

## CEREDIGION COUNTY COUNCIL

**Report to:** Council

**Date of meeting:** 15 December 2022

**Title:** Introduction of a Sleep-in Allowance and an AMHP Allowance

**Purpose of the report:** To introduce two allowances to the Council's pay structure for National Joint Council for Local Government Services staff

**For:** Decision

**Cabinet Member and Portfolio:** Councillor Bryan Davies, Leader of the Council and Cabinet Member for Democratic Services, Policy and Performance, People and Organisation

### Introduction

The Single Status is a collective agreement made in 2012 between the Council and its recognised trade unions for staff employed under the terms and conditions of the National Joint Council for Local Government Services, also known as Green Book. In addition to pay and grading structure the collective agreement sets out the allowances payable to this staff group. This paper proposes the introduction of two new allowances to be added to the those included in the Council's Single Status Agreement.

Both allowances have been subject to consultation and agreement with our recognised trade unions.

#### **(1) Sleep-in Allowance**

The development of a Council run children's residential facility has prompted a review of the allowance arrangements for staff in our residential settings.

Currently all staff working in our residential care homes are on 'waking nights', where they are required to fulfil their contractual hours undertaking duties set out in their contract of employment. Under the Council's Single Status Agreement night staff are paid a rate of an hour and a quarter during their shift. No sleeping is allowed.

The number of children who will be in the new residential facility will mean that there are limited duties which could be undertaken throughout the night and therefore the proposal is to introduce a new sleep-in allowance,

In March 2021 the Supreme Court (*Tomlinson-Blake v Royal Mencap, 2017*) confirmed that sleep-in care workers are entitled to be paid their contractual hourly rate only when they are awake on shift for the purposes of working, not when they are permitted to sleep. The hours spent during their shift, whether awake or

sleeping, are currently treated as 'working time' under the Working Time Regulations 1998.

The introduction of a 'Sleeping in allowance' will see the following text included as an addendum to the Single Status Agreement. The text is based on the relevant entry in the NJC National Agreement (Green Book):

*Employees required to sleep in on the premises shall receive an allowance to cover the requirement to sleep in and up to 30 minutes call out per night, after which the additional hours or overtime provisions will apply.*

This allowance is currently £39.24 as at April 2022.

The allowance may also be used periodically in the Council's adult residential care homes during periods of inclement weather and would be offered to staff volunteering to sleep in the home to ensure service continuity.

### **AMHP Allowance**

Approved Mental Health Professional (AMHP) are mental health professionals who have been approved by the Council to carry out certain duties, as set out under the Mental Health Act 2007. In the Council's employment these will usually be qualified social workers but the role can also be performed by occupational therapists, psychiatric nurses or clinical psychologists. These duties include responsibility for coordination of an individual's Mental Health Act assessment and their admission to hospital if they are to be sectioned, i.e. detained to a hospital. An AMHP is an 'autonomous professional' and cannot be instructed by a manager or doctor to section an individual. An AMHP will consider recommendations from two doctors, consult with the individual's nearest relative before conducting a Mental Health Act assessment. It is the AMHPs responsibility to make the final decision and to ensure that the law is being correctly applied.

In making such decisions the AMHP needs to balance risk against the least restrictive option, often in challenging situations. Their decision, if wrong, can have major implications for the individual, the wider public and the Council.

Before commencing an AMHP qualification social workers will need to have at least 2 years post-social work qualification experience. To achieve the AMHP qualification social workers must undertake a postgraduate level course, which will last between 6 and 12 months.

It is a statutory requirement that the Council has an AMHP on duty over every 24 hour period. During the day this is covered by suitably qualified staff in the Mental Wellbeing Team and out of office hours, night-time, weekend and bank holidays this is covered by the Emergency Duty Team (EDT).

### **Additional Payment**

In recognition of the responsibility, the role and the required skill base when undertaking AMHP duties an additional allowance is proposed. Such an allowance will also contribute to the recruitment and retention of qualified AMHP as there is a significant nationwide shortage of professionals in this field.

An AMHP allowance is an established element of the AMHP duty in a number of Welsh local authorities where the payment ranges from £75 per session to £228.25 per month for undertaking the role.

There are currently 6 AMHP qualified employees in the Council; 4 in day services and 2 in EDT. A full complement of AMHP would be 9 if an additional 5 qualified staff were recruited and developed as the current cohort of 6 includes the Mental Wellbeing Corporate Manager and Team Manager who would cease as AMHP.

If approved, this AMHP Allowance would be a permanent addition to the current allowances paid to National Joint Council for Local Government Services (Green Book) Staff.

### **Proposal**

It is proposed that an AMHP Allowance is introduced at a rate of £175 per month (£2,100 per annum) for those AMHP warranted staff. Staff in receipt of this allowance are required to commit to meet points 1, 2, 3 of the following criteria and commit to one of points 4, 5 or 6:

#### ***PAYMENT OF APPROVED MENTAL HEALTH PROFESSIONAL (AMHP) ALLOWANCE***

*The following denotes the criteria that must be applied to Social Workers to be eligible to be paid an allowance for duties under the Mental Health Act with effect from 1 April 2022:*

- 1. To be fully qualified as an AMHP*
- 2. To be warranted by Ceredigion County Council to carry out work under the Mental Health Act 1983*
- 3. To be available for MHA assessments when on duty and reprioritise work as the need arises.*
- 4. To carry out a minimum of 3 sessions a month/36 sessions a year on the day AMHP rota and be willing to undertake the duties. The numbers of sessions may vary year on year depending upon the number of AMHP's at the Authorities disposal. Pro rata for part time staff.*
- 5. For those undertaking standby, to carry out a minimum of 2 sessions per month/24 sessions a year on the out of hours AMHP rota. Pro rata for part time staff.*
- 6. For the Corporate Manager/Team Manager who is/are warranted but not routinely undertaking EDT or day AMHP duty, to be available as required to cover sickness, annual leave, other absences. Also respond to service pressures by providing additional cover when required and provide advice and support as required.*

*These payments will be made in arrears through the payroll system and will cease immediately if an individual in receipt of this payment no longer complies with the requisite criteria.*

*The commitment of a minimum of 3 day AMHP rota sessions or 2 out of hours AMHP rota sessions a month remains regardless of annual leave but not in the event of unplanned sickness leave.*

*AMHPs whose sickness leave lasts longer than a 3-month continuous period shall have their AMHP allowance suspended.*

*Non commitment to the rota for the minimum of 3 day AMHP rota sessions or 2 out of hours AMHP rota sessions per calendar month, or equivalent of, over a consecutive 3 month period may result in AMHP allowance being stopped.*

*Staff are required to complete timesheets on a monthly basis confirming whether or not their session as listed on the rota has been worked. Any sessions not worked will not be included in the compliance calculation for payment.*

*The payment will be pro rata depending on the number of sessions an individual complies satisfactorily with the above criteria.*

*The payment will be pro rata for part time staff.*

*This allowance will be paid in addition to any other pay enhancement.*

*The line manager is responsible for informing People & Organisation when an employee no longer meets the relevant criteria for the payment.*

*The payment is to be set at £175 a month for an individual who complies satisfactorily with the above criteria. The payment will be subject to annual pay award increases.*

If approved the above criteria will form the basis of a collective bargaining agreement with the Council's recognised trade unions.

### **Budget implication**

The cost of introducing this allowance, with the current number of qualified AMHPs, is £16,506 (including payroll on cost). The total annual cost with a full complement of 9 AMHPs would be £24,759 (including payroll on cost). This would be a base budget increase requirement and the service would need to identify the budget from within the overall budget.

**Wellbeing of Future Generations:**

**Has an Integrated Impact Assessment been completed? If, not, please state why**

No. The introduction of these allowances does not change policy or the provision of services.

**Summary:  
Long term:  
Collaboration:**

**Involvement:**  
**Prevention:**  
**Integration:**

**Recommendation(s):** (1) To approve the implementation of a Sleep-In Allowance with effect from 1 April 2022  
(2) To approve the implementation of an AMHP Allowance with effect from 1 April 2022

**Reasons for decision:** (1) To support the development of a children's residential facility  
(2) To support the Council's statutory responsibility of providing 24 hour AMHP duty

**Overview and Scrutiny:** Not considered

**Policy Framework:** Ceredigion County Council's Single Status Collective Agreement

**Corporate Wellbeing Objectives:** Contributes to the following Corporate Priorities:

- Boosting the Economy, supporting Business and Enabling Employment
- Creating Caring and Healthy Communities
- Creating Sustainable, Green and Well-connected Communities

**Financial implications:** To be met from within current Through Age & Wellbeing budget

**Legal Implications:**

**Staffing Implications:**

**Statutory Powers:**

**Background Papers:** None

**Appendices:** None

**Corporate Lead Officer:** Geraint Edwards, Corporate Lead Officer – People & Organisation

**Reporting Officer:** Geraint Edwards

**Date:** 21/11/2022