

PERSONNEL COMMITTEE - TUESDAY, 13 JUNE 2023

Report of the Director Finance, Governance and Contracts

Part A

GUIDANCE ON THE RECRUITMENT AND EMPLOYMENT OF CASUAL WORKERS AND LEAVE ARRANGEMENTS POLICY

Purpose of Report

Personnel Committee to agree to the proposed amendments to the Guidance on the Recruitment and Employment of Casuals Workers. In addition relevant changes are proposed to Leave Arrangements Policy in relation to casual workers and an update to annual leave allowances.

Recommendations

1. That Personnel Committee agree to the proposed amendments to the Guidance on the Recruitment and Employment of Casual Workers.
2. That Personnel Committee agree to the alteration to the Leave Arrangements Policy in relation to casual workers.
3. That the update to the Leave Arrangements policy to reflect new annual leave entitlements for NJC employees in the 2023/24 leave year is agreed by Personnel Committee.

Reasons

1. To reflect the Council's approach to annual leave provisions for casual workers following legislative changes in the Guidance on the Recruitment and Employment of Casual Workers.
2. To ensure the Leave Arrangements policy is amended to enable employees to obtain information on leave provisions for casual workers.
3. To accurately reflect the one day (pro-rata) annual leave entitlement increase for NJC employees in the 2023/24 leave year.

Policy Justification and Previous Decisions

The Guidance on the Recruitment and Employment of Casual Workers was last updated on 5th October 2021 and the Leave Arrangements Policy was last updated on 30th March 2021. SLT and JMTUM have agreed the proposed amendments to policy prior to submission to Personnel Committee.

Implementation Timetable including Future Decisions

The decision will come into effect immediately following agreement at Personnel Committee and be published on the Council's intranet.

Report Implications

Financial Implications

There are no financial implications.

Risk Management

There are no specific risks associated with this decision.

Equality and Diversity

None identified.

Climate Change and Carbon Impact

None identified.

Crime and Disorder

None identified.

Wards Affected

None identified.

Publicity Arrangements

None identified.

Consultations

Trade Unions have been consulted.

Links to the Corporate Strategy

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| Caring for the Environment | No |
| Healthy Communities | No |
| A Thriving Economy | No |
| Your Council | No |

Background Papers: none

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Part B

Background

1. Following consideration of the Brazel case, it was determined at SLT that all casuals within the Council are put onto contracts of up to 11 weeks and terminated from the payroll and the establishment after each assignment. The reason for this decision is connected to contractual employment law implications and the Brazel case ruling on holiday pay. The Brazel case *states that holiday pay for staff who only work part of the year, such as term time workers, should get the full 5.6 weeks annual leave a year based on an average week pay. Employers should no longer rely on applying 12.07% to pro-rata the leave for hours worked.*

Current HR Policies or Procedures and Proposed Amendments

2. The current and proposed wording within the Guidance on the Recruitment and Employment of Casual Workers is outlined within this section to reflect the changes outlined above.
3. The current Guidance on the Recruitment and Employment of Casual Workers states:

Casual workers are entitled to the statutory amount of annual leave, which is pro-rated equivalent to a full-time entitlement of 28 days per year. Due to the nature of the work, it is difficult for casual workers to take their leave, therefore, casual workers will automatically receive an appropriate uplift rate for the hours worked.

Casual workers' payslips identify the payment made for the hours worked and a separate amount showing holiday pay entitlement for those hours.

Managers must be aware that employment law allows casual workers the right to take leave during any period they have agreed to work. It is recognised that this is not always practical, but as it is a legal requirement it is necessary to permit this if requested by the casual worker. On the rare occasion that a casual worker does request to take annual leave, managers must ensure that the leave booked correlates with the hours the casual worker would have been booked in to work.

4. Key change to the wording above:

Casual workers are entitled to the statutory minimum holiday, currently 28 days (FTE equivalent), which includes bank and public holidays per calendar year.

The Council's holiday year runs between 1st June and 31st May.

Due to the nature of casual work, it is recognised that it can be difficult for casual workers to take their leave, therefore, casual workers will automatically be paid any leave owing to them at the end of each assignment / contract.

The following wording is removed:

5. *On the rare occasion that a casual worker does request to take annual leave, managers must ensure that the leave booked correlates with the hours the casual worker would have been booked in to work.*
6. The above paragraph has been removed as holiday pay is based on average earnings and not the hours a casual worker would have been expected to have worked on that particular day.

Further additions to the guidance:

7. *A casual worker will be made a leaver at the end of each assignment unless management, under exceptional circumstances, extend the casual assignment / contract.*
8. The above paragraph has been added to the Guidance on the Recruitment and Employment of Casual Workers to support SLT's view that Casual Contracts should be for a period of up to 11 weeks only.
9. Other minor amendments have been made around wording which have been provided as tracked for reference.

Leave Arrangements Policy

10. The Leave Arrangements Policy has been updated to enable employees to obtain information on leave provisions for casual workers.
11. Furthermore, amendments have been made to accurately reflect the one day (pro-rata) annual leave entitlement increase for NJC employees in the 2023/24 leave year.

Annexes

- Annex A – Guidance on the Recruitment and Employment of Casuals Workers
Annex B – Leave Arrangements Policy