

## EAST HERTS COUNCIL

### LOCAL JOINT PANEL – 17 JUNE 2010

#### REPORT BY SECRETARY TO THE EMPLOYER'S SIDE

#### TIME OFF IN LIEU (TOIL)

WARD(S) AFFECTED: NONE

---

### **Purpose/Summary of Report**

To outline the current situation in relation to TOIL.

<b><u>RECOMMENDATION FOR LOCAL JOINT PANEL :</u></b>	
--	--

<b>(A)</b>	Members approve that TOIL be awarded at flat rate, except in 'exceptional circumstances' as defined in the report now submitted.
------------	--

#### 1.0 Background

1.1 A report was submitted to Corporate Management Team (CMT) on 11 August 2009 which included a recommendation to reduce TOIL to flat rate. This report was submitted to the Local Joint Panel (LJP) on 16 September 2009 but was not supported. The matter was deferred to enable Officers in Human Resources and UNISON to review and report back. Actions which needed to be addressed were

(A) to define what 'exceptional circumstances' for which flat rate TOIL would not be appropriate and

(B) to establish out how much TOIL was accrued across the Council in 2008/09 and at what rate it is claimed and in each service area. Please see Essential Reference Paper 'B' for full details of how TOIL is accrued and claimed across the Council.

1.2 A further report was submitted to CMT on 10 November 2009 which addressed both of the actions from LJP. Following this

meeting the Director of Internal Services amended the criteria for 'exceptional circumstances' and a further meeting was convened between Unison and HR when the new criteria was discussed. Unison disagreed with the new criteria and put forward a counterproposal to CMT. CMT considered this counterproposal on 30 March 2010 but decided they wished to proceed with the original proposal.

## 2.0 Report

2.1 The management definition of exceptional circumstances when TOIL will be offered at premium rates is as follows:

- (1) TOIL will be awarded at premium rates where both the following apply:-
  - a. work is required to respond to an exceptional, unplanned and unforeseeable event, and
  - b. that work is undertaken at a time other than that at which the work would be expected to be undertaken.
- (2) In determining whether (1a) and (1b) apply the nature of the job will be considered. Where the normal duties of the job include responding to emergencies and on occasions undertaking planned work out side of the 9am to 5pm / Monday to Friday week, TOIL will generally be awarded at plain time. However, where the frequency, duration or scale of those emergency events is exceptional compared to normal experience TOIL at premium rates may be awarded to those staff required to provide an unusually high level of response.
- (3) As a guide to determining whether 'frequency', 'duration' or 'scale' of an emergency event is exceptional:-
  - c. 'frequency' - response to two or more events in any rolling 7 day period.
  - d. 'duration' - where work extends to more than 12 hours in any 24 hour period and is out of the normal hours associated with the role.

- e. 'scale' - where in responding to an event the member of staff is required to operate beyond the boundaries of their normal role.

- 2.2 Unison did not agree with the management definition of "exceptional circumstances" as they felt it was too complicated and that staff will not be willing to attend callouts etc if they do not know beforehand what rate they are going to be entitled to. Unison felt that the criteria needed to be clear and concise and be on a time basis, i.e. enhanced rates should be awarded for working unsocial hours (as defined by the Green Book as 8pm-8am and at weekends) and any time outside of those hours is awarded at plain time. Unison stated that 'an exceptional, unplanned and unforeseeable event', by its very nature it is going to be during unsocial hours, because if it occurred during the day then staff would just attend during work time.
- 2.3 Unison also felt strongly that just because a member of staff regularly works outside of normal hours due to the nature of the job, they should still accrue TOIL at an enhanced rate as the hours worked are still unsocial.
- 2.4 This exercise has shown that TOIL is being applied differently across the Council and at minimum some action needs to be taken to ensure that it is applied fairly and consistently across all service areas. It is recommended that the management proposal of awarding TOIL at flat rate, apart from in exceptional circumstances, is approved.

### 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'.

#### Background Papers:

TOIL report to Corporate Management Team 11 August 2009  
TOIL report to Corporate Management Team 10 November 2009  
TOIL report to Corporate Management Team 30 March 2010

Contact Officer: Tinu Olowe – Interim Head of People and Organisational Services

Report Author: Claire Burton - HR Officer

## ESSENTIAL REFERENCE PAPER '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:	Heads of Service and UNISON have been consulted with.
Legal:	None.
Financial:	None.
Human Resource:	As detailed in the report.
Risk Management:	None.

## ESSENTIAL REFERENCE PAPER 'B'

Heads of Service were asked to find out how much TOIL was accrued in their service areas in 08/09 and to confirm what rate TOIL is accrued at in their service area. The results are as follows:

	<b>Number of hours TOIL accrued</b>	<b>Rate at which TOIL is accrued</b>
<b>Strategic Direction</b>	Approx 231 hours	Mixture of time and a half and flat rate.
<b>Corporate Support Team</b>	7 ½ hours.	Flat rate.
<b>People and Organisational Services</b>	None - extra hours worked are managed through the Flexi-time Scheme.	Not applicable as no TOIL is accrued.
<b>Financial Support Services</b>	2 staff for 4 hours per annum (to support annual budget consultation with the public).	Time and a half.
<b>Legal and Democratic Services</b>	150 hours (approx) at time and a half 25 hours flat rate	Time and a half and flat rate.
<b>Revenues and Benefits</b>	Unaware that any toil was accrued in 08/09.	Time and a half.
<b>Business Support Services</b>	10 hours 15 minutes	Flat rate.
<b>Planning and Building Control</b>	1907 hours	Flat rate.
<b>Community Safety and Licensing</b>	Approx 323 hours	Flat rate.
<b>Health and Housing</b>	Approx 220 hours	Mainly time and a half but some taken as flat rate.
<b>Environmental Services</b>	Do not have resources to check this as would require a review of lots of leave cards	TOIL is applied at flat rate. There may have been an occasional enhancement in special circumstances (e.g.

	and flexi records and reconciliation over two leave years as leave years are different for each member of staff.	Sunday working) – but this would have been extremely rare.
<b>Customer Services</b>	No TOIL last year. Small amount incurred this year.	Flat rate for TOIL.
<b>Community and Cultural Services</b>	181.5 hours	Mainly flat rate but small amount at time and a half.