

Care at Home: Fixed Hour Contracts

1.0 EXECUTIVE SUMMARY

- 1.1 A main feature of the Council's internal care at home service has been a historical reliance on zero hour contracts. This has also been a feature across a number of local authorities and private care providers as a contractual response to the changing demand for services across localities thereby more effectively aligning service availability to service user need.
- 1.2 The natural consequences of adopting zero hour contracts as the standard contractual position across the care at home is twofold, namely that;
- Employees are within their rights to not agree to the offer of hours where this does not meet their personal circumstances
 - A growing concern nationally that zero hour contracts can be seen to be exploitative, skews the balance in the interests of employers and offer little protection to the workforce. There was a particular heightened awareness of the negativity of zero hour contracts in the run up to the recent General Election.
- 1.3 As part of its ongoing review of services, Community Services has now reviewed its position on Zero Hour contracts and proposes to move away from this position where appropriate, subject to discussions with staff and the main Trade Unions. Given that only a residual internal care at home service remains across MAKI and the islands, following the earlier externalisation of the care at home service, we are in a better position than before to address this issue.
- 1.4 It is recommended that the Community Services Committee:
- i) note the contents and direction of this Report
 - ii) note the details as set out in Para 4.1 on the processes to followed in realising this move towards permanent contracts
 - iii) agree with the implementation of these proposals over the course of the Autumn 2015

Care at Home: Fixed Hour Contracts

2.0 INTRODUCTION

2.1 A main feature of the Council's internal care at home service has been a historical reliance on zero hour contracts. This has also been a feature across a number of local authorities and private care providers as a contractual response to the changing demand for services across localities thereby more effectively aligning service availability to service user need.

2.2 The natural consequences of adopting zero hour contracts as the standard contractual position across the care at home is twofold, namely that;

- Employees are within their rights to not respond to the offer of hours where this does not meet their personal circumstances
- A growing concern nationally that zero hour contracts can be seen to be exploitative, skews the balance in the interests of employers and offer little protection to the workforce. There was a particular heightened awareness of the negativity of zero hour contracts in the run up to the recent General Election.

Zero hour contracts were seen as controversial although employers state that they provide a flexible labour market. Engagement with staff confirmed that fixed hour contracts are not suitable or preferred by all staff as they may not want the mutuality of obligation in having to work set hours. Zero hours contracts may be preferable for some people who wish to be entirely flexible about when they work. On the other hand, for other staff who would prefer the consistency of hours, they argue that they undermine the employee's reasonable expectation to a stable income. For people in the general working population, the risk of unpredictable hours and earnings may be high

2.3 Community Services has now reviewed its position on Zero Hour contracts and proposes to shift away from this position where appropriate to the staff member, subject to discussions with staff and the main Trade Unions. This development reflects the greater volume of work available which provides certainty that staff fixed contract hours will be fully utilised. These changes will affect circa 300 care at home staff.

3.0 RECOMMENDATIONS

3.1 It is recommended that Community Services Committee:

- i) note the contents and direction of this Report
- ii) note the details as set out in Para 4.1 on the processes to followed in realising this move towards permanent contracts
- iii) agree with the implementation of these proposals over the course of the Autumn 2015

4.0 DETAIL

4.1 With regard to the ***fixed hour's contracts***, covering zero hour and bank employees, the Council has agreed in principle with the TUs to the following:

- Those on existing permanent or long term (12 months or more) temporary contracts will receive a permanent contract offer for a fixed number of hours based upon an average of their weekly hours over the past year x 70% (rounded to 16, 20, 25 or 30). The expectation is that staff will work longer than the contracted hours while the allocation of only 70% of the work being contracted allows for service user turnover and avoids paying staff when they lose service users from their allocated list.
- For existing staff only on permanent or long term (12 months or more) temporary contracts of less than 16 hours per week, they will retain their contracted hours subject to mutual agreement. If they wish additional hours and hours are available then consideration will be given to increasing the contract subject to service needs and after those on permanent/long term contracts over 16 hours have been accommodated.
- For any new recruits after implementation, they will be offered a contract on 16, 20, 25 or 30 hours but we recognise also the ongoing need for bank staff to support flexibility of response across localities. The scale of bank staff will vary across localities based upon level of need and availability of contracted staff.
- Contracts will be reviewed after 12 months to ensure the hours contracted remain appropriate and may be increased within above limits.
- Community Services will develop approaches on communication with affected employees with HR and the TUs and look to early implementation if the Community Services Committee agree the recommendations within this Report.

- It should be noted that not all staff will take up the offer of contracted hours. This will be undertaken only where care at home staff wish for this to occur and will not be a compulsory arrangement. Certain home carers, due to domestic circumstances and due to having other employment may not take up this offer as they do not wish to have a mutuality of obligation in relation to their contracted hours of employment. In such instances employees would be retained on a bank basis. Indeed, the future changing demands for care at home services necessitates the retention of a quota of bank staff to allow greater flexibility of response.

5.0 CONCLUSION

- 5.1 Community Services Committee is requested to support the reduction in the use of zero hour contracts across the internal care at home service.

6.0 IMPLICATIONS

- 6.1 Policy: Various including Reshaping Care for Older People
- 6.2 Financial: No impact as the hours of service are converted from existing zero hours contracts towards greater use of fixed contract hours. The cost is met within the current revenue budget
- 6.3 Legal: the zero hours and fixed hours contracts of employment for care at home staff bot are compliant with current employment legislation.
- 6.4 HR: The proposal will affect c.230 employees however agreement to the offer of fixed term contracts will not be compulsory. Communication will be undertaken with all affected employees and TUs
- 6.5 Equalities: The proposal will assist employees who have felt disadvantaged because of the use of zero hour contracts to attain a greater level of security of employment and income.
- 6.6 Risk: increased service stability, improved ability to recruit and retain care at home staff
- 6.7 Customer Service: Nil

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