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**BASSETLAW**

DISTRICT COUNCIL  
NORTH NOTTINGHAMSHIRE

## JOINT EMPLOYEE COUNCIL

# AGENDA

Meeting to be held in

The Ceres Suite,

Town Hall, Worksop

on

Tuesday, 13<sup>th</sup> September 2011

at

2.30 p.m.

**PLEASE NOTE PRE-MEETING WILL COMMENCE**

**AT 2.00 P.M.**

(Please turn off mobile telephones during meetings.  
In case of emergency, Members/officers can be contacted on the  
Council's mobile telephone: 07702 670209)

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*Bassetlaw - Serving North Nottinghamshire*

District Council Offices, Potter Street, Worksop, Notts. S80 2AH.

# JOINT EMPLOYEE COUNCIL

**Membership** 2011/12

**Councillors** C. Entwistle, B. Hopkinson, Mrs. S. Isard, G. A. N. Oxby and  
J. B Rickells

**Substitute Members:** In the event of any member of either side being unable to attend any meeting, another representative may be appointed to attend in his/her place, provided that the substitute is drawn from the same area of representation as the member unable to attend

**Quorum:** 2 Members

## **Lead Officer for this Meeting**

Mr. L. Hull - Ext. 4136

## **Administrator for this Meeting**

Cara Crossland - Ext. 3254

## JOINT EMPLOYEE COUNCIL

Tuesday, 13<sup>th</sup> September 2011

### AGENDA

1. APOLOGIES FOR ABSENCE
2. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS  
(Members' and Officers' attention is drawn to the attached notes and form)
  - (a) Members
  - (b) Officers
3. MINUTES OF MEETING HELD ON 21<sup>ST</sup> JUNE 2011\* (pages 1- 3)
4. MINUTES FOR ACTION \* (page 5)
5. OUTSTANDING MINUTES LIST \* (page 7)

### SECTION A – ITEMS FOR DISCUSSION IN PUBLIC

#### Key Decisions

None

#### Other Decisions

6. REPORT(S) OF THE EMPLOYER'S REPRESENTATIVES \*
  - (a) Organisational Policy Development (pages 9-11)
  - (b) Retirement Procedure (pages 13-20)
  - (c) Agency Workers Policy and Procedure (pages 21-38)

#### Exempt Information Items

*The press and public are likely to be excluded from the meeting during the consideration of the following items in accordance with Section 100A(4) of the Local Government Act 1972.*

### SECTION B - ITEMS FOR DISCUSSION IN PRIVATE

#### Key Decisions

None

#### Other Decisions

7. REPORT(S) OF THE EMPLOYER'S REPRESENTATIVES \*
  - (a) Review of Agency Workers (pages 39-48)
8. ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS TO BE URGENT

\* Report attached

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NOTES:

1. The papers enclosed with this Agenda are available in large print if required.
  2. Copies can be requested by contacting us on 01909 533249 or by email:  
[cara.crossland@bassetlaw.gov.uk](mailto:cara.crossland@bassetlaw.gov.uk)
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DECLARATION OF INTEREST

COMMITTEE .....

DATE .....

NAME OF MEMBER : .....

Levels of Interest

- 1. Personal
- 2. Personal and prejudicial

Agenda Item No.	REASON *	Level of Interest (1 or 2)
<b>Signed</b>		
<b>Dated</b>		

**Note:**

\* When declaring an interest you must also state clearly the reason for your declaration.

Completion of this form is to aid the accurate recording of your interest in the Minutes. The signed form should be provided to the Minuting Clerk at the end of the meeting.

A nil return is not required.

It is still your responsibility to disclose any interests which you may have at the commencement of the meeting and at the commencement of the appropriate Agenda item.

## DECLARATION OF INTERESTS

### **HOW TO USE THIS FORM**

There are now only two types of Declaration of Interest:

Level 1 – Personal	)	Details can be found in the Councillors
	)	Code of Conduct which is contained in
Level 2 – Personal and Prejudicial	)	the Council's Constitution (a summary is
	)	printed below)

Upon receipt of the attached form you will need to enter the name and date of the Committee and your own name. By looking at the Agenda you will no doubt know immediately which Agenda Items will require you to make a Declaration of Interest.

Fill in the Agenda Item number in the first column of the form.

Enter the subject matter and any explanations you may wish to add in the second column.

In the third column you will need to enter **either** level 1 if you are declaring a personal interest, **or** level 2 if you are declaring a personal and prejudicial interest.

The form must then be signed and dated. Please remember that if during the actual meeting you realise that you need to declare an interest on an additional Agenda Item number please simply amend the form during the meeting.

The form must be handed into the Committee Administrator at the end of the meeting.

NB. The following is a summary prepared to assist Members in deciding at the actual meetings their position on INTERESTS it is not a substitute for studying the full explanation regarding INTERESTS, which is contained in the Council's Constitution and the Code of Conduct for Councillors, which is legally binding.

Members and Officers are welcome to seek, PREFERABLY WELL IN ADVANCE of a meeting advice from the Council's Monitoring Officer on INTERESTS.

#### **Personal Interests**

May relate to employment or business interests  
May relate to property interests  
May relate to contents  
May relate to interests in other bodies  
**OR** if a decision on the matter to be discussed:  
MIGHT REASONABLY BE REGARDED AS  
AFFECTING (A MEMBER OR OFFICER) TO A  
GREATER EXTENT THAN OTHER COUNCIL TAX  
PAYERS, RATEPAYERS OR INHABITANTS OF  
THE AUTHORITY'S AREA, the well being or  
financial position of himself, a relative or a friend or  
any employment, business, interest, etc. of such a  
person.

#### **Prejudicial Interests**

A Member with a personal interest ALSO has a prejudicial interest if a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Members judgement of the public interest.  
(Note – there are special provisions which may exclude the above provisions in certain circumstances.)

#### **Action to be Taken – Personal Interests**

Must disclose to the meeting  
- existence of the interest  
- the nature of the interest

#### **Action to be Taken – Personal and Prejudicial Interests**

**Must:-**  
- declare existence and nature  
- withdraw from the room  
- not seek improperly to influence a decision on the matter.  
(Note – there are some exceptions when acting in a scrutiny capacity.)

**JOINT EMPLOYEE COUNCIL**

**Minutes of the meeting held on Tuesday, 21<sup>st</sup> June 2011 at Retford Town Hall**

**Present:**

Employer's Representatives:

G A N Oxby (Chairman)  
B Hopkinson, C Entwistle and Mrs S Isard

Employee Representatives:

K Circuit, A McLoughlin, R Parr, A Porter and P Rodgers

Officers in attendance: K Childs, C Crossland, L Hull and J Rodriguez

**ACTION BY:**

1. NOMINATIONS FOR THE ELECTION OF CHAIRMAN

**RESOLVED** that Councillor G A N Oxby be appointed Chairman of the Joint Employee Council for the ensuing year.

2. NOMINATIONS FOR THE APPOINTMENT OF VICE-CHAIRMAN

**RESOLVED** that Mr K Circuit be appointed Vice-Chairman of the Joint Employee Council for the ensuing year.

3. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor J B Rickells.

The Chairman welcomed new Members to the meeting.

4. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

(a) Members

There were no declarations of interest by Members.

(b) Officers

There were no declarations of interest by officers.

5. MINUTES OF MEETING HELD ON 8<sup>TH</sup> MARCH 2011

**RESOLVED** that the Minutes of the meeting held on 8<sup>th</sup> March 2011 be approved.

## 6. MINUTES FOR ACTION

The Head of Human Resources informed the Members that in respect of Minute No 37(a) - Default Retirement Age, and 39(a) - Review of Agency Workers, these reports would be presented to the September Joint Employee Council.

**RESOLVED** that the Minutes for Action be received.

## 7. OUTSTANDING MINUTES LIST

**RESOLVED** that the Outstanding Minutes List be received.

## SECTION A – ITEMS FOR DISCUSSION IN PUBLIC

### Key Decisions

None.

### Other Decisions

## 8. REPORT(S) OF THE EMPLOYER'S REPRESENTATIVES

### (a) Learning and Development Progress Report and Presentation

Members were informed of the progress to date and future activities within Learning and Development.

Jenny Rodriguez, HR Business Partner, gave a slideshow presentation to Members regarding the Development Appraisal Scheme, Personal Development Plans, Apprenticeships, E-induction and the E-Learning Pool.

The Chairman thanked Jenny Rodriguez for the presentation provided.

**RESOLVED** that the Joint Employee Council sustains their support of the improvements detailed in 3.2 and 3.3 of the Learning and Development Progress Report and the projects outlined in 3.6 to achieve further improvements and supports the Investors In People full assessment audit in June 2012.

### (b) Well-being at Work Progress Report

Members were updated in respect of the 'Well-being at Work' Award Scheme, the implementation of the FirstCare system and further initiatives to continue to improve health and well-being within the workplace. A copy of the sickness absence figures for Nottinghamshire Authorities during 2010/11 was appended to the report.

**RESOLVED** that:

- 1) An email be sent to all Employees on behalf of the Joint Employee Council congratulating staff on achieving a low sickness rate.
- 2) The Joint Employee Council notes the comments of the report and continue to support the promotion of health and wellbeing through the well-being at work award scheme.

**HHR**



9. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RESOLVED that, in accordance with Part 1 of Schedule 12A of the Local Government Act 1972, and after considering the public interest test as set out by the officer in the body of the report, Members agree that the following items of business involve the likely disclosure of exempt information as defined in Paragraph 4, and, therefore, in accordance with Section 100A of the Act, the press and public be excluded from the meeting:

Agenda item 9 (a) – Review of Agency Workers – Paragraph 4

SECTION B – ITEMS FOR DISCUSSION IN PRIVATE

Key Decisions

None.

Other Decisions

10. REPORT(S) OF THE EMPLOYERS REPRESENTATIVES

(a) Review of Agency Workers

The Joint Employee Council was updated on the use of agency workers for the period 1st January 2011 to 31<sup>st</sup> March 2011.

RESOLVED that the report be noted.

11. ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS TO BE URGENT

As there was no other urgent business to discuss, the Chairman closed the meeting.



MINUTES FOR ACTION AND IMPLEMENTATION SHEET

JOINT EMPLOYEE COUNCIL

21/06/11

FROM: Senior Democratic Services      TO: Head of Human Resources  
Officer

The following decisions are brought to your attention for action by the appropriate Officers within your Service:

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8. REPORT(S) OF THE EMPLOYER'S REPRESENTATIVES

(a) Learning and Development Progress Report and Presentation

**RESOLVED** that the Joint Employee Council sustains their support of the improvements detailed in 3.2 and 3.3 of the Learning and Development Progress Report and the projects outlined in 3.6 to achieve further improvements and supports the Investors In People full assessment audit in June 2012.

(b) Well-being at Work Progress Report

**RESOLVED** that:

- 1) Information regarding the cost of the FirstCare system be provided to Members.
- 2) An email be sent to all Employees on behalf of the Joint Employee Council congratulating staff on achieving a low sickness rate.
- 3) The Joint Employee Council notes the comments of the report and continues to support the promotion of health and wellbeing through the 'Well-being at Work' Award Scheme.

HHR

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JOINT EMPLOYEE COUNCIL

Tuesday, 13<sup>th</sup> September 2011

OUTSTANDING MINUTES LIST

Members please note that the updated positions are shown in bold type following each item.  
(HHR = Head of Human Resources)

<u>Min. No.</u>	<u>Date</u>	<u>Subject</u>	<u>Decision</u>	<u>Officer Responsible</u>
37(a)	08.03.11	Default Retirement	(2) The Guidelines developed on how managers should handle retirements post 1 <sup>st</sup> October 2011 be reported back to the Committee.  <b>See Agenda Item No 6(b)</b>	<b>HHR</b>
39(a)	08.03.11	Review of Agency Workers	(2) The Committee be updated on the number of agency workers for street cleaning and grounds maintenance and the possibility of making these positions permanent.  <b>See Agenda Item No 7(a)</b>	<b>HHR</b>



**BASSETLAW DISTRICT COUNCIL****JOINT EMPLOYEE COUNCIL****13 SEPTEMBER 2011****JOINT REPORT OF THE CHAIR AND VICE CHAIR OF THE JEC****ORGANISATIONAL POLICY DEVELOPMENT**Cabinet: Policy  
Contact: Len Hull  
Ext. 4136**1. Public Interest Test**

- 1.1 Len Hull, Head of Human Resources and author of this report, has determined that the contents are not of a confidential nature.

**2. Purpose of the Report**

- 2.1 To update members of the Joint Employee Council on the key priority work area of HR policy development and modernisation.

**3. Background and Discussion**

- 3.1 The conduct of positive and effective employee relations is the cornerstone of an efficient and modern local authority. In recognition of the above, the Chair and Vice-Chair of the JEC have identified the review and modernisation of HR and OD policies as a key priority, to regulate and improve employee relations in the organisations. A timetable has been drawn up and is set out below. The intention is that this review and modernisation process comprises a three year programme.

<b>PRIORITY 1</b>	<b>PRIORITY 2</b>	<b>PRIORITY 3</b>
Organisational Change	Capability	Acting Up and Honoraria
Redundancy	Grievance	Career Break Scheme
Redeployment	Alcohol/Substance Abuse	Time off for Public Duties
Managing Attendance	Flexible Working	Maternity Leave
Stress Management	Code of Conduct/ Whistleblowing	Flexi-time
Agency Workers	Training Strategy	Removal & relocation
Equality and Diversity	Conditions relating to training	Request for grading review
Race Equality Scheme	Time off for Trade Union duties	Smoke Free Environment
Work Life Balance	Long Service	
Job Share	Secondment	
Home Working		
Recruitment & Selection		
Harassment and Bullying		

3.2 Clearly this will require a major input from both HR and the Branch Secretary of Unison, to deliver this workload. With this in mind, the following approach has been agreed to deliver this key priority:

- A Joint HR/Trade Union Steering Group comprising:
  - Unison Branch Secretary
  - Unison Representative
  - Head of HR & OD
  - HR and OD Business Manager
  - HR Business Partner (OD)
- HR Business Partner (OD) will be responsible for researching, producing drafts, etc for the Group.
- Draft policies and procedures will be submitted to the JEC for refinement and endorsement, at regular intervals prior to consideration by Cabinet.
- Improvements in employee regulations will be regularly monitored and measured, and reported back to the JEC.

#### **4. Implications**

a) For service users

None.

b) Strategic & Policy

As contained within the report.

c) Financial – 12/663

None.

d) Legal – 251/09/11

The continued review of employment policies and procedures will enable the Council to ensure it continues to reflect the current legal position.

e) Human Resources

As contained within the report.

f) Community Safety, Equal Opportunity, Environmental

The modernisation of the Council's HR policies and procedures will ensure that they are fully compliant with equalities legislation, and will be the subject of Equality Impact Assessments.

g) Whether this is a key decision, and if so the reference number.

Not applicable.

#### **5. Options, Risks and Reasons for Recommendations**

5.1 To note the contents of the report and endorse the approach to, and resourcing of, this priority, as set out above. This will ensure that the Council's HR & OD policies are



easily recognised, are fit for purpose for a modern local authority, legally compliant and key drivers of good employee relations with trade unions and employees.

- 5.2 Not to endorse the approach as outlined. The risk of this option is that policies will be unsuitable, out-of-date and not legally compliant, putting the Council at risk of legal challenge.

**6. Recommendations**

- 6.1 That the Joint Employee Council approves Option 1, ie that the contents of the report are noted, and the Joint Employee Council endorse the approach to, and resourcing of, HR policy development as outlined in this report.

**Background Papers**

**Location**

None



**BASSETLAW DISTRICT COUNCIL**

**JOINT EMPLOYEE COUNCIL**

**13 SEPTEMBER 2011**

**REPORT OF THE HEAD OF HUMAN RESOURCES**

**RETIREMENT PROCEDURE**

Cabinet: Policy  
Contact: Len Hull  
Ext. 4136

**1. Public Interest Test**

1.1 The author of this report Len Hull has determined that the report is not confidential.

**2. Purpose of the Report**

2.1 To present the new draft Retirement Procedure for consideration and endorsement by members of the Joint Employee Council.

**3. Background and Discussion**

3.1 Following the abolition of the Default Retirement Age, with effect from the 1<sup>st</sup> October 2011 the compulsory retirement age will no longer exist and it is therefore necessary to introduce a Retirement Procedure to outline the Council's approach to the retirement of its employees.

3.2 The attached Retirement Procedure sets out the Council's approach to the retirement of employees and the process which employees need to take if they decide to retire.

3.3 In summary, the procedure offers:

- ***A Workplace Discussion as part of the annual Development Appraisal process.*** This discussion will highlight the employee's future plans and assist the manager in planning for any retirements and the impact it may have on the service;
- ***The opportunity for Succession Planning.*** Following a workplace discussion where an employee has indicated their intention to retire in the future, they will be asked to assist and co-operate in ensuring a smooth handover of projects and training of any successor;
- ***A clear process.*** The employee will be required to complete and submit a form which will constitute their formal notice of retirement.

**4. Implications**

a) For service users

None

b) Strategic & Policy

As contained within the report.

c) Financial – Ref: 12/974

None.

d) Legal – 261/09/11

This procedure meets statutory requirements.

e) Human Resources

As contained within the report.

f) Community Safety, Equal Opportunity, Environmental

An Equality Impact Assessment will be carried out on the draft procedure prior to presentation at Cabinet.

g) Whether this is a key decision, and if so the reference number.

Not applicable.

## **5. Options, Risks and Reasons for Recommendations**

### **5.1 Option 1**

To endorse the attached Retirement Procedure. This will ensure the Council manages retirements fairly and legally following the removal of the compulsory retirement age.

### **5.2 Option 2**

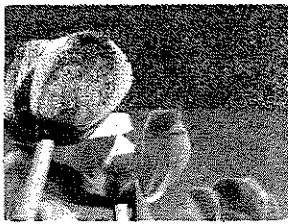
To suggest amendments to the attached draft document.

## **6. Recommendations**

6.1 To receive the attached draft document for information.

### **Background Papers**

### **Location**



*Blossom In Bassetlaw...*



BASSETLAW DISTRICT COUNCIL

# RETIREMENT PROCEDURE

PROCEDURE AND GUIDELINES

HUMAN RESOURCES



## **OUR PROCEDURE**

### **1. What is this Procedure about?**

This procedure is to set out the Council's approach to the retirement of employees.

The Council does not operate a compulsory retirement age for its employees.

### **2. Who does it apply to?**

This procedure applies to any employee who wishes to leave the Council's employment, where the Council's consent is not required for release of pension benefits.

The normal age at which pension benefits become payable is 65, however if the employee meets the 'Rule of 85' and is age 60 to 65 he/she may receive his/her pension benefits early without any reduction or the need for the Council's consent.

### **3. What are the policy intentions?**

The Council is committed to equal opportunities for all its employees. We recognise the contributions of a diverse workforce, including the skills and experience of older employees. We believe that employees should, wherever possible, be permitted to continue working for as long as he/she wishes to do so.

## **OUR PROCEDURE**

### **4. Workplace Discussions**

All employees are invited to a workplace discussion as part of the annual Development Appraisal process. During this appraisal, the relevant line manager will discuss the employee's performance, developmental and training needs and the Council's and employee's future plans and expectations in the short, medium and long term. During these discussions/meetings, employees may discuss his/her future plans or proposals for retirement.

The manager and employee may choose to discuss options available to support his/her decision to continue working. These could include flexible retirement, flexible working, job share etc and copies of these policies can be accessed through the Intranet or the HR Service.

A record of each workplace discussion which stems from the Development Appraisal will be kept and a copy given to the employee.

A discussion about possible retirement will not result in the Council making any assumptions about the employee's commitment to the Council. The Council seeks to retain the best talent, including older employees and workplace discussions are an informal opportunity for both parties to plan jointly for the future.

An employee who has discussed retirement with his/her manager, or who has indicated in general terms that he/she wishes to retire, will not be committed to doing so and may change his/her mind without consequences. It is only when an employee has given formal notice of retirement that he/she is committed to doing so (see Section 6) below).

## 5. Succession Planning

An employee who is shortly to retire will be asked to assist and co-operate for succession planning due to him/her having considerable knowledge in relation to his/her role and responsibilities.

This assistance will include:

- providing full written details of the status of work projects and future steps;
- ensuring a smooth handover of work; and
- where appropriate, assisting in the training of any successor.

## 6. The Process

Any employee who decides that he/she wishes to retire, should inform their line manager in writing as far in advance as possible using the attached proforma and in any event, in accordance with his/her notice period as outlined in their contract of employment. The completion and submission of this form constitutes formal notice of retirement. This is the case even if completed earlier than the required notice provisions in the contract of employment.

The manager will write to the employee acknowledging the employee's notice to retire and arrange a meeting to discuss arrangements for the retirement, which should include the intended retirement date, succession and handover plans and other options, if requested, ie flexible retirement, flexible working, job share etc.

The manager will then forward confirmation of the employee's retirement to the HR Service for processing with the Salaries Unit and Pensions Section.

**Does this policy and procedure link closely with any others?**

Depending on the particular details of the situation, it may be necessary to consider it alongside the following policies and procedures:

- Flexible Retirement
- Flexible Working
- Job Share

**Need more information or support?**

Professional support/advice: If you have read this document and relevant linked guidance/documents and you find you then need further clarification and/or support or advice (including if an alternative format or adjustment to this procedure is needed, to enable a particular need to be met (e.g. due to a disability) the following is available

**For Managers:** Contact the Human Resources Team

**For Employees:** Contact your Manager initially, who should be able to help you. If you are a member of a Trade Union you can seek their advice/support and you can also contact the Human Resources Team

**The 'small print'.....**

**Legal and General points:**

This Procedure is effective from 1 October 2011.

This procedure is written in compliance with the following legislation/regulations:-

- \* Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011
- \* Employment Rights Act 1996
- \* Equality Act 2010

These procedures will be monitored and reviewed and may be subject to further change and Amendment (following appropriate consultation and approval).

Version number: 1

Author: Lisa Hunter, HR Business Partner

Endorsed by: JEC On:

Approved by: Cabinet On:

Implementation 'Go-live' Date: 01/10/11



## RETIREMENT FORM

Employee's Name	
Service	
Post Title	
<b><i>I am writing to notify the Council that I wish to retire and terminate my employment</i></b>	
Proposed retirement date	
Signed:	Date:
Line Manager signed:	Date:

Following agreement of a retirement date with the employee/line manager, please forward this form to the HR Service for processing.

**PRIVATE AND CONFIDENTIAL**

Our Ref: pers  
Please ask for:  
Direct Dialling: 01909 53  
E-Mail: @bassetlaw.gov.uk

(date)

Dear

**Your Retirement**

Thank you for your recent notification dated ( ) advising that you wish to retire on ( ).

I am writing to confirm the details of your proposed retirement as set out in your retirement form and to explain the next steps.

The Council can arrange for you to attend a "Pre-Retirement Course" which provides useful information about financial planning, maintaining a healthy lifestyle and activities in retirement and you should contact the HR Service if you wish to attend this. You can do this by telephoning (01909) 534136 and stating that you would like to attend a pre-retirement course.

I will notify the HR Service of your proposed retirement and HR will liaise with Payroll/ and the Pensions Unit (delete if not applicable) on your behalf.

I will arrange for us to meet again shortly to arrange a handover of projects/work prior to your last day of work.

Finally, but most importantly, I would like to take this opportunity of thanking you for your loyal and valuable service and to wish you a long and very happy retirement (personalise to suit)

Yours sincerely,

**Name of Line Manager**  
**Designation**

**BASSETLAW DISTRICT COUNCIL**

**JOINT EMPLOYEE COUNCIL**

**13 SEPTEMBER 2011**

**REPORT OF THE HEAD OF HUMAN RESOURCES**

**AGENCY WORKERS POLICY AND PROCEDURE**

Cabinet: Policy  
Contact: Len Hull  
Ext. 4136

**1. Public Interest Test**

1.1 The author of this report Len Hull has determined that the report is not confidential.

**2. Purpose of the Report**

2.1 To present the new draft Agency Workers Policy and Procedure for consideration and agreement by members of the Joint Employee Council.

**3. Background and Discussion**

3.1 With effect from 1 October 2011, the law relating to agency workers will change as a consequence of the enactment of the Agency Workers Regulations 2010. This new law gives agency workers rights from day 1 of their assignment, as well as equal treatment rights after 12 weeks service in the same job.

3.2 In summary, the rights accorded to agency workers from day 1 are in respect of access to the following **facilities**, provided they are accessible to comparable employees:

- A canteen or other similar facilities
- Transport services (but not car allowances)
- Toilets/shower facilities
- Staff rooms (eg common room, mother and baby room, prayer room)
- Food and drinks machines
- Car parking

Agency workers also have the right to be informed of vacancies provided that they are not ring-fenced for redeployment or to prevent redundancy situations.

3.3 Additional **equal treatment** rights accrue after 12 weeks in the same job (where there is a comparable worker or employee), as follows:

- Basic pay
- Overtime
- Bonus and commission related to individual productivity
- Paid holiday entitlement

- Hours of work
- Vouchers with a monetary value
- Paid time off to attend ante-natal appointments.

3.4 Agency workers will **not be entitled** to equal treatment in respect of:

- Access to the Local Government Pension Scheme
- Occupational Sick Pay (but may be entitled to SSP from the agency)
- Redundancy Pay
- Maternity/paternity rights (but may be entitled to SMP/maternity allowance from the agency)
- Bonus related to Council performance
- Non-cash awards
- Advances in pay or loans
- Additional discretionary and non-contractual payments

3.5 A draft Agency Workers Policy and Procedure has been developed and agreed jointly with the trade unions and is attached for review and comment. The underlying principles regarding the use of agency workers remain unchanged – ie that their use should be limited and alternative ways of meeting the resource need should be considered first.

3.6 To assist managers and recruiting officers in meeting the requirements of the new legislation, a flowchart and standard form has been developed which prompts them to provide the required information to the agency.

#### 4. Implications

a) For service users

The adoption of the attached Policy and Procedure will ensure that appropriate checks are carried out on agency workers prior to their assignment commencing, to manage risks to service users.

b) Strategic & Policy

As contained within the report.

c) Financial – Ref: 12/57

None arising directly from the endorsement of this Policy and Procedure, although clearly the use of agency workers has an associated cost which managers are required to contain within existing budgets.

d) Legal – 252/09/11

The adoption of this Policy and Procedure will ensure that the Council's legal obligations in respect of agency workers are met.

e) Human Resources

The adoption of this Policy and Procedure will ensure that the rights of existing employees are preserved whilst also ensuring that the rights of agency workers assigned to Council business are observed.

- f) Community Safety, Equal Opportunity, Environmental

An Equality Impact Assessment will be carried out on the draft procedure before recommendation to Cabinet. The equal treatment rights accorded to agency workers by the new legislation are contained within the draft Policy and Procedure.

- g) Whether this is a key decision, and if so the reference number.

Not applicable.

## **5. Options, Risks and Reasons for Recommendations**

### **5.1 Option 1**

To agree to recommend to Cabinet the draft Agency Workers Policy and Procedure as appended. This will ensure the Council's approach to the use of agency workers is consistent and in compliance with the new legislation.

### **5.2 Option 2**

Not to agree to recommend to Cabinet the draft Agency Workers Policy and Procedure. This will mean that the Council will not be prepared for the implementation of the new legislation from 1 October 2011.

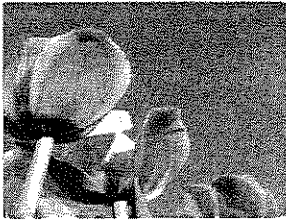
## **6. Recommendations**

- 6.1 That the Joint Employee Council notes the information contained within this report, and the Appendices attached, and approves Option 1 above, which is to agree to recommend to Cabinet the draft Agency Workers Policy and Procedure as appended.

### **Background Papers**

### **Location**





*Blossom In Bassetlaw...*

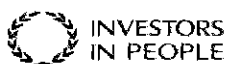


BASSETLAW DISTRICT COUNCIL

# AGENCY WORKERS

POLICY AND PROCEDURE

HUMAN RESOURCES



## OUR POLICY

### 1. What is this Policy about?

The Council aims to limit the use of agency workers in order to protect the employment of existing staff and offer greater opportunities for direct employment. However, it is recognised that there will be occasions when it is more expedient or cost-effective to use agency workers for short-term assignments, and where it is not practical to undertake a recruitment exercise.

This Policy and Procedure sets out the way in which the Council will manage and control the use of agency workers and ensure that the rights of agency workers are observed in accordance with the Agency Workers Regulations 2010.

### 2. Who does it apply to?

**All recruiting officers and managers** are responsible for implementing this policy and procedure.

The provisions **apply** to all agency workers. An agency worker is defined as an individual who is supplied by a temporary work agency to work temporarily for, and under the supervision and direction of, the Council. The agency worker's contract of employment is with the temporary work agency.

The provisions **do not apply** to the following:

- Those who are genuinely self-employed (eg sole traders)
- Those who work through their own service company who are genuinely in business of their own account (eg limited companies)
- Those employed under managed-service contracts (eg the Council contracting with a cleaning company for office cleaning)
- Staff appointed through in-house temporary staffing banks
- Staff directly employed by the Council who were initially introduced by an agency or employment business

### 3. What are the policy intentions?

To ensure that agency workers' rights are clearly understood and observed.

To provide a clear framework for the use of agency workers and define the circumstances when the use of agency workers is appropriate. Specifically:



- Approval from the Management Team must be sought before appointing an agency worker or extending their assignment
- Alternative ways of meeting short-term needs should be considered first
- The use of agency workers should be confined to short-term assignments
- The rights of agency workers must be observed and it is a recruiting officer or manager's responsibility to do this.

## OUR PROCEDURE

The 'procedure' sets out the basic, essential actions and requirements in terms of **who** is involved, **what** they need to do, **when** and **how**. It also enables the 'policy' to be effectively applied in practice.

### Important General Information

With effect from 1 October 2011 the law relating to agency workers changed, giving agency workers rights from day 1 of their assignment, as well as equal treatment rights after 12 weeks service.

#### Day 1 Rights

Agency workers have the right to the same access to certain facilities as comparable employees, ie:

- A canteen or other similar facilities
- Transport services (but not car allowances)
- Toilets/shower facilities
- Staff rooms (eg common room, mother and baby room, prayer room)
- Food and drinks machines
- Car parking

Agency workers also have the right to information relating to vacancies. This excludes situations where posts are ring-fenced for redeployment purposes or the prevention of a redundancy situation.

#### Rights after 12 weeks

After 12 weeks service in the same job, agency workers have a right to equal treatment with a **comparable worker or employee** in terms of:

- Basic pay
- Overtime
- Bonus and commission related to individual productivity
- Paid holiday entitlement
- Hours of work
- Vouchers with a monetary value
- Paid time off to attend ante-natal appointments.

Agency workers are **not entitled** to equal treatment in respect of:

- Access to the Local Government Pension Scheme
- Occupational Sick Pay (but may be entitled to SSP from the agency)
- Redundancy Pay
- Maternity/paternity rights (but may be entitled to SMP/maternity allowance from the agency)
- Bonus related to Council performance
- Non-cash awards
- Advances in pay or loans
- Additional discretionary and non-contractual payments

## What to Do – Step by Step Procedure for Recruiting Officers

### STEP 1 – consider alternatives

Consider whether there are **alternative ways** of meeting the short-term need for staff that:

- (a) **Preserve employment** of existing staff (eg are there any staff in the redeployment pool who have the knowledge, skills and abilities to do the work and for whom it would be a suitable temporary redeployment?)

OR

- (b) Offer greater opportunity for getting the best person for the job by offering **direct employment** (consider urgency, length of appointment balanced against time it will take to recruit etc).

OR

- (c) Are more **productive** and **cost-effective** (eg could you offer the work to existing part-time employees who already undertake the same or very similar duties? If so is this more productive and cost-effective?)

### STEP 2 – get approval

If after Step 1 you consider the best way of meeting the need is to appoint an agency worker, you should get **approval** from the Management Team to recruit to the post, by completing a “**Authorisation to Recruit**” form (*Appendix 1*). It is important that the Management Team has the right information on which to base their decision so please make sure you identify:

- ✓ The total length of the assignment
- ✓ The cost of the assignment\*
- ✓ The budget from which the cost will be met
- ✓ The reasons why alternatives are not appropriate

This should be sent to the relevant Director with a copy to HR and to the Chief Executive’s PA. The Management Team will consider the request and inform you of the decision.

\*To determine the cost you may need to make some initial enquiries from relevant agencies – please refer to steps 3 and 4 below. Alternatively you may have a good idea of the cost and be able to estimate the maximum cost for Management Team to approve. **You will not be authorised to go beyond the**

**cost or timescale authorised by the Management Team** without submitting a further request for authorisation.

### STEP 3 – identify appropriate agency/agencies and negotiate terms

You should identify the most appropriate agency/agencies to use by checking, for example:

- ✓ **The agency's reputation with other clients:** ask for references if appropriate, and use word-of-mouth recommendations where possible.
- ✓ **The type and levels of jobs with which the agency deals:** would a specialist agency have a wider choice of appropriate temporary workers?
- ✓ **The processes for pre-employment checks:** are you satisfied that they can carry out necessary checks appropriately eg: references, CRB checks, asylum and immigration checks (right to work in the UK)?
- ✓ **The quality of the consultant who you will be dealing with:** How long has the individual been working in the industry, has he or she been recommended, and what steps is he or she taking to understand the requirements of the particular vacancy and Council's specific needs? If the consultant is going to be able to put forward suitable temporary workers, he or she needs to understand the nature of the business, where the job fits in, the duties of the role, the terms and conditions, and the person specification.

The agency must provide in writing the following information:

- Confirmation that the agency will operate as an "**employment business**";
- **What fee** will be payable by the Council, how it will be calculated, and the terms relating to refunds or rebates, or, if no refunds or rebates are payable, a statement to that effect; and
- the **procedure** to be followed by the Council if the agency worker proves unsatisfactory.

**Before** entering into any arrangement for the supply of an agency worker, make sure you have checked the following and are happy with the fees and arrangements. If you are not happy, **negotiate different arrangements and/or fees** or choose another agency to work with instead.

- the fee payable for engagement of the temp, which is usually an hourly rate, plus VAT;
- the employment status of the temp (it is best if they have a contract of employment with the agency rather than a contract for services);
- notice provisions from either party for termination of the temporary arrangement;
- the transfer fee on temporary to permanent employment;
- the extended hire period on temporary to permanent employment; and
- repayment of the transfer fee if permanent employment is terminated.

#### STEP 4 – be clear about the requirements and arrangements

Once you have chosen an agency/agencies, provide them with the information they need to deal with your request. This includes:

- ✓ A **description of the duties** the worker will be undertaking. This could be a job description, a project brief, or a summary of key duties.
- ✓ The **knowledge, experience, skills and abilities** required to do the job. This could be a person specification or summary of key requirements.
- ✓ The **working arrangements** – eg location, beginning and end date of the assignment, hours of work, required days of work, rest breaks, etc.
- ✓ Any **authorisation** which will be required by law or by any professional body in order to work in the position (eg member of a professional body, cleared to work with children)
- ✓ Any known **health and safety risks** and the steps taken to prevent or control them
- ✓ The **facilities** that will be available to the agency worker from day 1.

If the assignment is scheduled to last for a minimum of 12 weeks, you will also need to inform the temporary work agency of the following (where applicable), which should be the same as that for a comparable permanent employee

- ✓ The grade and pay scale of the job (as determined through the Council's grading processes);
- ✓ The arrangements for annual pay awards and incremental progression (where applicable);
- ✓ The overtime rates that will apply if the employee works overtime;
- ✓ Any shift or unsocial hours allowance;
- ✓ The annual leave entitlement;
- ✓ Any bonus payment directly attributable to the work done by the individual.

A standard form is at *Appendix 2* which can be used to inform the temporary work agency of the above information. You should:

- ✓ complete ALL BLUE sections.
- ✓ Check all BLACK sections to make sure they describe the conditions that apply to comparable workers or employees. If anything is not correct in respect of the job you want to fill, correct it before sending to the temporary work agency, and inform HR immediately.
- ✓ Send the form and any accompanying information to the agency and provide a copy to HR.

#### STEP 5 – Select the agency worker and agree terms

Select your preferred agency worker through a fair and competitive process (in the event that you have more than one candidate who meets your requirements).

Ensure that you have agreed a clear end date with the agency and that the agency has informed the successful agency worker.

Ensure that the terms of the assignment are agreed in writing between you and the agency before accepting the agency worker.

## Managing the Agency Worker

### Attendance

If an agency worker is off sick or wants to take annual leave, this should be reported to the agency, as the contract of employment or contract for services is with them and not the Council. The agency will then liaise with you as appropriate.

### Performance

If you have concerns about an agency worker's performance (including capability, attitude, conduct, attendance etc), raise this with the agency. The agency worker is not subject to the Council's relevant procedures for managing such matters.

### Pregnant Workers and New Mothers

Pregnant women, women who have given birth in the last 6 months, or those who are breastfeeding, and who have completed 12 weeks in the job, are entitled to paid time off to attend ante-natal medical appointments and ante-natal classes.

If they can no longer complete the duties of the original assignment for health and safety reasons, find them alternative work, paid at a no less favourable rate than their previous assignment, for the duration of the time they were assigned to the Council.

If you cannot find them alternative work the agency is required to pay them for the outstanding duration of the assignment. It is likely therefore they will incorporate into the contract associated obligations on the Council.

## Managing Changing Circumstances

### Extending Assignments

If your requirements change, and you need to extend the arrangement beyond what was originally authorised by the Management Team, you should repeat Steps 1 and 2 above.

If the extension means that the assignment will be 12 weeks or more and this was not originally foreseen, ensure that you provide the agency with the required information to ensure that the agency worker's rights are accorded to them. Note that this may well involve an increase in costs if the rate of pay, leave entitlement and other provisions are higher than those paid to the agency worker from day 1. If this is the case, ensure that your request for approval from the Management Team has incorporated these additional costs.

### Temporary to Permanent Arrangements

If circumstances change more significantly, and you want to appoint an agency worker to the Council's employment, you will need to follow step 2 above and be able to demonstrate that you have already been through a competitive recruitment process.

Be aware that temporary to permanent arrangements usually incur a significant charge that will need to be included in the information provided in Step 2. You have three options in pursuing a temporary to permanent arrangement:

**Pay the transfer fee:** it is best if you have negotiated this before the agency worker first joined the Council.

**Agree to an extended hire period and, when that period has ended, employ the agency worker directly:** compare the costs of each option first.

**Permit the required period of time to pass between the end of the agency worker's assignment and employing him or her on a permanent basis:** this is a minimum of 8 weeks.

#### **Does this policy and procedure link closely with any others?**

Depending on the particular details of the situation, it may be necessary to consider it alongside the following policies and procedures:

- Recruitment and Selection Policy & Procedure
- Redeployment
- Organisational change
- Overtime provisions

#### **Need more information or support?**

Professional support/advice: If you have read this document and relevant linked guidance/documents and you find you then need further clarification and/or support or advice, including if an alternative format or adjustment to this procedure is needed, to enable a particular need to be met (e.g. due to a disability) the following is available

**For Managers:** Contact the Human Resources Team

**For Employees:** Contact your Manager initially, who should be able to help you. If you need further support after this, contact the Human Resources Team. If you are a member of a trade union you can also get support and advice from your trade union representative.

## The 'small print'.....

### Legal and General points:

This Policy and Procedure is effective from 1 October 2011.

For agency workers whose assignment with the Council began before that date and continues beyond 1 October 2011, the 12 weeks qualifying period begins from 1 October 2011.

Nothing in this policy will override related prevailing legislation and/or regulations.

This policy and procedure is written in compliance with the following legislation/regulations:

- Agency Workers Regulations 2010
- Conduct of Employment Agencies and Employment Businesses Regulations 2003)

This policy and procedure will be monitored and reviewed and may be subject to further change and amendment (following appropriate consultation and approval).

Forms attached to this policy and procedure do not form an integral part of it and may be modified at any time to ensure that the correct information is gathered/provided.

The latest version of this policy and procedure, and any accompanying documentation, will be available on the intranet.

### Document control information:

Version number: 1

Author: Karen Childs, HR & OD Business Manager

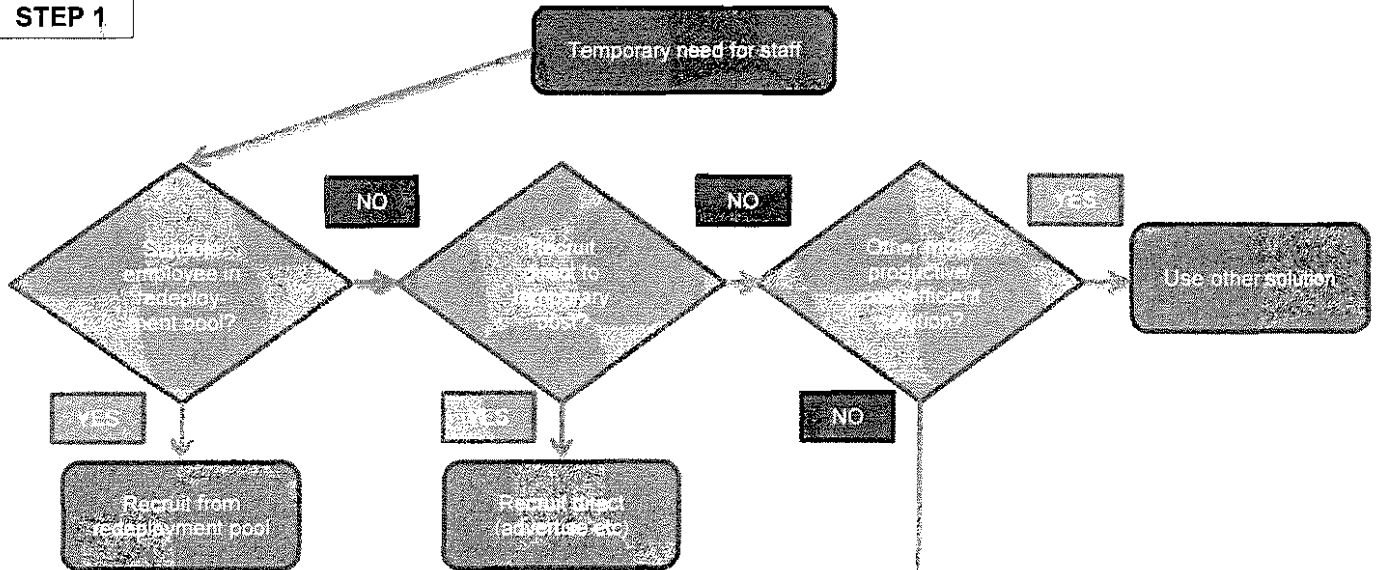
Endorsed by: JEC On:

Approved by: Cabinet On:

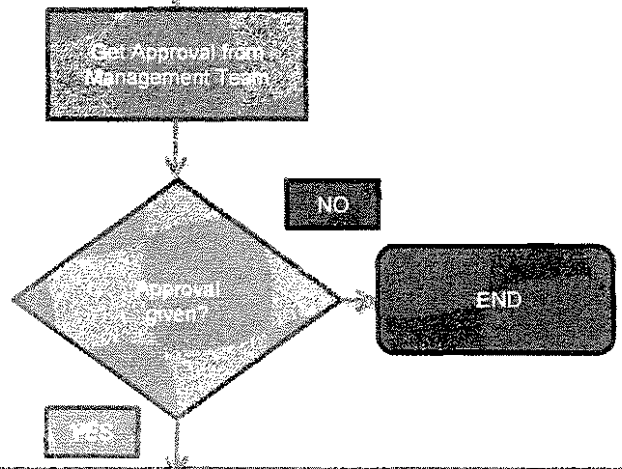
Implementation 'Go-live' Date: 01/10/11

## SUMMARY FLOW CHART APPOINTMENT OF AGENCY WORKERS

**STEP 1**



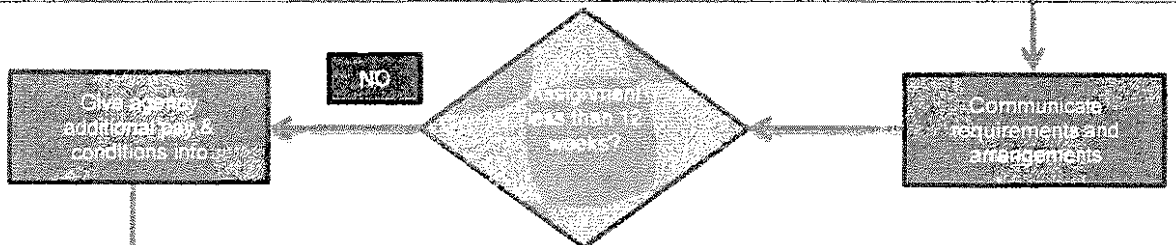
**STEP 2**



**STEP 3**



**STEP 4**



**STEP 5**







## RECRUITMENT OF AGENCY WORKER SPECIFICATION FOR TEMPORARY WORK AGENCY

Temporary Work Agency : .....

NB: Information in blue should be completed by recruiting officer  
Information in black is standard  
Information in bold orange is a request for action by the temporary work agency

### DETAILS OF THE ASSIGNMENT

Post: ..... Post reference .....

Directorate: ..... Service: ..... Unit: .....

Hours per week ..... Working pattern (days/hours per day): .....

Duration of assignment ..... Required start date: ..... Required end date .....

Work Location (address) .....

Expenses payable by or to agency worker YES / NO\* Details: .....

Name of recruiting officer ..... Contact telephone number .....

RO Post title ..... E-mail .....

### JOB DETAILS

Job description is attached YES / NO\*

Person specification is attached YES / NO\*

If no job description and/or is provided (or if you want to provide additional information), explain on a separate sheet:

(a) the job role and responsibilities, and

(b) knowledge, experience, training, qualifications, skills and abilities required to do the job

Indicate any authorisation which is necessary or required by law or by any professional body in order to work in the position:

.....

### HEALTH AND SAFETY

Risks to health and safety known to the Council .....

.....

Steps taken to prevent or control risks .....

.....

## FACILITIES AVAILABLE TO AGENCY WORKER FROM DAY 1

Note for agency: please make the agency worker aware of the following facilities that will be accessible to him/her from day 1, which are those accessible to other comparable workers or employees:

Canteen or other similar facilities	YES / NO*
Workplace crèche	NONE PROVIDED
Transport services	YES / NO*
If yes, explain the transport service that will be available (eg local pick up and drop off, transport between sites etc)	

Toilets	YES / NO*
Shower facilities	YES / NO*
Staff common room	YES / NO*
Waiting room	NONE PROVIDED
Mother and baby room	YES / NO*
Food and drinks machines	YES / NO*
Car parking	YES / NO*
If yes, state whether or not a car parking charge will apply	YES / NO*

The Council does not have a dedicated prayer room although it may be possible for employees or workers whose religious belief requires them to pray at specific times of the day to book a room for religious observance.

## PAY AND CONDITIONS OF SERVICE (complete for assignments of 12 weeks or more)

### PAY

Grade: ..... Annual pay (or pay range) .....

Note for agency: calculation of hourly rate = annual pay divided by 365 multiplied by 7 divided by 37

Pay rates are reviewed annually and any pay awards are applicable from 1 April each year. The review is carried out at a national level and new rates are not always known at 1 April and may need to be applied retrospectively once determined.

Incremental progression\*\* rules apply to grades with a salary range, as follows:

- Appointments from 1 April to 30 September: increment on the following 1 April then annually each 1 April
- Appointments from 1 October to 31 March: increment 6 months after appointment date then annually each 1 April

\*\*May be paused in some circumstances

### OVERTIME

Pay is at plain time for all hours worked up to a maximum of 37 hours. Overtime rates (where applicable) are:

Week days	PLAIN TIME / TIME AND A HALF / DOUBLE TIME / TIME OFF IN LIEU*
Saturdays	PLAIN TIME / TIME AND A HALF / DOUBLE TIME / TIME OFF IN LIEU*
Sundays	PLAIN TIME / TIME AND A HALF / DOUBLE TIME / TIME OFF IN LIEU*
Bank Holidays	PLAIN TIME / TIME AND A HALF / DOUBLE TIME / TIME OFF IN LIEU*

### SHIFT / UNSOCIAL HOURS / BONUS PAYMENTS APPLICABLE TO THIS JOB

Shift payment YES / NO\*      Unsocial hours payment YES / NO\*      Bonus payment YES / NO\*

If YES, please give details .....

### LEAVE ENTITLEMENT

24 working days increasing to 29 days after 5 years continuous service for staff working a 37 hour week. The increase in leave is applicable from the anniversary date of continuous service. In addition to the above there are 8 statutory and public holidays, plus 1 concessionary day for the period **1 April 2011 to 31 March 2012**. Part-time employees are entitled to annual leave, and statutory and public holidays on a pro rata basis.

\* Delete as applicable



# BASSETLAW

DISTRICT COUNCIL  
NORTH NOTTINGHAMSHIRE

## REQUEST FOR AUTHORISATION TO RECRUIT

### IMPORTANT NOTICE

This form **MUST** be completed and approved before recruitment to any post. It applies to **ALL** circumstances including permanent and temporary/fixed term appointments, internal appointments or permanent increase in hours for existing staff, and whether through direct employment or use of casual or agency workers.

All parts of this form **MUST** be completed. You must also provide an up to date Job Description, Person Specification and Advert with this form.

**IF THE FORM IS INCOMPLETE OR ANY PAPERWORK IS MISSING, IT WILL DELAY THE POST BEING ADVERTISED.**

**PLEASE COMPLETE A SEPARATE FORM FOR EACH POST.**

### SECTION 1 - DETAILS OF THE APPOINTMENT

Post: ..... Post reference .....

Directorate: ..... Service: ..... Unit: .....

Hours per week ..... Working pattern (days/hours per day): .....

Permanent/Temporary<sup>1</sup> ..... Required start date: ..... End date .....  
Circle or delete as appropriate ..... If temporary

Post Grade: ..... If maternity leave cover, what is the duration of the appointment? .....

**How do you intend to fill the vacancy?:** .....  
Circle or delete as appropriate .....  
Direct recruitment  
Agency Worker (complete section 3)  
Offer to job share partner  
Casual worker(s) up to maximum hours/time/cost

### SECTION 2 – JUSTIFICATION FOR RECRUITMENT

Why has this post become vacant and why does it need to be filled? .....

Are there any alternatives which could be considered other than filling the vacancy? YES/NO \*

If yes, give details.....

What would be the consequences of not filling this vacancy? .....

Is the vacancy on the Council's establishment? Yes, permanently / Yes as a temporary post / No \*

Do you have sufficient budget to fund the recruitment? YES/NO \*

Identify Cost Centre: ..... Identify cost: .....

\* circle or delete as appropriate

1 Temporary includes fixed term, maternity cover or any other arrangement not classified as "permanent"

### SECTION 3 – ASSIGNMENT OF AGENCY WORKERS

*Complete this section if you wish to assign an agency worker to the post. Otherwise leave blank.*

I confirm that I have considered alternative ways of meeting the short-term need for staff, that:

- preserve employment of existing staff (eg staff in the redeployment pool), or
- offer greater opportunity for getting the best person for the job by direct employment, or
- are more productive and cost-effective

and have determined that the best way of meeting the need is to appoint an agency worker.

State your reasons why alternatives are not appropriate .....

### SECTION 4 - JOBCENTRE PLUS

**WORK TRIALS** - Work experience for people unemployed, working over 16 hours per week, lasting at least 3 months, no guarantee to offer work at the end of the period. Is this post suitable to be offered as a work trial to test out an employee's aptitude for the job and whether they fit into the workforce?

**YES/NO**

If not, please give the reason .....

**BACKING YOUNG BRITAIN (18-24 YEAR OLDS)** - National campaign to create more opportunities for young people who have been on Job Seekers Allowance for 26 weeks or more, to find a job. Is this post suitable to be offered?

**YES/NO**

If not, please give the reason .....

### SECTION 5 - ADVERTISING

**External Website** (required for all external advertising)

Bassetlaw Recruitment Portal           √  
 JobCentre Plus                               √  
 Any other external website not listed .....

**Other** (eg schools, colleges, universities)  
 Please specify .....

**Publications** Please check costs first, then specify if additional advertising is required (specify which source – eg Nottingham Evening Post, Doncaster Free Press, etc)

Newspaper(s).....  
 Approx cost £.....

Other publication .....

If internal recruitment only, state reasons .....

(Please note the Council's policy is to advertise externally unless there are special circumstances, eg ringfencing of posts due to restructuring)

### SECTION 6 - AUTHORISATION

**All parts MUST be signed in order for the post to be advertised.**

COMPLETED BY: .....	Unit Manager	Date .../.../...
AGREED BY: .....	Head of Service	.../.../...
AUTHORISED BY: .....	Director	.../.../...
APPROVED/NOT APPROVED: .....	<b>CHIEF EXECUTIVE</b>	.../.../...

**NB: The specific process will be subject to advice from HR**

#### **CHECKLIST: PLEASE MAKE SURE YOU HAVE INCLUDED THE FOLLOWING DOCUMENTATION:**

Advert	Job Description	Person Specification
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