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*Branch Secretary: Gary Martin*

**Unison Response to the Annual Health and Safety Report originally scheduled for presentation at ECF scheduled for 3/12/2020 but cancelled**

Dated 4<sup>th</sup> Jan 2021

**Introduction**

This response paper from Unison is extremely important as it may be the last time that we feel able to take part in this forum for the reasons given in the main body of our response. In the period covered by the report namely April 2019-March 2020 we have witnessed significant changes as to how the incumbent senior management team has treated this recognised Trade Union and how Unison has been side lined in respect of its concerns regarding non-conformity with the principles behind the recognition agreement and non-conformity with Health and Safety legislation insofar as it affects the Unions ability to participate in legitimate processes. Particularly processes that have a significant bearing on the Health Safety and wellbeing of our front-line workers and members.

The Council's report does not reflect reality or that which has occurred in the period it reviews. It is widely inaccurate in its statements and lacks the complete transparency demanded by a report of this nature.

At this point Unison would like to make reference to The Corporate Health and Safety Policy 2.2 (Page93 of the Council's report) *'The elected members have overall responsibility for the application of health and safety legislation, achieving the objectives set out within this policy and ensuring that adequate resources are available to meet the organisations health, safety and welfare needs. The elected members delegate the work required to the Chief Executive'*.

Clearly, the statement above can only apply if the elected members are fully informed as to what is going on. Unison believes this to be not the case.

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The detailed reasons for Unison's views are as follows:-

## **Section 2.0-Report**

### **Executive Summary**

**Unison wish to point out that the Council's Executive Summary does not include a section referring to 'Risk Assessments' this is very odd since they are considered to be the bedrock of modern Health and Safety Management systems?**

Unison therefore considers that this important topic receives mention here since the council's performance in this area is not covered by its report. At the start of the Covid-19 pandemic, the council were slow to recognise that this 'new hazard' in fact applied to the workforce, in the context of their day to day work, and was in fact part of the employer's statutory responsibilities under HSAWA, and under 'duty of care' in common law.

Risk assessments from the council were consequently delayed and when they eventually started to appear they were extremely poor since they had been carried out by managers that had no training in infectious disease or pandemic situations. Unison continually challenged these risk assessments since they did not meet the legal criteria of being 'suitable and sufficient'. Right at the start and throughout the pandemic Unison has been campaigning for more employer action to protect workers' health and safety particularly BAME individual's since the TU movement were fully aware of the increased risks and death's experienced by black/Asian people in the UK as a result of coronavirus.

The council continually ignored this concern and failed to make any specific provisions for the vulnerable categories of employees that were more likely to be seriously affected by the Covid-19 virus namely older employees and BAME employees. The council's risk assessments at the time were generic in nature and of a copy and paste 'one size fits all' nature. As a consequence Unison had to develop its own risk assessment to safeguard its own vulnerable staff and BAME members. Sometime after this the council included BAME workers into its generic risk assessments, but used the same controls that were in place for white workers. They had failed to understand the difference in risk.

To-date the council has not notified Unison if all of its existing pre Covid-19 risk assessments have been updated to include Covid-19 control measures. Unison are aware that PPE risk assessments (where they actually exist) have not been updated to ensure that enhanced respiratory protection and other protection is in place. Members have reported that standard dust masks are still being issued. Enforcement officer risk assessments, Lone working risk assessments, all field staff risk assessments and in fact any assessment which involves close interaction with the public require to be fully updated. A number of our members have informed us that this has not happened in respect of their workplace or their work activities.

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A number of schools in the borough had to close as a result of Covid-19 outbreaks during the pandemic's first wave. Prior to this Unison had written to the council in detail outlining its concerns that precautions in schools did not meet the required standards. The letter contained a risk assessment checklist. No response was received to indicate that similar checklists or detailed risk assessments were in place.

The asbestos incident investigation reports (internal and external) highlighted just how poor the council's understanding of risk assessment was, and how missing risk assessments contributed to the incident that had occurred.

Just recently, the council introduced a new risk assessment form targeted at specific individuals rather than the work activities that they undertake. This 'psychological profiling' type of risk assessment has been introduced by management without any consultation at all with the Trade Unions. It had never been used before and was not part of the council's policies or procedures. Unison objected strongly to its use as it breaches the HSAWA 1974, SRSCR 1977 and Human Rights legislation. Unison's concerns have been ignored. (Correspondence detailing these concerns is available on request).

Perhaps it may become apparent now as to why Risk Assessments are 'missing' from the executive summary.

#### **Section 2.4 'Key incident points from the period April 2019-March 2020**

No mention whatsoever is made in the Annual report of the 'Substantial Hazard' that occurred and continues to be unaddressed as a result of the serious Asbestos Incident that took place on 26<sup>th</sup> June 2019. This incident involved a failed internal investigation conducted by the Council's Housing Department followed by a failed external incident investigation conducted by an external health and safety consultant (he had 10 attempts at his report, each of which was challenged by Unison and retracted for 'modification'). Both investigations failed to establish the root cause of the incident.

Finally an investigation into both these investigations had to be commissioned by the Corporate Director Community due to on going Unison concern and challenge. The Investigation was carried out by Corporate Health and Safety but this report has been withheld from Unison and the Council Members of this forum as of the date of this response paper (January 2021).

The Asbestos Incident is a very **key incident** as it has potential future consequences for both the staff who were exposed to the asbestos and the borough's residents who may have been exposed to the asbestos (the extent of the exposure is not known due to the flawed investigation processes outlined above). All of these Investigation processes took in the region of 5 months to complete and many issues surrounding the incident remain unresolved. One therefore has to question the reasons as to why this incident has been hidden from this forum. Unison believes the reason to be that this 'hidden' report reveals multilateral failings that extend well beyond the incident itself.

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### **Section 2.5 (under the heading of 'Background')**

The report mentioned here **does not deal** with the any of the performance and the poor management issues highlighted throughout the investigative processes mentioned above.

### **Section 2.8 (under the heading 'Improvement Plan')**

This section is incredulous since it states 'Focus is **on transparency** and ensuring all are aware of their responsibilities and **governance** is in place' This statement could not be further than the truth (see point 1, above and Unisons letter to the Director of Harrow Legal Services dated 23/12/2020 and copied to various parties including members of this forum.

### **Section 2.11 (under the heading 'Health and Safety policy and guidance')**

This section is incorrect and misleading in that it refers to new policies having been introduced when many of the policies mentioned are old ones that should have been revised in any case. It does not give the reasons as to why certain policies are 'awaiting approval' such as:-

**Accident/Incident investigation Policy(awaiting approval)** Unison have not been consulted on this policy as it is a new one. It did not in fact exist at the time of the Asbestos Incident and was one of the main reasons that both investigations failed since there were no council procedures in place to guide the investigation processes! In addition to this the council refused to allow Unison to participate in either of the two investigation processes. If Unison had been allowed to be partners in the investigation the outcome may have been a lot different and a considerable amount of time and money saved.

**Lone Working Policy(awaiting approval)** Unison have seen this policy on a number of occasions and rejected it on a number of occasions as **inadequate** as it does not take into account the current Covid-19 situation or the future ramifications of it. Additionally, it was not effective enough to cover the lone working aspects of the security staff in respect of attacks on staff (out of hours) and in respect of the empty Civic Centre buildings due to the Covid Pandemic. (Unisons email responses in this respect are available on demand). No response has been received from management following Unison's concerns.

**Asbestos Policy (awaiting approval)** Unison have refused to sign this policy off as it does not contain measures to manage or prevent further asbestos incidents as described earlier. Unison challenged this policy on the grounds that it was not reflective of the lessons that should have been learned from the Asbestos Incident.(Unison's email responses are available on demand) No response has been received from management to date.

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**Risk Assessment Policy** This policy has not been updated in respect of the necessary competency requirements relating to specialist assessments that have been absent from both a number of flawed Covid-19 assessments together with the absence of risk assessments concerning the Asbestos Incident. Again another factor that contributed to the Asbestos Incident was the lack of risk assessments to prevent it. (Management mistakenly thought that a SOP (Standard Operating Procedure) was in fact a Risk Assessment. They also failed to review this document or distribute it to front line staff. It was dated as 2009 at the time of the incident).

**Cautionary Contacts Policy (under consultation)** Unison has no idea whatsoever about this as we have not been a consultee. We ask the question here as to who the consultee's are?

Wholly Conspicuous by its absence is the fact that the council does not have a **Coronavirus Policy**. One would have thought that this would be right at the top of the list given the wide ranging health and safety implications this disease has.

*'Employers will need to adapt a range of measures to support employees experiencing poor mental health as a result of COVID-19 and its effects on society and the economy. Measures will need to range from supporting employees to regain an effective work-life balance and addressing fears about return to work, right through to support for severe mental health conditions. Employers, particularly those who have employees working in front line response roles, should act now to put necessary support in place' (Source CIPD)*

**Unison would make comment here-** *If there is no policy in place, has even the bare bones of a risk assessment been done to cover mental health risks as a result of Covid-19?*

### **Sections 2.14 and 2.15 under the heading 'Safety Culture'**

Unison respectfully disagrees with this section in its entirety. The only safety culture that has been observed is one of 'Protectionism'. This is clearly evident by the fact that not one senior manager or director has been subject to any disciplinary measure whatsoever as a result of the Asbestos incident in 2019. This incident highlighted serious management failures and wrongdoings which have not been addressed.

As for the Health and Safety Handbook, recent events indicate that health and safety procedures are not being followed by management, so there is little hope for this handbook. Additionally, Unison has had no positive feedback from its members about this handbook. The general opinion is that it is too generic (possibly obtained from another organisation) and not targeted at Harrow's working practices. Additionally again, It has not been updated in respect of Covid-19.

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## **Section 2.20 under the heading of 'Health and Safety Visits, Inspections and Audits'**

Unison does not understand the first sentence since it seems to contradict the second sentence. How can there be a positive change when it states 'management self-audits have **not been done**'?

How many have not been done? Which areas of the council are failing and not in compliance? Why no specific detail here?

## **Sections 2.22-2.24 Under the heading of 'Occupational Health'**

Again this is not an accurate reflection of the performance of this service. Unison raised serious questions over the year with this service and the lack of preventative interventions (necessary vaccinations such as hepatitis for the refuse collectors etc.) together with failures identified with the internal management responsible for sourcing and monitoring a service that seems to fall well short of expectation.

The service has been lacking regarding the provision of 'wellbeing and stress' support packages in respect of Covid-19 and for those suffering threatening behaviours including those subject to inappropriate behaviours as a result of disciplinary procedures. Unison have witnessed abuse of procedural requirements. Timelines related to stressful processes being extended well beyond the acceptable limits without the justification or factual evidence to support these actions. This has been ignored by Occupational Health. Also of concern is the lack of management referrals in respect of staff known to be suffering from stress related anxiety.

## **Sections 2.25-2.27 under the heading 'Promotion of Health, Safety and wellbeing'**

Firstly the reader should take notice of the section above. Secondly read the withheld Asbestos Incident reports and thirdly look at the numerous Covid -19 risk assessments that Unison have rejected and returned to the council's employed 'assessors' on the grounds of inadequacy (not being 'suitable and sufficient' in law). Fourthly, look at all the correspondence that has been sent to the Director for Community covering 'outbreaks' of Covid-19 that have occurred at the Civic Centre. Fifthly, consider the fact that the 'meals on wheels' service operating from the ground floor of Civic 7 (where Unison is based) and catering for many of the most vulnerable persons in society is operating without the legally required HACCP Food Safety Management System in place and/or linked Covid-19 assessments.

Civic 7 is situated close to the dried out moat area which has become a 'cesspit' over the last 6 months due to oil spillages into it and the accumulation of miscellaneous refuse and rubbish. It is open to a network of subterranean drainage pipes (sewers) and thus an ideal harbourage for rats and other rodents. Correspondence regarding these concerns have been sent to Corporate Health and Safety and raised at higher levels. No response has been received to-date to indicate that any of these matters have been acknowledged or addressed.

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The reader is invited to make their own minds up regarding the heading to this section of the council's report.

**Sections 2.28-2.40 under the heading 'Incidents reported'**

Since the very serious Asbestos Incident ***is not reported*** in this section where one would assume it to be reported (or anywhere else in the report), Unison naturally have concerns as to the accuracy of all of the information that is being reported in the Council's annual report. As stated in the introduction to this response we no longer have confidence regarding the integrity of the report.

**Sections 2.49-2.59 under the heading 'Stakeholder Feedback'**

Stakeholder Feedback in respect of the full participation of the trade unions does not reflect reality or the guidance to employers from both the HSE and the TUC. Unison has been denied full participation on a number of occasions over the period that the report covers.

The Trade Unions were deliberately excluded from participation in the Asbestos Incident investigative processes carried out by the council. An overt and illegal action.

**Section 2.50** and the statement therein is rejected by Unison. It is not a true statement that reflects current practice. Senior management have refused on numerous occasions to share relevant health and safety documents with the Trade Unions.

So far as the final sections of the summary are concerned namely, Legal Implications, Financial Implications, Risk Management Implications, Equalities Implications and Council Priorities one needs to look closely at the withheld Asbestos Incident report(s) to fully consider the accuracy of statements made under these headings.

**Section 3- under the heading 'Statutory Officer Clearance'**

Unison would raise the question as to why the Ward Councillors are ***not notified***. Particularly where a serious Asbestos Incident may have impacted on residents in particular wards?

**Appendix 3 Under the heading 'Occupational Health and Safety Strategy 2019-2022'**

Firstly, for context, this published strategy covers the period when the Asbestos Incident occurred. The 2 incident investigations highlighted a multitude of Health and Safety Management failures at all levels. This strategy failed to prevent a serious incident that it was clearly intended to do. It did not proactively reduce the risk of this incident occurring in any way. The strategy is therefore inaccurate regarding its published statements.

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Secondly, in common with the Corporate Health and Safety Management Plan this is very much a **static** document. It has not been updated at all to include the significant effects of Covid-19 both at the present time or the future time period that the plan covers. This should be a dynamic document that adapts to change. This strategy is poor and sadly highlights the current capabilities of those that have authored it.

There is no strategy in respect of Covid-19, the most significant Health (and Safety) issue known to mankind at this point in time. Virtually the whole of the civic centre has been evacuated, methods of normal working practices have been disrupted, huge numbers of staff are working from home including senior management.

New safer ways of working are now the order of the day... yet there is no mention of any of this!

A fatal combination of missed opportunities, ignored warning signs and a failure to stop non-essential work have made the coronavirus crisis 'bigger and more deadly' in the UK according to analysis conducted by the Hazards Campaign. Hundreds of UK workers have died after being infected at work including health and social care, transport, prison and office workers.

Harrow council as a major employer must be unique when compared to other large employer public authorities in that it does not seem to fully appreciate this or deem it necessary to have any specific policy in respect of Covid-19. Unison therefore makes the urgent appeal via this forum that the council initiates a 'working safely through the coronavirus pandemic' policy asap to avoid the 'fill gap' ill-informed risk assessment approach that has been adopted by Harrow management.

**Page 48 1.1 The Current Situation.** Unison consider the 'current system' to be ineffective (see above also) since it failed to identify a large number of key H&S performance indicators within the Council's Housing Division that led to the Asbestos Incident.

**Page 49 2.0 Corporate Health and Safety Governance Overview** Unison regularly attended the Corporate Health and Safety board throughout the time of the Asbestos Incident investigations and raised ongoing and extensive concerns regarding the independence and integrity of the processes. In the main these concerns were ignored or swept under the carpet. Extensive correspondence remains on file to substantiate this claim. Again this supports our view that the current system is not working since it does not contain either accountability or incentive to make it work.

**Page 54 (f) 'to build on the communication and consultation arrangements to ensure staff are fully involved and committed to achieving acceptable health and safety standards'** This did not happen at all throughout the 5 months or so that covered the asbestos incident investigations.

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**Page 54 (g) ‘to encourage greater visible and active leadership on health and safety by managers’.** To put it bluntly, this is not happening. Many managers including those at director level consistently fail to answer correspondence from Unison. (numerous examples are on file, and available on demand). Management have not followed their own policies and procedures on numerous occasions.

**Page 55 (i) ‘to ensure good health and safety practice in our relationships with partners’** Management cannot even fulfil their legal commitments under ‘The safety Representatives and Safety Committees Regulations 1977’ in respect of its trade Union Partners or to share important information relevant to serious incidents so we question this statement as it is not reflective of current practices.

#### **Section 4.0 Health and Safety Management Systems**

For many years now the council has relied on a Health and Safety Management model (HSG-65) first published in 1991(almost 30 years ago) This model is now considered by many mainstream Health and Safety professionals to be ‘beyond its best before date’. The key issues that Unison have with this model is that it is operated and run totally ‘in house’ and does not fully conform to any British or International Standard (BSI or ISO). It has also been shown to have failed on a number of occasions. This is evident from the independent Croner reviews conducted in 2004 and 2016 and of course in respect of the recent Asbestos Incident.

It is audited ‘in- house’ and therefore all aspects of it are checked by those that are involved in it and responsible for it. It therefore is not independent and free from conflict of interest, thus it can never be considered as part of a TQM system. The lack of transparency surrounding the serious asbestos incident typically relates to the *laissez faire culture* that can develop from ‘loose’ management systems of this nature; systems that are not benchmarked against industry standards or subject to independent audit and full transparency, systems that rely on the unqualified judgement of middle managers who are not subject to the checks and balances exercised by High Level Structures. Particularly in relation to Clause 5 – **Leadership**

‘which charges senior management with accountability in the section for organisational roles, responsibilities and authorities. They are responsible for leading, not just managing, must demonstrate commitment to customer satisfaction, and establish and communicate the quality policy, responsibilities and authorities’.

Unison believes that the HSG-65 model has had its day and the council should now progress to more modern ‘accountability’ driven management systems such as BS ISO 45001:2018, if indeed it is to address the numerous management failings identified in the existing system (see also page 5 ‘The Current System’)

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BS ISO 45001:2018 (Management System for Occupational Safety and Health) is up to date and different because it adopts the 'High Level Structure' used in the other key management systems standards and thus can be easily aligned to them. In addition it increases the emphasis on:

- Leadership and the need for those at the top to lead by example and be held accountable for OH&S performance
- Consultation with and involvement of workers in making sure the OH&S management system covers all necessary areas and communicates effectively with everyone involved
- Designing an OH&S management system to suit the needs of each organization individually according to its own context
- It takes into account factors such as the context in which the organization operates and the needs and expectations of its workers and other interested parties ie the residents
- It is independently audited every year to ensure the standard is met. If not the standard is withdrawn. There is therefore a strong incentive for management to ensure full compliance.
- It is designed to align with other key management systems standards such as ISO 9001 quality management and ISO 14001 environmental management for ease of integration. It is therefore totally suited to the future and the increasing requirement to manage Harrow Council's environmental impact in tandem with occupational health and safety over all of the areas in which it operates. It is a TQM system in all respects.

Unison believes this is the way forward. The members of the council will be fully aware that Health and Safety has had a number of issues over recent years particularly with regard to Asbestos.

The latest Asbestos Incident is the straw that has broken the camel's back so far as Unison is concerned. **There is no further point in Unison participating in a forum that does not bring about the much needed modernisation or real change to tackle poor practices and long established poor cultures that drive them.**

**Page 57 under the sub-heading 'Co-operation.**

This subsection totally contradicts itself. It openly states that the council is under a legal obligation to consult with employees about the health and safety matters that affect them. The most senior levels of management have not done this since they have withheld an asbestos investigation report that is wholly relevant to the health and safety of employees and residents. The trade unions were barred from participation in the investigation. The statement '*the council has already fostered good relationships on health and safety matters with its recognised trade unions*' could not be further from the truth. Industrial relations with Unison are currently at rock bottom. This will be obvious to anyone who is aware of the current management actions and attitudes to the recognised Trade Unions, particularly Unison.

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**Page 58 Under the sub heading 'Competence'**

Again this subsection is misleading. The asbestos incident investigation highlighted levels of health and safety incompetence hitherto unseen in the council.

**Section 9.0 Corporate Health and Safety Plan 2019/20 Pages 64-77**

In any other organisation other than Harrow Council this would be a dynamic plan that would adapt to events and circumstances that occur within the period that it covers. This Plan is static and does not do this. No mention of Covid-19 and again no mention at all is made in respect of the Asbestos Incident (26.6.2019) which occurs in the middle of the period the plan covers. Therefore, it sadly demonstrates that no actions are in place to mitigate the effects of high priority incidents and events. More importantly it seems to be completely inadequate in preventing a similar asbestos incident from occurring again!

A quick look under the heading of 'Workplace Implementation' under sub heading Health and Safety Training indicates of all things that there is no asbestos training scheduled! Additionally, there is no Covid-19 training mentioned. This is extremely serious as those managers undertaking Covid-19 related risk assessments are not trained or competent to do them.

Another look under the heading 'Asbestos Management' indicates that it is void of preventative measures or any of the 'lessons learned' actions that became apparent to management from the asbestos investigations within the period the plan covers. Again one must ask why these lessons to be learned are not openly shared in order that a similar incident may be prevented. This 'plan' is devoid of logic.

Finally, It must be abundantly clear to the reader that there are serious concerns with how Health and Safety is being managed at Harrow Council. The whole system as it is currently being operated is in need of radical overhaul. We are afraid to say that the council's usual contingency 're-structure' remedy that is rolled out at times like this will simply not do.

The health and safety related activities of this council not only affect its staff but also affect the residents of the borough. Not bothering to visit the site of an asbestos tipping incident in public areas of a council owned residential housing estate as part of an in-depth investigation is incompetent. Not taking any appropriate measures to ensure that the area is protected from further tipping incidents is criminal.

**Unison concludes this response paper with one word- Appalling!**

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January 2021

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