

Notice of KEY Executive Decision (Special Urgency)

Subject Heading:	Temporary HR procedure variations (Covid-19)
Cabinet Member:	Cllr Damian White
SLT Lead:	Jane West
Report Author and contact details:	Jan Douglas, Deputy Director of Human Resources 020 3373 2693 jan.douglas@onesource.co.uk
Policy context:	Decisions will temporarily vary HR policy and procedures in relation to: pay and leave provisions; and the approach to managing employee relations cases
Financial summary:	At this point in time we cannot exactly quantify the financial impact of the decision however we will be closely monitoring the situation as we go forward
Reason decision is Key	(a) Expenditure or saving (including anticipated income) of £500,000 or more (c) Significant effect on two or more Wards
Date notice given of intended decision:	This is a decision pursuant to para 11 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, made under “special urgency” with the consent of the Chair of the Overview and Scrutiny Board.

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Relevant OSC:	
Is it an urgent decision?	Yes
Is this decision exempt from being called-in?	Yes, due to Special Urgency

The subject matter of this report deals with the following Council Objectives

- Communities making Havering
- Places making Havering
- Opportunities making Havering
- Connections making Havering

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

1 Introduction

- 1.1 This executive decision will introduce or vary a range of HR procedures in order to support the council in its response to Covid-19. In these unprecedented times it is essential that the council maintains core services and is able to deploy staff to meet the needs of its residents.
- 1.2 Government guidance and legislation is currently being introduced and/or updated on a daily basis. Where this is in relation to employment matters, this is being adopted as appropriate. However, there are some areas where this is not available as quickly as needed or there are matters that are not being addressed nationally or regionally and in these circumstances, local arrangements will be considered and recommendations made as required.
- 1.3 In the current circumstances, we are expecting our staff to be increasingly flexible in both the type of work they are undertaking as well as the days and hours in which they do this. In some instances staff will be expected to perform their current duties over a 7-day working week, whilst others will be asked to carry out different duties from their normal day to day tasks to support the council's response to Covid-19.
- 1.4 It should be acknowledged that staff availability to work and willingness and/or ability to work additional hours or a different working pattern will vary according to personal circumstances.
- 1.5 It is likely that there will be many staff who are willing to assist where they can, particularly if tasks can be performed from home. Others will be willing and able to perform roles at an on-site location. However, there is a need to recognise the flexibility of staff and the additional work/hours being undertaken.
- 1.6 To continue to deliver core services and to recognise the way in which staff are working, consideration has been given to relaxing and/or enhancing current provisions, as set out below.

2 Benchmarking

- 2.1 When considering the approach to be taken, comparisons have been drawn with other public sector organisations. Whilst information is limited, the following has been established in relation to pay arrangements.

London Councils - Many authorities are considering relaxing rules on overtime provisions, e.g. where certain grades of staff do not normally qualify for overtime, or increasing the enhancement payable.

NHS Employers – Additional payments are not referenced in the NHS (National)

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Employers guidance on pay/terms and condition. Overtime rates are normally payable up to Grade 7; however employing organisations can make a local decision to pay overtime rates for Covid-19 related activities to those on Grade 8 or 9, where they deem this to be appropriate. This aligns with the approach being taken in some London councils.

3 Leave provisions

- 3.1 Staff have an annual leave entitlement of between 23 and 32 days (maximum of 38 days for Chief Officers) plus 8 Bank Holidays. Where it is not possible for operational or personal reasons, employees are able to carry over up to 5 days from one leave year to the next. Exceptionally, the Head of Service may approve the carry-over of more than 5 days in accordance with the Council's scheme of delegation.
- 3.2 On 27 March 2020, the Government introduced new legislation which allows workers who have not taken all of their statutory annual leave entitlement, i.e. 4 weeks (20 days), due to Covid-19 to carry it over into the next 2 leave years. This legislation relates to the 4 weeks (20 days) leave under the Working Time Regulations and not the additional contractual annual leave.
- 3.3 Consideration has been given to grant the carry forward of contractual annual leave entitlement, however this is not recommended for the following reasons:
 - For the majority of staff the annual leave year runs from 1 April to 31 March, which means the majority of entitlement for 2019/20 will have been taken;
 - Annual leave is a health and safety provision and we should encourage staff to look after their health and wellbeing and ensure annual leave is taken as far as is reasonably possible;
 - 4 weeks (20 days) is in line with legislation.
- 3.4 Consideration has also been given to 'buying out' annual leave should staff be unable to take their entitlement due to Covid-19 and carry forward up to 4 weeks (20 days). The table below models the potential cost using the overall average hourly rate for the Havering workforce, which is £17.59 per hour. This is best way to estimate the cost until we know exactly who will qualify and who will wish to apply.

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% of Staff	Staff FTE Value	Buy Back of 5 Days Leave (36 Hours)	Buy Back of 10 Days Leave (72 Hours)
10%	200	£126,453	£252,906
20%	401	£252,906	£505,812
30%	601	£379,359	£758,718
40%	802	£505,812	£1,011,624
50%	1002	£632,265	£1,264,530
60%	1203	£758,718	£1,517,436
70%	1403	£885,171	£1,770,343
80%	1604	£1,011,624	£2,023,249
90%	1804	£1,138,077	£2,276,155
100%	2005	£1,264,531	£2,529,061

3.5 The option to offer to 'buy out' annual leave carried forward as a result of Covid-19 is not recommended at this point in time due to the following reasons:

- The number of staff who may carry forward annual leave is unknown;
- The ability to take annual leave can be spread over two years, i.e. by 31 March 2022;
- Annual leave is a health and safety provision and we should encourage staff to look after their health and wellbeing and ensure annual leave is taken as far as is reasonably possible.

4 Pay provisions

4.1 The current provisions for working outside of normal hours are summarised below. These arrangements were implemented in September 2017 via a collective agreement with the recognised trade unions.

Working arrangement	Payment
<ul style="list-style-type: none"> • Additional hours (up to 36 per week) 	<ul style="list-style-type: none"> • Paid at the current rate, i.e. plain time
<ul style="list-style-type: none"> • Overtime (beyond 36 hours per week) 	<ul style="list-style-type: none"> • Up to scp20 - 1.25, i.e. time and a quarter, no TOIL except for Bank Holiday working • Up to G10 – 1.25, i.e. time and a quarter, no TOIL except for Bank Holiday working • G11-18 - TOIL only
<ul style="list-style-type: none"> • Enhancements for working outside of normal hours 	<ul style="list-style-type: none"> • Paid at 0.25 (no TOIL except for Bank Holiday working)
<ul style="list-style-type: none"> • Night work (hours between 10 pm and 6 am) 	<ul style="list-style-type: none"> • Paid at 0.33, i.e. time and a third, no TOIL except for Bank Holiday working

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- 4.2 It is recognised that staff may have varied their contractual work arrangements, or worked additional hours during the immediate response to the Covid-19 pandemic. In these circumstances it is proposed the pay arrangement for overtime working will be revised as set out in the table below.
- 4.3 Going forward, managers will encourage as much as possible that additional time worked or time worked outside contractual hours should be taken as TOIL. If TOIL is not a viable approach, then overtime will apply and should to be agreed in advance and before it is worked. In these circumstances, overtime relating to Covid-19 working will also be paid in line with the table below.

Working arrangement	Current Payment	Covid-19 Payment
<ul style="list-style-type: none">Additional hours (up to 36 per week)	<ul style="list-style-type: none">Paid at the current rate, i.e. plain time	<ul style="list-style-type: none">No change
<ul style="list-style-type: none">Overtime (beyond 36 hours per week)	<ul style="list-style-type: none">Up to scp20 - 1.25, i.e. time and a quarter, no TOIL except for Bank Holiday workingUp to G10 – 1.25, i.e. time and a quarterG11-18 - TOIL only	<ul style="list-style-type: none">Up to and including G10 – 1.25, i.e. time and a quarter, plus TOIL for Bank Holiday workingG11-18 TOIL only
<ul style="list-style-type: none">Enhancements for working outside of normal hours	<ul style="list-style-type: none">Paid at 0.25 (no TOIL except for Bank Holiday working)	<ul style="list-style-type: none">No change
<ul style="list-style-type: none">Night work (hours between 10 pm and 6 am)	<ul style="list-style-type: none">Paid at 0.33, i.e. time and a third, no TOIL except for Bank Holiday working	<ul style="list-style-type: none">No change

- 4.4 This arrangement will be reviewed on a regular basis and will revert to the original arrangements as set in 4.1 above once services return to normal.
- 4.5 SLT will seek to mitigate against additional costs, through: planning and management of staff rotas to avoid the need for overtime working; and deployment of staff to support critical activity, where possible. Working arrangements will be monitored over the next two weeks and an update will be presented to Members should the position change and additional costs be anticipated.
- 4.6 In addition to the above, provisions exist for honoraria payments to be made to recognise when staff work outside of their normal role. The council's policy position is as follows:
- If the additional duties are within the grade of the post, then no additional payment is made. Where the work is expected to last for a period of between 4 weeks and 6 months, overtime or TOIL can be granted.

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- Where the additional duties are above the scope of the post, the duties are evaluated by HR using the relevant job evaluation scheme. The difference in pay is paid for the period the additional duties are undertaken, i.e. between 4 weeks and 6 months.

4.7 The council is facing unprecedented challenges in responding to Covid-19 and the provisions set out above do not provide sufficient flexibility to recognise some of the work being undertaken and the circumstances in which this is being carried out. The following proposals are therefore made:

Proposal 1 - It is proposed to implement an honorarium payment of £250 per month, payable to staff who are employed to carry out their roles in extremely challenging, demanding and unpleasant circumstances or conditions, either physically or mentally, as a result of the impact of Covid-19.

- Eligible staff will be those working in the crematorium.
- SLT will consider an honorarium payment for other staff who meet this strict criteria
- The honorarium payment will be applied in addition to any overtime or other payments for the hours worked

It is recommended that honoraria payments are made on a monthly basis so that staff feel the immediate impact of the payment. A shorter frequency is not recommended due to the administrative burden on eligible staff, their managers and payroll staff. A payment at the end of the period is also not recommended as the duration is yet unknown and staff should receive the additional payment whilst they are working in these unprecedented circumstances.

Payments will be implemented from the date the government introduced strict measures on social distancing and in line with school closures, i.e. with effect from 23 March 2020.

Based on 15 staff, the cost would be approximately £3.75k per month; £22.5k over a 6 month period.

4.8 The following proposals will support critical service planning and reduce the need for overtime payments.

Proposal 2 – Ask staff to voluntarily change their working pattern (no reduction in pay if currently in receipt of contractual enhancements), e.g. work 5 days over any 7 day period. All hours worked up to 36 per week would be paid at plain time rate regardless of the working day.

Proposal 3 - Many staff will work part-time or compressed hours. For those services/roles which are critical, invite staff to increase their normal hours or work across a greater number of days. All hours worked up to 36 per week would be paid at plain time rate regardless of the working day.

Proposal 4 – Deploy existing and available staff into roles/activities needed to

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support the council's response to Covid-19. Any agreed alternative payment provisions will also apply to this staff group.

It should be noted that the London Councils Heads of HR network has developed a redeployment framework to support the redeployment of, or reallocation of duties to staff. This has been agreed with trade unions and takes precedent over local procedures.

5 Re-employment process

5.1 It is highly likely there will be a need to engage additional workers in some critical and/or front facing roles. A scheme has been developed which will enable previous employees who wish to support the council's covid-19 response to be rapidly engaged through a temporary re-employment scheme.

5.2 Staff who have previously worked at the council may include retired staff, staff made redundant and other leavers. A policy has been drafted which sets out the arrangements that will apply when a manager agrees with a former employee that they will temporarily return to support the council's Covid-19 response.

5.3 Key principles of the scheme are as follows:

- Employment compliance checks will be streamlined and balanced to ensure a swift process
- Normal rules around pension abatement will be relaxed
- On the assumption that periods of re-employment will last 12 weeks or fewer, enrolment in the Local Government Pension Scheme will not apply
- Priority will be given to former employees with skills needed in critical and essential services
- The terms offered will be those set out in a casual workers contract. Staff will be re-engaged on their previous grade and spinal column point unless a manager agrees they are to be placed in a different role than the one previously occupied

5.4 The policy is attached at Appendix A.

6 Havering Heroes Deployment

6.1 A number of roles within the council will change or be restricted due to Covid-19 social distancing measures or where a role is no longer critical to service delivery. In these circumstances, we are asking for help in fulfilling full-time or part-time roles to carry out activities required due to the pandemic.

6.2 All staff have been asked to complete a [Deployment Survey](#) and the information provided will be matched to roles or tasks, to support the council's response to Covid-19.

6.3 Staff are currently volunteering to undertake additional roles and activities, however it may become necessary to approach available staff to perform roles should insufficient volunteers come forward.

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- 6.4 It should be noted that staff will continue to be paid their contractual rate of pay whilst deployed to an alternative role. However, should they be deployed to undertake a role which attracts a higher pay rate, staff would be entitled to be paid at this rate.
- 6.5 As referenced above, the London Council's Heads of HR network has developed a redeployment framework to support the redeployment of, or reallocation of duties to staff.

7 Approach to managing employment relations cases

- 7.1 The current unprecedented situation requires us to work differently, to radically amend our normal approach to employee relations work to support measures to protect employees and the wider population.
- 7.2 In preparation for and should the need arise, if the council moves to delivering critical services only, then until further notice or subject to review at the end of June, whichever sooner, the approach to managing employee relations case work will be revised.
- 7.3 It is proposed that HR operational work will suspend temporarily, this includes:
- Disciplinary, grievance, resolution and sickness management processes
 - Job evaluation activity
 - Restructuring preparation, consultation, and implementation
- 7.4 In conjunction with the manager, employee and trade union representative, as appropriate, HR will seek to pause cases at an appropriate point, i.e. finish an investigation or hold a hearing/meeting.
- 7.5 By exception and agreement with the relevant Director the following may continue:
- Cases related to whistleblowing, working with Internal Audit
 - Cases subject to legal challenge
 - Cases assessed as significant, for example those:
 - Related to a safeguarding issue
 - Where there would be a substantial detriment via deferment on health or safety of the employee, other employees or service users
 - Cases raised as exceptions by the trade unions
 - Cases where the employee no longer has the right to work
- 7.6 Where exceptional cases are agreed these will be subject to the following principles:
- Stop non-essential physical contact
 - Maximise use of communication technology
 - Ensure appropriate and reasonable arrangements to undertake processes within spirit and principles of the agreed policy
 - Conclude processes as swiftly as possible, prioritising by need, agreeing alternative approaches where possible

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- Support employees and managers as best as possible within the new arrangements

8 Future considerations

- 8.1 Once services return to normal, consideration will be given to a special event (or as part of the annual STAR awards) to recognise the contribution of staff to the council's Covid-19 response.

9 Recommendations

- 9.1 It is recognised that these are extraordinary times and a number of temporary measures are needed to ensure core services can be maintained. For this reason, the following actions are recommended:
- Note that overtime payments and/or salary enhancements for non-standard hours of work are likely to increase during the Covid-19 pandemic.
 - Extend payment of overtime and TOIL arrangements for Bank Holiday working to all grades up to and including G10, where overtime work is agreed in advance and in relation to Covid-19.
 - Implement an honorarium payment of £250 per month payable to staff who are employed to carry out roles in extremely challenging, demanding and unpleasant circumstances or conditions, either physically or mentally, as a result of the impact of Covid-19. This will be effective from 23 March 2020 and will cease when normal working arrangements resume.
 - Implement a re-employment process to engage former staff to support the council's response to Covid-19.
 - Note the Havering Heroes Deployment Scheme.
 - Agree the proposal to amend the normal approach to employee relations work in the event the council moves to delivering critical services only.

AUTHORITY UNDER WHICH DECISION IS MADE

Council Constitution, Part 3: Responsibility for Functions:

2.2. Corporate functions of Cabinet - Resource management

- (c) To exercise the Council's functions relating to the use of the Council's resources and, where these are not non-executive functions, human resources. Such functions include:
- (i) corporate human resources policies and procedures

STATEMENT OF THE REASONS FOR THE DECISION

This decision is taken to contribute to the delivery of the Council's Gold strategy for

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the management of the coronavirus pandemic.

OTHER OPTIONS CONSIDERED AND REJECTED

A range of payment options have been considered to recognise the circumstances in which front line staff are working, however these have been rejected on the basis of cost and the need to remain proportionate.

PRE-DECISION CONSULTATION

The Leader and SLT have been consulted.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Jan Douglas

Designation: Deputy Director, Human Resources & Organisational Development

Signature:

Date: 6 April 2020

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

Proposals include additional payments to staff to facilitate the maintenance of core services. Ensure that each case is justified and that the records are kept of rationale and processes undertaken to ensure no equal pay challenge. At present all changes to contractual terms are by agreement, if agreement cannot be reached (either through local agreement or individually), then further advice to be sought regarding risks of imposing contractual changes.

FINANCIAL IMPLICATIONS AND RISKS

There are a range of measures outlined in this report which could apply to an as yet unidentified number of staff.

This report recommends honoraria be paid to key workers as set out in paragraph 4.7 at an estimated cost of £3750 per month for an initial 6 month period. These funds will be met from the Government funds to cover the cost of the epidemic.

All covid-19 related costs are being tracked through the Oracle reporting system so they can be monitored and recovered where possible (from central government/grand bodies) and so that their impact can be flagged through regular budget monitoring processes.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

Given the Coronavirus outbreak, the paramount consideration of the Council is the health and wellbeing of Members and officers.

All employees directly affected by the proposals contained in this report will be managed in accordance with the Council's published Covid-19 Managers Guidance.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

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The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

An EqHIA (Equality and Health Impact Assessment) is usually carried out when a current or planned service/policy/activity is likely to affect staff, service users, or other residents. It is acknowledged that in emergency or urgent situations it will not always be possible to carry out an EqHIA in advance of a relevant activity, however, managers will undertake the required EqHIAs at the earliest opportunity. Where managers are already clear that protected groups/users will be impacted negatively by the intended activity, then this will be noted in the next paragraph and/or put into EqHIAs. Where the negative impact of the intended activity can be mitigated, this too should be set out in this report and/or the EqHIA.

In all situations, urgent or not, the Council will seek to ensure equality, inclusion, and dignity for all.

HEALTH AND WELLBEING IMPLICATIONS AND RISKS

The COVID 19 pandemic is a global and national emergency with serious impact on lives and socio economic activities. National guidance recommends social distancing measures, working from home and only essential travels to reduce further risk to lives.

The proposed temporary HR procedure variations are to ensure council maintains core services during (Covid-19) emergency and requires staff to work differently including over a 7 day period. Relaxing and/or enhancing current provisions including to allow for working longer hours or deployment to new roles in this national emergency needs to be weighed against the likely impact on mental and physical well-being of staff. Measures outlined including ensuring annual leave and TOIL are necessary for staff welfare. In addition a range measures and guidance have been put in place to support the health and wellbeing of staff, including access to Mental Health First Aiders and the Employee Assistance Programme. Given the ongoing pandemic, the overriding consideration is to follow national guidance to health and wellbeing of members and officers. This decision is consistent with that guidance.

BACKGROUND PAPERS

None

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Delete as applicable

Proposal NOT agreed because

Details of decision maker

Signed

Name:

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date:

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Committee Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____