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Borough Council

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Steve Atkinson MA(Oxon) MBA FIoD FRSA
Chief Executive

Date: 02 December 2016

**To: Members of the Ethical Governance and
Personnel Committee**

Mr LJP O'Shea (Chairman)
Mr CW Boothby
Mr MB Cartwright
Mr WJ Crooks
Mr MR Lay

Mr K Morrell
Mr M Nickerson
Ms BM Witherford
Ms AV Wright

Copy to all other Members of the Council

(other recipients for information)

Dear member,

There will be a meeting of the **ETHICAL GOVERNANCE AND PERSONNEL COMMITTEE** in the De Montfort Suite, Hinckley Hub on **MONDAY, 12 DECEMBER 2016 at 6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Owen'.

Rebecca Owen
Democratic Services Officer

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS
2. MINUTES OF PREVIOUS MEETING (Pages 1 - 2)
To confirm the minutes of the previous meeting.
3. ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES
To be advised of any additional items of business which the Chairman decides by reason of special circumstances shall be taken as matters of urgency at this meeting.
4. DECLARATIONS OF INTEREST
To receive verbally from members any disclosures which they are required to make in accordance with the Council's code of conduct or in pursuance of Section 106 of the Local Government Finance Act 1992. **This is in addition to the need for such disclosure to be also given when the relevant matter is reached on the agenda.**
5. QUESTIONS
To hear any questions received in accordance with Council Procedure Rule 10.
6. FLEXI TIME POLICY (Pages 3 - 12)
To seek approval of the updated flexi time policy.
7. TIME OFF IN LIEU (TOIL) POLICY (Pages 13 - 22)

To seek approval of the council's time off in lieu (TOIL) policy.
8. PERSISTENT AND UNREASONABLE COMPLAINANT BEHAVIOUR POLICY (Pages 23 - 28)

To seek approval of the updated persistent and unreasonable complainant behaviour policy.
9. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

Agenda Item 2

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

ETHICAL GOVERNANCE AND PERSONNEL COMMITTEE

28 OCTOBER 2016 AT 10.00 AM

PRESENT: Mr LJP O'Shea - Chairman

Mr MB Cartwright, Mr WJ Crooks and Ms BM Witherford

Also in attendance: Mr G Grimes, Independent Person

Officers in attendance: Julie Kenny and Rebecca Owen

220 APOLOGIES AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors Boothby, Lay, Morrell and Wright.

221 MINUTES OF PREVIOUS MEETING

It was moved by Councillor Cartwright, seconded by Councillor Witherford and

RESOLVED – the minutes of the meeting held on 16 March 2016 be confirmed and signed by the Chairman.

A member requested that an update on the progress of code of conduct complaints be included on each agenda. The Monitoring Officer agreed to provide this.

222 DECLARATIONS OF INTEREST

No interests were declared at this stage.

223 CORPORATE COMPLAINTS 2015-16

The Committee received the annual update on corporate complaints received for 2015/16. The increase in the number of complaints year on year, in line with the national trend, was acknowledged.

A member expressed concern about the number of complaints receiving a response outside of the ten-day deadline and, whilst it was noted that this was a relatively small number, members were informed that the Corporate Operations Board was monitoring this.

Further concern was expressed about the increase in complaints about the housing repairs service and in response it was acknowledged that there had been an increase due to issues with a particular contractor, but that these had been addressed and performance had improved greatly since.

It was moved by Councillor Crooks, seconded by Councillor Witherford and

RESOLVED – the report be noted.

224 STATUTORY SAFETY COMMITTEE MINUTES

Members were reminded that, following the discontinuation of Local Joint and Safety Panel, it had been agreed that minutes of the Statutory Safety Committee would be brought to the Ethical Governance & Personnel Committee for information.

A member expressed concern in relation to minute 4E of the meeting on 11 August and asked whether those who repeatedly required replacement PPE were being addressed. It was agreed that the Health and Safety Officer would be asked for an update which would be provided to the next meeting.

225 MATTERS FROM WHICH THE PUBLIC MAY BE EXCLUDED

On the motion of Councillor Cartwright seconded by Councillor Crooks, it was

RESOLVED – in accordance with section 100A(4) of the Local Government Act 1972, the public be excluded from the following item of business on the grounds that it involves the disclosure of exempt information as defined in paragraphs 1 and 10 of Part I of Schedule 12A of that Act.

226 COMPLAINTS 2016/04, 05 & 06

Consideration was given to complaints about three parish councillors which were considered together due to the circumstances surrounding the complaint being the same. After hearing the background to the complaint and the outcome of conversations with the complainant and subject members, members of the committee felt that there had been a breakdown of relationships within the parish council over the matter and that any investigation would be based on one person's word against another, which would not lead to an outcome for either party.

It was moved by Councillor Cartwright and seconded by Councillor O'Shea that no further action be taken, but that the Parish Council members be reminded of the Nolan Principles and the Code of Conduct and their obligations to comply with these. Upon being put to the vote, the motion was unanimously CARRIED and it was

RESOLVED – no further action be taken, but members of the parish council be reminded of their obligations to comply with the Nolan Principles and the Code of Conduct.

(The Meeting closed at 10.30 am)

CHAIRMAN



Hinckley & Bosworth
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FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

ETHICAL GOVERNANCE AND PERSONNEL COMMITTEE - 12 DECEMBER 2016

WARDS AFFECTED: ALL WARDS

FLEXI TIME POLICY

Report of Chief Officer (Corporate Governance and Housing Repairs)

1. PURPOSE OF REPORT

1.1 To seek approval of the council's updated Flexi Time policy.

2. RECOMMENDATION

2.1 That members approve the updated policy for adoption on 1 January 2017.

3. BACKGROUND TO THE REPORT

3.1 Earlier in the year, the Strategic Leadership Board requested a review of the current flexi time policy as the existing policy had not been reviewed for a period of time and was therefore out of date. It didn't reflect current service requirements, other flexible working arrangements and was not aligned to other developing policies (such as the TOIL policy).

3.2 The revised policy reinforces the principal that flexi time, whilst valued by staff as it supports work life balance and therefore an excellent recruitment and retention tool, is primarily driven by the service requirements of the Council. It also provides a more detailed and robust framework in terms of management guidance and increased alignment to other HR policies which are currently in place.

The main changes to the policy are as follows:

- *Removal of core time*

What has emerged, with the increase in flexible working and varying working patterns, is that teams are, by default, agreeing service cover and provision at a local level. It could be argued that the use of core time is no longer required.

- *Restriction on carry forward credit*

This is a major change to the policy and will be a significant culture change for both managers and staff. At present, staff can accrue unlimited hours throughout the year and at the end of December the hours are capped at a 10 hour maximum to be carried forward 1 January.

Whilst it could be argued that staff and managers should control the excess hours being accrued during the year, inevitably by not having a monthly ceiling, this has been difficult to control. As a consequence some employees have forgone accrued hours above the ten hour maximum.

To mitigate this, the revised policy introduces a monthly cap whereby no more than 15 hours (pro rata for part time staff) can be carried forward, if accrued.

- *Alignment to TOIL policy*

The revised policy provides clarity and parameters for any additional hours worked and whether an officer should accrue flexi or claim TOIL.

4. EXEMPTIONS IN ACCORDANCE WITH THE ACCESS TO INFORMATION PROCEDURE RULES

4.1 The report to be taken in open session.

5. FINANCIAL IMPLICATIONS [DW]

5.1 None directly arising from the report.

6. LEGAL IMPLICATIONS [JB]

6.1 None.

7. CORPORATE PLAN IMPLICATIONS

7.1 Providing value for money and pro-active services.

8. CONSULTATION

8.1 Extensive consultation has taken place with the recognised trades unions, managers and all staff throughout the summer months.

9. RISK IMPLICATIONS

9.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

9.3 The following significant risks associated with this report / decisions were identified from this assessment:

None

10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

10.1 This policy applies to all staff. No EIA at this stage.

11. CORPORATE IMPLICATIONS

11.1 By submitting this report, the report author has taken the following into account:

- Human Resources implications
-

Background papers: None.

Contact Officer: Julie Stay, HR and Transformation Manager – Extension 5688.

Executive Member: Councillor A Wright.

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HINCKLEY AND BOSWORTH BOROUGH COUNCIL

FLEXI TIME POLICY

1. Introduction

- 1.1 The Council recognises that flexible working is essential to the successful transformation of the organisations culture. Flexi time is one element of the Council's overall strategy for flexible working as it helps to increase employee motivation, reduce sickness absence, promotes employee wellbeing and also serves to promote recruitment and retention to the Council.
- 1.2 This policy is offered to staff with the intention of providing a degree of flexibility for employees and for the organisation. The aim is to ensure that individuals can achieve a healthy work-life balance and the Council can benefit from a wider time span of service delivery.
- 1.3 This policy should be read in conjunction with the council's Time off in Lieu (TOIL) policy.

2. Purpose

- 2.1 The purpose of this policy is to provide a framework for the consistent operation and monitoring of the flexi time scheme.

3. Scope

- 3.1 This policy applies to all staff working under the NJC Terms and Conditions of Employment and JNC for Chief Officers. Some employees however, whilst being eligible to participate in the flexi time scheme, will have restrictions on their working hours to ensure that services are delivered effectively to our customers i.e. shift work or fixed hours to cover front line services and therefore will not permit them to participate in the scheme. An individual's written particulars of employment will specify whether or not they are eligible to work flexi time.

4. Principles of Implementation

- 4.1 This policy is underpinned by the Council's values: Being your Best; Customer Focus and Team Working. The spirit of the policy is based upon trust and positive working relationships within teams to ensure effective service delivery.
- 4.2 As there are no core hours, managers will ensure that the needs of the service have priority at all times and that services are adequately staffed throughout normal office hours.
- 4.3 Employees should communicate their working hours to colleagues and use 'out of office' facilities on email and voicemail whilst away from office. This will ensure that service delivery is maintained.
- 4.4 The overriding principle with regard to the operation of the Flexi Time Policy is business need. Flexi time does not imply an automatic right to accumulate credit hours. Employees do not, for example, have the right to work early and stay late irrespective of whether or not work is available.

- 4.5 The employer has to comply with working time limits and ensure that workers who do flexi time do not exceed reasonable working hours. The council is committed to ensuring that workers' working patterns do not compromise their health.

5. Roles and Responsibilities

- 5.1 Each line manager is responsible for the proper operation of the scheme and for resolving any related problems.
- 5.2 Employees are responsible for managing their time and workload effectively.
- 5.3 Senior management in consultation with HR will regularly review the Flexi Time Policy in regard to its impact upon organisational objectives.

6. Operational details

6.1 Service cover

As there are no specific core times all employees must arrange, within their own teams and following approval of their manager, start and finish times in order to ensure adequate service cover. Periodically, there will be a need to change such arrangements owing to staff absences such as annual leave, sickness etc.

6.2 Flexi time hours - Bandwidth

Maximum bandwidth for flexi time will be 7.30am to 7.00pm hours for all staff except those specifically required to attend at other hours. If your manager asks you to work outside of this time then this will be on a TOIL basis or overtime where TOIL is not practicable. If you want to work outside of this time then this is subject to your manager's agreement. Support services such as IT support may not be available through the whole of the band width.

6.3 Lunch breaks

Full time staff **must** take at least a 30 minute break but may, subject to service cover, take up to a maximum of 2 hours. For part time staff, who work more than six hours a day a 20 minute must be taken.

6.4 Flexi time period

The scheme is based upon accounting periods, which for this scheme, is on a monthly basis. Within this period, employees may vary their hours; however it is intended that, by the end of the accounting period, employees are expected to have reconciled the actual hours they have worked with their contractual hours. During this period, the scheme allows for employees who have accumulated enough hours in excess of their contractual hours 'credit hours' to be accrued and carried forward or taken as flexi leave, subject to approval of the line manager. See conditions below.

6.5 Credit hours - carry forward restrictions

Any hours in excess of 15 hrs at the start of each month will be lost (if part time this should be pro rata, see addendum or contact HR).

If an employee is constantly in excess of 15 hrs and as a consequence loses those excess hours, the manager should investigate and if necessary, review the workload, objectives and working methods of the employee.

In certain circumstances managers may exercise discretion to allow employees to exceed the carry over limit. This is only limited to cases where employees have been prevented from using credit hours due to sickness and acknowledged work demands within the team.

6.6 Debit hours - carry forward restrictions

Where debit hours are built up (where an employee has not worked enough hours) this should not exceed by 10 hrs and should be recovered in the next month (if part time this should be pro rata, see addendum or contact HR).

If an employee is constantly in debit or exceeds the limit of 10 hrs the manager would require the employee to make up the deficit. Managers may tackle minor offences and discourage such behaviour. In exceptional circumstances, disciplinary action may be considered or the right to withdraw the scheme if the problem persists or the debit limits are exceeded beyond reasonable limits. At all times HR advice should be sought.

6.7 Flexi Leave

The credit hours can be used, subject to line management approval, to take flexi leave. Employees can request up to 2 full working day's flexi leave (or 4 working half days) per month. Any flexi leave request must also be balanced against the employees annual leave entitlement and line managers should ensure that annual leave is also taken throughout the year.

Staffing levels should also be considered before flexi leave is granted; particularly if teams have other staff working on other forms of flexible working arrangements that may have an impact upon capacity e.g. TOIL, compressed hours, home working etc. Annual leave and TOIL also takes priority over flexi leave if too many members of staff want to book leave at the same time. Credit hours must also be accrued prior to making a flexi leave request.

Flexi leave may be substituted for annual leave at a later date, subject to line manager approval.

6.8 Leavers

All debits and credits must be cleared before an employee leaves the authority. The Council does not pay outstanding credit hours as part of the final pay.

7.0 Recording Procedure

7.1 Recording hours worked

All employees participating in the scheme are required to record their actual start and finish times, lunch breaks and total hours worked on an electronic flexi timesheet. The timesheet must be signed (either manually or electronically) and submitted to their line manager who will check, monitor and counter sign at the end of each month.

Start or finish times which are away from an individual's normal work base (i.e. training course or meeting at another location) and, where the journey from home to the external location is greater than the journey from home to their work base, the difference in time taken should be recorded as travelling time.

Times recorded on flexi timesheets must be entered as soon as possible and should never be entered in advance.

A minimum of 30 minutes lunch break (if the contractual hours are full time 7 hours 24 minutes or more) or 20 minutes lunch break (if part time and working over 6 hours) must be taken and recorded each day.

7.2 Recording Absences

If you are absent from work due to sickness, annual leave or to attend training you must record your contractual hours for that day. If you leave work during your working day you must also adjust your timesheet to reflect your contractual hours for that day.

If additional hours are accrued over and above the contractual hours in order to attend a training course, this can also be recorded subject to the line manager's approval.

7.3 Other flexible working patterns

Where employees are contracted to a pattern under the Flexible Working Policy which means they may for example, be working compressed hours or variable working patterns, they should credit the appropriate pro rata hours for their contracted pattern.

7.4 Sickness Absence – Part Days

Employees who fall sick after starting work shall be credited with the remaining hours to make up to full contractual hours.

7.5 Medical Absences

The benefit of extending the hours of the scheme means that employees can make appointments to suit their own personal circumstances. Medical absences, such as visits to the GP, physiotherapy, dental, optician, chiropody appointments etc, should be taken in an employees own time and before or after working hours. When this is not possible appointments may be taken within normal working hours with the time to be made up by the employee.

Time off for ante natal appointments, hospital appointments/treatment which has been as a result of a formal occupational health referral or arising from a recognised disability (i.e. appointments relating to rehabilitation, assessment, treatment and counselling), shall be classed as work time within the scheme and therefore no time is to be made up. Paid time off will be granted for cancer screening. This is subject to evidence of such visits to be provided to the line manager in advance.

7.6 Bad Weather/Travel Problems

Employees who arrive late at work or have to leave early as a result of adverse weather conditions or travel related problems should record their actual start and finish times. In exceptional circumstances, when the building is closed early, management will exercise discretion to honour time lost as a result of the closure of the offices.

7.7 Emergency Leave

Emergency leave is designed to help employees deal with emergencies that are unforeseen and for short term absences only. To support our employees, the Council will grant up to one day's paid leave; this is subject to approval by the line manager. Wherever possible, managers should consider utilising excessive holiday accrual or flexi credit before granting the provision of one day's paid leave.

8.0 Monitoring of flexi time

The employee's line manager will monitor the employee's flexi time to ensure that:

- it does not result in overtiredness or underperformance;
- it continues to fit into the organisation's business needs;
- it does not place too much extra burden on his/her colleagues; and
- the employee is not abusing the flexi time arrangement.

The manager reserves the right to review and, if necessary, require the employee to change his/her working patterns.

9.0 Disciplinary action

Any abuse of this policy will be a disciplinary offence that can result in disciplinary action up to and including dismissal.

Appendix 1

Part Time Working

The same flexi rules apply to eligible part time staff but all entitlements should be calculated on a pro rata basis. Please see examples below.

Employee 1

Work 18.5 hrs per week which is 0.5 of a full time equivalent (FTE). Therefore they would be able to carryover a credit of $.5 \times 15 = 7.5$ hrs and a debit of $0.5 \times 10 = 5$ hrs

Employee 2

Work 25 hrs per week which is 25 divided by 37 (FTE) = .68 FTE

0.68×15 (FTE) = 10.2 the most credit to be carried over

0.68×10 (FTE) = 6.8hrs the most debit to be carried over

Please contact HR for further guidance



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FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

ETHICAL GOVERNANCE AND PERSONNEL COMMITTEE - 12 DECEMBER 2016

WARDS AFFECTED: ALL WARDS

TIME OFF IN LIEU (TOIL) POLICY

Report of Chief Officer (Corporate Governance and Housing Repairs)

1. PURPOSE OF REPORT

1.1 To seek approval of the council's Time Off in Lieu (TOIL) policy.

2. RECOMMENDATION

2.1 That members approve the policy for adoption on 1 January 2017.

3. BACKGROUND TO THE REPORT

3.1 The current contract of employment states that TOIL is applicable:

- to employees on or above SCP 29 when overtime is not payable
- For ad hoc weekend working when overtime is usually applicable but TOIL is agreed as an alternative
- For employees who are unable to work flexi-time because of service requirements. Normal annual leave rules apply to 'banked hours', including the carry-over provisions.

Whilst these contractual provisions are in place, the council does not currently have detailed guidance on the use of TOIL in order to manage it; it is therefore likely that managers could be operating different arrangements and inconsistencies could emerge. Furthermore, following a broad consultation with staff in regard to terms and conditions of employment, the trade union reported that staff and managers indicated the need for a corporate TOIL policy.

3.2 Prior to developing a new policy, the HR Manager contacted service managers to establish which services adopted the use of TOIL and to understand any concerns that managers may have. Some services reported that TOIL is used ad-hoc (i.e. weekend working on occasion or when there is limited overtime budget available),

however managers generally reported that the preferred method of recompensing staff for accrued hours was to take flexi leave. The only service which used TOIL on a regular basis was the Planning and Environmental Health Service.

- 3.3 There is a distinction between TOIL and Flexi time however, after discussing this with some team managers, the term toil and flexi is used interchangeably. From a contractual perspective TOIL once accrued, cannot be lost, therefore should an employee leave then this is paid in line with any holiday accrual. This is on the premise that technically TOIL is driven by management request which is in line with the use of overtime i.e. requesting employees to attend evening meetings or to carry out additional duties at weekends etc. In contrast, flexi time is a contractual right by the employee to work their total number of contractual hours on a flexible basis, in order to provide varying service cover and to support work life balance. If employees leave there is no contractual right to paid up flexi time.
- 3.4 The new policy aims to provide clear guidance in regard to the use of TOIL so that it is consistently managed across the council.

4. EXEMPTIONS IN ACCORDANCE WITH THE ACCESS TO INFORMATION PROCEDURE RULES

- 4.1 The report to be taken in open session.

5. FINANCIAL IMPLICATIONS [DW]

- 5.1 The policy places limitations on the period for which toil may be accrued as this becomes, in effect, a contractual employee benefit payable if an employee leaves (as opposed to flexitime which is not and which is lost if not taken). This represents a potential additional cost which would need to be met from within existing budgets.
- 5.2 In addition section 8.3 of the policy outlines the circumstances and process under which, in exceptional circumstances, unredeemed toil may be payable outside of the normal period limitations. This cost, if incurred, would also need to be met from existing budgets.

6. LEGAL IMPLICATIONS [JB]

- 6.1 None.

7. CORPORATE PLAN IMPLICATIONS

- 7.1 Providing value for money and pro-active services.

8. CONSULTATION

- 8.1 Extensive consultation has taken place with the recognised trades unions, managers and all staff throughout the summer months.

9. RISK IMPLICATIONS

- 9.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

9.3 The following significant risks associated with this report / decisions were identified from this assessment:

None

10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

10.1 This policy applies to all staff. No EIA at this stage.

11. CORPORATE IMPLICATIONS

11.1 By submitting this report, the report author has taken the following into account:

- Human Resources implications

Background papers: None.

Contact Officer: Julie Stay, HR and Transformation Manager – Extension 5688.

Executive Member: Councillor A Wright.

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HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TIME OFF IN LIEU (TOIL) POLICY

1. Introduction

- 1.1 The success of this council is founded on the skills, energies and commitment of its employees. Many, on occasions, work beyond their contracted hours in order to respond flexibly to unexpected demand levels and to meet the needs of the service. This adaptability enables the council to cope with work demands and to provide a responsive service.
- 1.2 The council recognises its duty, so far as is reasonably practicable to ensure the health, safety and welfare of their employees whilst at work. Managers have a role and responsibility under health and safety legislation, to ensure that excessive hours are not worked by staff and that they are recompensed by taking time off in lieu (TOIL) for any extra time that they have to work. The council is also required to provide a safe environment for its employees. Managers should ensure that a lone working system is put in place for employees that are working off site or out of hours.
- 1.3 This policy should be read in conjunction with the council's Flexitime Policy and Health and Safety Policy.

2. Definition of Time off in Lieu (TOIL)

- 2.1 Time off in lieu (TOIL) is time taken as additional leave instead of overtime pay by employees working beyond their contractual or normal working hours.

3. Purpose

- 3.1 The purpose of this policy and procedure is to ensure that managers and employees are aware of and understand the council's TOIL arrangements.

4. Scope

- 4.1 This policy and procedure applies to all employees (including managers) of the council with the exception of casual staff who work on an ad-hoc basis.

5. Principles governing use of TOIL

- 5.1 The requirement for overtime may be due to a variety of reasons such as an increased volume of regular work, a temporary crisis in resourcing, to cover absences, to catch up on slipping deadlines or to resource one off projects that cannot be carried out within working hours. This policy also applies to officers who are required to attend evening meetings and requested to work at weekends.

5.2 When to pay overtime

Under 3.20 of the Single Status Terms and Conditions employees on or below spinal column point (SCP) 28 (Grade 1-5) who are required to work additional hours are entitled to receive overtime pay at time and half for additional hours worked Monday to Saturday and double time for additional hours worked on a Sunday (*part time workers are entitled to these enhancements only after a 37-*

*hour week (or average 37 hour week) is exceeded, although **rostered** work on a Saturday and Sunday will attract the allowance in 3.18 of the agreement).*

5.3 When TOIL is more appropriate

For employees on or above SCP29 (Grade 6 and above) overtime will not be paid and TOIL will therefore apply. On occasion, and if pre-agreed with their manager, staff on or below SCP28 may opt to take TOIL.

5.4 Stand by hours and call out arrangements are not in scope of this policy.

6. TOIL rates

6.1 Time off accumulated through TOIL arrangements must be equal to time actually worked.

7. Accruing TOIL

7.1 Employees can accrue TOIL if authorised by their manager. If this agreement is not in place, any additional hours worked by the employee will not qualify for the accrual of TOIL and will be lost. (Some employees often attend evening meetings which are outside of their contractual hours. This may be treated as TOIL and does not need prior agreement).

7.2 Employees who participate in the flexi time scheme may only accrue TOIL when the additional hours worked are outside of the flexi time hours i.e. before 7.30am and after 7.00pm Monday – Thursday and 6.30pm Friday.

7.3 Employees who work fixed hours and are not subject to the flexi time scheme may accrual TOIL for any additional hours worked outside of their normal working hours.

7.4 When accruing additional TOIL hours requires an officer to work at another location, then travel time should be included and recorded on the time sheet. (Commuting time should always be excluded).

7.5 The council does not encourage staff to work excessive hours and is committed to complying with the Working Time Regulations. Under the regulations employees are not expected to work more than 48 hours per week. Managers must ensure therefore, when agreeing the accrual of TOIL, that the maximum is not exceeded. However should an employee's weekly working hours exceed, on average the 48 hour maximum over a seventeen week reference period, then the employee may wish to exercise their right to opt out of the 48 hour ruling. Please contact HR for further details.

7.6 Employees are encouraged to take TOIL as soon as possible after it has been accrued. Excessive levels of TOIL should not be accumulated and no more than 3 working days should be accrued at any given time. However in exceptional circumstances, managers have discretion to agree up to 5 days.

7.7 Employees should ensure that they record details of any agreed accrued TOIL using a TOIL recording form (attached to this policy).

7.8 The operation of TOIL depends on mutual trust. Any suspected abuse of TOIL, such as claiming more hours than actually accrued, may be treated as a disciplinary matter.

8. Redeeming TOIL

8.1 Line managers are expected to allow as much flexibility as they can under this policy. However it will not always be possible to allow staff to take the time off when they have requested it. Managers should consider TOIL requests if submitted in advance of time being taken off and will only be approved after taking into consideration the operational requirements of the service.

8.2 Any TOIL not taken within 12 months of accrual will be lost unless there has been prior agreement between the employee and their manager to take it another specified time.

8.3 In exceptional circumstances where due to service delivery needs a request for TOIL cannot be accommodated within the 12 month period, the employee can request payment for the hours owed. This request should be made in writing to their manager and the employee has to demonstrate they have tried their utmost to request and or take their accrued TOIL in the previous 12 months.

8.4 Where the employee can demonstrate that no action has been taken to accommodate their request of TOIL, or requests have been refused on grounds that the employee feels unreasonable, the individual has the right to either request payment for the hours owed or specify when they wish to take the TOIL. This request should be made in writing to HR Manager following the twelve month period of the TOIL being accrued.

8.5 Employees should record TOIL taken using a TOIL recording form. In exceptional circumstances where TOIL has not been pre-agreed (i.e. attending regular evening meetings) time claimed as TOIL should be authorised by the employee's line manager within 5 working days.

8.6 When taking TOIL leave, this should be input on the flexi time sheet under 'Annual Leave/TOIL'.

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Hinckley & Bosworth
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FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

ETHICAL GOVERNANCE & PERSONNEL COMMITTEE

12 DECEMBER 2016

WARDS AFFECTED: ALL WARDS

PERSISTENT AND UNREASONABLE COMPLAINANT BEHAVIOUR POLICY

Report of the Monitoring Officer

1. PURPOSE OF REPORT

- 1.1 To present an updated policy in relation to persistent and unreasonable complainant behaviour.

2. RECOMMENDATION

- 2.1 The updated policy be approved.

3. BACKGROUND TO THE REPORT

- 3.1 In order to ensure an effective service for all customers, including complainants, the authority has a policy to assist in addressing persistent and unreasonable complainant behaviour.
- 3.2 Unreasonable behaviour is where the frequency or nature of a complainant's contact with the council takes up unjustifiable officer time and resources, making it hard for officers to handle their complaint and/or those of other people, or where their behaviour is offensive or abusive.
- 3.3 The policy has been reviewed in line with changes made to the Local Government Ombudsman's "managing unreasonable complainant behaviour" policy. The changes recommended are outlined in paragraphs 3.4 to 3.6 below.
- 3.4 The second paragraph of the first section has been amended to refer to the policy being applicable not only to formal complainants, but those making informal complaints or behaving unreasonably in their contact with the council. We are suggesting this change to reflect that we attempt to resolve issues before we reach the stage of encouraging customers to make a formal complaint and therefore the policy should to support officers in the often extensive contact with customers prior to instigating any formal processes.

- 3.5 The list of examples in the second section has been expanded in line with those in the Local Government Ombudsman’s guidance. Whilst this list is not exhaustive, it is useful to have as many examples as possible.
- 3.6 In section 3, a stage has been inserted (at stage 2) whereby an informal warning will be issued to allow the customer the opportunity to address the issues to avoid the policy being applied.
- 3.67 It should be emphasised that the policy has been used infrequently and it is not envisaged that these amendments will lead to increased use, however it is important to have a policy in place to address unreasonable behaviour in all contact with customers.

4. EXEMPTIONS IN ACCORDANCE WITH THE ACCESS TO INFORMATION PROCEDURE RULES

- 4.1 This report will be taken in open session.

5. FINANCIAL IMPLICATIONS (IB)

- 5.1 None.

6. LEGAL IMPLICATIONS (MR)

- 6.1 None.

7. CORPORATE PLAN IMPLICATIONS

- 7.1 This report supports all corporate aims.

8. CONSULTATION

- 8.1 Consultation has not taken place on this policy.

9. RISK IMPLICATIONS

- 9.1 It is the Council’s policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer’s opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.
- 9.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Unreasonably disproportionate amount time spent dealing with some customers	Ensure policy is in place	Julie Kenny

10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

10.1 The persistent and unreasonable complainant behaviour policy does not impact any particular ward, parish, community or group. All complainants are supported in making complaints and may do so in the way most suited to their individual needs or circumstances and these are also taken into account in the decision to apply the policy.

10.3 This is not a new policy, an equality impact assessment is not required.

11. CORPORATE IMPLICATIONS

11.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Procurement implications
- Human Resources implications
- Planning implications
- Data Protection implications
- Voluntary Sector

Background papers: None

Contact Officer: Rebecca Owen, ext 5879

Executive Member: Councillor A Wright

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Hinckley & Bosworth
Borough Council

A Borough to be proud of

Persistent and unreasonable complainant behaviour policy

1. Why do we need a policy?

We are committed to dealing with all complaints fairly and impartially and to providing a high quality of service to those who make them. We also have a duty to make sure that the public money is spent wisely and achieves value for complainants and the wider public, and to protect the safety and welfare of our staff.

Occasionally there are complainants whose unreasonable behaviour makes this difficult to achieve. This policy sets out how we will manage such complainants fairly and consistently for benefit of both complainants and staff. It has been developed to meet the Local Government Ombudsman's guidance on "managing unreasonable complainant behaviour". This policy refers to 'complainants' throughout, which means not only those making formal complaints, but also informal complaints, persistent or unreasonable enquiries or unreasonable behaviour, which make it difficult to address the issues raised.

2. What is unreasonable or persistent behaviour?

Unreasonable behaviour is where the frequency or nature of a complainant's contact with us takes up unjustifiable officer time and resources, making it hard for us to handle their complaint and/or those of other people, or where their behaviour is offensive or abusive.

Listed below are some examples of the actions and behaviours of unreasonable and unreasonably persistent customers based on those defined by the Local Government Ombudsman. This is not an exhaustive list.

- Making excessive demands on the time and resources of staff by, for example, excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses and raising detailed but unimportant questions and insisting they are all answered;
- Adopting a 'scattergun' approach: pursuing a complaint or complaints with more than one officer or service area in the authority and/or at the same time with other organisations;
- Refusing to accept the decision – repeatedly arguing points with no new evidence;
- Submitting repeat complaints after the complaints processes have been completed or with minor additions / variations the complainant insists make these 'new' complaints;
- Refusing to specify the grounds of a complaint, despite offers of help;
- Refusing to use or to co-operate with the complaints process;
- Refusing to accept that issues are not within the remit of a complaints procedure;
- Making unjustified complaints about the person(s) dealing with the complaint;
- Changing the basis of the complaint and introducing irrelevant new information as the investigation proceeds;
- Denying or changing statements he/she made at an earlier stage;
- Recording meetings and conversations without the prior knowledge and consent of the other person(s) involved;

- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure;
- Alleging that the council's policies and procedures are being applied in a discriminatory or biased fashion without good reason or evidence;
- Submitting falsified documents for themselves or others;
- Using bullying, physical or psychological threats as a means to gain leverage with an officer or to intimidate.

3. Procedure

Stage one

If a member of staff dealing with a complainant feels the complainant is behaving unreasonably, they should seek the advice of the Director of Corporate Services, submitting evidence to support their view.

Stage two

An informal warning letter may be sent to the complainant to explain why their behaviour may be considered unreasonable or persistent and how they may be able to rectify this to avoid receiving a formal warning letter. This stage may not always be appropriate and is at the discretion of the Director of Corporate Services.

Stage three

When a complainant's behaviour is considered unreasonable, the Director of Corporate Services may decide to restrict the complainant's contact with our offices (usually in relation to their complaint, but under certain circumstances this may apply for any contact) for a temporary period or permanently. A formal warning letter which may contain one or more of the following restrictions will be sent to the complainant, enclosing a copy of this policy and detailing how long the restrictions will apply, when they will be reviewed and by who:

- Requesting contact in a particular form (for example by letter or email only)
- Requiring contact to take place with one named officer only
- Restricting the telephone calls to specified days and times and/or to a certain length
- Asking the complainant to enter into an agreement about their future contacts with us.

We will need to inform certain officers within the council that this policy has been applied.

Stage four

Where a warning letter and/or restrictions have failed to modify the complainant's behaviour, the Director of Corporate Services can seek to close all contact with the complainant. A letter will be sent to the complainant advising them that any further communication from them will be read and placed on file without acknowledgement unless there is fresh evidence or a new complaint which affects that decision.

5. Challenging the council's decision

Customers may challenge the decision to apply the persistent and unreasonable complainant behaviour policy and/or the restrictions imposed by writing to the Director of Corporate Services who had made the decision. This challenge must be made within ten working days of the date of the letter. This will be considered and the customer notified of the outcome.

The customer may make a complaint about the way he or she has been treated to the Local Government Ombudsman at any time during the process. They can be contacted directly at:

Local Government Ombudsman
 PO Box 4771
 Coventry CV4 0EH
 Tel: 0300 061 0614
 Website: www.lgo.org.uk