

REPORT TO: East Lothian Council

MEETING DATE: 15 May 2012

BY: Executive Director (Support Services)

SUBJECT: Diamond Jubilee/Additional Day's Leave

11

1 PURPOSE

- 1.1 To ask Council to consider awarding an additional day's annual leave for all employees (pro rata for part-time employees) to celebrate the Queen's Diamond Jubilee on Tuesday 5th June 2012.

2 RECOMMENDATIONS

- 2.1 That Council decides whether or not an additional day's annual leave should be given to celebrate the Queen's Diamond Jubilee.
- 2.2 Subject to approval of 2.1, that an additional day's annual leave be granted to all employees on 5th June 2012 with those employees required to work on that day, as determined by Heads of Service, given the equivalent time off in lieu at an appropriate later time.
- 2.3 That the time off be pro rata for part-time employees in relation to the normal full-time working hours for the employee group to which they belong i.e. 35 or 37 hours. This would allow part-time employees who are not due to work on 5th June to take their pro rata entitlement at another time.
- 2.4 Note the above recommendation are made in the context of :
- the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 which make it unlawful for employers to treat part-time employees less favourably than comparable full-timers.
 - It being potentially problematic to swap an alternative public holiday (i.e. 17th September) to 5th June at this late stage.
- 2.5 Note that if approved, it will be necessary to submit an application to Scottish Government seeking permission for exceptional closure of schools on 5th June 2012.

3 BACKGROUND

- 3.1 Each year the designated fixed public and general holidays are subject to Trades Union consultation. At that time the Board of Directors and Corporate Management Team had recommended that 5th June should not be an additional holiday also advising that the cost of a typical day on the Council's paybill was approximately £500,000. In accordance with normal practice, a memo was issued to all employees on 24th November 2011 outlining which days had been agreed as the designated fixed public and general holidays. These fixed leave days did not include 5th June and this position was discussed and noted at the JCC on 7th December 2011.
- 3.2 Following the Local Government Elections on 3rd May 2012 and subsequent discussion on this matter, some of the newly Elected Members wish that further consideration be given to employees being given an additional day's annual leave to celebrate the Queen's Diamond Jubilee on 5th June 2012.
- 3.3 If an extra bank holiday is announced to mark a particular occasion, for example a royal wedding or the Queen's Jubilee, whether or not employees are entitled to an additional day's holiday will depend on the wording of the employment contract. There are no contractual requirements to give an additional public holiday to any of East Lothian Council's employee groups for 5th June 2012.
- 3.4 Teachers' contracts specify a fixed working year of 195 days of which 190 will coincide with the pupil year. They accrue annual leave on the basis of 0.2051 for each day/hr worked and this calculation includes an entitlement to 11 public holidays, one of which has been fixed for Monday 4th June 2012.
- 3.5 The Scottish Government have confirmed that they would give Councils permission for exceptional closure to pupils on 5th June 2012, on application.
- 3.6 Cosla Circular SJC/43 (attached at Appendix 1) states that "*Councils that choose to recognise the event may do so by granting either an additional bank holiday or an additional day of annual leave. If a bank holiday is awarded then anyone required to work on 5 June 2012 should be recompensed in accordance with the relevant local arrangements in place for bank holiday working. If an additional day of annual leave is awarded then employees required to work on 5 June 2012 will be entitled to time off in lieu at an appropriate later date*".
- 3.7 Cosla indicate that from information they have collated, 14 out of the 32 Councils have given an additional day's leave, 1 has swapped one of their fixed public holidays to 5th June and 1 has designated the day as a public holiday (with associated enhancements for having to work on that day). The remaining Councils have either indicated that they will not be recognising 5th June as a holiday, or did not respond to the Cosla survey.

3.8 Unison have indicated that they consider that 5th June should be an additional day's leave. The EIS and SSTA have made no representations in this respect.

3.9 If it is agreed that there should be some recognition of this national additional public holiday then the options are :

- swap with a day that has already been fixed - preferably Monday 17th September. However the Trades Unions would have to be consulted on this matter as the fixed public holidays have already been set for this year. This may also interfere with holidays that have already been booked. This would have to apply to school based employees as well as other employees.
- provide an additional day only for employees who would normally work on this day – potentially challengeable under the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000.
- provide an additional annual leave day for all employees, pro rata for part-time employees and applicable whether or not they are due to work on that day (including teachers).

3.10 If the Council decides to award an additional day's annual leave on 5th June 2012 (but not as an additional public holiday with associated enhancements), then other contractual implications to be aware of include:

- If the day is deemed to be an additional annual leave day then the enhanced hourly rate would not apply but employees required to work on that day would receive time off in lieu at another time.
- Employees, including teachers, not due to work on 5th June 2012 would receive the equivalent additional leave entitlement on a pro rata basis i.e. for part-time employees.
- Employees who have compressed working hours and who would normally work on Tuesday 5th June 2012 would have the additional time off limited to the maximum normal working day that would apply to their particular employee group i.e. 7 hours for 35 hour working week or 7 hours 25 mins for a 37 hours working week. Any further hours required to cover the leave for that day should be made up using flexi or annual leave hours. The opposite would also apply for employees working compressed hours and who do not normally work on a Tuesday i.e. any equivalent additional time off in lieu would be limited to either 7 hours or 7 hours 25 mins.
- Craft workers who are sick on an annual leave day can self-certificate and receive a day in lieu. A local government employee would receive a day in lieu only if the 5th June was covered by a medical certificate.

- Employees on maternity leave at that time would get the additional leave day after they have “returned” to work.
- 3.11 On the occasion of the Queen’s Golden Jubilee in 2002, the national SJC negotiating group agreed that there be an additional one-off holiday granted on Monday 3 June 2002. On the occasion of the marriage of the Duke and Duchess of Cambridge the Council decided to give employees an additional day’s annual leave. On both occasions, on application, Councils were also given permission to allow there to be one less teaching day for pupils.

Impact on Council Services

- 3.12 The granting of an additional leave day will impact upon services provided to the public. Although it is suggested that the additional day will not have Public Holiday status, the impact upon public services would be as if it were a public holiday. Given the relatively short forward notice of this change, it would be for individual Heads of Service to determine what services require to be delivered and resourced. In the event of the additional day being granted, the Council’s Communications Manager will ensure that suitable public and employee information is published.

4 POLICY IMPLICATIONS

- 4.1 There are no direct policy implications.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 An equalities impact assessment has not been undertaken and is not considered applicable to this matter.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – Whilst the gifting of an additional leave day to all employees would incur a notional cost of a day’s pay for all employees, the actual additional costs incurred would be limited to the costs associated with covering the operational implications of those taking the additional days leave at another time. This may include the cost of overtime, supply cover etc. Services that would require to be maintained on the 5th June would include but not be restricted to: residential care for the elderly and young people; standby services for property maintenance ; domiciliary care; emergency care team; contact centre; registrars; caretakers for pre-booked lets; and the tele-care team.
- 6.2 Personnel - Employees will be notified of the decision on this matter in accordance with normal processes.

- 6.3 The Cosla Circular (SJC/43) and associated Guidance Note (HRA 5/11) issued by COSLA in September 2011 has been lodged in Members Library for reference.
- 6.4 Other – There could potentially be the problem of staffing for the services detailed at 6.1 as result of the schools being closed and child-care being unavailable.

7 BACKGROUND PAPERS

- 7.1 Appendix 1 – Cosla Circular – SJC/43 Royal Jubilee

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Appendix 1

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5 September 2011

Dear Chief Executive

SJC/43

ROYAL JUBILEE

1. The UK Government and Scottish Government have announced an additional one off bank holiday on Tuesday 5 June 2012 to celebrate the Queen's Diamond Jubilee. It has also been announced that the late May bank holiday will be moved to Monday June 4 2012.
2. Councils that choose to recognise the event may do so by granting either an additional bank holiday or an additional day of annual leave. If a bank holiday is awarded then anyone required to work on 5 June 2012 should be recompensed in accordance with the relevant local arrangements in place for bank holiday working. If an additional day of annual leave is awarded then employees required to work on 5 June 2012 will be entitled to time off in lieu at an appropriate later date.
3. It is recognised that many councils have previously reached local agreement to re-designate the late May bank holiday as annual leave. Councils that continue to recognise the bank holiday may choose to move this to Monday 4 June 2012. Alternatively, councils may choose to move an appropriate alternative holiday to Monday 4 June 2012.
4. Employers' Guidance Note 05/2011 provides further guidance on the associated issues which councils will wish to consider in their workplace.

Yours sincerely

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Joint Secretaries

To: Chief Executives
Directors of Personnel