qualified people within the Authority. The vacancy will be

advertised for 2 weeks on the prior consideration bulletin. If there is no interest, this will be advertised on the internal vacancy bulletin for 2 weeks.

### **Financial Impact**

The cost of the post is detailed below:-

Full cost of 2 x Safeguarding & Referral Officer Posts at Grade 8 = £79,078  
(year 1)

A financial appraisal is shown at Appendix 1.

The posts will be full time and based in Hillside.

This will be met by Hillside's staffing budget and is an additional post to the establishment.

### **Equality Impact Assessment**

An Equality Impact Assessment has been undertaken to assist the Council in discharging its Public Sector Equality Duty under the Equality Act 2010, and the requirements of the Welsh Language Standards. An overview of the Equality Impact Assessment has been included in this report in summary form only and it is essential that Members read the Equality Impact Assessment, which is attached to the report at Appendix 3, for the purpose of the meeting.

### **Workforce Impacts**

There are no workforce impacts associated with this report.

### **Legal Impacts**

There are no legal impacts associated with this report.

### **Risk Management**

There are no significant risks associated with this report.

### **Consultation**

There is no requirement under the Constitution for external consultation on this item.

### **Recommendations**

Having due regard to the Equality Impact Assessment, it is **RECOMMENDED** that Members **APPROVE** the creation of 2 permanent Safeguarding & Referral Officer posts within Hillside Secure Children's Home

### **Reasons for Proposed Decision**

This proposal will ensure that an efficient and effective process is in place for managing the referrals process for children being admitted in to Hillside and also that there is a robust safeguarding process.

### **Implementation of Decision**

The decision is proposed for implementation after the three day call in period.

### **Appendices**

Financial Appraisal - Appendix 1

Financial Statement - Appendix 2

Equality Impact Assessment Form – Appendix 3

### **Officer Contact:**

Karen Wedmore

Acting Centre Manager, All Wales Secure Unit, Hillside Secure Centre

Telephone: 01639 641648

E-mail: [k.wedmore@npt.gov.uk](mailto:k.wedmore@npt.gov.uk)



**SET UP COSTS:**

<u>Costs</u>	<u>This Year</u> £	<u>Maximum</u> £
Recruitment Costs		0
Accommodation Costs		
Office Costs		
I.T.		
Other (Specify)		
<b>Total Set Up Costs</b>	<b>0.00</b>	<b>0</b>
<b><u>Funding of Set Up Costs</u></b>		
Revenue Budget		
Reserves		
Special Grant:		
Other (Specify)		
<b>Total Funding of Set Up Costs</b>	<b>0.00</b>	<b>0</b>

**RECURRING COSTS:**

<u>Costs</u>	<u>This Year</u> £	<u>Maximum</u> £
Employee Costs (Financial Appraisal Statement)		
> Starting Salary	79,078	
> Additional cost at Maximum Salary		90,654
Employee Training & Seminars		
Accommodation Running Costs		
Travel & Subsistence (Standby Allowance)		
Other Running Costs - Office Supplies		
Other Running Costs - Printing & Literature		
Other Running Costs - IT.		
<b>Total Recurring Costs</b>	<b>79,078</b>	<b>90,654</b>
<b><u>Funding of Recurring Costs</u></b>		
<b><u>External Sources</u></b>		
Specific Grant:		
Funding from External Agencies	79,078	90,654
Service Level Agreement		
Other (Specify)		
<b><u>Internal Sources</u></b>		
HRA		
Existing Budget Allocation		
Additional Guideline Allocation		
Other (specify) :		
<b>Total Funds Available</b>	<b>79,078</b>	<b>90,654</b>

Refer to this statement in the report's section on Financial Appraisal.



**EQUALITY IMPACT ASSESSMENT (EIA) REPORT FORM**

This form should be completed for each Equality Impact Assessment on a new or existing function, a reduction or closure of service, any policy, procedure, strategy, plan or project which has been screened and found relevant to Equality and Diversity.

**Please refer to the ‘Equality Impact Assessment Guidance’ while completing this form. If you would like further guidance please contact the Corporate Strategy Team or your directorate Heads of Service Equality Champion.**

<b>Where do you work?</b>	
Service Area:	Hillside Secure Children’s Home
Directorate:	Social Services, Health & Housing

**(a) This EIA is being completed for a...**

Service/ Function	Policy/ Procedure	Project	Strategy	Plan	Proposal
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**(b) Please name and describe below...**

To establish 2 permanent Safeguarding & Referral Officer posts within the Hillside Secure Children’s Home structure

**(c) It was initially screened for relevance to Equality and Diversity on 13<sup>th</sup> March 2019**

**(d) It was found to be relevant to...**

Age .....	<input type="checkbox"/>	Race.....	<input type="checkbox"/>
Disability .....	<input checked="" type="checkbox"/>	Religion or belief .....	<input type="checkbox"/>
Gender reassignment .....	<input type="checkbox"/>	Sex.....	<input type="checkbox"/>
Marriage & civil partnership .....	<input type="checkbox"/>	Sexual orientation .....	<input type="checkbox"/>
Pregnancy and maternity.....	<input checked="" type="checkbox"/>	Welsh language .....	<input type="checkbox"/>

**(e) Lead Officer**

**Name:** Karen Wedmore  
  
**Job title:** Hillside Manager  
  
**Date:** 13<sup>th</sup> March 2019

**(f) Approved by Head of Service**

**Name:** Keri Warren  
  
**Job Title:** Head of Children & Young People Services  
  
**Date:** 15<sup>th</sup> March 2019

## Section 1 – Aims (See guidance):

Briefly describe the aims of the function, service, policy, procedure, strategy, plan, proposal or project

### What are the aims?

To establish 2 permanent Safeguarding & Referral Officer posts on the Hillside structure.

### Who has responsibility?

Neath Port Talbot County Borough Council – Social Services, Health & Housing – Hillside Secure Children’s Home

### Who are the stakeholders?

YCS, placing authorities, CIW, Social Care Wales, WG, DFE, Home Office, CAFCASS Cymru, Police.

## Section 2 - Information

### (a) Service Users

Please tick what information you know about your service users and provide details / evidence of how this information is collected.

Age .....	<input checked="" type="checkbox"/>	Race.....	<input checked="" type="checkbox"/>
Disability .....	<input checked="" type="checkbox"/>	Religion or belief .....	<input checked="" type="checkbox"/>
Gender reassignment .....	<input checked="" type="checkbox"/>	Sex.....	<input checked="" type="checkbox"/>
Marriage & civil partnership N/A .....	<input type="checkbox"/>	Sexual orientation <u>Sometimes</u> .....	<input type="checkbox"/>
Pregnancy and maternity .....	<input checked="" type="checkbox"/>	Welsh language .....	<input checked="" type="checkbox"/>

### What information do you know about your service users and how is this information collected?

All information about our young people is collated at the point of referral prior to admission from the placing Local Authority or the YCS. A decision is made by the Referral Panel whether the young person’s needs can be met based on the information provided. At the point of entry into Hillside, further information is gathered via the Care Planning and Assessment Process and our Clinical Support Team.

### Any Actions Required?

None

### (b) General

### What information do you know and how is this information collected?

As above. Including extra discussions with advocacy, Police, education and external stakeholders when required.

All data about our service users is both qualitatively and quantitatively analysed. It is then sent to Social Services Committee and specific boards including YJB/YCS and the LSCB.

### Any Actions Required?

None

## Section 3 – Impact

### (a) Impact on Protected Characteristics

Please consider the possible impact on people with different protected characteristics. This could be based on service user information, data, consultation and research or professional experience (e.g. comments and complaints).

	Positive	Negative	Neutral	Needs further investigation
Age	➔ <input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disability	➔ <input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gender reassignment	➔ <input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marriage & civil partnership	➔ <input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pregnancy and maternity	➔ <input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Race	➔ <input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Religion or belief	➔ <input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sex	➔ <input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sexual orientation	➔ <input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Welsh language	➔ <input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Thinking about your answers above, please explain (in detail) why this is the case. Include details of any consultation (and/or other information) which has been undertaken to support your view.**

The Safeguarding & Referral Officer post holder(s), pregnant or disabled (depending on the disability) would not be able to work directly on the units as they would be putting themselves at risk of injury because of the controlled environment and the risk of restraint, moving and handling.

We positively promote the use of Welsh language via signage and interaction at Hillside. A high proportion of our staff are Welsh speaking. We engage with all Welsh speaking young people via their preferred medium.

### (b) Impact on the Welsh Language

**What is the likely impact of the policy on:**

- Opportunities for people to use Welsh
- The equal treatment of the Welsh and English languages

**Please give details**

We have designated Welsh speakers within Hillside. We engage with all Welsh speaking young people via their preferred medium.

**Could the policy be developed to improve positive impacts or lessen negative impacts? Please give details**

See above

**Actions (to increase positive/mitigate adverse impact).**

None

## Section 4 - Other Impacts:

Please consider how the initiative might address the following issues.

You could base this on service user information, data, consultation and research or professional experience (e.g. comments and complaints).

### (a) Equalities

Public Sector Equality Duty (PSED)

- to eliminate discrimination, harassment and victimisation;
- to advance equality of opportunity between different groups; and
- to foster good relations between different groups

#### **Please explain any possible impact on meeting the Public Sector Equality Duty**

No impact predicted. We promote an anti-discriminatory workplace and do not tolerate discrimination, harassment or victimisation.

As staff are aware of the Council policies and procedures which cover this such as Dignity at Work.

#### **What work have you already done to improve the above?**

Reviewed all Policies and Procedures in line with CIW recommendation regarding Welsh language provision (October 2017).

We provide regular and quality assured anti-discriminatory training including radicalisation, anti-racism and LGBT awareness.

We also work closely with minority groups in the community including the YEAST youth groups and the home office for PREVENT and CHANNEL.

#### **Actions (to mitigate adverse impact or to address identified gaps in knowledge).**

As above.

### (b) Reduce Social Exclusion and Poverty

#### **Please explain any possible impact**

We actively reduce the possible impact by including young people in all decision making while they are placed at Hillside. We promote and foster all of the racial cultural religious and protected characteristics of all young people placed here.

#### **What work have you already done to improve the above?**

We actively encourage the religious and cultural beliefs help by young people to be respected and valued when they are in Hillside. This includes dietary needs, religious festivals including Ede and fasting.

#### **Actions (to mitigate adverse impact or to address identified gaps in knowledge).**

Training for all staff.

Advocacy

Participation by young people

## (c) Community Cohesion

### **Is the initiative likely to have an impact on Community Cohesion?**

The Safeguarding & Referral Officer post is necessary to ensure robust safeguarding & referral processes are in place at Hillside.

### **Actions (to mitigate adverse impact or to address identified gaps in knowledge).**

Training for all staff.

Raising awareness.

Multi agency collaboration staffing on strategic groups including LSCB.

## Section 5 Consultation

### **What consultation and engagement has been undertaken (e.g. with the public and/or members of protected groups) to support the views in section 3 and 4?**

The post holder will engaged with all stakeholders and young people explaining their role and responsibility.

This consultation and engagement will be promoted and an integral part of developing the service.

### **Any actions required (to mitigate adverse impact or to address identified gaps in knowledge)**

Each young person will be treated on an individual cases by cases basis when exercising all of the cultural ethnic educational LGBT and diversity needs including any protected characteristics.

## Section 6 – Post Consultation

What was the outcome of the consultation?

See above – the work is considered an integral part of the post and is ongoing.

## Section 7 - Monitoring arrangements:

Please explain the arrangements in place (or those which will be put in place) to monitor the impact of this function, service, policy, procedure, strategy, plan or project:

### Monitoring arrangements:

Supervision.

Contributing to the development of the ethos of anti-discriminatory practice at Hillside.

Raising awareness

ILP and PDR

### Actions:

See above

## Section 8 – Outcomes:

Having completed sections 1-5, please indicate which of the outcomes listed below applies to your initiative (refer to guidance for further information on this section).

Outcome 1: Continue the initiative...



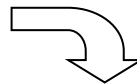
Outcome 2: Adjust the initiative...



Outcome 3: Justify the initiative...



Outcome 4: Stop and remove the initiative...



For outcome 3, detail the justification for proceeding here

N/A

## Section 9 - Publication arrangements:

Information on the publication arrangements for equality impact assessments is available in the guidance notes

## Action Plan:

Objective What are we going to do and why?	Who will be responsible for seeing it is done?	When will it be done by?	Outcome How will we know we have achieved our objective?	Progress
Seek approval from Members for the establishment of 2 permanent Safeguarding & Referral Officer posts in Hillside	Karen Wedmore, Hillside Manager	Approval sought from Personnel Committee on 8 <sup>th</sup> April 2019	Whether approval is agreed, ratified	Advertise via PC bulletin initially. If no interest, advertise via NPT internal bulletin. Appoint and develop the role of the Safeguarding & Referral Officer.

\* Please remember to be 'SMART' when completing your action plan.

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## NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Personnel Committee

8th April, 2019

### **Report of the Head of Children and Young People Services – Keri Warren**

#### **Matter for Decision**

#### **Wards Affected:**

All Wards

#### **Changes to the arrangements of the Integrated Family Support Service (IFSS)**

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

1. The purpose of this report is to seek Member approval to amend the staffing structure within the Family Support Service of the Social Services, Health & Housing Directorate as a result of three employees transferring from the Integrated Family Support Services, previously hosted by Bridgend County Borough Council to Neath Port Talbot County Borough Council. The IFSS staff posts transferring to this authority are:-

2 x Consultant Social Workers (Grade 10)

1 x Intervention Specialist Social Worker (Grade 9)

1 x seconded (ABMU) Mental Health Nurse Practitioner (Grade 7)

#### **Executive Summary**

Social Services are required by statute to provide an IFSS. The requirement is set out in section 9 of the Social Services and Well Being Act (2014) partnership arrangements.

2. Currently, the Integrated Family Support Service (IFSS) is delivered via a Western Bay Regional arrangement between Bridgend County Borough Council (BCBC), Neath Port Talbot County Borough Council (NPTBC), Swansea City Council (SCC) and Abertawe Bro Morgannwg University Health Board. This is now moving to a new Regional arrangement between Swansea City Council, Neath Port Talbot and Swansea Bay University Health Board from 1 April 2019. Therefore employees allocated to this authority will now need to move from their previous host, Bridgend CBC to the new employing host, NPTCBC.

## **Background**

IFSS offers referred services to families experiencing the effects of substance misuse. This service works intensively with families to reduce the harm associated with substance misuse on the child and help to prevent family breakdown.

## **Proposal**

The Regional Western Bay Board has decided that due to the impending changes in the health board boundary that the IFSS team will no longer be hosted by BCBC and that the respective staff will transfer to Swansea and Neath Port Talbot under the Transfer of Undertakings Regulations (TUPE) arrangements. This process is now underway and the consultation is taking place involving the staff from each of the three authorities. The staff that are joining Neath Port Talbot have been managed within the Neath Port Talbot Family Support Service since September 2017. They are managed as part of a wider Family Support service and report to the Principal Officer for this area of responsibility. The team have already been provided with IT equipment and have desk space within the Family Support Service and there are no additional set up costs. The team will receive business support within the existing business support framework. Job descriptions for IFSS and terms and conditions including salary grades are being reconciled as part of the TUPE arrangements with support from Trade Unions.

## **Financial impact**

The IFSS staff posts transferring to this authority are two Consultant Social Workers salary scale 10 (£36,876 - £40,760) one Intervention Specialist Social Worker salary scale 9 (£32,878- £36,876 ) in addition there is one seconded (ABMU) Mental Health Nurse Practitioner on Grade 7 (£43,041.00). With on costs the total

expenditure for the four posts is £220,000. The allocated budget for the IFSS team is £238,560 which is being allocated from the Revenue Support Grant.

### Equality Impact Assessment

It has been determined that this proposal does not require an Equality Impact Assessment.

### Workforce Impacts

The proposal will involve the insourcing of four employees to the Family Support Team of the Social Services Health and Housing Directorate.

### Legal Impacts

3. The transfer will be in line with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).

### Consultation

There is no requirement under the Constitution for external consultation on this item.

### Recommendations

4. It is RECOMMENDED that Members approve the amendment to the staffing structure within the Family Support Service of the Social Services, Health & Housing Directorate as a result of four employees transferring from the Integrated Family Support Services, previously hosted by Bridgend County Borough Council to Neath Port Talbot County Borough Council. The IFSS staff posts transferring to this authority are:-

2 x Consultant Social Workers (Grade 10)

1 x Intervention Specialist Social Worker (Grade 9)

1 x seconded (ABMU) Mental Health Nurse Practitioner (Grade 7)

FOR DECISION

### Implementation of Decision

The decision is proposed for implementation after the three day call in period.

## SETUP COSTS

	Current Year £
Costs	

**Appendices**

Appendix 1: Financial Appraisal

Appendix 2: Current Structure

Appendix 2a: Proposed Management Structure

Appendix 2b: Proposed Staff Structure

**List of Background Papers**

None

**Officer Contact**

Julie Davies

Principal Officer

01639 763321

[j.davies6@npt.gov.uk](mailto:j.davies6@npt.gov.uk)

Recruitment Costs		
Accommodation Costs		
Office Costs		
I.T.		
Other (Specify)		
Total Set Up Costs	0	
Funding of Set Up Costs		
Revenue Budget		
Reserves		
Special Grant:		
Other (Specify)		
Total Funding of Set Up Costs	0	

RECURRING COSTS:

	Current Year £	Full Year £	Maximum £
Costs			
Salary (See next page)	0	220,000	220,000
Employee Training & Seminars			

Accommodation Running Costs			
Travel & Subsistence (Standby Allowance)			
Other Running Costs - Office Supplies			
Other Running Costs - IT.			
Total Recurring Costs	0	220,000	220,000
Funding of Recurring Costs			
External Sources			
Specific Grant			
Funding from External Agencies			
Service Level Agreement			
Other (Specify)			
Internal Sources			
Existing Budget Allocation		220,000	220,000
Other (specify)			
Total Funding	0	220,000	220,000

Please refer to this table in the Financial Appraisal section of the report.

FINANCIAL APPRAISAL – SALARY DETAILS

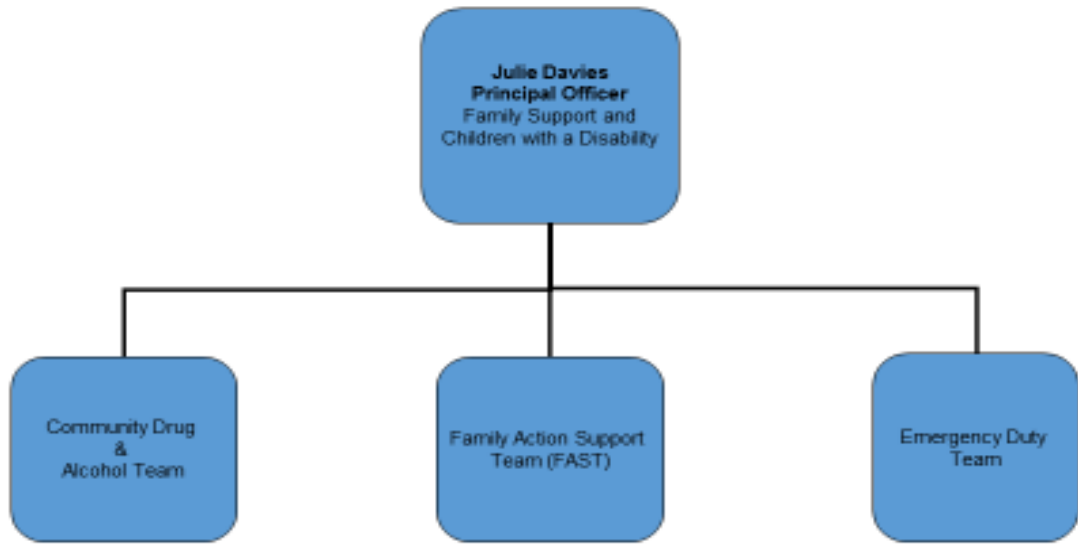
APPENDIX 1  
(CONTINUED)

POST	PROPOSED CHANGE  (New Post / Delete / Regrade)	PAY GRADE		COST / (SAVING)		
		Current	Proposed	Current Year £	Full Year £	Maximum £
1.0 Consultant Social Worker (37 hours)	New Post		Grade 10	0	56,472	56,472
1.0 Consultant Social Worker (37 hours)	New Post		Grade 10	0	56,472	56,472
1.0 Intervention Specialist Social Worker (37 hours)	New Post		Grade 9	0	50,980	50,980
1.0 Mental Health Nurse Practitioner	Seconded (ABMU)		ABMU Grade 7	0	56,076	56,076
Total				0	220,000	220,000



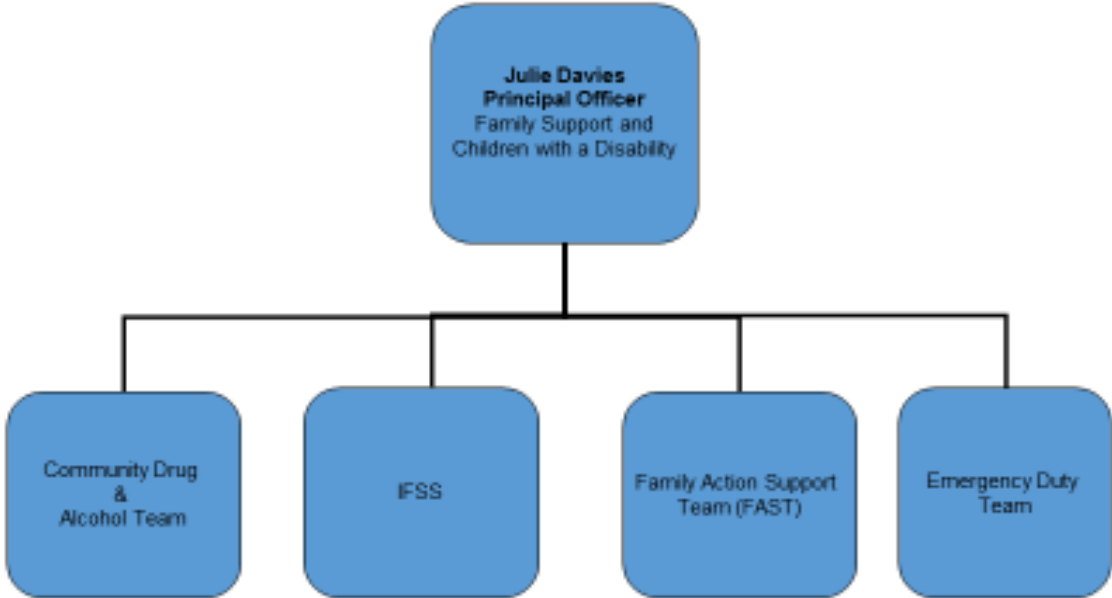
Appendix 2

Family Support and Children with a Disability – current structure



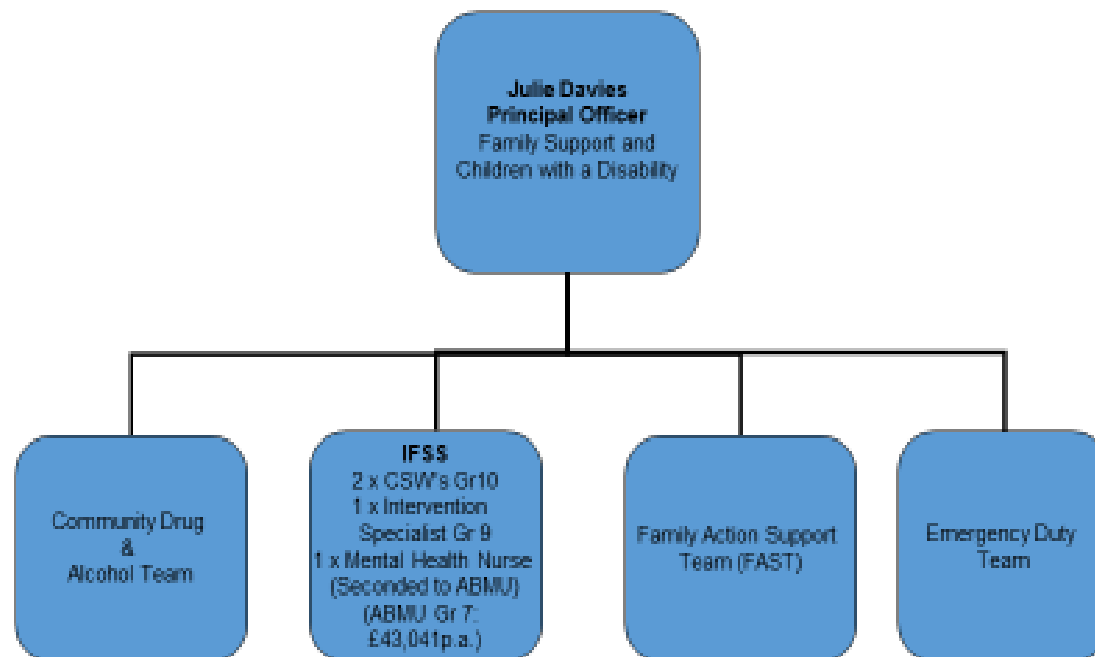
Appendix 2a

Family Support and Children with a Disability – Proposed Structure



Appendix 2b

Family Support and Children with a Disability – Proposed Structure



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## Equality Impact Assessment Screening Form

(b) What is the potential risk to the council's reputation? (Consider the following impacts – legal, financial, political, media, public perception etc...)

High risk  
to reputation

(H)

Medium risk  
to reputation

(M)

Low risk  
to reputation

(L)

**Q5 How did you score?**  
Please tick the relevant box

**MOSTLY H and/or M** → **HIGH PRIORITY** →  **EIA to be completed**  
Please go to Section 2

**MOSTLY L** → **LOW PRIORITY / NOT RELEVANT** →  **Do not complete EIA**  
Please go to Q6 followed by Section 2

**Q6 If after completing the EIA screening process you determine that this service/function/policy/project is not relevant for an EIA you must provide adequate explanation below (Please use additional pages if necessary).**

*There is no change to the service delivery  
The only change is to the Host local authority  
ie. it is changing from Bridgend to  
Neath Port Talbot.*

### Section 2

Screener- This to be completed by the person responsible for completing this screening
Name: <i>Julie Davies</i>
Location: <i>Neath Civic Centre, Neath</i>
Telephone Number: <i>01639 763321</i>
Date: <i>26 March 2019</i>

Approval by Head of Service
Name: <i>Kerwone</i>
Position: <i>Head of CYPs</i>
Date: <i>26-3-19</i>

**Please ensure this completed form is filed appropriately within your directorate because it may be required as evidence should a legal challenge be made regarding compliance with the Equality Act 2010.**

# Equality Impact Assessment Screening Form

Please ensure that you refer to the Draft Screening Form Guidance while completing this form. If you would like further guidance please contact Corporate Strategy or your directorate Heads of Service Equality Group Champion.

## Section 1

What service area and directorate are you from?

Service Area: Integrated family support service (IFSS)

Directorate: Social Services

### Q1(a) What are you screening for relevance?

Service/ Function	Policy/ Procedure	Project	Strategy	Plan	Proposal
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### (b) Please name and describe below

IFSS - Intensive support by IFSS to Adults with children on edge of care.

### Q2(a) What does Q1a relate to?

Direct front line service delivery	Indirect front line service delivery	Indirect back room service delivery
<input checked="" type="checkbox"/> (H)	<input type="checkbox"/> (M)	<input type="checkbox"/> (L)

### (b) Do your customers/clients access this service...?

Because they need to	Because they want to	Because it is automatically provided to everyone in NPT	On an internal basis i.e. Staff
<input type="checkbox"/> (H)	<input checked="" type="checkbox"/> (M)	<input type="checkbox"/> (M)	<input type="checkbox"/> (L)

### Q3 What is the potential impact on the following protected characteristics?

	High Impact (H)	Medium Impact (M)	Low Impact (L)	Don't know (H)
Age	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disability	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gender reassignment	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marriage & civil partnership	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pregnancy and maternity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Race	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Religion or belief	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sex	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sexual orientation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Welsh language	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### Q4(a) How visible is this service/function/policy/procedure/ project/strategy to the general public?

High visibility to general public	Medium visibility to general public	Low visibility to general public
<input type="checkbox"/> (H)	<input type="checkbox"/> (M)	<input checked="" type="checkbox"/> (L)

## NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

### PERSONNEL COMMITTEE

8<sup>th</sup> April 2019

Head of Human Resources – Sheenagh Rees

#### Matter for Information

**Wards Affected:** all wards

The Workforce Partnership Council (WPC) Principles and Guidance on the Appropriate Use of Non-Guaranteed Hours Arrangements in devolved Public Services in Wales

#### 1. Purpose of Report

The purpose of this report is to update Members in relation to the revised Charter for Casual, Temporary and Fixed Term Employees which has been developed in light of guidance issued by the Workforce Partnership Council and published by the Public Services Staff Commission

#### 2. Background Information

The Workforce Partnership Council (WPC) conducted a review into the use of the Principles and Guidance on the Appropriate Use of Non-Guaranteed Hours Arrangements in devolved Public Services in Wales (NGHAs) which was published by the Public Services Staff Commission in 2016 (**attached as Appendix 1**).

The WPC contacted this authority in October 2018 in order for us to provide information on how we have adopted each of the principles and their associated guidance for the financial year 2017-18.

A survey was provided and a copy our response is attached as **Appendix 2**. This response was a joint response with the trade unions and committed the authority to review its Charter for Temporary Employees.

### 3. **Charter for Temporary Employees**

Our Charter for Temporary Employees was developed in 1999 and needed to be reviewed in light of current practices and also to ensure that it reflected the principles and guidance contained in the NGHAs document. As a result of this revision, it now covers casual, temporary and fixed term employees and it has been discussed at the Council's Local Government Services Forum with the trade unions, who were happy to endorse the document.

The revised Charter for Casual, Temporary and Fixed Term employees is attached as **Appendix 3**.

### 4. **Equality Impact Assessment**

An Equality Impact Assessment Screening Form has been completed in order to assist the Authority in complying with its Public Sector Equality Duty. The screening form assessed that a full equality impact assessment was not required.

### 5. **Financial Impact**

There are no financial impacts associated with this report.

### 6. **Workforce Impacts**

The revised Charter will have a positive impact on all casual, temporary and fixed term employees within the Council.

### 7. **Legal Impacts**

There are no legal impacts associated with this report.

### 8. **Risk Management**

There are no risk associated with this report.

### 9. **Consultation**

There is no requirement under the Constitution for external consultation on this item.

### 10. **Recommendation**

It is **RECOMMENDED** that this report be **NOTED**.



## **FOR INFORMATION.**

### **11. Officer contact**

Sheenagh Rees – Head of Human Resources

[s.rees5@npt.gov.uk](mailto:s.rees5@npt.gov.uk)

Tel: 01639 763315

### **12. Appendices**

Appendix 1 – Workforce Partnership Council's Guidance and Principles on the Appropriate Use of Non-Guaranteed Hours Arrangements in devolved Public Services in Wales (NGHAs)

Appendix 2 – NPT's Response to survey

Appendix 3 – Charter for Casual, Temporary and Fixed Term employees

### **13. List of Background Papers**

None

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Comisiwn Staff  
Gwasanaethau  
Cyhoeddus  
Public Services  
Staff Commission

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# **Principles and guidance on the appropriate use of non-guaranteed hours arrangements in devolved Public Services in Wales**



## The Public Services Staff Commission

The Public Services Staff Commission is an independent non-statutory organisation that advises the Welsh Ministers and public service organisations in Wales on the workforce issues arising from public service reforms which will need action and resolution.

We work in social partnership with trade unions and public service employers to address shared challenges and opportunities for our public services and the public service workforce in Wales.

We work across organisational and sectoral boundaries to support the development and dissemination of good practice workforce arrangements across our public services.

The Public Services Staff Commission is made up of six Commissioners including the Chair, and is supported by a Chief Executive and staff team and more details are on our website.

## How to contact the Public Services Staff Commission:

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## Accessible formats

All publications are available to download from our website and if you would like this publication in an alternative format and/or language, please contact us.

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

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## Introduction

1. As a non-statutory organisation, the delivery of the Commission's work is made possible through a remit letter issued by Welsh Ministers under s60 of the Government of Wales Act (2006). The remit letter to the Commission states:

*'The Welsh Government recently received and published research into the use and implications of zero hours contracts in the public sector. The Staff Commission should develop guidance for Welsh public sector employers to address concerns identified about the use of zero hours contracts such as effects on service delivery or retention of staff. This will set clear expectations on practices we should expect of all public sector employers to ensure that zero hours contracts are not used inappropriately. The Welsh Government is intending to issue procurement advice to set similar expectations for public service contractors. The Commission should liaise with the Welsh Government procurement service and produce draft guidance for consultation spring/summer 2016.'*

2. This document sets out the Commission's response to the remit provided by Welsh Ministers. The remit for the Commission to develop advice and guidance goes wider than the issue of zero-hours contracts. In developing our advice we have considered wider arrangements which allow organisations to flexibly deploy their workforces to meet fluctuating demand for services or to cover absence of the permanent workforce. We have defined these broadly as non-guaranteed hours arrangements, not contracts.
3. The Commission is grateful for the support and engagement provided by its primary reference point the Workforce Partnership Council (WPC) to deliver this work.

## Principles and guidance for using non-guaranteed hours arrangements appropriately

4. Early discussions with the WPC and its sector groups signalled that there was broad agreement that our approach should be to focus on developing a set of principles to underpin the appropriate use of non-guaranteed hours arrangements, rather than narrowly focus on zero-hours contracts or any other types of non-guaranteed hours contracts. It was recognised that contracts are about the employment relationship between employee and employer, whereas the opportunity to consider the principles that underpin the way flexible working arrangements are constructed provides a greater opportunity for our advice and guidance to have a positive and consistent impact on the delivery of public services in Wales.
5. Our early discussions indicated that both the employers and trade unions on the WPC recognised that organisations need to be able to deploy their workforces flexibly to enable those organisations to meet fluctuating demand and the absence of the permanent workforce in our public services.
6. We have identified a number of broad principles which will enable the appropriate use of non-guaranteed hours arrangements to support the effective and efficient delivery of public services for citizens in Wales. Public service organisations will in future utilise these principles in the way in which they recruit and retain a workforce that uses such arrangements.



## Principle

- 1. Where organisations need to introduce new non-guaranteed hours arrangements or consider changes to their current arrangements they will engage at the earliest opportunity with their recognised trade unions.**

In accordance with the 'Welsh Way' of social partnership, organisations will include their recognised trade unions in the planning of and implementation of any changes to the mechanisms for flexing their workforces. Even where no changes are planned, organisations will regularly review the appropriateness of their non-guaranteed hours arrangements with their trade unions, particularly as part of their joint working on workforce planning.

## Guidance

### **Regular review of the appropriateness of the arrangements for organisations and staff**

Organisations will build in regular reviews, both individually and collectively through the recognised trade unions on the appropriateness of the non-guaranteed hours arrangements in use in the organisation. This will include consideration of the service requirements, the organisation's needs, the needs of staff and the impact on the workforce as whole.

There will be active consideration as to whether the non-guaranteed hours arrangements remain appropriate. For example, when regular hours have been worked over the preceding three months and there is a continuing need and requirement for the hours to be worked on an ongoing basis, consideration will be given to whether it would be appropriate for the organisation to change the arrangements to something more permanent.

Organisations will establish a process where staff engaged on a non-guaranteed hours contractual arrangement can request a review of their working arrangements with a view to changing their contractual arrangement if they have been undertaking regular hours for example, 4 hours per week over a continuous period of 3 months. Details of the arrangements for requesting a contract review will be included in the recruitment arrangements and terms and conditions of engagement.

### **Changes to contractual arrangements following review**

When the review above leads to a change in the contractual relationship a revised contract setting out the new arrangements will need to be issued. This will set out in a clear accessible language the revised relationship between the organisation and the individual.



## Principle

### 2. Organisations will make clear which non-guaranteed hours arrangements they use and for what purposes.

Where organisations use non-guaranteed hours arrangements they will explain the purpose for their use and define the scope for when such arrangements will be used. It will not be appropriate for organisations to seek to deliver their core services solely through these types of arrangements. The organisations will have a clear understanding of the services that they are required to deliver and a broadly predictable workforce requirement. Good workforce planning can ensure that the balance between the use of the permanent and the use of the casual workforce is appropriate and reviewed regularly.

## Guidance

### **Statement on the use of non-guaranteed hours arrangements**

An organisation will in conjunction with their recognised trade unions develop a policy statement outlining which areas of the organisation's business will utilise such arrangements and for what purpose. The statement will make clear the procedure for reviewing those arrangements periodically.

### **Recruitment of new staff**

Organisations will ensure that appointments to non-guaranteed hours arrangements will be based on merit through fair and open recruitment processes.

### **Arranging and planning work**

It is expected that organisations will provide as much notice as possible when asking staff on non-guaranteed hours arrangements to undertake work. This may however on occasions reasonably be the day when the staff member is needed to attend work for example to cover a sickness absence. Where work is arranged at short notice, organisations will commit to letting people know as soon as practicable that work is on offer.

In other cases, the arrangements for arranging forward work rotas will be clearly defined and shared with all staff. There will be clear criteria on issues such as allocating work fairly and consistently between staff, and these arrangements will be reviewed periodically by senior staff to ensure fairness and equality for all staff engaged through these processes.

Staff will not be under any obligation to accept work offered to them and organisations will give appropriate consideration to their other responsibilities such as studies, child care or other caring responsibilities. Staff who do not accept work for whatever reason will not suffer a detriment as regards being offered work in the future.



## Principle

- 3. Staff engaged through non-guaranteed hours arrangements will have access to appropriate induction, training and development support to enable them to undertake their roles effectively.**

Staff engaged in delivering public services require appropriate training and development to enable them to carry out their work effectively. This applies equally to staff engaged on non-guaranteed hours arrangements. Organisations will consider what induction and training arrangements are required for staff engaged on non-guaranteed hours arrangements. Appropriate induction and training will be provided as soon as the staff are engaged, and reviewed and updated as and when required. Staff will be paid for undertaking any required induction and training relevant to the role being undertaken.

## Guidance

### **Induction and ongoing training and development**

Induction training will be provided to enable individuals to undertake their roles effectively. Where training and development opportunities are available for equivalent roles, organisations will provide similar opportunities to staff engaged on non-guaranteed hours arrangements if these are relevant to the roles being undertaken.

Any induction and training identified as being necessary for undertaking non-guaranteed hours roles will be paid.

Staff on non-guaranteed hours arrangements will be allocated a named “line manager”<sup>1</sup>. There will be the opportunity to meet, discuss and record at least annually the key achievements and challenges experienced by the individual in fulfilling the duties allocated and set out any career aspirations they may have for the future.

<sup>1</sup> The term ‘Line manager’ is defined in this context as the person who is responsible for the individual’s training, development, performance and well-being

## Principle

- 4. Organisations will ensure that they comply with employment law and collective bargaining agreements and provide their staff with the required rights, terms and benefits.**

Organisations have a duty to comply with legislation and collective bargaining agreements covering their staff. All staff engaged on non-guaranteed hours arrangements will have clear and accessible contracts which set out the terms for their engagement and what the relationship is between the organisation and its staff. Staff with a contract of employment (including non-guaranteed hours contracts) must be explicitly part of the collective bargaining arrangements. All staff will be encouraged to join the appropriate trade union in accordance with Workforce Partnership Council agreement – ‘Partnership and Managing Change’<sup>2</sup>.

## Guidance

### **Cancelling work at short notice**

Organisations will agree with their recognised trade unions appropriate arrangements for compensating staff when work is cancelled by the organisation at short notice. This will include covering costs incurred by staff, for example caring costs and travel costs.

### **Pensions**

Organisations are required to auto enrol all eligible staff into a qualifying pension arrangement. Organisations will agree with their recognised trade unions appropriate pension arrangements which will apply to staff on non-guaranteed hours arrangements and set these out clearly and transparently in recruitment information and terms of appointment.

### **Opportunities to seek permanent employment**

Organisations will have clear procedures in place to enable staff engaged on non-guaranteed hours arrangements to be able to transition into permanent roles and/or apply for relevant permanent vacancies where such opportunities exist.

<sup>2</sup> Partnership and Managing Change’ is an agreement of the Workforce Partnership Council regarding the process by which the social partners (employers and trade unions) work in partnership to manage change as a fundamental part of how the delivery of public services in Wales will be improved



## Principle

- 5. Staff engaged through non-guaranteed hours arrangements will have terms and conditions of service broadly similar to those of their permanent staff.**

Appropriate non-guaranteed hours arrangements will provide broadly similar terms and conditions of service to those afforded to permanent staff. Differences may be appropriate in respect of some issues i.e. a payment to recognise statutory annual leave entitlement where it is not expected that staff engaged on short-term work will be able to take leave during the period of work.

## Guidance

### **Pay progression**

Organisations are required by law to ensure their pay arrangements comply with equal pay legislation.

### **Leave and statutory holiday pay**

Organisations will have clear policies enabling staff engaged on these types of arrangements to be able to take annual leave. Where it is not possible to arrange such entitlement to leave during the period of work, a payment will be made to reflect the individuals entitlement to statutory holiday pay at the end of the period of work or at the end of the individual's annual leave period.

## Public Service Bodies within scope

The public service bodies to be covered by the remit of the non-statutory Commission currently include:

- A county borough council or county council in Wales
- A town or community council
- Fire and Rescue Authorities
- National Park Authorities
- The Local Democracy and Boundary Commission for Wales
- Local Health Boards and NHS Trusts
- The Care Council for Wales
- The governing body of a maintained school or federation
- The Higher Education Funding Council for Wales
- The Arts Council of Wales
- The National Library for Wales
- The National Museum of Wales
- The Royal Commission on the Ancient and Historical Monuments of Wales
- The Sports Council for Wales
- The Natural Resources Body for Wales.

Subject to the requirements of Constitutional Reform and Governance Act 2010 the Welsh Government (as an employer), voluntarily regards itself as being within the remit and will take notice of and apply its guidance on the same basis as other bodies.

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## **Principles and Guidance on the Appropriate Use of Non-guaranteed Hours Arrangements in Devolved Public Services in Wales**

### **Workforce Partnership Council Review of Implementation 2017 / 2018**

**Name of organisation:** Neath Port Talbot County Borough Council

**Name and role of person making the response:** Sheenagh Rees, Head of Human Resources

**Name and role of person representing the trade union side:** Mark Fisher, UNISON

#### **Principle 1 – Introduction and review of NGH arrangements**

Non-guaranteed hours arrangements, referred to as ‘casual working arrangements’ in NPT, are regularly monitored and reviewed with our joint trade union side, at our regular Local Government Services (LGS) Consultation and Negotiating Forum.

Trade unions also sit on our Head of Service Workforce Planning Group, which regularly reviews workforce requirements across the Council.

This Council has had a ‘Charter for Temporary Employees’ since 1999. Defined casual workers may be employed for up to 20 consecutive working days, after which time they become temporary employees.

#### **Principle 2 – Transparency**

The ‘Charter for Temporary Employees’ is currently subject to a review, and will be discussed at the next LGS Consultation and Negotiating Forum. Whilst our practice is in line with the principles set out in the guidance, the Charter itself needs some updating.

#### **Principle 3 – Training and development**

‘Casual’ employees are subject to appropriate induction and training – the extent of this depends very much on the role that they undertake. For example, ‘casual’ employees within our Secure Registered Children’s Home, the Relief Control and Restraint Officers, are required to undertake a range of training before they can undertake any shifts in the unit including an Induction day and Control and Restraint Training. They will be paid for attending the training and whilst they are held on the ‘Relief’ list, regular reviews of their training will be undertaken to ensure that they are up to date.

#### **Principle 4 – Application of statutory and collectively bargained terms**

Casual employees are engaged on terms and conditions that are subject to collective bargaining arrangements – and of course, these are legally compliant. An offer letter is issued to all casual employees, summarising key terms and conditions, and then, on receipt of all necessary pre-employment checks a full Statement of Particulars is issued.

#### **Principle 5 – Terms and conditions of employment**

Casual employees are engaged on terms and conditions that are comparable to those of permanent staff. One exception is in respect of annual leave, where casual employees receive an enhancement to their basic pay in respect of holidays.



**NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**  
**CHARTER FOR CASUAL, TEMPORARY AND FIXED TERM EMPLOYEES**

**1. Introduction**

Neath Port Talbot Council aims to recruit and retain high calibre employees to enable them to provide quality services to the population of the county borough area.

The Council recognises the need to appoint casual, temporary and fixed term employees from time to time to support and maintain effective service provision. This Charter is intended to assist in the employment of casual / temporary / fixed term employees and to ensure equity and transparency of approach in their use throughout the Council whilst ensuring their employment rights are maintained

The aim of this Charter is to:

- ensure that casual / temporary / fixed term employees are recruited in line with the Council's Recruitment & Selection / Safe Recruitment Policies;
- comply with legislation including the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 (as amended 2008) and the Employment Rights Act 1996;
- ensure that managers adopt a fair, equitable and consistent approach to the management of these employees

**2. Scope**

This Charter applies to all casual / temporary / fixed term employees within Neath Port Talbot Council, with the exception of:

- Apprentices
- Agency workers; and
- Individuals employed on schemes designed to provide them with training or work experience for the purpose of assisting them to seek or obtain work.

**3. Definition**

A casual employee is employed on a contract where the employer is **not** obliged to provide any **minimum** working **hours**, while the worker is **not** obliged to accept any work offered.

A temporary / fixed term employee is an employee who is employed on a contract intended to terminate:

- On the expiry of a specific term (e.g. week, month, year etc);

- On the completion of a particular task/ project;
- On the occurrence or non-occurrence of a specific event e.g. employee returning to work from maternity leave.

#### **4. Contract of Employment**

Casual / Temporary / fixed term employees will receive contracts of employment which set out the terms of their employment and as such, will be part of the collective bargaining arrangements of the Council and will be encouraged to join a trade union.

#### **5. Terms and Conditions of Employment**

Casual / Temporary / fixed term employees are entitled to broadly similar terms and conditions of service to those afforded to permanent staff. Differences may be appropriate in respect of some issues and in relation to length of service matters.

#### **6. Local Government Pension Scheme (LGPS)**

Temporary / fixed term employees will be auto-enrolled into the LGPS. Casual employees will be auto-enrolled after 3 months service.

#### **7. Training and Development**

Casual / temporary / fixed term employees should not be excluded from training simply because of their employment status. They should be given access to Training and Development opportunities, induction and receive one-to-one, supervision meetings and Performance Appraisals in accordance with the arrangements in place for any permanent employee.

#### **8. Recruitment Opportunities**

Casual / temporary / fixed term employees should be made aware of where internal vacancies are advertised and be given the opportunity to apply for such vacancies.

#### **9. Health and Safety**

Casual / temporary / fixed term employees should receive relevant information, instruction, training, supervision and Personal Protection Equipment as is necessary to enable them to carry out their duties safely in line with the Council's Health & Safety Policy.

#### **10. Monitoring of Contracts**

Given the different employment rights which become available to temporary /fixed term employees depending upon their length of continuous service, such

contracts should not run indefinitely without review. Service Managers are therefore responsible for ensuring contracts are reviewed on an ongoing basis.

For casual employees, there must be consideration as to whether the casual contract remains appropriate if regular hours have been worked over a three month period and this requirement is ongoing.

### **11. Termination of Employment**

The duration of an employee's casual / temporary / fixed term employment can have an impact on their employment rights and this should be considered when monitoring employment.

It is important that service managers communicate with the employee concerned and keep them informed of the situation in relation to their temporary contract. As much notice as possible should be given of the likely date of termination. Further guidance is provided in the Redeployment Section of the Council's Management of Change in Partnership Policy.

### **12. Review**

Neath Port Talbot Council has a duty to ensure that all casual / fixed term / temporary Employment is managed on a fair and consistent basis, in accordance with all appropriate employment legislation.

The Head of Human Resources will review this Charter from time to time in conjunction with the Trade Unions.

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## NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

### PERSONNEL COMMITTEE

8<sup>th</sup> April 2019

Head of Human Resources – Sheenagh Rees

#### Matter for Information

**Wards Affected:** all wards

#### TERM TIME ONLY EMPLOYEES – NEW PART 4 GUIDANCE

##### 1. Purpose of Report

The purpose of this report is to update Members in relation to a joint review of term time working which has been carried out by the National Joint Council Joint Secretaries.

##### 2. Background Information

As part of the 2016-18 pay deal, the NJC agreed to conduct a joint review of term-time working to consider “*an NJC approach to deliver fair, consistent and transparent contracts for school support staff and term-time only staff not employed in schools*”. To support the review, the NJC Joint Secretaries are being advised by employer practitioners from local authorities and a multi-Academy Trust and local trade union representatives.

##### 3. Initial Guidance

An initial section of guidance has been agreed and further details are provided in **Appendix 2** of this report.

The attached guidance will be incorporated as Part 4.12 into the next updated version of the National Agreement (‘Green Book’).

##### 4. Next Steps

It is recommended that employers review their term time only working policies and pay and leave calculations to ensure they are

consistent with the principles outlined in this guidance. In order to do this, a joint working group is being set up consisting of HR, Payroll and the joint trade unions.

## **5. Financial Impact**

There are no financial impacts associated with this report.

## **6. Workforce Impacts**

The review of term time working arrangements will affect all Local Government Services 'Green Book' term time working employees.

## **7. Legal Impacts**

There are no legal impacts associated with this report.

## **8. Risk Management**

There are no risk associated with this report.

## **9. Consultation**

There is no requirement under the Constitution for external consultation on this item.

## **10. Recommendation**

It is **RECOMMENDED** that this report be **NOTED**.

**FOR INFORMATION.**

## **11. Officer contact**

Sheenagh Rees – Head of Human Resources

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Tel: 01639 763315

## **12. Appendices**

Appendix 1 - Letter from the NJC for Local Government Services

Appendix 2 – Guidance Document on Term Time Working

## **13. List of Background Papers**

None

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# National Joint Council for local government services

**Employers' Secretary:**  
Simon Pannell

**Trade Union Secretaries**  
Rehana Azam, GMB  
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**To: Chief Executives in England, Wales and N Ireland  
(copies to Director of Children's Services, Finance Director and HR Director)  
Members of the National Joint Council**

18 February 2019

Dear Chief Executive,

## **Term-Time Only Employees: new Part 4 guidance**

As part of the 2016-18 pay deal, the NJC agreed to conduct a joint review of term-time working to consider "*an NJC approach to deliver fair, consistent and transparent contracts for school support staff and term-time only staff not employed in schools*". To support the review, the NJC Joint Secretaries are being advised by employer practitioners from local authorities and a multi-Academy Trust and local trade union representatives.

This initial section of guidance has been agreed and covers the following issues:

- Guiding principles on calculation of pay and annual leave (including advisory model calculation)
- Designation of annual leave
- Calculation of redundancy pay
- Termination of employment or contractual change part way through leave year
- Payment for overtime and additional working hours
- School closure periods (including public holidays, special leave, public duties)
- Training and career development
- Participation in trade union activities and duties

The attached guidance will be incorporated as Part 4.12 into the next updated version of the National Agreement ('Green Book'). It is intended in due course to issue further Part 4 guidance relating to sickness and maternity, maternity support, adoption, parental and shared parental leave and pay for term-time only employees.

It is recommended that employers review their term-time only working policies and pay and leave calculations to ensure that they are consistent with the principles outlined in this guidance, and consult with recognised trade unions about any proposed changes.

Yours sincerely,

*Simon Pannell*  
**Simon Pannell**

*Rehana Azam*  
**Rehana Azam**

*Jim Kennedy*  
**Jim Kennedy**

*Jon Richards*  
**Jon Richards**

**Joint Secretaries**

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## **Part 4.12: Term-Time Only Employees**

### **1. Introduction**

- 1.1 Term-time only (TTO) employees are staff that are principally employed to work only during periods in which schools are open. In most organisations, the standard approach for TTO employees is to calculate their pay on an annual basis and then pay over twelve equal monthly instalments. The amount paid each month is without regard to the actual amount of work done during the month in question. Employees on TTO contracts are normally contractually obliged to take any annual leave that they accrue outside of term-time. Both of these issues can cause complications relating to the pay and conditions of service of TTO employees.
- 1.2 This guidance seeks to provide information to employees and employers to ensure that the pay and conditions of TTO employees are transparent, consistent and fair and they are treated no less favourably than employees on all-year-round contracts.

### **2. What is term-time working?**

- 2.1 A TTO employee normally works a reduced number of weeks during the year, accruing a pro-rata entitlement to paid leave. The arrangement allows the employee to remain on a continuous contract that carries on through the school holidays.
- 2.2 If an employee works term-time only, their actual number of working weeks are normally 39. Depending upon the requirements of the job employees may work extra weeks outside of term-time. In addition to the weeks worked, the employee will be entitled to a pro-rated proportion of weeks per year annual leave entitlement, public holidays and extra-statutory days that would be provided by the organisation to all of its employees.
- 2.3 For employers, term-time working can help to attract and retain employees with children of school age or with carer responsibilities who might otherwise be unable to work and helps to address fluctuations in demand for services.
- 2.4 Some employees would welcome the opportunity to work additional hours in the school holidays. It is therefore recommended that TTO employees are made aware of any relevant work that may become available in the organisation during the school holidays and be given the chance to apply before work is advertised externally.
- 2.5 Employers and employees must recognise the need for employees to benefit from adequate annual leave and should be mindful of the requirements of the Working Time Regulations.

### **3. Part-time employees**

- 3.1 Part 2 Para 8.1 states that “part-time employees shall have applied to them the pay and conditions of service pro-rata to comparable full-time employees in the authority”
- 3.2 ‘Pro-rata’ means that where a full-time employee receives or is entitled to receive pay or any other benefit, a part-time employee is to receive or be entitled to receive not less than the proportion of that pay or other benefit compared to the proportion of working hours they are required to work in relation to a comparable full-time employee.
- 3.3 TTO employees have continuity of employment (Part 2 Para 14 refers). Periods of school closure should not be treated as a break in service.
- 3.4 Part 2 Paras 7.1 to 7.11 provides for a minimum holiday entitlement of 21 days per year for a full-time employee. Entitlement increases with service, with an additional four days leave after five years’ continuous service. In addition there are normally eight public holidays in a leave year and there are also two ‘extra statutory’ days provided for. In practice many local authorities provide leave entitlement above the NJC minimum entitlement.
- 3.5 Employees who only work during term-time should receive a proportion of a full-time employee’s leave entitlement. Their annual leave, public and extra-statutory holiday entitlement would be proportionate to the annual working time of an all-year-round equivalent employee. Employees should be informed of their annual leave entitlement and how this total has been calculated.

### **4. Calculation of pay and annual leave**

- 4.1 There are a range of methods of calculating pay for term-time employees but whatever method is used, it should be a fair, accurate and consistent approach which ensures that TTO employees are not disadvantaged when compared to full year employees.
- 4.2 Calculation of pay must be made clear in the Statement of Particulars of Employment. It is essential that employers are able to explain clearly to employees the basis of the calculation. The method of calculation chosen should be able to withstand scrutiny in respect of contractual rights, sex discrimination and discrimination against part-time employees.
- 4.3 If an employee is employed on multiple contracts, a separate calculation of pay and leave entitlement will be required for each contract under which they are employed.

- 4.4 When advertising vacant posts, a clear indication should be given as to the number of weeks to be worked and the actual pro-rata pay that will be paid to the successful applicant.
- 4.5 Pay for TTO employees should reflect their contractual working arrangements. If TTO employees are required to undertake work outside of their contracted hours they must be appropriately remunerated. Any such additional hours should be incorporated into contractual arrangements if they become an ongoing feature of the post.
- 4.6 For school-based TTO employees, staff must be paid or granted time off in lieu if required to attend INSET training days if these days fall outside of their contracted hours.
- 4.7 Most organisations pay TTO employees in twelve equal instalments over the year. This ensures that the employee is receiving regular pay throughout the year and can make it easier to calculate average weekly pay for Statutory Sick Pay and Statutory Maternity Pay purposes.
- 4.8 If a TTO employee has a contractual change in hours or pay part way through the year, it will be necessary to determine whether their pay needs to be recalculated at that point. See Para 10.
- 4.9 Where contracts are for less than one year's duration, the term-time calculation should reflect the timeframe of the period covered by the contract. It is essential that employers are able to explain clearly to employees the basis of the calculation.

## **5. Guiding principles on calculation of pay**

- 5.1 When calculating a TTO employee's pay, it is necessary to calculate their proportional entitlement, based on the full-time equivalent annual salary. Organisations use a range of calculations but these calculations must meet equal pay considerations and must also comply with the Part-Time Workers Regulations and the Working Time Regulations. Failure to do so could result in organisations facing a legal challenge.
- 5.2 Employers must ensure that the following factors are considered when determining the pay formula for TTO employees:
- Normal pay (see Part 2 Para 7.11)
  - Number of days / weeks contracted to be worked
  - Number of hours worked each day / week as a proportion of full time hours
  - Contractual leave entitlement plus extra statutory days (pro-rata for hours worked and number of weeks)
  - Bank holiday entitlement (pro-rata for hours worked and number of weeks)

5.3 The calendar of the start and end dates of school terms can affect the days available to work during term-time. Where an employee is contracted to work on set days only for a set number of weeks in a year, an annual adjustment may be required to ensure that the hours actually worked reflect the contractual arrangements. This may result in an adjustment to working arrangements. For example, allowing leave to be taken during term-time, or with the agreement of the employee, additional hours to be worked on a day that the employee would not normally work.

5.4 These factors and the resulting calculation should be included in the employee's statement of particulars.

## 6. **Advisory model calculation**

6.1 The model formula below seeks to ensure that the payment system for TTO employees is fair (and secure on equal-pay grounds) in comparison with all-year-round employees in the same organisation. The ratio of working days to days of paid leave therefore needs to be the same for both groups. This is subject to the current interpretation of the Working Time Regulations by the EAT in *Brazel v The Harpur Trust* (UKEAT/0102/17) (see below).

6.2 The example is based on a comparison with all-year-round employees with more than five years' service whose basic annual leave entitlement is 25 days and whose standard working week is 37 hours but the methodology can be applied to any leave entitlement or standard working week.

6.3 This calculation is advisory; it should not supersede local arrangements where these are more favourable.

### **Year-round employees**

Assuming a five-day working week, the number of days available annually is 260.71 ( $365 \div 7 \times 5 = 260.71$ ). The annual leave comprises of:

Basic annual leave	25 days
Public holidays	8 days
Extra-statutory days	2 days
<b>Total leave</b>	<b>35 days</b>

This means that all-year-round employees with this leave entitlement work 225.71 days a year (260.71 minus 35) in order to produce a paid leave entitlement of 35 days. Each working day accrues 0.1551 days of paid annual leave, which is calculated by dividing 35 by 225.71.

### **Term-time employees**

Assuming a five day working week the example TTO employee works 39

weeks per year, which is 195 days per year.

If paid leave accrues on the basis of 0.1551 days of leave for every day worked then the paid leave entitlement would be  $195 \times 0.1551 = 30.2445$  days.

The numbers of paid days (days worked plus paid leave) per year would therefore be  $195 + 30.2445 = 225.2445$  days per year, compared with 260.71 days for a year-round employee.

This can be expressed as a percentage of the all-year-round contract by dividing the term-time only paid days by the all-year-round paid days, which in this example would be  $225.2445$  divided by  $260.71 = 86.3965\%$  of the working year of the FTE.

The TTO employee should therefore receive 86.3965% of their notional full pay (with a pro-rata adjustment where they work less than 37 hours per week). This would be spread across the whole year and paid in (twelve) equal instalments.

$225.2445$  days is equivalent to 45.05 weeks (ie.  $225.2445 / 5 = 45.05$  weeks).

The above is an example based on 35 days' total leave for an all-year-round employee where there is 0.1551 days annual leave accrued each day. The calculation would have to be adjusted for other entitlements. All leave received by year-round employees would need to be taken into account including extra leave after five years' service and concessionary days.

In some cases, it will be appropriate to use an hours based calculation when comparing the hours worked in a year between a full year employee and a TTO employee (see Appendix A). This will be more appropriate where an employee works an unequal number of hours in a week or an unequal number of hours on each working day.

**Brazil:** Where the calculation of a TTO employee's annual leave entitlement results in a leave entitlement of less than 5.6 of their weeks' then the current interpretation of the Working Time Regulations requires the annual leave entitlement to be increased to 5.6 weeks.

For example, in the case of minimum Green Book leave entitlement the annual leave, extra-statutory days and bank holidays equates to 31 days' leave.

Basic annual leave	21 days
Public holidays	8 days
Extra-statutory days	2 days
<b>Total leave</b>	<b>31 days</b>

A year-round employee with this leave entitlement works 229.71 days a year (260.71 minus 31) in order to produce a paid leave entitlement of 31 days. Each working day accrues 0.135 days of paid annual leave, which is calculated by dividing 31 by 229.71

$195 \times 0.135 = 26.325$  days of paid annual leave

As this person works 5 days a week, the 5.6 weeks' leave entitlement under the Working Time Regulations amounts to 28 days. Therefore, in order to comply with the EAT decision in the Brazel case, an additional 1.675 days will have to be added to the holiday calculation to give them the minimum requirement under the Regulations.

This is the current interpretation of these regulations and may be subject to change. If this interpretation is overruled this part of the guidance will no longer be applicable.

## **7. Designation of annual leave**

- 7.1 Organisations should consider adopting a system that designates when a TTO employee actually takes their annual leave.
- 7.2 This is most likely to have implications for issues relating to sickness absence and will be addressed in more detail in further guidance to be issued in due course.

## **8. Calculation of redundancy pay**

A week's pay for the purpose of redundancy payment must be calculated in accordance with sections 221-229 of the Employment Rights Act 1996 (ERA). When calculating a week's pay for the purposes of redundancy pay for a TTO employee, the calculation should be based on the number of weeks actually worked (including paid leave) by the employee.

i.e. in the model calculation in Para 6, the calculation of a week's pay for redundancy pay purposes would be based on 1 / 45.05 of the employee's annual pay.

## **9. The leave year for TTO employees**

- 9.1 It is recommended that organisations use a consistent approach in relation to the leave year of TTO employees. Most organisations use either a set date in the year e.g. 1 September or 1 January, or the anniversary date of the start of employment in the term-time role.



9.2 If a fixed leave year is adopted, it will be necessary to apply a specific calculation of pay in the first year of employment if an employee starts employment part way through the leave year.

9.3 If organisations use a 1 April anniversary date for the leave year, they should be aware that this can cause issues relating to the timing of Easter and the number of public holidays in a given leave year.

## **10. Termination of employment or contractual change part way through leave year**

10.1 If an employee terminates their employment part way through a leave year, it will be necessary to determine whether they have been over or underpaid at this point.

Example: An employee with an anniversary start date of 1 September, an annual pro rata pay of £12,000 and contracted to work for 195 days a year leaves employment at the end of February.

At the point at which they leave employment, in this example they have worked for 108 of their contracted 195 working days in the year, (55.38% of their working year). However, they will only have received 50% of their annual pay, (six of twelve equal monthly instalments of £1,000). Therefore, at the point of their termination of employment, they will be owed 5.38% of their annual pay. i.e.  $5.38\% \times £12,000 = £645.60$ .

10.2 It is recommended that such a calculation will need to take place at any point where there is a contractual change in employment that changes either the rate of pay or allocation of annual leave of a TTO employee. For example, where an employee changes their hours or becomes entitled to long service leave entitlement.

## **11. Payment for overtime and additional working hours**

11.1 TTO employees that are required to work above the hours of the standard working week in any given working week should receive the relevant overtime premium rates for these hours.

11.2 Allowances for working non-standard or irregular working patterns as described in Part 3, Paragraph 2 of the Green Book should apply equally to TTO employees.

11.3 Consideration will need to be given to whether TTO employees required to work additional hours above their normal contracted hours of work will accrue leave for working those hours (in accordance with Part 2 Para 7.11). Arrangements for accrual of additional annual leave for working additional hours should be consistent with those for all-year-round employees

## **12. School closure periods**

- 12.1 If additional paid leave is awarded to all full year employees during periods of school closure, (e.g. Christmas closure), TTO employees should be able to benefit equally from such closures as other all year round employees at the same workplace.
- 12.2 If a school or other place of employment is closed during the normal school year, (e.g. because of severe weather, or use of the school as a polling station), the same principles with regard to non-attendance and pay should apply to TTO employees as all year round employees in the same place of work.

## **13. Public Holidays**

- 13.1 TTO employees are entitled to a pro-rata allocation of public holidays that occur during the leave year. This entitlement is unaffected by whether the public holiday occurs on a normal working day for the employee. This will be accounted for in the pay calculation.
- 13.2 If the Government announces an additional public holiday(s), a TTO employee's pay should reflect the additional public holiday or an additional period of paid leave during term-time could be granted.

## **14. Special Leave**

Organisations should ensure that TTO employees have equal access to that of full and part time all year round staff to agreed arrangements for both paid and unpaid special leave.

## **15. Public Duties**

- 15.1 Part 2, paragraph 7.5 provides for paid leave of absence for employees undertaking public duties. This should apply on the appropriate pro rata basis to TTO employees.
- 15.2 Where an employee has been on jury service for an extended period, and there has not been enough school closure periods to accommodate their annual leave, they should be able to take their annual leave at a later date.

## **16. Training and Career Development**

- 16.1 TTO employees must be given equal access to any training and career development opportunities.
- 16.2 If TTO employees are required to undertake training outside of their normal working hours, they should normally receive payment or paid time off in lieu for this time.

**17. Participation in trade union activities and duties**

TTO employees should be allowed the opportunity to fully participate in the activities of their recognised trade union. If the employee is required to undertake duties outside of their normal working hours, appropriate arrangements for pay or paid time off in lieu should apply if a full-time employee would have been paid during this time.

**18. Sickness absence and sick pay**

The NJC will issue further guidance in due course.

**19. Maternity, parental leave, shared parental leave and adoption leave**

The NJC will issue further guidance in due course.

**20. Local policies on term-time working arrangements**

It is recommended that all employers develop term-time only working policies and pay and leave calculations that reflect working arrangements applicable in that organisation in consultation with recognised trade unions. The local policies should be made available to employees by appropriate means.

**21. Retained Employees and Nursery Employees in Educational Establishments**

Further advice relating specifically to retained employees and nursery employees in educational establishments is at Part 3 Appendix 2.

**School Support Staff Pay Example Calculation**

The below examples follow the calculation methodology set out in the Advisory Model Calculation in section 6 which can be summarised as follows:

**Summary of Calculations:**

**Annual Leave Accrual (FTE):**

$365 \text{ days} / 7 \times 5 \text{ days} = 260.71$  maximum available days

$260.71 - \text{FTE days annual leave (incl public holidays)} = \text{maximum working days}$

$\text{Annual Leave}/\text{maximum working days} = \text{days annual leave accrued each working day}$

**Term-time only calculation:**

$\text{Working days} \times \text{accrual per working day} = \text{days annual leave}$

$\text{Working days} + \text{days annual leave} = \text{total paid days}$

$(\text{Total paid days}/\text{maximum available days}) \times 100 = \% \text{ of working year full time equivalent}$

**Example 1 – 39 weeks per year, 37 hours per week**

**Annual Leave Accrual (FTE):**

$365 \text{ days} / 7 \times 5 \text{ days} = 260.71$  maximum available days

$260.71 - 35 \text{ days annual leave} = 225.71$  maximum working days

$35 / 225.71 = 0.1551$  days annual leave accrued each working day

**Term time only calculation:**

$195 \times 0.1551 = 30.2445$  days annual leave

$195 + 30.2445 = 225.2445$  total paid days

$(225.2445 / 260.71) \times 100 = 86.3965\%$  of working year full time equivalent

Based on an FTE salary of £20,000, the term time worker would receive £17,279.31 (i.e 86.3965% of £20,000.)

### **Example 2 – 43 weeks per year, 37 hours week**

#### **Annual Leave Accrual (FTE):**

365 days / 7 x 5 days = 260.71 maximum available days

260.71 – 35 days annual leave = 225.71 maximum working days

35 / 225.71 = 0.1551 days annual leave accrued each working day

#### **Term time only calculation:**

215 x 0.1551 = 33.3465 days annual leave

215 + 33.3465 = 248.3465 total paid days

$(248.3465 / 260.71) \times 100 = 95.2577\%$  of working year full time equivalent

Based on an FTE salary of £20,000, the term time worker would receive £19,051.55 (i.e. 95.2577% of £20,000.)

### **Example 3: using an hours based calculation**

If an example term time employee was contracted to work 7 hours on a Tuesday and 3 hours on a Thursday for 39 weeks a year, it would be more appropriate to calculate their pay and leave entitlement based on hours rather than days.

Again, you should compare the hours worked to that of an all-year-round equivalent (FTE) employee to calculate the proportion of leave and pay they are entitled to.

If the all-year-round equivalent employee is entitled to 35 days leave (21 days leave, 2 concessionary days, 8 bank holidays and 4 long service days) they would be required to work for 225.71 days. (260.71-35 days leave).

Therefore, assuming a 37 hour week, the FTE would be required to work for 1670.254 hours per year (225.71 x 7.4 hours) and would receive 259 hours of leave. (35 x 7.4 hours).

The example TTE Employee is required to work 390 hours per year (10 x 39). This equates to 23.349% of the hours of an all-year-round equivalent employee. (390 / 1670.25).

Therefore the term-time employee should be entitled to 23.349% of the pay and leave of the all-year-round equivalent employee.

i.e. 60.48 hours of leave (23.349% of 259) and assuming a FTE salary of £20,000 they would receive £4670 as pay (23.349% of £20,000).

**Example 4 – 39 weeks per year, 15 hours week (Incl calculation of FTE 37 hr / wk)**

**Annual Leave Accrual (FTE):**

365 days / 7 x 5 days = 260.71 maximum available days or 1929.254 hours (260.71 x 7.4)

260.71 – 35 days annual leave = 225.71 maximum working days or 1670.254 hours (225.71 x 7.4)

35 / 225.71 = 0.1551 days annual leave accrued each working day

**Term time only calculation:**

195 x 0.1551 = 30.2445 days annual leave

195 + 30.25 = 225.2445 total paid days

(225.2445 / 260.71) x 100 = 86.3965% of working year full time equivalent

**Part time hours calculation:**

37 / 5 = 7.4 hours per day (for a TTO employee working 37 hours per week)

225.2445 x 7.4 hours = 1666.8093 paid hours per year (for a TTO employee working 37 hours per week for 39 weeks a year)

1666.8093 / 37 hours x 15 hours = 675.7335 part-time paid hours per year (35.0256% of the hours of the FTE – 675.7335 / 1929.254)

Based on an FTE salary of £20,000, the term time worker would receive £7,005.30 (i.e 35.028% of £20,000.)