

Subject:	City Clean Dispute Resolution		
Date of Meeting:	13 October 2021		
Report of:	Chief Executive		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

Note: Urgency

By reason of the special circumstances below, and in accordance with section 100B(4)(b) of the 1972 Act, the Chair of the meeting has been consulted and is of the opinion that this item should be considered at the meeting as a matter of urgency.

Note: Reasons for urgency

The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) are that the report relates to an ongoing trade dispute which has been the subject of ongoing negotiations and the up to date position and information set out in the report was not available at an earlier stage.

1 PURPOSE OF REPORT AND POLICY CONTEXT

1.1 This report sets out options for resolution of the current City Clean dispute.

2 RECOMMENDATIONS:

That the committee:

2.1 Having considered the options set out in section 4 and the financial and legal advice in sections 8 and 9 of the part 2 report, provides the Chief Executive as Head of Paid Service and his management team a clear negotiating steer with the GMB taking into account the legal and financial advice.

2.2 Note that any resulting financial commitments would need to be factored into the sequence of reports leading up to and including Budget Council and will be considered by the cross-party Budget Review Group as part of the process.

2.3 Agree that affected staff and unions are advised of the council's decision.

2.4 Consider additional support to the negotiating teams as outlined in section 4 of the report.

3 CONTEXT/ BACKGROUND INFORMATION

- 3.1 City Clean is a key council service for residents and business customers and has a high percentage of male staff with a high proportion of unionised workers, predominantly represented by the GMB union.
- 3.2 The current dispute follows representations from GMB officials with respect to the movement between rounds of HGV drivers on resident and business refuse and recycling services.

The ballot paper is provided below but a summary is here:

“... failures to follow Council policy’s (sic) and procedures regarding HGV holding drivers, and resulting unilateral decision making around variations of duties, crew changes, planning for collecting of dropped work, and the accumulating resultant effect and toll on Driver's health and wellbeing and associated issues within the refuse, recycling, com-bins and trades waste.”

- 3.3 The local management team, supported by the Executive Director for Environment, Economy and Culture, have sought to address trade union concerns to avert escalation to industrial action, through meetings over several weeks during which the issues were discussed, and suggested solutions offered. Whilst is our view that discussions to find a local management resolution were able to make progress, the GMB balloted their members for industrial action and following a ballot (see Appendix 1) have undertaken strike action and have announced further strike dates to 21st November 2021. This industrial action has affected all areas of the city and is most evident where residents and businesses are unable or have chosen not to retain their waste on their property and premises.
- 3.4 To reduce the risk of the dispute further escalating whilst constructive negotiations are in play, the council has sought to minimise flash points. The council has communicated directly with GMB representatives as the main point of contact and has not publicly issued its detailed offers to affected staff.
- 3.5 While the dispute and ballot centred around operational matters that managers engaged with the GMB to seek to address, there is now discussion focused on further issues such as pay. As is the convention of the council, employer’s policy steers latterly have been sought by the officer negotiating team from the political administration. These have been discussed within the context of the council’s own industrial relations policies, protocols, and procedures More recently it has been necessary to seek legal and financial advice which has prompted this report. The council’s legal and financial considerations are set out in the part 2 report.

Main Elements of the Dispute

- 3.6 There are two distinct elements concerning resolution of the dispute. The first concerns the ballot for industrial action which is primarily about the movement of drivers and allocation of rounds.

Movement of Drivers and allocation of rounds

- 3.7 Over the period of pandemic, there has been a greater need to change driver rosters on a more frequent basis due to drivers and loaders needing to self-isolate. Where absences cannot be covered by permanent staff, officers feel it is sometimes necessary to call on agency staff to ensure services to residents and business can be maintained. Securing agency staff has been particularly challenging during the pandemic and because of labour shortages notably HGV drivers. On occasion a driver may be moved from their normal round due to performance issues.
- 3.8 A formal offer on the movement of drivers was submitted on 6th and 9th October. This is attached at appendix 2. A revised formal offer was also submitted 11 October and is set out in Appendix 3. A summary of the issues and how management have responded to them through the formal offer documents is below:
- 3.9 **Moving drivers due to performance concerns.** Management have agreed to invoke formal procedure (disciplinary or capability) whenever it felt necessary to move drivers for performance, conduct or capability reasons. Prior to any formal action, an informal meeting/discussion and/or standard setting would take place. Drivers that have been moved will return to their rounds. This will be done in discussion with the individual driver so that any needs relating to that individual are addressed.
- 3.10 **Ensuring the drivers and their crew go out on the round they are allocated to.** Management have agreed in the offer document that where all members of the crew, the driver and the vehicle are available to work, they will work the round that they are normally allocated to and not be moved to work on a different round. In circumstances where this does not happen, management will review the reasons why there was deviation from this.
- 3.11 **Covering rounds when Reps are on trade union duties.** Through the offer document, management have agreed that where a driver is released on trade union duties, management will prioritise cover for their round using pool or agency drivers. In circumstances where the round is not covered due to pool or agency drivers not being available, management will look to providing an additional loader for that round to support with catch up where there is capacity to do so. Management will also work with GMB reps to explore ways of improving the resilience of the communal bin rounds.
- 3.12 **Prioritising permanent staff over agency staff .** Through the offer documents, management have acknowledged that Drivers are contracted to work from 5am and 7am depending on which part of the service they work. Some Drivers start work at 6am and on occasion agency workers who also start at 6am have been allocated to these rounds ahead of permanent Operatives who start at 7am. Management have proposed that this issue is addressed in such a way that works for all permanent staff and which creates consistency with start and finish times. Management have proposed to undertake a review of this with GMB so that we can agree a solution that works for all staff.

- 3.13 **Rounds being changed without consultation / following the agreed process**
Management agree that round changes should only happen following a meeting with the crew and union. They have proposed in the offer documents that this meeting will be carried out by operations managers (i.e. Team Leaders, Operations Managers, or Head of Operations) and that where round changes are being considered, management should engage with staff at an early stage of the process.

Pay and Grading

- 3.14 During the negotiations and after industrial action commenced, the GMB raised additional issues not covered in the ballot and this second element concerns **pay and grading**.
- 3.15 Consideration of the pay and grading issues appear in the part 2 report on this agenda.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

Pursual of additional actions to resolve dispute

- 4.1 Other options for consideration relate to the management of the dispute going forward. If the dispute is not resolved quickly the council will consider engaging third party support to support all sides of the dispute in reaching a resolution. Options to be considered are as follows:
- ACAS offer both conciliation and arbitration services that the employer could seek to utilise, with agreement from GMB. Collective conciliation involves a neutral person providing support to both parties to reach agreement. Arbitration involves a third party working with each side and making a decision to resolve the dispute. Arbitration is usually used when conciliation has not been successful.
 - Both parties could request support through the national joint secretaries to access the dispute resolution mechanism as part of the National Joint Council. It is not clear if the regional structures are in place either on the employer or union side, but further exploration of this route could take place in agreement with GMB.
 - Third party Industrial Relations expert could be engaged to support the council and union to reach agreement. Various options could be considered, such as the support that was accessed in the 2019 dispute.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Specific community consultation is not considered necessary for this report.
- 5.2 Consultation with other Trade Unions would be required if the council wishes to accord with its current policies and procedures.

APPENDIX 1



Summary of the matters in issue in the trade dispute

Failures to follow Council policy's and procedures regarding HGV holding drivers, and resulting unilateral decision making around variations of duties, crew changes, planning for collecting of dropped work, and the accumulating resultant effect and toll on Driver's health and wellbeing and associated issues within the Refuse, recycling, com-bins and trades waste

The period within which industrial action is expected to take place

Within six months of the ballots closing date

The industrial action short of strike will take the form of

Discontinuous strike action and work to rule.

Appendix 2

City Clean dispute. Formal Offer (movement of drivers)

Version date: 06.10.21

The following draft offer outlines a formal proposal from the employer for resolving the dispute on the basis that the current industrial action scheduled from 8th October onwards is suspended.

The headings below relate to the areas of concern that have been highlighted by GMB as the grounds for the dispute. This document has been updated following the meeting with the GMB on 6th October 2021.

1. Moving drivers due to performance concerns

Management agree to invoke formal procedure (disciplinary or capability) whenever it felt necessary to move drivers for performance, conduct or capability reasons. Prior to any formal action, an informal meeting/discussion and/or standard setting would take place.

Drivers that have been moved will return to their rounds. This will be done in discussion with the individual driver so that any needs relating to that individual are addressed

Management have met with GMB to go through the drivers that have been moved so that agreement can be reached around who is impacted

2. Ensuring the drivers and their crew go out on the round they are allocated to

Where all members of the crew, the driver and the vehicle are available to work, they will work the round that they are normally allocated to and not be moved to work on a different round.

In circumstances where this does not happen, management will review the reasons why there was deviation from this.

3. Covering rounds when Reps are on trade union duties

Where a driver is released on trade union duties, management will prioritise cover for their round using pool or agency drivers.

In circumstances where the round is not covered due to pool or agency drivers not being available, management will look to providing an additional loader for that round to support with catch up where there is capacity to do so.

Management to work with GMB reps to explore ways of improving the resilience of the communal bin rounds.

4. Prioritising permanent staff over agency staff

Management acknowledge that Drivers are contracted to work from 5am and 7am depending on which part of the service they work. Some Drivers start work at 6am and on occasion agency workers who also start at 6am have been allocated to these rounds ahead of permanent Operatives who start at 7am.

Management would like to address this in such a way that works for our permanent staff and which creates consistency with start and finish times. Management propose to undertake a review of this with GMB so that we can agree a solution that works for all staff.

5. Rounds being changed without consultation / following the agreed process

Round changes should only happen following a meeting with the crew and union. The meeting will be carried out by operations managers (ie Team Leaders, Operations Managers, or Head of Operations). These managers will be reminded that this must be done prior to any final decision on round changes.

Where round changes are being considered, management should engage with staff at an early stage of the process.

6. Covering a round when drivers are unwell or on annual leave

When a driver is unwell or on annual leave, management will seek to cover that round using agency or pool drivers.

Management will work with the trade union to develop a process for determining how collection of missed work/leave cover is prioritised. This could include providing an additional loader where there is capacity to do so.

Appendix 3

City Clean Dispute: Revised Formal Offer (Movement of Drivers)

Version date: 11.10.21

The following draft offer outlines a formal proposal from the employer for resolving the dispute on the basis that the current industrial action scheduled from 12th October onwards is suspended.

The headings below relate to the areas of concern that have been highlighted by GMB as the grounds for the dispute. This document has been updated following the meeting with the GMB and the administration on 8th October 2021.

1. Moving drivers due to performance concerns

Management agree to invoke formal procedure (disciplinary or capability) whenever it felt necessary to move drivers for performance, conduct or capability reasons. Prior to any formal action, an informal meeting/discussion and/or standard setting would take place.

Drivers that have been moved will return to their rounds. This will be done in discussion with the individual driver so that any needs relating to that individual are addressed

Management have met with GMB to go through the drivers that have been moved so that agreement can be reached around who is impacted. Any standard setting or other letters sent by management relating to the decision to move a driver from their round for performance reasons will be removed from that individual's file.

2 Ensuring the drivers and their crew go out on the round they are allocated to

Where all members of the crew, the driver and the vehicle are available to work, they will work the round that they are normally allocated to and not be moved to work on a different round.

In circumstances where this does not happen, management will review the reasons why there was deviation from this.

3. Covering rounds when Reps are on trade union duties

Where a driver is released on trade union duties, management will prioritise cover for their round using pool or agency drivers.

In circumstances where the round is not covered due to pool or agency drivers not being available, management will look to providing an additional loader for that round to support with catch up where there is capacity to do so.

Management to work with GMB reps to explore ways of improving the resilience of the communal bin rounds.

4. Prioritising permanent staff over agency staff

Management acknowledge that Drivers are contracted to work from 5am and 7am depending on which part of the service they work. Some Drivers start work at 6am and on occasion agency workers who also start at 6am have been allocated to these rounds ahead of permanent Operatives who start at 7am.

Management would like to address this in such a way that works for our permanent staff and which creates consistency with start and finish times. Management propose to undertake a review of this with GMB so that we can agree a solution that works for all staff.

5. Rounds being changed without consultation / following the agreed process

Round changes should only happen following a meeting with the crew and union. The meeting will be carried out by operations managers (i.e. Team Leaders, Operations Managers, or Head of Operations). These managers will be reminded that this must be done prior to any final decision on round changes.

Where round changes are being considered, management should engage with staff at an early stage of the process.

6. Covering a round when drivers are unwell or on annual leave

When a driver is unwell or on annual leave, management will seek to cover that round using agency or pool drivers.

Management will work with the trade union to develop a process for determining how collection of missed work/leave cover is prioritised. This could include providing an additional loader where there is capacity to do so.

7. Monitoring and oversight of delivery of these commitments

Officers will provide regular updates regarding the delivery to the commitments made in this offer to the Environment, Transport & Sustainability Committee as part of the City Environment Modernisation Programme update reports that are presented to committee. Management will provide GMB with a copy of the update prior to committee to allow for comment.

End.