

PUBLIC

**MINUTES** of a meeting of the **APPOINTMENTS AND CONDITIONS OF SERVICE COMMITTEE** held on 23 September 2021 at County Hall, Matlock.

**PRESENT**

Councillor S Spencer (in the Chair)

Councillors R George, S Hobson, T Kemp, A Sutton (substitute Member), S Swann and J Woolley (substitute Member)

Officers in attendance – E Alexander, H Barrington, P Buckley, E Crapper and J Lakin

Apologies for absence were received on behalf of Councillors J Dixon, R Flatley and B Lewis

**Declarations of Interest**

There were no declarations of interest.

**3/21** **MINUTES RESOLVED** that the minutes of the meeting held on 10 March 2021 be received.

**4/21** **APPLICATION FOR A MARKET SUPPLEMENT PAYMENT EXTENSION FOR CHILD PROTECTION LAWYERS** Market supplement payments for the child protection lawyers had started on 1 April 2018 for two years and had then been extended for 18 months from 1 April 2020 to 30 September 2021. A full review of market conditions had been carried out to support the continuation of market supplement payments for these posts and a business case was provided in Appendix 3 to the report.

The team continued to have difficulties in recruiting qualified solicitors or lawyers in this area of work. Continuing the payment was crucial in retaining the current staffing and maintaining the necessary levels of managerial supportive supervision. This was particularly important because the lack of adequate supervision had been identified in national serious case reviews and it was therefore imperative that this level was maintained. As a consequence of recruitment difficulties and the increase in child protection cases, an extensive amount of work had been outsourced to private practice firms, barristers and/or agency solicitors (locums) had been commissioned. These options had significantly increased expenditure for Legal Services and Childrens Services with an external expenditure of nearly £1.8m in 2020-21 in respect of barrister's fees and private practice fees.

Given the year on year increase in child protection legal work and the difficulty in recruiting staff a comprehensive review of the conduct of child protection litigation by Derbyshire County Council had been carried out jointly with Children's Services. The recommendations of this review were key to ensuring a longer-term service delivery model which met the Council's statutory duties towards the most vulnerable children and young people across the County. A two-year market supplement was approved for Child Protection Social Workers by this Committee on 10 March 2021 which was a further reflection that local authority child protection work in all its forms had experienced considerable difficulties with recruitment and retention. The Review proposed to increase the size of the team and to introduce a structure which would provide greater career progression and more opportunities to 'grow our own' solicitors through training programmes and apprenticeships. It was anticipated that if this new structure can be achieved that savings in excess of £350,000 would be achieved.

The Child Protection Litigation Review contained a significant number of recommendations regarding the structure of the DCC Legal Services child protection team and the conduct of child protection proceedings. In relation to the market supplement, the Review recommended that this should be continued for two years to support recruitment and retention of staffing pending the undertaking of a job evaluation exercise across Legal Services in relation to the lawyer grades. The revaluation was recommended to reflect the high level of responsibility and influence which the lawyer posts had in the field of child protection. In the meantime, it was proposed that the current market supplement of £5,000 per annum per lawyer across all levels be continued for a further two years to 30 September 2023 in order to implement and embed the recommendations of the Review. The continuation of the market supplement would ensure that the salary for the posts was competitive, particularly as regards Derby City Council where the salary was £5,558 higher on a permanent basis.

A summary of the current application of market supplements within the team was at Appendix 2 to the report and an application (business case) for the continuation of the payment was attached at Appendix 3. If approved it was proposed that the recommendations would be actioned with effect from 1 October 2021 for a period of two years, with a further review of market conditions taking place six month prior to the end of the two-year period.

**RESOLVED** that the committee (1) approves the application for the payment of a market supplement of £5,000 per annum per lawyer (pro rata), to the Child Protection Lawyer roles at Grades 12 to 14 inclusive;

(2) agrees that the market supplement will take effect from 1 October 2021 for a period of two years; and

(3) note that a further review of market conditions will take place six months prior to the end of the two-year period.

**5/21 REVIEW OF STANDBY, SLEEP-IN AND RECALL TO WORK (SSR) DUTY TERMS AND CONDITIONS**

As a result of issues being raised by trade unions in 2020, the Council had agreed to review the terms and conditions of SSR duty. The review aimed to provide a clear set of terms and conditions relating to all aspects of SSR duty. The level of pay and remuneration aimed to be fair for all employees undertaking SSR duty reflective of the length of duty being undertaken.

The Council had undertaken a process of employee, manager and trade union engagement through a series of working groups and workstream meetings since January 2021. A summary of feedback from the engagement sessions was attached at Appendix 2 to the report. On 6 September 2021, the Council and Joint Trade Unions reached a collective agreement on a revised set of terms and conditions for SSR duty, that met the objectives of the review. The revised set of terms and conditions are outlined as follows:

Standby duty - Duty payment rates of £27.02 will apply for the first 8 hours of standby duty, with an additional basic rate payment of £3.38 for each two-hour block thereafter up to 24 hours, providing payment for a 24-hour period at £54.06. The payment for any 8 or 2-hour block of time that spans into or out of a bank holiday will receive enhancement to double the duty payment rate. Any 8 or 2-hour block of time that was not within the bank holiday period would be paid at the basic duty payment rate. The rationale for having a minimum period of standby of 8 hours was to provide a payment that was reflective of the potential sacrifice if an employee were to be called out. The estimated additional cost to the council pay bill for the revised terms and conditions was estimated at £0.216m.

Sleep-in duty – It was proposed to maintain a flat rate sleep-in duty as the period of sleep-in duty was relatively static i.e. between 8-10 hours. In order to maintain parity with the proposed change to standby duty payment rate, the basic duty payment rates for sleep-in duty will be increased to £30.40. Where sleep-in duty spans into or out of a bank holiday, the duty would be enhanced to double the basic duty payment rate. The estimated additional cost to the Council pay bill for the revised terms and conditions was estimated at £0.046m.

Recall to work - The extent that recall duty payments were utilised within the Council was low with only 141 in 2019-20 reducing to 22 claims in 2020-21. It was proposed to reflect the following changes;

- The Council would remove the requirement to include the first 30 minutes working time within the duty payment. Based on an average pay rate for 141 claims, the additional cost would be £1.1k. Actual cost was lower due

to inaccuracy of claims being made. Working group feedback had identified employees had incorrectly claimed from the moment they start work rather than deducting the first 30 minutes from the claim.

- Travel time was included in the duty payment rate of £27.02 for those who were required to travel before they start work. This was offset by the removal of the first 30 minutes working time rule above. Where there was not a requirement to travel before starting work, recall would be paid at a proposed reduced rate of £20 per recall. The reduced rate was offset by the removal of the first 30 minutes working time rule.

Duty payment rates as outlined within the report would be applied from 1 November 2021 and would not be subject to annual pay award for 2021-22. SSR duty payments will be subject to future pay awards as of April 2022. Payments for duties relating to Bank Holidays will be backdated to 1 December 2020.

**RESOLVED** that the committee agrees to (1) implement the revised terms and conditions for standby, sleep-in and recall to work duty with effect from 1 November 2021; and

(2) backdate payment for the revised terms and conditions for bank holiday duty payment to 1 December 2020.