



MEETING : LOCAL JOINT PANEL
VENUE : COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE : THURSDAY 2 DECEMBER 2010
TIME : 2.30 PM

MEMBERS OF THE COMMITTEE

EMPLOYER'S SIDE:

Councillors M Wood (Chairman), M R Alexander, A P Jackson and S Rutland-Barsby

Substitutes:

Conservative

L O Haysey and J O Ranger

Liberal Democrat:

STAFF SIDE - UNISON

Mr C Clowes (Vice Chairman), B Dodkins, Mrs J Sharp and Mr A Stevenson

(Substitutes: Ms F Brown and Mrs Hazel Izod)

(Note: Substitution arrangements must be notified by the absent Member to Democratic Services 24 hours before the meeting)

**CONTACT OFFICER: LORRAINE BLACKBURN
01279 502172**

PERSONAL AND PREJUDICIAL INTERESTS

1. A Member with a personal interest in any business of the Council who attends a meeting of the Authority at which the business is considered must, with certain specified exemptions (see section 5 below), disclose to that meeting the existence and nature of that interest prior to the commencement of it being considered or when the interest becomes apparent.
2. Members should decide whether or not they have a personal interest in any matter under discussion at a meeting. If a Member decides they have a personal interest then they must also consider whether that personal interest is also prejudicial.
3. A personal interest is either an interest, as prescribed, that you must register under relevant regulations or it is an interest that is not registrable but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of the Council more than it would affect the majority of inhabitants of the ward(s) affected by the decision.
4. Members with personal interests, having declared the nature of that personal interest, can remain in the meeting, speak and vote on the matter unless the personal interest is also a prejudicial interest.
5. An exemption to declaring a personal interest applies when the interest arises solely from a Member's membership of or position of general control or management on:
 - any other body to which they have been appointed or nominated by the authority
 - any other body exercising functions of a public nature (e.g another local authority)

In these exceptional cases, provided a Member does not have a prejudicial interest, they only need to declare their interest if they speak. If a Member does not want to speak to the meeting, they may still vote on the matter without making a declaration.

6. A personal interest will also be a prejudicial interest in a matter if all of the following conditions are met:
 - the matter does not fall within one of the exempt categories of decisions
 - the matter affects your financial interests or relates to a licensing or regulatory matter
 - a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest.

7. Exempt categories of decisions are:
 - setting council tax
 - any ceremonial honour given to Members
 - an allowance, payment or indemnity for Members
 - statutory sick pay
 - school meals or school transport and travelling expenses: if you are a parent or guardian of a child in full-time education or you are a parent governor, unless it relates particularly to the school your child attends
 - housing; if you hold a tenancy or lease with the Council, as long as the matter does not relate to your particular tenancy or lease.

8. If you have a prejudicial interest in a matter being discussed at a meeting, you must declare that interest and its nature as soon as the interest becomes apparent to you.

9. If you have declared a personal and prejudicial interest, you must leave the room, unless members of the public are allowed to make representations, give evidence or answer questions about the matter, by statutory right or otherwise. If that is the case, you can also attend the meeting for that purpose. However, you must immediately leave the room once you have finished or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe proceedings.

AGENDA

1. Apologies

To receive apologies for absence.

2. Chairman's Announcements

3. Declarations of Interest

To receive any member's Declarations of Interest and Party Whip arrangements.

4. Minutes (Pages 7 - 14)

To confirm the Minutes of the meeting held on 16 September 2010.

5. Safety Committee Minutes (Pages 15 - 20)

To receive the minutes of the meeting held on 7 October 2010.

6. Reports by Secretary to the Employer's Side

(A) Changes to the Constitution (Pages 21 - 28)

(B) Default Retirement Age - Implementation Arrangements (Pages 29 - 34)

7. Health and Safety at Work Act

(A) Cautionary Persons' Register (Pages 35 - 42)

8. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

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MINUTES OF A MEETING OF THE
LOCAL JOINT PANEL HELD IN THE
WAYTEMORE ROOM, COUNCIL OFFICES,
THE CAUSEWAY, BISHOP'S STORTFORD
ON THURSDAY 16 SEPTEMBER 2010, AT
2.30 PM

PRESENT: **Employer's Side**

Councillor Mike Wood (Chairman)
Councillors M R Alexander, L O Haysey and
J O Ranger

Staff Side (UNISON)

Mr C Clowes, Mrs J Sharp and Mr P Stevens

ALSO PRESENT:

Councillors D A A Peek

OFFICERS IN ATTENDANCE:

Lorraine Blackburn	- Committee Secretary
Tinu Olowe	- Interim Head of People and Organisational Services

8 MINUTES

RESOLVED - that the Minutes of the meeting held on 29 July 2010 be approved and signed by the Chairman as a correct record.

9 APOLOGIES

Apologies were submitted from Claire Burton, Alan Madin, Councillor A P Jackson, Councillor S Rutland-Barsby, and Andy Stevenson. It was noted that Councillor L O Haysey was substituting for Councillor A P Jackson and Councillor J

O Ranger for Councillor S Rutland-Barsby.

10 CHAIRMAN'S ANNOUNCEMENTS

The Chairman stated that he had agreed to accept two urgent items of business in relation to Terms of Conditions Review and Staffing Implications of the Emergency Budget Proposals.

11 REPORTS FOR THE SECRETARY TO THE STAFF SIDE
(VERBAL UPDATE)

The Acting Secretary to the Staff Side provided a verbal report stating that of the 103 votes cast, 33 had approved the revised Terms and Conditions proposals and 70 had rejected them. As such, there was a failure to reach a collective agreement. The Acting Secretary stated that Unison Members had sought clarification on a number of changes e.g. in relation to the essential / casual car allowances, which could not be answered, as such Staff were uncertain about how the scheme would work.

Unison stated that representatives had tried to be as neutral as possible in presenting the proposals, but there was too much uncertainty about how things would work and a lot of distrust and because the details of the scheme were not known, Members were not prepared to accept 1% on that basis. Unison stated that Members were also aware that they would not be able to exercise a right to take the matter to an Employment Tribunal if necessary and wished to reserve their rights.

The Panel received and noted the update.

RESOLVED – that the update be noted.

12 URGENT BUSINESS: REPORTS BY SECRETARY TO THE EMPLOYER'S SIDE AND BY THE SECRETARY TO THE STAFF SIDE

The Chairman reminded the Panel that he had agreed to accept two items of Urgent Business onto the agenda in order to prevent any undue delay in facilitating the business and the services of the Council.

(A) Terms and Conditions Review (Report by Secretary to the Employer's Side)

The Interim Head of People and Organisational Services explained that the report circulated as a supplementary item of business, had been superseded by the results of the recent ballot. The purpose of the report, had been to provide the Panel with an update in relation to the revised Terms and Conditions but that a collective agreement had not been reached.

Unison officers explained that there were issues and uncertainty about essential / casual car user arrangements. Within some job descriptions, staff had been told that they needed a car to do their job and yet were not eligible for an essential user allowance under the new proposals. Unison therefore felt that staff should not be required to bring their car to work on a daily basis. Unison Officers stated that Staff needed to know whether they needed to bring their car to work or not. Unison sought clarification that Staff could use public transport if necessary and whether staff would be disciplined as casual users, if they did not make their car available for work use.

The Interim Head of People and Organisational Services stated that staff needed to undertake their duties as required by their contract. Using public transport was an option. This was open for discussion. If they refused to undertake their job, then normal processes would be followed. If staff travelled 2000 business miles they would be entitled to an essential car user allowance. If not they would receive a casual car allowance. She stated that Essential Car User

allowances would be reviewed annually. She accepted that they would be exceptions, including mobility issues, and that these matters would be discussed with Line Managers.

In response to a query from Councillor M R Alexander concerning the 2,000 essential car user allowance and guidelines for claiming allowances, the Secretary to the Employer's Side undertook to provide Members with further information on claiming mileage and the Council's Expenses Policy. The Secretary to the Employer's Side stated that Heads of Service were asked to review mileage of their staff and the policy was based on the claims made.

Unison referred to other Councils and the use of the word "desirable" in terms of reimbursement.

RESOLVED - that (A) the report be noted;

(B) the Secretary to the Employer's Side circulate further information on claiming mileage and the Expenses Policy to all Members of the Local Joint Panel.

(B) Staff Implications of Emergency Budget proposals - Secretary to the Staff Side

The Secretary of the Staff Side acknowledged that the Council must manage its business and that the purpose of discussion was to avoid unnecessary redundancies. He stressed the need for good communication to take place. The Secretary to the Staff Side referred to the report to Corporate Business Strategy on 24 August (MTFP) which considered a number of proposals to achieve savings and which had staffing implications. The Secretary to the Staff Side referred to the imminent meeting of Council on 29 September, when Members, (via Corporate Business Scrutiny and the Executive), would be asked to agree to savings which had staffing implications (set out in Essential Reference Paper "H" – Executive 7 September 2010). Unison was concerned that the report had not only identified what savings needed to be made, but had identified posts for deletion and the reduction

of hours of staff within Democratic Services and Electoral service areas.

It was noted that the measures which had been identified in the report to the Executive, were measures which had been identified within the MTPF in the previous financial year which were not agreed at that time, but Members had asked that these should be brought forward at a later date, if necessary.

Unison acknowledged that savings needed to be achieved but was concerned that proper consultation had not taken place. It sought amendment to the recommendation contained within the Executive minutes of 7 September 2010, specifically that Members be asked to agree “in principle” approval to the measures being put forward where there were staffing implications, rather than agreeing to measures in absolute terms. Unison was concerned that there had not been proper consultation on what was being sought and this was contrary to agreed policies and undermined the Council’s redundancy policy. The Secretary to the Employer’s Side stated that the savings identified in Essential Reference Paper H had already been set out the previous MTFP, but remained subject to approval. She stated that, in any event, where there were staffing implications, the appropriate procedures would be followed in line in HR policies; this would include informal and formal consultation with appropriate staff and UNISON.

It was acknowledged that Local Joint Panel would normally report to Human Resources Committee. However, Unison felt that Council on 29 September 2010 should be asked to agree only items where the savings did not identify specific posts for deletion, to enable appropriate consultation to take place.

Upon a vote being taken, the Panel agreed that Council be asked:

RESOLVED - (A) to identify service areas where cuts to staff applied:

(B) to delete posts which have already been identified as “vacant posts” subject to an appropriate business case;

(C) where staff reductions have been identified, the Director of Internal Services be requested to provide a report on how these can be implemented and that this be brought back for further consideration by Members in the New Year, after full consultation had taken place.

13 HEALTH AND SAFETY AT WORK ACT

The Local Joint Panel was advised that compliance statistics were identical to the last meeting and that Heads of Service continued to be pressed. It was noted that 11 out of 14 services were up to date with Risk Assessments.

In response to a query from Councillor M R Alexander concerning health and safety requirements for Home Workers, Unison explained that Staff had to complete a series of forms including risk assessments and that employees were trusted to work in a safe environment. On line assessments would be used in the future.

The Local Joint Panel asked that the Health and Safety Officer provide Members with further information of the safety aspects for Home Workers including risk assessments, DSE and screen usage.

RESOLVED – that (A) the update be noted;

(B) the Health and Safety Officer provide Members with further information on the safety aspects of Home workers including risk assessments, DSE and Screen usage.

The meeting closed at 4.15pm

Chairman
Date

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MINUTES OF A MEETING OF THE
SAFETY COMMITTEE HELD IN THE ROOM
28, WALLFIELDS, HERTFORD ON
THURSDAY 7 OCTOBER 2010, AT 2.00 PM

PRESENT: Simon Drinkwater (Chairman)
Peter Dickinson, Peter Mannings,
Graham Mully, Barbara Sylvia, Paul Thomas
and Steve Whinnett.

10 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Helen Farrell, Jenny Francis, Chris Gibson, Sue Gray and Roy Crow.

11 MINUTES - 08 JULY 2010

The minutes of the meeting held on 08 July 2010 were agreed as a correct record.

12 HEALTH AND SAFETY POLICY REVIEW/UPDATES

Graham Mully stated that the refining process in relation to the Health and Safety Policy Review had not started. The Policy is up to date, but the intended streamlining has yet to commence and the Health and Safety Executive (HSE) links needed to be added in the appropriate places. Simon Drinkwater stressed that the policy should be a document that could be managed sensibly.

Peter Dickinson stressed that it was purely a case of blocking out some time to refine the policy. Graham Mully was requested to make Peter Dickinson aware of a possible time when this work could be carried out.

Peter Dickinson advised that completed Risk Assessments were still being submitted. Some assessments were with Directors for signature, subject to the resolution of a number of queries in respect of

wording from Heads of Service.

Graham Mully stated that many reminders had already been issued and compliance reports had been sent to Directors.

Peter Dickinson advised that a fire drill should be scheduled for Buntingford Depot. He undertook to liaise with Steve Whinnett on this. Fire Drills were all up to date for Wallfields, The Causeway and Charringtons House.

13 CAUTIONARY PERSONS REGISTER

The Safety Committee was advised that the Cautionary Persons Register had been submitted to CMT and was currently with Heads of Service. The Register would be submitted to Local Joint Panel once feedback had been received from Heads of Service.

Graham Mully stated that key partners and contractors were considered within the policy. He stressed that there should be one central register as opposed to separate registers compiled by individual teams.

Simon Drinkwater undertook to e-mail a copy of the Cautionary Persons Register to Paul Thomas. Peter Dickinson advised that he had circulated a revised incident report from to the Safety Committee. He was requested to resend this to the Committee and copy in all Heads of Service.

14 NEW REGULATIONS, IF ANY

Paul Thomas reported that the Health and Safety Executive (HSE) had been targeting premises that failed to properly manage the presence of asbestos. He commented that this process had been delayed as some Local Authorities were being investigated in respect of asbestos management.

15 SAFETY VOLUNTEERS

Peter Dickinson advised that he had met with the joint Safety Liaison Officer (SLO) and Display Screen Equipment (DSE) group. The group had requested extra help. As such, articles had been included in Team Update and in Team Brief.

Peter Dickinson stated that he was investigating options for fire marshal training following quotes from Hertfordshire and Essex Fire and Rescue services that had proved too expensive. He referred to a possible offer if training that could be significantly better.

In respect of fire marshals for fire drills, coverage needed to be improved at The Causeway. Peter Dickinson stated that the marshals currently available were dedicated and did a good job.

16 ACCIDENT AND INCIDENT REPORTS

Peter Dickinson commented that there had been 3 non reportable accidents of a minor nature involving Officers between 8 July 2010 and 7 October 2010. He reported that the first incident involved an onset of nausea and fainting. The second and third incidents had involved a cut and a contaminated eye.

There had been a reportable accident that had been classed as a dangerous occurrence. The Officer involved was not hurt.

Peter Dickinson stated that there had also been an reportable accident at Hillcrest Hostel. A child had tripped and suffered multiple fractures. The child suffered from a brittle bone condition and copies of all the relevant documents had been sent to Graham Mully. The family concerned had a solicitor and the Hostel Manager had all the appropriate risk assessments.

17 FEEDBACK FROM SAFETY LIAISON OFFICERS

Peter Dickinson advised that he had met with Safety

Liaison Officers and work station assessors and there were no issues of concern to report to the Safety Committee.

He advised that the Health and Safety DVDs had been borrowed by a number of services, particular the DVD entitled 'Manual Handling - Child's Play in the Office'. Peter Dickinson stated that the DVDs were very simple and contained gentle reminders around being sensible and not overdoing it when manual handling.

He stressed that this message could be reinforced via team brief. Officers should also be reminded that leaving large amounts of cleared out paperwork in plastic sacks should be avoided as these often split and were difficult to move around.

Peter Dickinson commented that Officers who visited Members' homes should not have to work in untidy surroundings or suffer from the effects of passive smoking. Graham Mully stressed that both these issues were already covered by the Health and Safety and Home working policies.

18 ANY OTHER BUSINESS

The Safety Committee was advised that Officers had been given a clear indication of what they were or were not expected to lift when moving Offices as part of the Wallfields Refurbishment. Officers had been reminded to keep looking on the intranet in respect of information relating to C3W and the Wallfields Refurbishment.

Peter Dickinson stressed that work station assessments must be completed with each desk move, whether this was to a temporary location or a permanent move once refurbishments had been completed. He stressed that Officers would have to accept a certain amount of noise and disruption as a result of the refurbishment works.

Peter Dickinson commented that the temporary work

areas at Wallfields must comply with regulations in terms of space per person and transit routes. He stressed that a reminder should be issued to Martin Shrosbree on these issues.

Graham Mully advised that the Road Risk Policy had been submitted to the operational risk management group and to CMT. The Safety Committee was advised that Heads of Service had commented on the policy, which was due to be reported to the Local Joint Panel.

Graham Mully stated that the Health and Safety Audit of Services had not been completed.

The Safety Committee was advised that the Authority had hoped to complete work station assessments for any home worker with health issues, as well as a random 10% sample. If problems are identified, the number of home visits will be increased

Graham Mully expressed concerns that this issue had been dismissed by the C3W Programme Group. Simon Drinkwater requested that a random sample of Officers will be selected at the next Safety Committee.

Graham Mully stressed that IT Officers had only given very basic advice when setting Officers up with home working equipment. Peter Dickinson commented that this issue was not being fully supported by Heads of Service and Management across the Authority.

Peter Dickinson undertook to e-mail Heads of Service in respect of the completion of online assessments. He stressed that non compliance was a management issue.

Graham Mully advised that the Authority did not have the resources to carry out a 100% check.

19 DATE OF NEXT MEETING

Thursday 13 January 2011 in Room 28, Wallfields,

Hertford at 2.00 pm.

The meeting closed at 3.03 pm

Chairman
Date

EAST HERTS COUNCIL

LOCAL JOINT PANEL – 2 DECEMBER 2010

REPORT BY INTERIM HEAD OF PEOPLE AND ORGANISATIONAL SERVICES

CHANGES TO THE CONSTITUTION

WARD(S) AFFECTED: NONE

Purpose/Summary of Report

To respond to the removal of the default retirement age.

<u>RECOMMENDATION:</u>
To agree the amendments to the Local Joint Panel Constitution

1.0 **Background**

This purpose of this report is to outline the proposed changes to the Local Joint Panel Constitution for consideration by the Committee.

- 1.1 Both the Council and UNISON have recognised that the current dispute resolution procedure within the constitution is too brief as it progresses straight from the Panel not agreeing a recommendation to outside arbitration. This does not allow for full negotiation and exploration of the issues internally and creates a 'one size fits all' system whereby all disputes, from trivial to serious are expected to be escalated to an external body for decision.

2.0 **Report**

2.1 **Current practice**

- 2.1.1 Under the current constitution matters in dispute are automatically escalated to either and independent arbitration such as ACAS or

the Joint Secretaries of the East of England Region (See Essential Reference Paper B for current constitution)

2.1.2 In situations where the dispute is related to key terms and conditions of employment this process is valid, however with more trivial disputes it is not beneficial or time efficient.

2.2 **Proposed changes**

2.2.1 Changes to the dispute resolution element of the constitution have been drafted in order to address the issues raised in section 2.1. The changes are set out in Essential Reference Paper C attached to the report now submitted.

2.2.2 Whilst sharing common purpose and aspirations, it is recognised by all parties that at times, the Council and the Trade Union may have differing interests and views. Whilst there will be mutual respect for differing viewpoints, all parties will commit to work together to address these through discussions and possible compromises, so that an effective agreement as to the way forward can be reached whenever possible.

2.2.3 The amendments to the Constitution have been devised with UNSION to encourage this partnership working approach. Matters will normally only go forward to the Local Joint Panel with prior agreement from both parties.

2.2.4 In the event that agreement cannot be reached, the Local Joint Panel being unable to arrive at an agreement or the relevant Council body disagreeing with the Panel's recommendations, then the matter in dispute will be referred back to the HR/UNISON meeting for resolution within a timescale agreed by the committee. Where a resolution has not been reached both parties should report to the committee on progress and steps that have been taken to reach resolution. This will ensure that matters are not escalated to outside bodies prematurely but can be resolved through negotiation.

2.2.5 Serious disputes that can not be resolved through this process and which could have an impact on the contract of employment can be referred to an independent body or the Local Joint Secretaries. However it is hoped that the need for this step will be minimised by the commitment to resolution outlined above.

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'. attached to the report now submitted.

Background Papers

None

Contact Officer: Tinu Olowe - Interim Head of People and organisational Services

Report Author: Jaleh Nahvi- HR Officer

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives:	Fit for purpose, services fit for you <i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i>
Consultation:	UNISON have been consulted on the changes
Legal:	As detailed in the report
Financial:	As detailed in the report
Human Resource:	As detailed in the report
Risk Management:	As detailed in the report

Extract from current Local Joint Panel Constitution:

- (f) No recommendation shall be regarded as carried unless it has been approved by a majority of the members present on each side of the Local Joint Panel, and in the event of either the Local Joint Panel being unable to arrive at an agreement or the relevant Council body disagreeing with the Panel's recommendations, then the matter in dispute should either be referred:
- (i) to an independent arbitrator acceptable to both sides, such as ACAS, in order to secure an agreement, or
 - (ii) to the Joint Secretaries of the East of England Regional Council, should the dispute concern conditions of service, to advise/mediate.

The decisions of the bodies referred to above will be binding on both sides.

Proposed changes to Local Joint Panel Constitution

The full constrictio*n* has been included for completeness. The amended sections (6f and 6g) are marked in italics

LOCAL JOINT PANEL

(Comprising 4 Members of the Council and 4 representatives of employees drawn from the constituent trade union (currently UNISON), with substitutes)

CONSTITUTION, POWERS AND DUTIES

1. Title

The Committee shall be called the "Local Joint Panel".

2. Representation

The Local Joint Panel shall comprise of the 4 Members of East Herts Council to be appointed annually by the Local Authority and an equal number of employee representatives.

Named substitute members may be appointed by the employee side, to attend meetings of the Local Joint Panel in the absence of a member thereof provided prior notice is given to the Head of Democratic and Legal Support Services.

If a member of the Local Joint Panel ceases to be a member or employee of the Local Authority he/she shall thereupon cease to be a member of the Local Joint Panel; any vacancy shall be filled by the Local Authority, the organisation or the combination of organisations concerned.

3. Chairman

A Chairman and a Vice-Chairman shall be appointed by the Local Joint Panel at its first meeting in each year. If the Chairman appointed be a member of the Local Authority, the Vice-Chairman shall be appointed from the employee side, and vice versa. The Chairman of a meeting may vote as a Panel member but shall not have a casting vote.

4. Officers

The Head of People and Organisational Development of the Local Authority shall act as Secretary to the Employer's Side.

5. Functions

The functions of the Local Joint Panel shall be:

- (a) To establish regular methods of consultation and negotiation between the Local Authority and its employees on matters of mutual concern with the intent of maintaining and developing an efficient service. This process will aim to address differences should they arise. No question of an individual's discipline, promotion, or efficiency or conditions of employment shall be within the scope of the Joint Panel;
- (b) To consider any relevant matter referred to it by a Committee of the Local Authority, or by any of the employee organisations;
- (c) To make recommendations to Human Resources Committee and/or a suitable Committee of the Local Authority as to the application of the terms and conditions of service and the education and training of employees of the Authority;
- (d) To discharge such other functions specifically referred to the Local Joint Panel with the exception of staffing issues;
- (e) To consider matters relating to Health and Safety at Work referred to the Local Joint Panel by the Employee Associations or by a Committee of the Local Authority.

6. Rules and Regulations

- (a) The Local Joint Panel shall meet during office hours as and when required, but not less than quarterly. The Chairman or Vice-Chairman may direct the Secretary to call a meeting at any time. A meeting shall be called within seven days of the receipt of a requisition signed by at least two members of either side. The matters to be discussed at any meeting of the Local Joint Panel shall be stated upon the notice summoning the meeting.
- (b) The quorum of the Local Joint Panel shall be two representatives of each side.
- (c) Either side will have the right to co-opt, in a consultative capacity, representatives of particular sections affected by a question under discussion which are not directly represented on the Panel but only for the period during which the relevant question is under consideration.
- (d) Either side shall arrange for the attendance in an advisory capacity of an Officer or Trade Union Official at any Panel meeting where it would be helpful to the business under discussion.
- (e) Attendances at (c) and (d) shall be notified in advance to the Head of People and Organisational Development in their capacity as Secretary to the Employer's Side.

- (f) *Recommendations should reach the LJP with the prior approval of People and Organisational Services and UNISON.*
- (g) *No recommendation shall be regarded as carried unless it has been approved by a majority of the members present on each side of the Local Joint Panel. In the event of either the Local Joint Panel being unable to arrive at an agreement or the relevant Council body disagreeing with the Panel's recommendations, then the matter in dispute should be referred back to the HR/ UNISON meeting for resolution within a timescale agreed by the committee. Where a resolution has not been reached both parties should report to the committee on progress and steps that have been taken to reach resolution.*

Serious disputes that can not be resolved under paragraph G, and which could have an impact on the contract of employment should be referred to either:

- (i) an independent arbitrator acceptable to both sides, such as ACAS, in order to secure an agreement, or*
- (ii) the Joint Secretaries of the East of England Regional Council, should the dispute concern conditions of service, to advise/mediate.*

The decisions of the bodies referred to above will be binding on both sides.

- (h) The proceedings of any meeting of the Local Joint Panel shall be recorded and reported at the appropriate Council Meeting, but before submission, the Minutes shall be approved by the Head of Human Resources acting as Secretary to the Local Joint Panel and the person nominated by the staff side to act as its Secretary.

EAST HERTS COUNCIL

LOCAL JOINT PANEL – 2 DECEMBER 2010

REPORT BY HEAD OF HR

DEFAULT RETIREMENT AGE – IMPLEMENTATION ARRANGEMENTS

WARD(S) AFFECTED: NONE

Purpose/Summary of Report

To respond to the removal of the default retirement age.

<u>RECOMMENDATION:</u>
The Local Joint Panel to note the Council's programme for the repeal of the default retirement age

1.0 **Background**

- 1.1 This purpose of the this report is to outline the upcoming changes to East Herts policies and procedures following on from the approval by the Human Resources committee to removal of East Herts Council's retirement age.
- 1.2 This was in response to the Government's decision to remove the Default Retirement Age (DRA) of 65 which was introduced in 2006. Removal of the DRA will begin in April 2011, with transitional arrangements covering the period until 1 October 2011.
- 1.3 East Herts Council's retirement age will cease on 6 April 2011 and the Human Resources Committee referred back to CMT to consider and implement the transitional arrangements.

2.0 **Report**

2.1 **National Implementation and transitional arrangements**

2.1.1 New regulations come into force on 6 April 2011 with the following effects:

- The DRA and associated regulations will finish on 6 April 2011.
- Employers will be unable to issue new notifications of retirement using the DRA on or after 6 April 2011.
- Retirements using the DRA would therefore cease completely on 1 October 2011.

2.1.2 There will be a six month transitional period (6 April 2011 to 1 October 2011), so that retirements that were already in train can continue through to completion, provided that:

- a notification of retirement is issued by the employer prior to 6 April 2011;
- the date of retirement falls before 1 October 2011;
- all requirements of the default retirement age procedure are met.
- the clause in the Age Regulations which allows short notice of retirement, will be repealed on 6 April 2011, and such short notice notifications would not be permitted during the transitional period.

2.2 Actions for East Herts

2.2.1 Moving forward from the repeal of the DRA, the Council will cease using a retirement age, and use the transitional arrangements to process any upcoming retirements before 1 October 2011.

2.2.2 CMT are aware of the transitional arrangements and all working beyond retirement requests will be processed in accordance with the transitional arrangements.

2.2.3 Heads of Service have been informed of any impact the repeal of the retirement age may have on the Medium Term Financial Plan for their service.

2.3 Changes to East Herts Policies and Procedures

2.3.1 A number of changes will be needed to the Council's current policies and procedures. Subject to CMT approval the following timeline will be followed:

2.3.2 **Contracts**

The retirement clause in the current contract will need to be amended. This may be done by issuing a contract amendment letter once the DRA is repealed.

2.3.3 **Policies and Procedures**

- Removal of the Duty to Consider Working Beyond retirement policy. This will be removed on 30 September 2011
- A new Retirement procedure will be produced. This will go through UNISON, CMT, LJP to reach the Human Resources Committee on the 30 March 2011
- Relevant changes to the Retirement Policy will be made. Timeline as above.

2.3.4 **Insurance**

- The Council's Group life insurance and personal accident cover will be reviewed in line with Government guidance. The timeline for this will be determined by the Government guidance following on from the consultation on implementation. The consultation closed on the 21st October 2010.

2.3.5 **Pensions**

No changes to pension arrangements will be necessary at this stage.

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

Default Retirement Age, Human Resources Committee, 13 October 2010

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

Report Author: Jaleh Nahvi - HR Officer

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives:	Fit for purpose, services fit for you <i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i>
Consultation:	
Legal:	As detailed in the report
Financial:	As detailed in the report
Human Resource:	As detailed in the report
Risk Management:	As detailed in the report

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EAST HERTS COUNCIL

LOCAL JOINT PANEL – 2 DECEMBER 2010

REPORT BY EXECUTIVE MEMBER FOR RESOURCES AND INTERNAL SUPPORT

CAUTIONARY PERSONS REGISTER

WARD(S) AFFECTED: All

Purpose/Summary of Report

The report proposes a new Cautionary Persons Register.

<u>RECOMMENDATION:</u>
The new policy be agreed and adopted.

1.0 Background

1.1 The Council has a duty of care to staff to protect them in the workplace, including when working remotely and during site visits. In April 2003 the Council devised a register of people and property where it is foreseeable that an employee could be exposed to aggressive behaviour from a person or an animal. This register was intended to be an interim measure pending development of a formal policy, but nothing has been introduced.

2.0 Report

2.1 The existing method of working does not meet Data Protection rules. There must be clear and consistent criteria about qualification for addition to and retention on such a register. Entries must be based on fact and not hear say.

2.2 The Risk Assurance Officer and Information Officer conducted research, resulting in the drafting of Essential Reference Paper 'B' attached to the report now submitted. We believe the register

affords the necessary protection to staff whilst remaining compliant.

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

Relevant legislation and Regulations

Contact Member: Councillor M Tindale, Executive Member for Resources and Internal Support

Contact Officer: Simon Drinkwater – Director of Neighbourhood Services

Report Author: Graham Mully – Risk Assurance Officer – Ext 2166

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives	Fit for purpose, services fit for you <i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i>
Consultation:	<i>The policy has been reviewed and agreed by the Information Officer, Safety Committee, Operational Risk Management Group, Heads of Service and CMT.</i>
Legal:	<i>The policy will help manage health and safety and data protection risks.</i>
Financial:	<i>There are no additional costs associated with the policy.</i>
Human Resource:	<i>By having a robust health and safety policy and infrastructure, staff will know that the organisation cares about their welfare.</i>
Risk Management:	<i>Risk management issues are considered within the report. The policy will help manage health and safety and data protection risks.</i>

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Cautionary Persons Register - Draft - Local Joint Panel 2nd December 2010

1) Introduction

The Council does not tolerate violence towards staff, threats of violence, bullying or harassment including sexual, racial or stalking. However on rare occasions we may unavoidably face aggressive or violent behaviour.

A duty of care is owed to protect employees, and the Council is committed to reducing risk. The Cautionary Persons Register is a means of identifying and recording individuals who pose, or could possibly pose, a threat or aggressive behaviour. In addition properties where a dangerous animal may be encountered by visiting officers can be added.

The Register must be fair and lawful to comply with the Data Protection Act. Placement of an individual on the register must be based on a specific incident or expression of clearly identifiable concern rather than general opinions about an individual.

This policy is to be read in conjunction with lone working procedures, team risk assessments, and the health and safety policy. (In particular section C, part 8 – managing violence and aggression in the workplace [insert web link](#))

The Director of Neighbourhood Services is responsible for the maintenance of the register.

2) Entries must be based on fact and not hear say

Following an act or threat of violence, or an individual notifies a risk of sexual assault, employees must complete the report form that can be found at [insert web link](#) or obtained from the Health and Safety Officer.

Heads of Service or Directors are obliged to countersign the report form, and then submit along with any additional evidence available to the Director of Neighbourhood Services. He / she will decide whether the individual will be added to the register. The employee(s) concerned must have the opportunity to present his / her version of events.

If a crime has been committed, the Police must also be informed.

3) Qualification for addition to / retention on the register

There must be a credible risk of violence or injury to staff before an individual or property can be added to the register. The following factors will be taken into account when deciding new additions, and whether to retain at the required review stage:

- The level of violence used
 - or the severity of the threats made
 - or the danger posed by an animal.
- The length of time since the incident occurred.
- The previous conduct of the individual.
- The current conduct of the individual.
- Was the incident a one off? Was it likely to have been triggered by an illness or difficult time of life, and is the individual likely to be violent in future?
- If an address is marked because of a dangerous animal, is that animal still present?

All new additions to the register must be communicated with 2 working days to minimise the risk of harm to colleagues. An e-mail should be sent advising of a new entry, but no personal data should be provided in that e-mail.

4) Written notification

The Director of Neighbourhood Services will write to notify the individual concerned within 2 working days of addition to the register. The letter will explain:

- Why the individual's behaviour was unacceptable.
- That their records will show the marker.
- Who we may pass the information to, e.g. Partners, contractors.
- When we will remove the entry or review the decision.
- The appeal process.

There must be an appeal process. The committee will comprise members of CMT. The employee must also have an opportunity to comment.

In extreme cases where it is believed that informing the individual would create a violent reaction, he / she need not be informed. This decision must be documented.

5) Review of the register

Entries on the register must be time limited. The standard term is one year, although a longer timeframe may be stipulated for the most serious offenders.

The Director of Neighbourhood Services will check the register quarterly to ensure that all entries are up to date. Any entries that are due to lapse in the next quarter will be reviewed in conjunction with the Health & Safety Officer.

It is possible that after a cooling-off period, the individual will not pose a threat. Unless there are substantiated reasons for believing that the individual remains a threat, the record must be deleted upon expiry. Data must not be kept longer than necessary.

The factors listed in part 3 must be considered when reaching the decision.

If there are just reasons for the individual remaining on the register, a further review period of should be set. The individual will be notified in writing by the Director of Neighbourhood Services.

6) Data control

The register will be placed on the intranet and must remain the only mechanism for recording such persons and addresses. Access to the register is tightly controlled. Only staff that meet or visit customers should have access. Markers must not be placed on any other system including paper or electronic files, databases and posters.

The Register will be shared with contractors or partners working closely with the Council who come into contact with the individual or visit the property. E.g. Council and Housing Association staff operate out of Charrington House. One partner may have placed a violent customer on their register, but not share the information with another party who may still invite the customer on site or visit on Council business.

The register should not be shared with contractors or partners who do not come into close contact with the individuals or enter the boundaries of their properties, such as grounds maintenance and refuse contractors. The Director of Neighbourhood Services is responsible for this decision, and will obtain written agreement that the Partner or contractor will follow our policy and indemnify the Council against all claims, proceedings, fines, damages and legal fees in the event of their misuse.

When providing the register to partners, it must be sent by encrypted e-mail only.

7) Employees' responsibilities and training

All staff must be reminded of their duty to report all violent or threatening incidents, or concerns about the potential for violence.

New staff will be told about the register by their manager, and the subject will be added to the new starter checklist. This will ensure the degree of relevance is assured particularly for customer facing staff and visiting officers.

All staff with access to the register will receive a briefing every two years to ensure that they are familiar with the Council's policy, review procedures, and data security.