

EAST HERTS COUNCIL

LOCAL JOINT PANEL - 16 SEPTEMBER 2009

REPORT BY HEAD OF PEOPLE AND ORGANISATIONAL SERVICES

6(A) TIME OFF IN LIEU (TOIL)

WARD(S) AFFECTED: NONE

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**Purpose/Summary of Report**

- To recommend that time off in lieu (TOIL) is reduced to flat rate.

**RECOMMENDATION FOR HUMAN RESOURCES COMMITTEE:**

<b>(A)</b>	Reducing Time Off In Lieu (TOIL) to flat rate be approved.
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1.0 Background

1.1 TOIL and overtime has been identified as an area where cost savings can be made in order to help meet the budget gap in 09/10. A report was taken to Corporate Management Team (CMT) on 26 May 2009 which analysed overtime data for 08/09 and provided some options on how overtime could be reduced in 09/10 for CMT to consider. Following a request from CMT for some more specific recommendations on how to reduce overtime in 09/10 a further report was taken to CMT on 11 August 2009. A recommendation made in this report was to reduce TOIL to flat rate.

2.0 Report

2.1 It is recommended that TOIL is to be accrued at flat rate rather than the current time and a half (or double time on a Sunday). A survey of how other local authorities was undertaken to find out how their staff accrue TOIL (Essential Reference Paper B). The results of the survey show that of the other local councils that responded, the majority accrue TOIL at flat rate. In addition, several Heads of Service have been approving TOIL on the basis

that it is accrued at flat rate, not realising that the current rules of the scheme state that it should be at time and a half. Therefore, reducing it to flat rate will achieve a saving, give flexibility in how managers apply overtime and TOIL and ensure consistency in how TOIL is managed across the Council. UNISON have been consulted with regarding this recommendation and their response is detailed in Essential Reference Paper C (Pages 6.7 - 6.8).

- 2.2 TOIL will be used as a way of giving managers more flexibility around the hours their members of staff work without formally extending the current flexi-time scheme. TOIL could be used where flexi time would normally be accrued, but due to the core hours is currently not possible. TOIL will therefore be used as a way to reward staff for their commitment by extra time off, but with no additional cost to the Council. It should be noted that the current Flexi-Time Scheme already states that 'working time outside of flex hours for authorised purposes, such as evening meetings, should be recorded in the adjustment panel and counted as a TOIL credit'.
- 2.3 CMT will work on developing a reward schedule for compensation for attendance in exceptional circumstances. The Council continues to improve flexibility to provide services when needed, whether they are in office hours or not - and some of our work can only be done outside standard business hours. However, CMT recognise that there may be exceptional circumstances where flat rate TOIL is not appropriate and accept that SMG want some flexibility in that regard.
- 2.4 The cost of overtime in 08/09 was £68,123.23 and Heads of Service have projected a similar overtime spend in 09/10. However, since April 09 14.5 hours of overtime have been declined by CMT. Overtime needs to be clearly defined as time worked outside of normal hours, which is not regular and does not form part of a member of staff's everyday role. UNISON agree that no employee should be working more than 37 hours on a regular basis as they state that people come to rely on the extra payments as a regular source of income and it is also not conducive to a healthy work/life balance (please see Essential Reference Paper C (Pages 6.7 - 6.8)).
- 2.5 It is recommended that Heads of Service continue to have the discretion to use overtime and TOIL. However, it is recommended that overtime is limited in 09/10 and is only used in situations where it would not be appropriate to grant TOIL or flexi.

- 2.7 New guidance on overtime and TOIL will be published. This will be included in the new staff handbook 2009.
- 2.8 In addition, Directors are also working with their Heads of Service, to look at their processes and procedures to identify ways they might be able to work more efficiently and reduce the need for overtime in 09/10.
- 3.0 Implications/Consultations
- 3.1 Information on any corporate issues and consultation associated with this report can be found within Essential Reference Paper A (Page 6.4).

### Background Papers

None

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ESSENTIAL REFERENCE PAPER A

AGENDA ITEM 6(A)

Contribution to the Council's Corporate Priorities/Objectives ( <i>delete as appropriate</i> ):	<b>Fit for purpose, services fit for you</b> <i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i>
Consultation:	UNISON and Heads of Service have been consulted with and the recommendations have been approved by CMT. Staff will be consulted with regarding any changes to terms and conditions.
Legal:	None
Financial:	As detailed in the report. It is expected that a reduction in overtime will produce savings. From April 09 to date 14.5 hours of overtime have been declined.
Human Resource:	As detailed in the report.
Risk Management:	None.

**Survey of Other Local Authorities- Rate That TOIL is Accrued**

**South Cambridgeshire District Council**

We use a multiplier of 1.5.

**South Norfolk District Council**

We allow them to accrue TOIL but at a plain time rate.

**St Edmundsbury Borough Council**

TOIL is accrued at plain time only.

**Stevenage Borough Council**

We do not enhance time off in Lieu, it is plain time.

**Suffolk Coastal District Council**

TOIL is accrued for all staff at plain time. Overtime is paid for staff up to NJC SCP 29 at plain time for 37 - 45 hours, time and a half for over 45 hours, however they would not be able to claim TOIL instead of overtime at that rate. Employees on over SCP 29 are not normally paid overtime.

**Uttlesford District Council**

TOIL is accrued at flat rate only.

**Central Bedfordshire Council**

Plain time only.

**Chelmsford Borough Council**

We normally use flexi time but where TOIL occurs this is at the same rate as if overtime had been payable. We currently only pay plain rate overtime unless a sixth working day when it is time and a half.

**Chiltern District Council**

TOIL is accrued and taken at plain time.

**Epping Forest District Council**

We have an issue here with TOIL as we have a flexi scheme and the CE is of the view that all time worked should be managed through this process (which I personally agree with). So at the moment we still have TOIL and it is accrued at single time. However, I found out a couple of days ago that TOIL is accrued at time and a half for EHOs who carry out evening inspections. This will be discussed further as it does not fit with the work

undertaken under Single Status.

**Forest Heath District Council**

Single time.

**Great Yarmouth Borough Council**

Ours is now 2.2.

**Hertfordshire County Council**

At Hertfordshire County Council we operate a flexible working scheme, flexitime, where employees can accrue TOIL as the hours of overtime worked. These accrued hours over their standard working week can then be taken as time off, subject to the manager's approval. This can be up to two days a month, taken as hours or full days to suit the employee. This is taken at the same rate as their normal working hours so they do not get time and a half.

**Broxbourne Borough Council**

TOIL is accrued at flat rate only.

## Review of Overtime- Response by UNISON

### General Principles

UNISON has consistently stated that they will not agree to any changes to employees' terms and conditions of service, which is to their detriment. Overtime and time off in lieu (TOIL) are integral parts of these terms and conditions.

With regard to the caretakers and possibly Castle Hall staff, UNISON' s understanding is that at least some of their overtime is contractual and therefore would be difficult to change without the agreement of the employees concerned.

Overtime paid for regular evening work undertaken by Democratic services, for example, would be difficult to change for the reasons outlined in the report.

UNISON supports the 'Green Book' principle that employees should be rewarded for unsocial hours by being paid time and a half or double time for weekends or hours worked over 37. There is already a local agreement to pay overtime at a maximum rate of SCP 28 and UNISON supports this practice.

There is no provision in the Hay Job Evaluation scheme for enhancing the point score of those jobs which by their very nature require evening and weekend work, such as in leisure. Therefore higher rates of pay for unsocial hours are currently the only means of compensating employees for this type of work. UNISON would not therefore support the principle of new seven day Monday to Sunday contracts.

### Recommendations which UNISON could support

UNISON has made it clear on a number of occasions that they recognise the problems faced by East Herts Council with regard to the budget gap and are keen to work with HR to find ways of achieving savings.

It is worth pointing out that a large saving will almost certainly be achieved by the Council having budgeted for a 2.25% pay rise, when it is unlikely that even half of this amount will be required.

However, UNISON does still acknowledge the need to keep overtime to a minimum, as well as looking at other means of saving money. Although it would be hard to justify removing unsocial hours enhancements or TOIL, UNISON, on health and safety grounds is keen to see employees' hours being kept wherever possible to their contractual number of hours. No employee should be working more than 37 hours on a regular basis. People come to rely on the extra payments as a regular source of income and it is also not conducive to a healthy work/life balance.

UNISON would support wherever possible, the employment of additional employees on fixed term contracts to avoid existing staff having to work regular overtime. It is understood that Government funds available for this purpose are not being used and that Benefits staff are working most Saturdays to cope with the backlog of benefit claims. There is at least one fully qualified member of staff in another service area who could process benefit claims and who could be used to help with the current workload. This position could be backfilled quite easily and with a little flexibility between service areas, the problem could be solved without the need for regular overtime.

UNISON would also support a consistent approach to overtime claims and accruing TOIL and flexi leave. Any inequalities with regard to employees' remuneration or TOIL could leave the Council vulnerable to equal pay or discrimination claims. For example, it would be difficult to justify paying overtime at a time and a half but accruing flexi leave or TOIL at flat rate. (As already mentioned UNISON would not support the withdrawal of an enhanced rate of pay for evening or weekend work).

UNISON is prepared to look at shift allowances but would not agree to any new arrangement which leaves employees worse off financially. It would be wrong to penalise specific groups of employees, many of whom are some of the lowest paid staff.

Jane Sharp  
UNISON Branch Secretary