

**CITY AND COUNTY OF CARDIFF
DINAS A SIR CAERDYDD**

Employment Conditions Committee: 17 July, 2006

Report of the Assistant Chief Executive

Sick Pay for Cleaners : Proposals for Implementation

Background

- 1 Employment Conditions Committee on 24 April 2006 received a report on Sick Pay for Cleaners which highlighted that:
 - the majority of cleaning staff currently employed within the Council – in Financial Services (Venues Management), Community Maintenance Services and Schools and Lifelong Learning Service DSU - were currently in receipt of a cover hours payment in lieu of occupational sick pay;
 - this arrangement had reflected the preferences of cleaning staff who had suffered a reduction in pay following the Council decision to reintroduce national terms and conditions (including payment of occupational sick pay) in 1998, and who had been balloted to establish whether or not they would wish to revert to the former cover hours payment system;
 - the overwhelming response at that time had been to return to the cover hours payment system, and Policy (Personnel) Sub Committee on 22 April 1998 agreed that all cleaners be paid on that basis.
- 2 Following representations from their members, the Trade Unions had asked for the Council to review the above position, particularly in the light of recent work on Single Status and job evaluation, and the need to ensure that all employees were being treated fairly in relation to their terms and conditions of employment.
- 3 Discussions with Service Area managers responsible for cleaning staff in each of the three affected areas, and advice taken from both Human Resources and Legal Services, had established that it was in the best interests of the Council at this point in time to proceed with the reinstatement of occupational sick pay for this group of staff.
- 4 Subsequently, Employment Conditions Committee on 24 April 2006 agreed in principle to reinstate occupational sick pay for all cleaning staff employed within the authority, and asked for a further report to be submitted to the next meeting outlining a plan and timescale for implementation which would allow affected Service Areas to properly input to that process.

Issues

- 5 It was recognised in the previous report that the trading situation of 'in-house' DSU services such as Financial Services (Venues Management) and Community Maintenance Services differed markedly from that of the Schools and Lifelong Learning Service DSU. In particular the business risks associated with the likely increase in overall costs of cleaning services would have potentially quite different consequences in each of the affected Service Areas.
- 6 There was also a clear recognition of other consequences of the reintroduction of occupational sick pay such as a likely increase, certainly in the immediate term, of sickness absence levels amongst this group of staff and the need to develop other cover arrangements in order to maintain standards of service. It would be necessary for managers to properly and consistently apply the Council's revised Sickness Absence Policy and Procedure to deal with this issue.
- 7 Finally it was highlighted that appropriate notice would need to be given of any change to terms and conditions of affected staff and this factor would need to be borne in mind by Service Areas in implementing the decision. The detailed comments of the affected Service Areas are included in paragraphs 10-16 of this report. All three Service Areas have, however, indicated that they would agree implementation of the proposal to reintroduce occupational sick pay to be effective from 1 April 2007.

Proposals

- 8 It is proposed that those staff whose contracts currently provide for cover hours payment should be given notice of termination of their contracts of employment with an offer of a new contract to take effect immediately upon termination. The new contract offered is to be on identical terms save for the inclusion of occupational sick pay provision.
- 9 A general risk analysis of the proposal to reintroduce occupational sick pay for cleaners has been carried out and a copy is attached as Appendix 1 to this report. In addition, each of the Service Areas have assessed further implications of the Employment Conditions Committee decision in April and highlighted the specific issues and anticipated costs associated with implementation.

Community Maintenance Services

- 10 Community Maintenance Services DSU employ around 80 staff who provide cleaning services at 55 locations for eight different Service Areas, with the majority being for Adult and Children's Services. Service Level Agreements are already in place with each Service Area and the funding for cleaning has been agreed from within their Service Area revenue budgets. No budget provision has been made for the introduction of occupational sick pay during this financial year and the impact of its introduction is unknown. It is impossible to estimate the impact of the new Sickness Absence Policy on the service with the introduction of full occupational sick pay.
- 11 As no more than two cleaning staff clean the vast majority of the sites covered by Community Maintenance Services, the only option would be to provide additional resources. This would prove problematic as most absences due to sickness are at very short notice. With the current level of sickness absence it is difficult to

provide cover on every occasion and not practical to have staff available on standby cover.

- 12 Most buildings covered are used by vulnerable groups and the health and safety implications are very high should cover not be provided. It is most important to provide a safe and clean environment for all the building users.
- 13 The financial impact of the introduction of occupational sick pay is estimated to be £8,800 if sickness levels remain at the current level of 2.4%. If sickness absence increases to 6.5% the cost would increase to £23,800 per annum and at 20% to £73,200. These estimates are made up of the cost of paying staff absent due to sickness, occupational sick pay, less the current cost of cover payments. Any increase in sickness absence would make it difficult for Community Maintenance Services to absorb the additional costs. It is also recognised that most cleaning is provided to Service Areas that have very extreme budgetary pressure and would find it most difficult to find additional funding.

Financial Services (Venues Management)

14. The Venues Management DSU employs around 115 staff and provides cleaning services at 20 major Council buildings. With Service Level Agreements already in place, it has been recognised that there are very few opportunities for business growth in an internal market limited by service area revenue budgets. Total sickness absence in 2005/06 was 4.23% and it has been estimated that the proposed introduction of occupational sick pay may cost an additional £25,000. Were sickness to increase to a level of 6.5%, the additional cost would be £38,000 and at a level of 20% the cost would be £118,000.
15. If cover payments cease then a potential saving of £11,500 could be made to the Venues DSU Estimates. However, it is essential that quality standards at public buildings such as Cardiff Castle, St David's Hall and New Theatre are maintained and it is expected that providing additional staff cover from other sites would be a similar annual cost. To date, no budget provision has been made for the introduction of occupational sick pay and it is important that an agreed transitional arrangement is made. The new Sickness Absence Policy will be rigorously administered by the Venues Cleaning Manager but with 20 sites to be directly monitored, it remains an unknown variable and control measures need to be established.

Schools and Lifelong Learning Service DSU

16. The Schools and Lifelong Learning Services employ around 800 cleaning staff. In order to make a fully informed decision the following should be noted:-
 - 16.1 It is not possible to pay cleaners in schools overtime, as they are not able to work longer or extended hours due to the opening and closing arrangements agreed with Caretakers for individual schools and the time that pupils enter and leave the school premises, coupled with the increasing use of school sites for community use.
 - 16.2 The only option to 'replace' time lost through sickness is by bringing in additional personnel to cover the identical time slots available. This would require a substantial 'call off' workforce. Putting aside the cost

of maintaining such a workforce and the practicalities of contacting that workforce at short notice, the facts are that the Schools and Lifelong Learning Cleaning DSU currently experiences significant recruitment and retention issues for the 700 posts needed at present time.

- 16.3 The consequence of not providing a cleaner for the hours paid for by the schools can be considered very high risk in terms of the obligation to provide a safe environment for children. The impact on the levels of hygiene (toilets) and Health and Safety (floors) has the real potential to create an unsafe environment for this most vulnerable group. There are schools in Cardiff that have experienced problems of this nature which have necessitated whole school sanitisation.
- 16.4 The consequence of not providing cleaning for the hours paid for by schools under the terms of the Service Level Agreements has a potential adverse affect on the business retention prospects of the S&LL Cleaning DSU. Private contractors offer direct competition to the unit. Private contractors do not pay staff at the same levels, offer sickness or holiday pay, so some schools could look to private firms as a real solution to balancing their budgets. Similar consequences have already been evidenced in the move away from Grounds Maintenance DSU Service Level Agreements by the schools where the service has been priced out of the market by the high labour overhead, determined by the Council's terms and conditions of employment.
- 16.5 There are a number of examples that currently exist where schools have chosen to self manage their own cleaning services by taking into their own staffing establishment the cleaning posts. It is important that the current job evaluation exercise ensures that Council employed staff undertaking the same tasks are employed on the same terms and conditions.
- 16.6 The financial impact of the introduction of occupational sick pay is estimated to be £110,072 at the current sickness level of 6.5% and as a "worse case scenario", based on a sickness level of 20% of £380,620. These estimates are made up by the cost of paying staff, absent due to sickness, occupational sick pay, (less the current cost of cover payments) plus anticipated costs of employing additional staff to cover for staff who are absent for more than one week. We estimate that approximately 35% of absences will last more than one week, consequently we based our estimate for providing staff cover for sickness absences on this figure.
- 16.7 When reframing the Contracts for Employment for cleaning staff throughout the Council, we would strongly request that a clause, similar to that that exists in the contract terms of the Voluntary Aided Schools cleaners, is included for **all** cleaners. This clause requires that all cleaning staff be prepared to cover absences of colleagues up to and including a 5 day period.

Investment for Reform/Benefit to service user

17. The reinstatement of occupational sick pay to the Council's cleaning staff will ensure that equity will be achieved with other groups of employees. This proposal reflects the Council's commitment to National Conditions of Service.

Council Policies Supported

18. This report supports a number of key elements of the Corporate Plan.

Advice

19. This report has been prepared in consultation with relevant Corporate Directors and reflects that advice. It contains all the information necessary to allow members to arrive at a reasonable view, taking into account the following advice.

Legal Implications

20. The proposal has contractual implications for those staff where it is proposed to terminate cover hours payments and for whom it is proposed to pay occupational sick pay in the future. The mechanism for achieving this would be to terminate those contracts by reasonable notice and to offer reengagement with a new contract with occupational sick pay provision. This offer would be a defence to any claim for unfair dismissal and would be likely regarded by an Employment Tribunal as a reasonable offer of alternative employment.

Financial Implications

21. The cost of the proposal to introduce occupational sick pay for all cleaning staff will depend upon future levels of sickness. However even at current sickness levels this will represent a significant cost to the DSUs which will either have to be absorbed within existing DSU budgets or met by increased charges to clients. If sickness absence is maintained at its current level then the additional cost to the three DSUs is estimated to total £144,000. However there is a risk that the sickness absence level could increase, with the increased costs of an absence level of 20% estimated to be in the region of £572,000. Rigorous application of the Council's new Sickness Absence Policy will be vital in preventing such increases from occurring.
22. The Council's DSUs provide services and recover their costs from clients via Service Level Agreements. Unless the additional costs can be absorbed by the DSUs from within existing budgets then this will result in increased charges to clients with the subsequent risk that they may choose to end the current arrangements and find alternative, less costly services elsewhere. This is particularly relevant to the Schools Cleaning DSU, which is already in direct competition with private contractors for services in schools. If costs increase and schools decide to outsource their cleaning contracts then this could result in additional costs to the Council in the form of TUPE and redundancy costs.
23. The report recommends that the changes take place with effect from 1st April 2007, therefore there will be no immediate impact on costs in the current year. However the changes will need to be considered as part of the on-going DSU / Trading Account Review and careful consideration will have to be given as to how to reflect the potential impact in the 2007/08 Budget.

Human Resource Implications

24. The reinstatement of National Terms and Conditions (ie occupational sick pay) will address an inequality with a significant number of staff. This needs to be addressed if the Council wishes to be recognised as an Employer of Choice and accords with the Council's core values of Respect and Integrity. Clearly the proposal to reintroduce occupational sick pay would replace existing cover hours payments. There will be a significant workload implication for Human Resources and affected Service Areas associated with the need to issue new contracts of employment to around 1000 Council employees.
25. It is suggested that the issues highlighted within this report are referred to the DSU/Trading Account Review project team for their consideration.

Trade Union Comments

26. The Trade Unions wanted reassurance that sick pay for cleaners would be implemented and that this report should focus on the "how" and "when" this would be achieved. They confirmed that the implementation date should be the same for all groups of cleaners.

RECOMMENDATION(S)

27. It is recommended that:-
 - (i) Those staff whose contracts currently provide for cover hours payment be given notice of termination of their contracts of employment with an offer of a new contract to take effect immediately upon termination, the new contract to be on identical terms save for the deletion of cover hour payments and the inclusion of occupational sick pay provision, the new contracts to take effect from 1 April 2007.
 - (ii) The Service Areas consult with Trade Unions and advise affected staff of those proposals and timescales for implementation, including the issue of revised contracts of employment as appropriate.

JO FARRAR
ASSISTANT CHIEF EXECUTIVE

The following appendix is attached:

Appendix 1 – Risk Assessment

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Risk Description	L	I	Level of Inherent Risk	Current Controls	L	I	Residual Risk	Actions Required
Not delivering all the cleaning hours that have been paid for poses a high risk in terms of the Council's obligation to provide a safe environment for children and vulnerable groups. The impact on the levels of hygiene (toilets) and health & safety (floors) could create an unsanitary and unsafe environment. Members will recall the recent e-coli outbreak in Wales that was passed from child to child with tragic consequences.	4	5	Severe	<ul style="list-style-type: none"> • The hours paid for are worked or compensated for • Adherence to Health & Safety Regulations • SLAs with agreed standards of hygiene & safety • Regular supervision of staff and monitoring of standards • Complaints are dealt with promptly 	3	4	Moderate	<ul style="list-style-type: none"> • The maximum possible hours paid for will have to be worked but this could result in additional temporary staff having to be taken on and increased service delivery costs • Continued adherence to Health & Safety Regulations • SLAs with agreed standards of hygiene & safety • Regular supervision of staff and monitoring of standards • Dealing with complaints promptly
Failure to address current unequal pay arrangements within the Council (as a whole) and within the cleaning group (in particular) leaves the Council in an extremely vulnerable to equal pay claims. Given the large numbers of low paid, female staff who could pursue such claims, the cost of losing them could be enormous.	4	5	Severe	<ul style="list-style-type: none"> • None. The Council is currently vulnerable to equal pay claims 	2	3	Moderate	<ul style="list-style-type: none"> • Conduct and implement the results of the current job evaluation exercise (ongoing) using the GLPC Scheme • Reinstate OS Pay for all cleaners (including school cleaners) • End the practice of paying "cover bonus" to school cleaners thus ensuring all Council cleaners are treated in the same way.
Increase in additional sickness absence costs (estimated as likely to be at least in excess of £100,000 per annum) for which there is no budget provision	4	4	High	<ul style="list-style-type: none"> • Existing Sickness Absence Policy & Procedures • No OS pay is an incentive to work • "Cover Bonus" is an incentive to cover the work of others 	3	4	Major	<ul style="list-style-type: none"> • New Sickness Absence Policy to be rigorously enforced • HR to provide supervisors and managers with accurate and timely information re: sickness and monitor policy compliance • Additional training for Cleaning Supervisors and their managers • Create a culture where poor attendance is unacceptable

Risk Description	L	I	Level of Inherent Risk	Current Controls	L	I	Residual Risk	Actions Required
Increase in sickness absence levels which would have a direct impact on the quality and output of the cleaning service provided	4	4	High	<ul style="list-style-type: none"> As Above 	3	4	Major	<ul style="list-style-type: none"> As Above
Cleaners losing their “cover bonus” payments will resign and pursue constructive dismissal claims against the Council. The Council would incur additional costs resisting the claims. Such claims would inevitably attract adverse media attention, undermine the Council’s wish to be seen as an employer of choice and could sour employee relations in the Council	3	2	Moderate	Not Applicable. This is not an issue at the present time. School Cleaners do not get paid Occupational Sick Pay but receive “cover bonus” instead when colleagues are not in work because of sickness	3	3	Significant	<ul style="list-style-type: none"> Work in partnership with the trade unions to explain to cleaning staff why OS pay is being restored and why “cover bonus” will no longer be paid in the case of school cleaners Seek agreement to vary existing employment contracts by consent but, failing that, terminate the employment contracts of all the cleaners currently receiving “cover bonus” offering them new employment contracts
If costs increase dramatically and cannot be contained and the overall quality of service also declines, because cleaners refuse to “cover” the areas of staff on the sick, schools could decide to outsource their cleaning contracts to firms in the private sector. The Council would then have to deal with all the associated TUPE and Redundancy issues incurring additional costs for which there is no budget.	4	4	High	<ul style="list-style-type: none"> SLAs Existing Sickness Absence Policy & Procedures No OS pay is an incentive to work “Cover Bonus” is an incentive to cover the work of others 	3	3	Significant	<ul style="list-style-type: none"> Revised SLAs New Sickness Absence Policy to be rigorously enforced HR to provide supervisors and managers with accurate and timely information re: sickness and monitor policy compliance Additional training for Cleaning Supervisors and their managers Create a culture where poor attendance is unacceptable