

<b>Subject:</b>	<b>Unpaid Trial Shifts</b>		
<b>Date of Meeting:</b>	<b>21 March 2019</b>		
<b>Report of:</b>	<b>Executive Director, Economy, Environment &amp; Culture</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Sophie Moss</b>	<b>Tel: 01273 291104</b>
	<b>Email:</b>	<b>sophie.moss@brighton-hove.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>(All Wards);</b>		

## **1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The purpose of the report is to update Members on the actions in response to the Notice of Motion at Full Council on 19<sup>th</sup> July 2019 concerning unpaid trial shifts. Unpaid trials shifts are the practice of businesses offering trial shifts as a way of vetting the suitability of candidates for a job, but not paying them for that shift. There is evidence of a number of employers (mainly but not exclusively in the hospitality sector) who actively seek to fill shifts with people on an unpaid trial, some of these have no intention of giving them a job, and some even hold unpaid work trials over a number of shifts.
- 1.2 The report seeks to agree the proposed actions towards ending the practice of unpaid trial shifts, based on ideas from a workshop held with affected groups.

## **2. RECOMMENDATIONS:**

- 2.1 That the Committee agrees the draft unpaid trial shift policy statement in paragraph 3.3 of this report.
- 2.2 That the Committee agrees to support the campaign and the proposed actions set out in paragraph 3.9 and Appendix One of this report.
- 2.3 That the Committee agrees with the proposal for a further fact finding consultation across private, public and voluntary sector organisations as set out in Appendix One.

## **3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 Full Council met on 19<sup>th</sup> July 2018 and a Notice of Motion was passed:

(1) To request that the Chief Executive asks officers to work in collaboration with the Brighton & Hove Economic Partnership, Brighton & Hove Chamber of Commerce, Tourism Alliance, local traders associations, trade unions and organisations representing young people, to gain information and understanding of the scale and nature of unpaid trial shifts in the City of Brighton and Hove and bring a report to an appropriate meeting of the Policy,

Resources & Growth Committee outlining options to end the practice in the city. The report should include a proposal for a wide consultation across all private, public and voluntary sector organisations.

(2) To ask the Chief Executive to write to the Secretary of State for Business, Energy and Industrial Strategy, requesting that the Government seek to end the practice of unpaid trial shifts.

3.2 The Chief Executive wrote to the Rt. Hon. Kelly Tolhurst MP, the Parliamentary Under-Secretary in the Department for Business, Energy and Industrial Strategy, with the request to end unpaid trial shifts on 20<sup>th</sup> September 2019.

3.3 Aligned with the Notice of Motion unanimously agreed by the council it is proposed that the following Policy Statement is adopted:

*As a Local Authority, Brighton & Hove City Council believes people should be paid when asked to undertake training or trial shifts prior to being considered for work, and this is consistent with our support of the Brighton and Hove Living Wage campaign. The Council believe that where this practice leads to profit it is unfair and is committed to working with businesses and partners to end this practice.*

#### **Planning Workshop**

3.4 In response to the Notice of Motion, officers were asked to work with businesses, trade associations and campaigners and organise a planning workshop to discuss the methods of a consultation and actions to end unpaid trial shifts. The workshop took place on 25<sup>th</sup> January 2019 and was well attended with people coming from Brighton & Hove Economic Partnership; Tourism Alliance; Brighton Chamber of Commerce; local traders; youth campaigners for the Say No To Unpaid Trial Shifts campaign; student union representative and the Student Rooms.

3.5 The workshop heard from two local businesses, Bagelman and Real Patisserie, about the reasons why they don't use unpaid trial shifts as part of their recruitment process, and from young people who have themselves experienced unpaid trials shifts as part of the difficult process of finding employment when young and inexperienced.

3.6 The workshop agreed that what we mean by unpaid trial shifts needs to be defined. The general view at the meeting was that a clearer definition of unpaid trial shifts is: "*Where an employer fails to pay for work which either makes money from a prospective employee or saves money for the employer.*" So, for example, a café manager asking someone to prepare a coffee while they supervise them is not an unpaid trial shift as the manager is directly involved in overseeing the process and the business has saved nothing, but a bar owner asking a prospective employee to work for an hour behind the bar is exploiting free labour. The workshop was also clear that *paid* trial shifts are not a problem, where a person is getting paid for their labour.

3.7 Whilst unpaid trial shifts are perceived to mainly affect the young, it should not be regarded as only affecting them. It should not also be regarded as a problem in one particular sector or with one type of employer.

- 3.8 The workshop attendees looked at a number of options and made recommendations for actions, details of which are *contained* within Appendix One of this report.
- 3.9 Partners agreed that there were a number of actions needed to end the practice including;
- A campaign to raise awareness aimed at business and applicants
  - Provide support that outlines guidance around the law and recruitment practices to businesses and employment rights to applicants, and how to report bad practice to HMRC via [nounpaid.com](http://nounpaid.com) website
  - Using businesses who do not use unpaid trial shifts as positive case studies
  - Making a strong economic argument to business that paying for trial shifts is part of a recruitment strategy that keeps staff turnover low as it saves on recruitment and training costs in the long run and creates a working culture of trust, honesty and good communication
- 3.10 As requested by the Notice of Motion, the workshop also considered the best ways in which to consult with a wider audience including business and young people to gather data and evidence that will help to open a dialogue with HMRC for more direct intervention. These ideas are also set out in Appendix One.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 The purpose of the planning workshop was to look at the various options ending this practice. It was determined that a positive campaign that works with businesses and celebrates good practice would be the more workable and viable option.

#### **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 The consultation and planning workshop brought together stakeholders and partners from the private, public and third sectors, Unions and young people. A wider consultation was agreed as the appropriate outcome to gain a better understanding of the scale and extent of the problem.
- 5.2 The report in Appendix One details the workshops recommendations and produces a number of actions to enable a wider consultation and raise awareness of the practice.

#### **6. CONCLUSION**

- 6.1 The planning workshop tasked with looking into ways to end the practice of unpaid trial shifts heard a number of compelling arguments for why the practice is unethical, poor business practice and bad for the city's economy. For this reason it is proposed that the council adopts the policy position that makes clear its objection to unpaid trial shifts, and to work with the community to implement the measures in this report (and appendix) to try and effect change to end the practice. It is hoped that the work on unpaid trial shifts will be as successful and gain as much traction in the city as the Brighton & Hove Living Wage Campaign.

## 7. FINANCIAL & OTHER IMPLICATIONS:

### Financial Implications:

- 7.1 The cost of officer time associated to drafting the unpaid trial shift policy statement has been met from existing resources. Further costs associated to supporting the campaign and consultation will largely be officer time and other minor facilitation costs which are expected to be funded from existing resources within the City Development and Regeneration service.

*Finance Officer Consulted: Steven Bedford*

*Date: 08/03/19*

### Legal Implications:

The Council has a 'general power of competence) pursuant to section 1(1) of the Localism Act 2011 which allow it to take the steps outlined in this report.

The consultation exercise is not a consultation on a particular proposal but is a data gathering exercise.

The legal framework which applies to unpaid trial shifts is set out in Appendix 1.

*Lawyer Consulted:*

*Alice Rowland*

*Date: 1/03/2019*

### Equalities Implications

- 7.2 Unpaid trial shifts have an impact on equalities within the city. Low paid employment within the city against high rents already creates a tension that can lead to in work poverty. Ending the practice of unpaid trial shifts will help to reduce these pressures.

### Sustainability Implications:

- 7.3 Unpaid trial shifts affect some of the most vulnerable residents in the city and contributes to the number of people in precarious employment. Ending unpaid trial shifts in the city will contribute to residents experiencing positive sustainable employment.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Summary note on the Outcomes from the Unpaid Trial Shifts Workshop