



Employment and Appeals Committee Agenda

Wyre Borough Council
Date of Publication: 21 October 2022
Please ask for : Marianne Unwin
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Employment and Appeals Committee meeting on Monday, 31 October 2022 at 6.00 pm in the Committee Room 2 - Civic Centre

1. Apologies for absence

2. Declarations of interest

Members will disclose any pecuniary and any other significant interests they may have in relation to the matters to be considered at this meeting.

3. Confirmation of Minutes (Pages 3 - 8)

To confirm as a correct record, the minutes of the previous meeting of the Employment and Appeals Committee held on 11 July 2022.

4. Policy Review (Pages 9 - 12)

Report of the Human Resources Manager to present to the Employment and Appeals Committee additions and amendments to Human Resource Policies.

(a) Disciplinary Policy and Procedure (Pages 13 - 40)

(b) Flexible Retirement Policy and Procedure (Pages 41 - 46)

(c) Retirement Policy and Procedure (Pages 47 - 54)

(d) Driving Policy (Pages 55 - 78)

(e) Long Service Award (Pages 79 - 82)

(f) Preventing Illegal Working Policy (Pages 83 - 92)

- (g) Extended Authorised Absence Policy (Pages 93 - 102)
- (h) Equal Opportunities Policy (Pages 103 - 114)
- (i) The Domestic Abuse and the Implications in the Workplace Policy (Pages 115 - 122)



Employment and Appeals Committee Minutes

The minutes of the Employment and Appeals Committee meeting of Wyre Borough Council held on Monday, 11 July 2022 at the Committee Room 2 - Civic Centre.

Employment and Appeals Committee members present:

Councillors Lady D Atkins, Baxter, P Ellison, Smith and A Turner

Apologies for absence:

Councillor A Vincent

Officers present:

Jane Collier, Human Resources Manager and Deputy Monitoring Officer

Olivia Cordingley, Human Resources Advisor

Marianne Unwin, Democratic Services Officer

Marc Whittaker, Senior Human Resources Advisor

No members of the public or press attended the meeting.

1 Election of Chair for 2022/23

Unanimously, Councillor A Turner was elected as the Chairman of the Employment and Appeals Committee for the municipal year 2022/23.

2 Election of Vice-Chair for 2022/23

Unanimously, Councillor Baxter was elected as the Vice Chairman of the Employment and Appeals Committee for the municipal year 2022/23.

3 Declarations of interest

None.

4 Confirmation of Minutes

The minutes of the meeting of the Employment and Appeals Committee held on 21 February 2022 were confirmed as a correct record.

5 Policy Review

The Human Resources Manager and Deputy Monitoring Officer, Jane Collier,

submitted a report presenting nine of the council's Human Resources policies and procedures that had been amended.

Jane Collier introduced the report and provided Elected Members with a brief overview of the policies.

(a) **Apprenticeship Policy**

Jane Collier highlighted that owing to the public sector target period set by the Government having ended, the Apprenticeship Policy was subsequently amended. She explained that it was still good practice to collect this data.

In response to a question posed regarding partnerships with institutions linked to apprenticeships and T Level qualifications, the Senior Human Resources Officer, Marc Whittaker, explained that the main provider the council work with was Blackpool and the Fylde College and explained the recent recruitment of the Corporate Apprentices. It was added that the usual practice was to source the provider around the apprenticeship in order to maximise the training experience.

Jane confirmed that the policy did not involve the potential introduction of T Level qualifications.

(b) **Gender Reassignment Policy**

Jane Collier explained the update to section 4.1 in regards to definitions used within the policy and section 7.3 as temporary relocation and redeployment was to be considered at the request of the employee or on the advice on Occupational Health.

Jane updated members that following consultation with the unions it was agreed for the policy to include reference to providing staff with equality and diversity training.

Following a question, it was explained that at present, there were no employees who had experienced gender reassignment whilst working for the council, nevertheless, the policy remained in place as the council was committed to supporting employees who were contemplating undergoing, were undergoing or had undergone transition.

A question was put regarding councillors receiving similar equality and diversity training, the Democratic Services Officer, Marianne Unwin, reminded councillors to speak to the Democratic Services team or the Chairman of the Councillor Development Group about future training opportunities.

(c) **Driving Policy**

Jane Collier explained the policy had been reviewed in consultation

with the Transport Manager. She summarised the minor amendments made throughout including section 4.1 regarding Green Fleet and Grey Fleet, section 5.4 regarding changes made to the Highway Code in January 2022 and section 5.10 regarding vocational drivers found guilty of any new motoring offences must report to the Transport and Maintenance Team Manager. She added an update to section 7.3 of the policy concerning the towing of trailers and other minor changes.

The Chair questioned whether Wyre Council drivers were to receive specialist training owing to the recent changes to the Highway Code. Jane updated members that this was something the council hoped to provide in the future.

In response to a question regarding company cars for senior officers, Jane Collier confirmed that, excluding fleet drivers, all staff used their own vehicles for work-related driving activities. In response to a further question on risk assessments, Jane reassured members that work-related driving activities were risk assessed and the Transport Manager ensured the necessary procedures were followed.

(d) Employee Code of Conduct

Jane Collier summarised the minor updates made to the policy and highlighted a change to staff completing an online form when declaring gifts and hospitality.

In response to a question, Jane updated members that policy updates were communicated to staff via the council intranet and that staff were not required to re-sign policies when changes were made.

Members welcomed the move to an online form.

(e) Protected Officers Disciplinary Policy

Jane Collier explained that this policy related to the three statutory officers the Head of Paid Service, Section 151 Officer and the Monitoring Officer.

She updated members that the council had appointed two new Independent Persons resulting in a total of three. She also explained other slight amendments made including updates to the list of examples of Gross Misconduct.

(f) Promoting Attendance and Managing Sickness Absence

Jane Collier explained the Promoting Attendance and Managing Sickness Absence had been updated to bring Covid-19 symptoms or illness in line with other reasons for sickness absence.

Discussions were held regarding the percentage of officers working from home, hybrid working, recruitment issues and the impact on new

starters.

A member asked about sickness absence owing to the recent spike in Covid-19 infections. Jane Collier explained that the council and its services had managed sickness absence during the pandemic.

(g) **Working Carers Policy**

Jane Collier clarified that the Working Carers Policy had slight amendments made.

Jane explained that there could be staff unknown to them who were working carers. She added that staff were under no obligation to tell their line manager that they were a carer but would be encouraged to do so wherever possible. Managers were also actively encouraged to meet with their employees who had caring responsibilities to discuss the support they need.

Following a question from a member, Jane explained that DSE Assessments, an assessment of the workstation or display screen equipment, were carried out when necessary.

(h) **Eye Sight Testing Policy**

Jane Collier explained that this policy had been updated to reflect the change in the corporate provider.

Jane confirmed to members that the feedback for the new provider had been positive.

In response to a question, Jane clarified the amount awarded to staff to cover the cost of glasses was based on the equivalent of what the voucher offered staff.

There were additional discussions by committee members about apprenticeship recruitment.

6 Decision taken

Following discussion, the committee **approved** each of the following Human Resources policies and arrangements:

- Apprenticeship Policy
- Gender Reassignment Policy
- Driving Policy
- Employee Code of Conduct
- Protected Officers Disciplinary Policy
- Promoting Attendance and Managing Sickness Absence
- Working Carers Policy
- Eye Sight Testing Policy

The meeting started at 6.00 pm and finished at 6.22 pm.

Date of Publication: 14 July 2022.

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Report of:	Meeting	Date
Human Resources	Employment and Appeals Committee	31 October 2022

Policy Review

1. Purpose of report

1.1 To present to the Panel additions and amendments to Human Resource Policies.

2. Outcomes

2.1 The amendment to existing policies and procedures.

3. Recommendation/s

3.1 That the Panel approve the policies and arrangements set out in Section 5.

4. Background

4.1 From time to time the Council needs to develop new policies and working arrangements to ensure we comply with statutory requirements and effectively manage our human resources.

4.2 The development of new policies and the review of existing policies will also be informed by employment best practice and the organisational needs of the Council.

5. Key issues and proposals

5.1	Disciplinary Policy and Procedure	Reviewed
	Flexible Retirement Policy and Procedure	Reviewed
	Retirement Policy and Procedure	Reviewed
	Driving Policy	Reviewed
	Long Service Award	Reviewed
	Preventing Illegal Working Policy	Reviewed
	Extended Authorised Absence Policy	Reviewed

Equal Opportunities Policy	Reviewed
The Domestic Abuse and the Implications in the Workplace Policy	Reviewed

- 5.2** The Disciplinary policy has been reviewed and updated to take out the references to the Pandemic which are now no longer relevant. Reference to Electronic Meetings has however been retained so that in certain circumstances meetings may be held this way.

In respect of conduct outside of work a reminder has been included that staff are representatives of the council when wearing uniform or staff badge.

Clarification that during live warning periods the conduct may be taken into consideration for employment decisions.

Other minor amendments throughout.

- 5.3** The Flexible Retirement Policy and Retirement Policy and Procedure have been reviewed with no updates or amendments.

- 5.4** The Driving Policy was reviewed in July 2022 since which time unions have asked for the ability to claim mileage expense for use of a bicycle for work activities. Additional paragraphs have been included at 5.14 & 6.2.

- 5.5** There are now some staff members approaching 50 years' service. The Long Service Award policy has therefore been updated to include an award of £150 to recognise this length of service in addition to the current 20 & 40 years recognition.

- 5.6** The Preventing Illegal Working Policy has been reviewed and minor amendments have been made throughout.

The list of EEA Countries has been updated to add Croatia.

The documents listed in List A and List B have been updated in accordance with the Home Office.

- 5.7** The Extended Authorised Absence Policy has been updated with minor changes throughout including updates to job titles.

- 5.8** The Equal Opportunities Policy has been updated with minor changes including explanation and examples. Additions at section 6.3, 6.4 and 6.5 covering the recruitment process.

- 5.9** The Domestic Abuse and the Implications in the Workplace Policy includes minor additions to section 3 and professional help services listed as an appendix.

Financial and legal implications	
Finance	There are no specific Finance issues associated to this report.
Legal	There are no specific Legal issues associated to this report. However failure to comply with appropriate legislation may expose the Council to litigation.

Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

risks/implications	✓ / x
community safety	X
equality and diversity	X
sustainability	X
health and safety	x

risks/implications	✓ / x
asset management	X
climate change	X
ICT	X
data protection	X

Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

report author	telephone no.	email	date
HR Manager and Deputy Monitoring Officer	01253 887506	jane.collier@wyre.gov.uk	October 2022

List of background papers:		
name of document	date	where available for inspection

List of appendices

Appendix 1	Disciplinary Policy and Procedure
Appendix 2	Flexible Retirement Policy and Procedure
Appendix 3	Retirement Policy and Procedure
Appendix 4	Driving Policy
Appendix 5	Long Service Award
Appendix 6	Preventing Illegal Working Policy
Appendix 7	Extended Authorised Absence Policy
Appendix 8	Equal Opportunities Policy
Appendix 9	The Domestic Abuse and the Implications in the Workplace Policy

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Disciplinary Policy and Procedure

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1. INTRODUCTION

- 1.1 The Council and the trade unions attach great importance to establishing and maintaining good working relationships at all levels within the council by encouraging all employees to achieve and maintain acceptable standards of conduct and behaviour.
- 1.2 It is the council's belief that employees should be motivated by their sense of responsibility and involvement rather than by fear of disciplinary action. Disciplinary rules and procedures are nevertheless necessary to promote positive employee relations and fair, consistent treatment of employees, to help ensure that standards are upheld and to provide a fair method of dealing with alleged failures to observe the standards.
- 1.3 It is also recognised that discipline is necessary for the efficient and effective operation of the council and for the health and safety at work of all employees.
- 1.4 Whilst the disciplinary procedure provides a formal process for resolving alleged breaches, the council recognises that in many cases early intervention with the right word at the right time and in the right way may be all that is needed and will often be a more effective and satisfactory method of dealing with such situations.

2. AIMS

- 2.1 The aims of this policy are:
- To encourage corrective rather than punitive action
 - To ensure the consistent and fair treatment of employees
 - To support standards of conduct and behaviour which ensure the efficient and effective operation of the council

3. SCOPE

- 3.1 This procedure applies to all employees of the council excluding officers employed under J.N.C. Conditions of Service for Chief Officers and for Chief Executives which includes Protected Officers.
- 3.2 This procedure does **not** apply to agency staff, external contractors or external consultants.

4. ROLES AND RESPONSIBILITIES

4.1 It is the responsibility of individual **Employees** to:

- Be aware of the Council's policy and procedure
- Maintain acceptable standards of performance and conduct.
- Comply with the Council's Code of Conduct at all times
- Carry out their role to the standards expected
- Understand the impact of their behaviour on colleagues and customers of the Council
- Clarify expectations, behaviours and procedures with their line manager if they are unsure about them
- Co-operate fully and promptly if they are asked to be involved in a disciplinary case, this may include giving evidence in an investigation
- Declare any conflict of interest that arises if they are involved in disciplinary matters.

4.2 It is the responsibility of **Managers** to:

- Seek advice from Human Resources in a timely manner
- Be able to demonstrate an appropriate level of competence to deal with disciplinary matters effectively
- Be responsible for setting and maintaining standards of performance
- Comply with the Council's policy and procedure
- Ensure employees understand the policy and procedure
- Ensure the policy and procedure are fairly and consistently applied
- Recognise where circumstances make it difficult from time to time for staff to comply fully with the Council's policy and procedure
- Assist, wherever possible, the employee to correct unacceptable behaviour
- Set a good example through their own conduct and behaviour
- Remain impartial when dealing with disciplinary issues

4.3 It is the responsibility of **Human Resources** to:

- Ensure provision of training, support and guidance for managers
- Regularly review and monitor the operation and effectiveness of the policy and procedure including any adverse impact
- Ensure compliance with legal obligations

5. GENERAL PRINCIPLES

- 5.1 This policy and procedure is designed to encourage all employees to achieve and maintain satisfactory standards of conduct, and not purely as a means of imposing sanctions.
- 5.2 Standards of work and conduct required will be reiterated to ensure that employees are clear as to what is expected of them (this should also have been done at the outset of taking up employment).¹
- 5.3 We are committed to the council's values of Working Collaboratively, One Team One Council and Working Smart (WOW).
- 5.4 All disciplinary proceedings will be dealt with confidentially and treated as an allegation subject to the outcome of any disciplinary hearing.
- 5.5 All disciplinary issues will be dealt with in a fair and timely manner and with clear decisions at all stages.
- 5.6 The Council reserves the right to implement the disciplinary procedure at any stage, if the employee's conduct warrants such action.
- 5.7 The Council's safeguarding policies must be referred to in circumstances where an allegation or incident is in relation to a child, young person or vulnerable adult.
- 5.8 Managers should consult Human Resources before a disciplinary investigation takes place. A representative from Human Resources will normally attend disciplinary hearings and where requested, disciplinary meetings. However, for avoidance of doubt, a disciplinary hearing held without a representative from Human Resources, shall not be regarded as being improperly conducted for the purposes of this procedure.
- 5.9 At all stages of the disciplinary procedure, except for the informal stage, an employee will have the right to be accompanied by an approved trade union representative or work colleague of their choice.
- 5.10 Electronic recordings should not be made of any meetings or hearings involved in the disciplinary process without the consent of those present.
- 5.11 An employee will not be dismissed for a first breach of discipline except in a case of gross misconduct, where the penalty will be summary dismissal without notice or pay in lieu of notice.
- 5.12 No disciplinary action will be taken against a trade union representative until circumstances have been discussed with a full time official of the trade union concerned.

¹ See also the Wyre Borough Council Capability Procedure

- 5.13 Where disciplinary action is withdrawn or where the employee is cleared of any alleged misconduct, any written reference to the matter will be removed from the employee's personal file.
- 5.14 An employee may appeal against any disciplinary action imposed in accordance with this procedure.
- 5.15 The application of this policy and procedure will be non-discriminatory irrespective of an employee's age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender or sexual orientation.
- 5.16 Meetings held under the Disciplinary policy and procedure will normally be carried out face to face. There may however be certain circumstances where consideration is given to meetings being carried out on-line and the Electronic Meeting guidance set out in appendix 5 should be followed.

6. DEFINITIONS

- 6.1 **Misconduct**
Examples of misconduct, which would normally justify the use of the Disciplinary Procedure has been attached as Appendix 1.
- 6.2 **Gross Misconduct**
Examples of serious offences that constitute acts of gross misconduct and potentially could lead to an employee's dismissal have been attached as Appendix 1.
- Where misconduct is related to inappropriate conduct towards a child or vulnerable adult and it is perceived that the individual may pose a risk to children or vulnerable adults, details of the offence will be passed to the relevant external authorities by the Human Resources Team.
- Similarly, where the misconduct is of a very serious nature, e.g. theft, fraud, details of the offence will be passed to the HR Manager who in liaison with the Head of Governance & Business Support and Section 151 Officer may subsequently refer the matter on to external authorities, for example the police.
- 6.3 Neither of the two lists in Appendix 1 are exhaustive and one test that should be asked when determining if there is a potential for a misconduct allegation is - would a reasonable person be aware that disciplinary action would result from a certain act or omission?
- 6.4 **Conduct Outside of Work**
The Council does not seek to dictate how employees conduct themselves in their personal lives outside work. However, unlawful, anti-social or other conduct by employees which may jeopardise the Council's reputation or position will be dealt with through the disciplinary procedure. Examples of such behaviours are listed in Appendix 1.

6.5 Staff are also reminded that whilst wearing their Wyre uniform or staff badge they are identifiable as a representative of the council even if they are not clocked into work at the time and should behave in an appropriate manner.

6.6 **Cases of Alleged Criminal Activity**

A disciplinary investigation may run in parallel to any external investigation if necessary (e.g. police, child protection etc.), but should not be held up by it, unless it is prejudicial to those investigations to proceed. Case law clearly indicates that it is not always necessary to await the outcome of any court hearing before deciding on disciplinary action.

7. PROCEDURE

7.1 The Disciplinary Procedure comprises of the following stages, where applicable:

- Informal Stage (where appropriate)
 - Informal Resolution
- Formal Stages
 - Investigation (including suspension where necessary)
 - Hearing
 - Sanctions
 - Written Warning
 - Final Written Warning
 - Dismissal with Notice or Summary Dismissal
 - In exceptional circumstances, consideration may be given to some other disciplinary penalty as an alternative to dismissal such as demotion, transfer or loss of seniority/pay.
 - Appeal

No formal disciplinary proceedings will be taken against an employee until a case has been fully investigated. The investigation will be relative to the nature of the allegation.

7.2 At every stage of the formal procedure an employee will be advised of the nature of the allegation against them and will be given the opportunity to state their case before any decision is made.

7.3 At all formal stages of the procedure the Employee will have the right to be accompanied by a workplace colleague or approved trade union representative.

7.4 **Resignation during an investigation or before a Disciplinary**

If the employee resigns either during a disciplinary investigation or prior to a disciplinary hearing then the Council will reserve the right to continue with the investigation and/or hearing despite the resignation.

The results of any findings/decision will be held on the employee's personnel file and any appropriate actions taken in line with the Disciplinary Policy.

7.5

Criminal Conviction/Imprisonment

An employee who receives a criminal conviction or imprisonment may be dismissed, however each case will be determined on its own merit. The Council's Disciplinary Policy, including undertaking an internal investigation will be followed on all occasions.

8. THE INFORMAL PROCEDURE – INFORMAL DISCUSSIONS

- 8.1 Minor offences or lapses by the employee, should in the first instance, be dealt with by an informal discussion between a supervisor/manager and the employee concerned.
- 8.2 Nothing in this procedure is intended to prevent the normal process of management and supervision whereby managers manage performance including: performance and development reviews and 1:1s, allocating work, monitoring performance, drawing attention to errors, poor quality and minor misconduct whilst also highlighting work that has been done well either through routine management or regular appraisal.
- Most cases of minor misconduct are best dealt with through such informal processes rather than through the formal disciplinary procedure.
- 8.3 The manager should discuss any problem with the employee at the earliest possible opportunity with the objective of encouraging and helping the employee to improve and stopping the matter from escalating. This may cover conduct, work performance, sickness or personal problems. It is an informal process designed to work through difficulties before they become so significant that disciplinary action may be necessary.
- 8.4 Clear goals need to be set and a review meeting scheduled to ensure improvement in behaviour/conduct is satisfactory within an agreed timeframe. Failure to improve behaviour or standards of performance within this timeframe may result in formal proceedings being invoked.
- 8.5 An informal written record of any discussion should be made, including date, outline of discussion, details of any agreed action, training or other support to be made available to the employee. Should the behaviour or conduct continue and move to Formal Disciplinary Procedure, these records will be important evidence.

9. THE FORMAL PROCEDURE

9.1 **Advice from Human Resources**

To ensure compliance with the law, fairness and consistency, managers must consult with a Human Resources Advisor before embarking on the formal procedure or considering any disciplinary action.

9.2 **Right to be accompanied**

9.2.1 At all stages of the formal procedure the employee has the right to be accompanied by a recognised trade union representative or work colleague.

9.2.2 For the purpose of this policy, the right of representation includes meetings which could result in:

- A formal warning being issued
- The confirmation of a warning or some other disciplinary action (such as an appeal hearing)

and,

- Meetings held as part of the investigation process

It should be noted that the right to be accompanied does not extend to meetings held to inform of an impending issue or to suspend. However, the council will not refuse a reasonable request to be accompanied at such meetings.

It is the employee's responsibility to arrange to be accompanied.

9.2.3 The chosen representative is able to contribute to and ask questions at the hearing, however the chairperson is entitled to expect the employee and not the representative to answer any questions asked.

9.2.4 If the chosen representative is not available at the proposed time of the meeting, the employee may request an alternative time and date so long as it is reasonable and falls within five working days of the original date. This alternative date must have regard to the availability of the other employees involved in the hearing and may be extended by mutual agreement.

9.2.5 There is no entitlement to external representation, legal or otherwise.

9.3 **Investigation of alleged misconduct/gross misconduct**

When an allegation/s is made which is considered to be more serious than can be dealt with by an informal discussion between the manager and the employee, an investigation must be carried out before any disciplinary action is taken.

9.3.1 Investigating Officer

The employee's immediate manager/supervisor will normally be designated as the investigating officer. There will be times when depending on the seriousness of the allegation or if the immediate manager has an involvement an alternative investigating officer will be designated by the HR Manager in liaison with the relevant HOS/Director.

If a financial irregularity is alleged, or the allegation involves the loss or suspected loss of assets, the theft or malicious alteration of data or the investigation requires observation of the employee, the investigation will be carried out by Internal Audit.

9.3.2 Police Involvement

At any stage during the investigatory process the Investigating Officer, having consulted with the HR Manager can recommend that the police should be involved e.g. if the possession of illegal drugs is involved or in the event of claims of abuse, theft or fraud. In the case of theft or fraud, the Audit Section will need to be involved from the outset.

The involvement of the police should not be viewed as a reason to suspend the internal process of the investigation unless the internal investigation would prejudice the police investigation. Usually, the police investigation will run parallel to the internal investigation but by definition, the results of any police investigation may take some considerable time to be made known. In view of this, the internal investigation should continue in the normal manner with the emphasis on fairness and equality², and any recommendation made as a consequence of the internal investigation may be made without waiting for the results of the police investigation.

9.3.3 Investigation Process

Once the investigating officer has been nominated, the employee will be issued with a letter confirming that an allegation has been made against them including details of the allegation, that there is to be an investigation and who the investigating officer is.

In the majority of cases such written confirmation will be issued at the commencement of an investigation but in some cases e.g. potential fraud (or where evidence is behaviour based and evidence needs to be collected before the person is informed e.g. attendance), it may be appropriate not to inform the employee until later in the investigation process. In addition there may be occasions where the allegations are less serious in nature and warrant a less formal approach whilst still falling within the parameters of the formal procedure.

Internal Audit must be contacted for advice should it be considered necessary to search the personal property of an employee. Searches of personal property such as coats, bags, briefcases etc. may only be undertaken by Internal Audit

² Equal treatment of staff regardless of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender or sexual orientation

and only in the employee's presence. Desks, cupboards, filing cabinets and work vehicles are not considered to be personal property.

Internet and email monitoring and control software has been installed and the investigating officer may, in the course of the investigation, monitor usage and inspect the contents of emails and files.

During the process of the investigation, it will normally be necessary to interview the employee(s) in question. This should be done as soon as reasonably practicable but in any event should normally take place within 10 working days of the investigation commencing. Where either party wished to extend this time limit a request should be made in writing stating the reasons for the delay. Where sickness is the reason for a request by the employee, this must be accompanied by a medical certificate. However, it is not expected that any extension will exceed a further 20 working days and the investigation may have to continue and conclude in an employee's absence if they are unable to attend.

Detailed records must be kept of any interviews held and witnesses interviewed must sign any statement given and recognise that they could be used at a subsequent hearing.

The Investigating Officer will investigate the matter, interview witnesses and gather documentary evidence as appropriate. They will then prepare a report for submission to Human Resources giving the outcome of the investigation and make one of the following recommendations:

That no further action to be taken: or

That Informal Action may be required: e.g. counselling, keeping under review, management action, training etc: or

That disciplinary hearing should be held.

If as a result of the investigation, a disciplinary hearing is deemed appropriate, the investigating officer will be required to present the report at the hearing.

If a disciplinary hearing is not deemed necessary the employee must be informed of this in writing within **5 working days** of the conclusion of the investigation. If currently under suspension, appropriate arrangements will be made for the employee to return to the workplace.

Officers involved in the disciplinary investigation must not lead any subsequent disciplinary hearing. They may, however, be involved in any suspension and it may be appropriate for them to either present or assist in the presentation of management's case at any disciplinary hearing.

9.3.4 The Council's Occupational Health Advisor will be consulted if at any stage in the investigation there may be a medical issue.

9.4 **Suspension**

The Council may decide to suspend an employee from work pending the investigation. The decision to suspend must be made in liaison with a member of the Management Team and Human Resources.

Suspension is most likely to be appropriate where the continued presence of the individual at work would pose a risk to themselves or others or where the

employee would have an opportunity to frustrate the investigation by destroying or compromising evidence.

An alternative to suspension such as requesting the employee to undertake alternative duties which remove them from their normal workplace or to work from home whilst the investigation is conducted may also be considered.

Suspension or temporary redeployment does not constitute disciplinary action or indicate belief in the employee's guilt and must never be taken as an assumption of guilt. Rather it is a mechanism to allow breathing space for a fair investigation to take place to establish whether or not there is a case to answer.

Once the investigation is completed the employee will either return to work with an unblemished record or will be required to attend a disciplinary hearing.

9.4.1

Suspending an Employee

Where it is deemed necessary for an employee to be suspended from duty, the relevant Corporate Director must meet with the employee as quickly as possible to explain:

- What is being alleged.
- Why it is necessary for the employee to be suspended or temporarily redeployed.
- That the employee will be on full contractual pay for the duration of the suspension.
- That there is no presumption of guilt.
- That an investigation will take place and the employee will have the full opportunity to put his/her case forward.
- That the employee must be available for contact by the manager or investigating officer and to attend meetings as part of the investigation process.
- That whilst suspended the employee should not return to the work premises or have any contact with colleagues with the exception of an agreed liaison officer.
- The employee's right to be accompanied at any further meetings.
- Details of the Council's Employee Support Programme and encourage the employee to make use of it.

The employee will be asked to hand over their ID card and any other equipment belonging to the Council.

Arrangements for contacting the employee and the telephone number to be used must also be agreed. If appropriate a liaison officer will be nominated.

A letter, confirming the suspension and the reason(s) for the suspension, will be sent to the employee within **2 working days** from the date of the suspension.

Should formal disciplinary proceedings be warranted it should be noted that those managers involved in the suspension process are not able to chair the disciplinary hearing or conduct the investigation.

9.4.2

Contact During Suspension

Contact with the employee during the period of suspension should be made within **10 working days** from the date of suspension and at regular intervals thereafter. The purpose of contact during suspension is to:

- facilitate investigatory meetings;
- keep the employee informed of the progress of the investigation in terms of it's likely time of conclusion
- inform the employee of the consequences of the conclusions of the investigation and to inform them of any subsequent action.

Every effort must be made to conclude a disciplinary investigation as quickly as possible from the date the suspension commences.

10. DISCIPLINARY HEARINGS

10.1

If the Service Manager/Director accepts a recommendation to proceed to a full disciplinary hearing this will be convened in accordance with the arrangements described below.

Disciplinary hearings will normally be held no more than 10 working days after completion of the investigation.

10.2

The intention of the Hearing is to give the employee every opportunity of stating their case and to allow management to consider all relevant information before making a final decision. Guidance on the conduct of a disciplinary hearing has been attached as Appendix 3.

10.3

The employee will be notified in writing at least 5 days working days before the Hearing takes place, this notice may be extended to allow an employee to be represented provided that the extended period is for no longer than 5 working days.

The notification will include:

- notification that there will be a Hearing held under the Councils disciplinary procedure
- the reason for the Hearing
- the date, time and place of the Hearing
- the right of the employee to be accompanied
- who is expected to be conducting the Hearing and other attendees
- supporting documentary evidence and witness statements

- 10.4 Documents which the employee wishes to be considered and details of any witnesses s/he intends to call at the hearing must be provided to Human Resources at least 3 working days before the hearing.
- All parties must respect the need for confidentiality, at all times, in relation to any information exchanged.
- 10.5 Every effort is made to arrange the timing of a hearing, such that it is suitable for all involved parties. However, it should be noted that where an employee is persistently unable or unwilling to attend a disciplinary meeting, the Council will have no option than to make a decision based on the evidence available.
- Sickness may be a reason given for non-attendance but is only valid if the employee is genuinely too ill to attend a formal meeting or disciplinary hearing. An employee may be too sick to work but fit enough to attend such a meeting. An occupational health referral must take place if the employee is certificated as sick by their general practitioner or specialist to enable consideration of their fitness to attend a meeting.
- A hearing can take place in the employee's absence or the employee can nominate a representative to attend on their behalf.
- 10.6 All disciplinary hearings will be conducted on the basis that there is no presumption of guilt.
- 10.7 A member of Human Resources will normally be present at Hearings to advise the chair of the hearing and ensure a fair and impartial process.
- 10.8 Once all of the evidence has been provided to the manager conducting the hearing, it will ordinarily be adjourned whilst a decision is reached.
- 10.9 The outcome of the Hearing will be conveyed as soon as possible. If it is not possible to confirm the outcome on the same day, the employee will be given an anticipated time scale for confirmation of the outcome and a subsequent meeting will be arranged to convey the decision. The decision will then be confirmed in writing within 5 working days of the hearing decision and be copied to the employee's representative if requested.
- 10.10 A copy of the letter must be placed on the employee's personal file. It forms part of the employee's employment record and must not be removed from the file once the warning is spent.

11. SANCTIONS

- 11.1 The Disciplinary process can be instigated at any stage dependant on the seriousness of the alleged conduct.
- 11.2 **Written Warning**
A written warning may be given where:
- Informal attempts to the resolve the matter have failed, or

- The matter is considered to be too serious to be resolved by informal processes

A written warning may be issued by a line manager.

The employee will be provided with written reason(s) of the decision within 5 working days of the hearing. A Written Warning will normally remain in force for disciplinary purposes for a period of 12 months from the date the warning was issued. However, a historical note of the Written Warning will remain on an employee's personal file.

The employee has the right of appeal against a Written Warning.

11.3

Final Written Warning

A final written warning may be given where:

- The employee's conduct has not improved as a result of previous written warning(s), that warning is still in force and he/she has committed a further offence requiring disciplinary action.
- No previous warning is in force but the employee has committed an offence which is serious but does not warrant dismissal.

A final written warning may be issued by a Head of Service.

The employee will be provided with written reason(s) of the decision within 5 working days of the hearing. A Final Written Warning will normally remain in force for disciplinary purposes for a period of 2 years from the date the warning was issued. However a historical note of the Final Written Warning will remain on the employee's personal file.

The employee has the right of appeal against a Final Written Warning.

11.4

Dismissal

If an employee's conduct or performance is still unsatisfactory or the case warrants it, dismissal will normally result. Only the Corporate Directors or Chief Executive can take the decision to dismiss after full discussion and consideration of the case. The employee will be provided, within **5 working days** of the decision with written reasons for dismissal and confirmation of the date on which employment was/will be terminated, as well as to their right of appeal.

11.5

Live Warning Periods

During the warning period the employee's conduct may be taken into consideration when making further conduct/disciplinary or other employment decisions e.g. promotion, internal recruitment.

11.6

Spent Warning

Although disregarded for sequential disciplinary purposes, a record of spent warnings will be kept permanently on the employee's personal file as part of his/her employment record.

12. APPEALS

12.1 At all stages employees have the right of appeal to the next level of management. For appeals against dismissal, see The Appeals against Dismissal Policy and Procedure.

An employee may choose to appeal because;

- They think the finding or penalty is unfair
- New evidence comes to light
- They think the disciplinary procedure was not used correctly.

The employee should make any appeal in writing to the HR Manager, within **10** working days of receipt of the penalty. The employee must state the specific reasons for their appeal. An appeal hearing will be convened within **20** working days of receipt with all information relating to the appeal being available at least **5 working** days before the hearing is held.

During a pandemic it may be necessary to extend this period to a reasonable length as deemed appropriate by the Chair of the Appeal Hearing.

In the event of the Chair upholding an appeal, any reference to the sanction will be deleted from an employee's file with immediate effect.

In the event that the Chair vary the disciplinary sanction then the timescales for keeping information on the employee's file will be adjusted to be in accordance with the Chair's decision.

The decision at the appeal is final.

14. EQUALITY IMPACT ASSESSMENT AND MONITORING

14.1 The operation of this policy will be monitored for its impact on different staff groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.

15. DATA PROTECTION

15.1 In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with Data Protection requirements.

Appendix 1

GUIDANCE NOTE ON EXAMPLES OF MISCONDUCT AND GROSS MISCONDUCT EITHER DURING OR OUTSIDE WORK.

Misconduct

The following are examples of misconduct, which would normally justify the use of the Disciplinary Procedure. The list is neither exhaustive nor exclusive and, depending on the precise circumstances, any act listed below may be considered so serious as to be regarded as Gross Misconduct:

- Unjustified refusal of a lawful and reasonable instruction.
- Lateness, unauthorised absences, failure to notify sickness absence.
- Insubordination or verbal assault whilst at work.
- Personal misconduct outside of work, sufficiently serious to affect an employee's position at work.
- Threat of violence.
- Unauthorised use of the Council's resources, or information gained during the course of one's employment.
- Negligence in job performance (other than capability).
- Negligence in carrying out duties in accordance with relevant policies and procedures.
- Unacceptable standards of personal conduct.
- Intentional disregard of legitimate instructions from a line manager/senior officer
- Failure to observe safe working practices at work, including failure to wear personal protection equipment (PPE).
- Breach of smoking policy
- Failure to co-operate with disciplinary cases, including withholding of information known to be pertinent to the case
- Criminal conduct
- Making vexatious complaints or grievances
- Failure to adhere to the Councils Code of Conduct
- Misuse or unauthorised use of Council resources for example; vehicles, equipment or facilities
- Conduct in the workplace that has a negative impact on work, colleagues or service delivery. (for example poor personal hygiene)
- Purporting to represent the views of the Council on social networking sites without prior approval or authorisation
- Failing to act when acts of discrimination are witnessed

Gross Misconduct

The following are examples of serious offences that constitute acts of gross misconduct and potentially could lead to an employee's dismissal. This list is neither exhaustive nor exclusive:

If an employee commits an act of gross misconduct the Council has the right to dismiss the employee without serving them with their contractual notice, subject to a formal investigation and hearing.

- Theft or incitement to steal, attempted theft, fraud or fraudulent falsification of accounts, or other official records including abuse of the flexi time system, ie. swiping in or out for someone else.
- Providing false and misleading information, eg. on application forms, medical questionnaires or examination, at an accident investigation or at a disciplinary investigation.
- Wilful and deliberate damage to the authority's assets or to another employee's property.
- Incitement to or use of physical violence to anyone at all on the authority's premises or whilst on authority business, sufficiently serious to affect an employee's position at work.
- Bringing firearms or offensive weapons on authority premises.
- Accepting gifts or bribes for personal gain and hospitality, outside Wyre Council policy.
- Disclosure of confidential information.
- Grossly offensive behaviour, harassment and bullying.
- Being incapable of work, or of working safely due to the influence of alcohol, or drugs*.
- Negligent or wilful failure to comply with legal requirements of the Council's various policies and procedures such as Health and Safety rules, Equal Opportunities, Safeguarding or the Data Protection Act, or any other legal or statutory requirement.
- Serious neglect of duty and responsibility associated with the post.
- Criminal offence bringing the Council into disrepute.
- Gross insubordination.
- Gross neglect of health and safety rules.
- Accessing material on the Internet of an 'inappropriate nature such as sites containing pornographic, sexist, racist, indecent, rude, obscene, political or violent material.
- Bringing the Council into serious disrepute.
- Deliberate falsification of Council documents.
- Serious breach of safety regulations endangering oneself and/or others.
- Criminal offences which are related to, or impact on an employee's ability to fulfil the terms of their contract, or are incompatible with an employee's role, or have the potential to damage the reputation of the Council.
- Discrimination against Council employees or members of the public in breach of the Council's equality and diversity policies.
- Corrupt or improper practice involving children or vulnerable adults.
- Using social network sites to make derogatory comments about other organisations or individuals in relation to their employment/work activity.
- The posting of photographs on social networking sites, or the distribution of photographs, that could bring the Council and/or its officers into disrepute and/or harm.
- Serious breach of the Council's ICT or Data Protection policy.
- Significant loss of public money or property for which the employee is responsible.
- Negligence whilst carrying out duties on behalf of the Council.
- Wilful neglect to obtain/retain the professional qualifications or membership as required by the job description.
- Failure to disclose any caution or conviction as required under the Rehabilitation of Offenders Act.
- Supplying and/or trafficking or drugs, money laundering activities, or the sale or distribution of illegal substances or products.
- Serious negligence which causes unacceptable loss, damage or injury, or acting in a manner dangerous to others.

- Unauthorised entry to computer records and deliberate misuse of the Council's computer resources and telephone services.
- Serious breach of any of the Council policies and procedures such as Financial Regulations or Financial Procedure Rules.
- Fraudulent claims made within job applications particularly in relation to qualifications, experience or job history.

*Please note - In certain cases drugs prescribed by a doctor or purchased from a chemist can induce drowsiness and will include the advice not to operate machinery. Employees must inform their line manager if they have taken such medicine and would normally be required to operate machinery or drive a vehicle during the course of their work.

Appendix 2

FREQUENTLY ASKED QUESTIONS – PAID SUSPENSION

Q. When is paid suspension used?

A. Paid suspension is not considered a disciplinary sanction but a neutral act enabling a full investigation to be carried out. It is normally used where a particularly serious allegation is made, where relationships have broken down or where it would be impossible for a full investigation to be completed if the employee was still in the workplace.

Suspension will not be undertaken without obtaining advice from Human Resources and must be authorised by a member of Corporate Management Team.

Q. How should I be notified of my suspension?

A. Normally you will be notified by your Corporate Director:

- Verbally - if it is practical or possible for you to be informed in this way;
- By telephone - if it is not possible to meet with you in person;
- By letter - if it is not possible to meet with you or contact you by telephone.

Regardless of how you are informed of your suspension you will be issued with a suspension letter outlining the reasons for your suspension and any terms you must abide by during the period of the suspension.

Q. Will I be paid if I have been suspended?

A. You will normally continue to receive full pay during your suspension. However, if you are certified as unfit to attend for work, owing to ill-health or you are on maternity leave, your payments will be made in accordance with your conditions of service.

Q. Will continuous service be affected by suspension?

A. Suspension does not affect your employment rights. For the purposes of calculating continuous service in relation to benefits such as sickness, maternity, redundancy, pensions etc. the period of suspension counts as normal employment

Q. Do I have to stay at home during my normal working hours in case I am called back to work?

A. You are required to make yourself available to your employer at reasonable notice (e.g. for a meeting or interview). Normally this would mean you should be prepared to report to work on the day following the request for you to report to work. However, you could be asked to return on the same day as the request is made, which would not be unreasonable if the request was made early in the day for an afternoon meeting and a representative was also available.

Q. What happens if I wish to make a trip away from home during the period of suspension?

A. Annual leave arrangements still apply during suspension, therefore if you wish to make a trip away from home, which would make you unavailable to attend work as described above, you will need to seek authorisation for annual leave from your line manager in the normal way.

Given that suspension is not a disciplinary penalty, annual leave which has been arranged prior to suspension will be honoured other than in exceptional circumstances, where the matter will be discussed with you.

You will need to clear any request in advance, including confirming pre-arranged leave, with your line manager. They will need to consider the likelihood of your being required to attend work during the time requested.

Q. Am I allowed access to my workplace and colleagues during suspension?

A. The council does not wish to impede you in preparing your case. If you wish to visit your workplace during the suspension period you must first obtain the permission of your line manager or other nominated manager. S/he will need to be satisfied that there are reasonable grounds for your request and that your visit will not interfere with any related investigation.

Whilst the council cannot prevent you from meeting with colleagues outside normal working hours if you intend discussing the matters relating to your suspension, please be aware that this may place your colleagues in a difficult position. In any event, they may choose not to discuss it with you. You should, therefore approach them sensitively.

Q. What assistance is there for employees on paid suspension?

A. If you are a member of a trade union you are advised to seek advice from your trade union representative.

Your manager, or another nominated person if this is not appropriate, will keep in contact with you to both advise you of progress regarding the investigation and keep you updated with any development in connection with your job. You will also have access to the council's Employee Assistance Programme which provides counselling support and advice to staff.

Q. How long can the suspension last?

A. There are no specified time limits. However, suspension will be for as short a period as possible.

Where a suspended employee is the subject of external investigations, police enquiries or charged with a criminal offence, the length of the suspension may be prolonged pending the outcome of police enquiries or legal proceedings.

Where the investigation is subject to a delay your line manager (or other nominated manager) will write to inform you of the delay and the reason for it.

Q. How will I know when the suspension has ended?

A. Normally, suspension ends when, following the completion of the investigation, a decision is taken.

This decision may be:

- to take no action and end the suspension;
- to proceed with formal disciplinary action;
- to take some other form of action.

In any event you will be notified in writing of the decision.

Where disciplinary action is taken, the suspension will normally continue until the hearing takes place, and it will be decided at the hearing when the suspension will end.

You will remain suspended until informed otherwise by your Head of Service or Human Resources.

Q. How can I return to work after being suspended?

A. Paid suspension is not a disciplinary penalty. Employees can return to work successfully after being suspended and will receive support from both their manager and HR advisor in this event

Appendix 3

GUIDANCE ON THE CONDUCT OF A DISCIPLINARY HEARING

The following guidance is to be used by all officers involved in the planning and/or Hearing of a disciplinary case and is designed to assist in ensuring a fair and consistent approach to the administration of all disciplinary hearings.

The Venue

It is imperative that the chosen venue is private and offers suitable access to all those present or who may be called as witnesses during the proceedings.

Disciplinary Hearing – Order of Proceedings

The manager chairing the hearing must be authorised to give the potential sanction proportionate to the alleged misconduct.

At the start of the hearing the chair will outline the order of proceedings, introduce all who are present and explain the reason for their attendance. They will also confirm that the hearing is a disciplinary hearing to consider whether disciplinary action should be taken.

The Management Case

The chair must outline the allegations against the employee.

The investigating officer will then present the management case and in doing so will refer to the investigation report, any witness statements and may call any necessary witnesses to give evidence and question them.

The employee and/or their representative may ask questions of any witnesses and the investigating officer.

The chair of the hearing and the advisor from Human Resources may ask questions of the investigating officer and/or the witnesses at any time.

Witnesses will be called as required and will leave as soon as they have answered all the questions put to them. They will not stay in the room for the course of the hearing.

The Employee's Case

The employee or his/her companion will then present the employee's case, including calling any witnesses one at a time and questioning them.

The investigating officer, the chair and the advisor from Human Resources may ask questions of the employee and/or the witnesses at any time.

Summing Up

The chair of the hearing will then ask the investigating officer to sum up their case. No new evidence may be submitted at this stage.

The employee or his/her companion will then be asked to sum up his/her case and put forward any mitigating circumstances. No new evidence may be submitted at this stage.

If at any time it appears that further investigation is required or further evidence needed the chair has the right to adjourn the hearing to allow this to happen.

The chair has the discretion to determine any issues relating to the admissibility of evidence and is entitled to rule on behaviour by any party within the hearing.

Adjournment

The hearing will then be adjourned and the investigating officer, the employee and their representative (if appropriate), will then withdraw.

The chair will then consider the decision with advice from the Human Resources representative. If it is necessary to recall one or other of the parties to clarify a piece of evidence already given, both parties are to return notwithstanding that only one is concerned with the point giving rise to doubt.

The chair and HR representative will review all the evidence before a decision is reached. In arriving at a decision, they will bear in mind the need to act reasonably in all circumstances. If the employee is found to have committed an offence, before imposing a disciplinary sanction, the following will be considered:

- the gravity of the offence;
- the penalty imposed in similar cases in the past (although each case must be considered on its own merits);
- any special or mitigating circumstances (e.g. health or domestic problems, provocation); and
- whether the proposed penalty is reasonable in all the circumstances.

The chair may decide to:

- exonerate the employee
- not to proceed with any disciplinary action, but rather to set down the required standard of behaviour or conduct of the employee together with dates upon which a review will be performed
- to issue a warning
- to recommend dismissal.

Once a decision has been reached, the hearing will reconvene and the decision is announced. If time and circumstances do not allow this to be on the same day as the hearing an alternative time and date will be agreed.

The Decision

Once the chair has reached a decision the hearing will reconvene. The employee and his/her companion will be told the decision in a statement which should:

- Summarise why the hearing was called by stating the allegation/s.
- Briefly summarise the evidence the chair looked at in respect of each of the allegations, and whether or not the allegation was found to be substantiated.
- Include a reference to any mitigating circumstances.
- Give the decision i.e. no case to answer/first written warning/final written warning/dismissal with notice/summary dismissal.
- Where a warning has been issued state the length of time a warning will remain in effect, what actions or improvements the employee needs to achieve, together with the timescale for achieving these, that the employee's conduct will be monitored throughout the life of the warning, and that any further misconduct may result in further disciplinary action being taken.
- If the employee is to return to work, state what arrangements are to be made. This is particularly important in cases where the employee has been suspended. State what support is to be given to the employee.
- In dismissal cases state whether or not this is summary dismissal. (Summary dismissal is for gross misconduct and is without notice or pay in lieu of notice).
- In cases of summary dismissal, state that the dismissal takes place with immediate effect, and what arrangements are to be made for the employee to leave the premises and to collect any personal effects.
- In cases of professional misconduct, or criminal activity, state the intention to supply details of the outcome of the disciplinary hearing to an appropriate professional body, or to the Police.
- State that the employee has a right of appeal, and should he/she wish to do so, must exercise this within 10 working days of receipt of the decision letter, in writing, and send it to the Head of Business Support.

This statement will form the substance of a decision letter which must be sent to the employee within 5 working days of the hearing decision, and be copied to the employee's representative if requested.

A copy of the letter must be placed on the employee's personal file. It forms part of the employee's employment record and must not be removed from the file once the warning is spent.

Appendix 4

DISCIPLINARY PROCEDURE

Frequently Asked Questions

Q. What is the difference between an investigatory meeting and a disciplinary hearing?

A. Essentially, the purpose of an investigatory meeting is to establish what happened, while the purpose of a disciplinary hearing is to decide what to do about it.

Q. Can the Council invite an employee to an investigatory interview or disciplinary hearing if they are on sick leave?

A. Where an employee who is subject to disciplinary proceedings is absent due to a short-term illness, the most appropriate course of action is likely to be for the Council to postpone the interview/hearing until the employee is well enough to attend. If the employee is on long-term sickness absence, the Council will balance the need to avoid unreasonable delay in the process with the importance of allowing the employee to put their case before it makes a decision. The Council will take steps to determine whether or not the employee is well enough to attend a disciplinary hearing, even though they are not fit for work. If necessary, the employee may be required to attend an appointment with the Councils Occupational Health provider to determine their suitability to attend the disciplinary hearing. The Council will obtain medical evidence focused on the employee's ability to take part in a disciplinary hearing, and take into account any medical advice.

Q. What happens if the union representative/work colleague is not available at the proposed time of the meeting?

A. If the companion is not available at the proposed hearing time and the employee suggests another time that is reasonable and falls within five working days of the original time, the hearing will, wherever possible, be postponed until the new time proposed by the employee.

Q. Can the Council reject an employee's choice of companion for the disciplinary meeting?

A. Under section 10 of the Employment Relations Act 1999, employees have the right to be accompanied at a disciplinary or grievance hearing if their request to be accompanied is reasonable. Therefore, the Council can reject an employee's choice of companion if it is unreasonable for him or her to request to be accompanied by that person. This may be the case, for example, if the companion is involved in the proceedings, or because he or she will not be available for a meeting for a substantial length of time.

Q. Is an employee allowed paid time away from their job to accompany a colleague to a disciplinary or grievance meeting?

A. Yes. An employee is permitted to take a reasonable amount of paid time off during their working hours to accompany a colleague to a disciplinary or grievance hearing. The accompanying employee should advise their line manager when they are due to be absent.

Q. Can the Council dismiss an employee on the grounds of a criminal act that happened outside of the workplace?

A. It is permissible to dismiss an employee on the grounds of a criminal act that happened outside of the workplace if it thought likely to affect the continued employment relationship, the ability of the employee to do their job, brings the reputation of the Council into disrepute or frustrates the contract.

Q. What can the Council do if an employee posts derogatory remarks, including comments that may be construed as bullying, or photographs on a social networking site, or circulates inappropriate photographs and comments by any other means?

A. It is recognised that the use of social networking is widespread and an effective means of keeping in contact with friends, family and often with colleagues. When used appropriately there is no problem, but employees should be aware that whilst they may feel a need to express their thoughts and frustrations about work they should be careful to avoid statements or comments that may be defamatory to colleagues or otherwise damaging to the reputation of the Council. Any bullying, harassment, victimisation or threats towards colleagues either face to face or via social networking sites may be classed as gross misconduct and be dealt with accordingly under the scope of the disciplinary policy. Similarly any content or material that is likely to bring the Council into disrepute may also be subject to a disciplinary process.

ELECTRONIC MEETING GUIDANCE

Where the Chair decides that a meeting should take place using alternative arrangements (e.g. by telephone or video conference) that have been previously agreed then the following will apply:

- the usual notice and arrangements for issuing papers continues except where the Chair has exercised their right to waive the usual notice;
- all participants will receive clear instructions regarding how to access the meeting including where they can access support if they experience difficulty;
- all participants will be given advance notice of the meeting in line with current policy procedures so that they can declare if they have a disability or other accessibility issues that might affect their ability to use video technology, and whether any reasonable adjustments might be needed;
- all participants must attend the meeting with webcams enabled at all times;
- where there is a requirement for an adjournment / breakout for any participant this will be carried out either at a different physical location or separate independent virtual meeting;
- all participants will note and follow any instructions given on how to manage their participation at the meeting. For example confirming attendance, speaking through the Chair of the meeting, etc;
- all panel members will abide by their normal rules, procedures and code of conduct adopted by the Council in relation to holding hearings, giving particular regard to the duty to maintain confidentiality;
- the panel will contribute towards a safe and secure environment for the meeting by giving due regard to the Council policies relating to Data Protection and the appropriate use of ICT;
- a minute taker may be nominated to take notes of the meeting – but it will not ordinarily be recorded;
- under no circumstances can a recording take place without all parties being aware.

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Flexible Retirement Policy

OCTOBER 2022

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1. INTRODUCTION

- 1.1 Wyre Council is committed to providing more choice and flexibility to employees to remain an employer of choice and to demonstrate how we value the contributions employees make.
- 1.2 The Council recognises that flexibility is something employees who wish to ease into retirement aspire to, making their transition from working life to retirement an enjoyable one. As an employer we also realise the benefit of retaining valuable knowledge and skills within the organisation.
- 1.3 This policy sets out how the provision of Flexible Retirement contained within the Local Government Pension Scheme (LGPS) will be operated within the Council for employees who are members of the LGPS.
- 1.4 This Policy must be read in conjunction with the Council's Retirement Policy and Procedure.

2. REGULATIONS

- 2.1 The Local Government Pension Scheme allows scheme members who have attained the age of 55 to draw all or part of their retirement benefits under flexible retirement arrangements whilst continuing to work providing that:
 - the employer consents, and
 - there has been a reduction in hours, or a reduction in grade.
- 2.2 Where the employer consents to flexible retirement, in addition to the benefits the member has accrued prior to 1 April 2008 (which the member must draw), the employer can also allow the member to choose to draw all, part or none of the pension benefits they accrued after 31 March 2008.
- 2.3 Benefits taken on flexible retirement will often be subject to a potential actuarial reduction if they are being drawn earlier than the member's normal retiring age to reflect the fact that they are being paid early, and therefore, potentially for a longer period.
- 2.4 Flexible retirement provisions may be operated for members potentially up to a member's 75th birthday.
- 2.5 Employers can if they choose waive, in whole or in part, any reductions that might apply.

3. COUNCIL POLICY

- 3.1 This Policy sets out the Council's flexible retirement provisions and process by which requests from employees who have attained the age of 55, to draw all or

part of their retirement benefits, will be considered in accordance with the Regulations. The policy provisions are summarised below.

- 3.2 All applications for flexible retirement must be submitted in writing to the relevant Corporate Director or Chief Executive.
- 3.3 As flexible retirement is a mechanism to help prepare for retirement, before submitting an application employees should have considered the period of time they envisage the reduction in hours/grade continuing until they retire in entirety. It is expected that this would not normally exceed a period of 3 years.
- 3.4 In submitting an application for consideration, an employee must agree to:
- a permanent reduction in hours which must be significant;
 - a reduction in grade which must be significant; or
 - a combination of both; and
 - a defined period within which they will retire in entirety as set out in 3.3.
- 3.5 The flexible retirement application must include an explanation of what impact, if any, the employee thinks agreeing to the request will have on the service and how, in the employee's opinion, any such impact might be accommodated. The employee must also specify their preferred working pattern if their request involves a reduction in hours.
- 3.6 Each application will be considered on its own merit and must be considered financially viable by the Council in terms of succession planning where a cost is incurred.
- 3.7 It is important to note that where benefits on flexible retirement are being drawn earlier than the employee's Normal Pension Age, these will be actuarially reduced. Only in exceptional circumstances, and where there is a justifiable business case, will consideration be given to waiving all or part of the reduction.

4. TERMS AND CONDITIONS FOLLOWING FLEXIBLE RETIREMENT

- 4.1 Employees who reduce their working hours will receive terms and conditions of employment on a pro-rata basis.
- 4.2 Employees who acquire a lower graded job will receive terms and conditions applicable to the new job.
- 4.3 There is no break in service when agreeing flexible retirement, ensuring continuity of service. This means that if an employee were to be made redundant they would maintain their continuous service for the calculation of redundancy payment although it will be based on their salary at the time of redundancy not that prior to their Flexible Retirement.
- 4.4 Once their pension has been released through Flexible Retirement staff can re-join the pension scheme however this will be a completely new membership. The periods of membership used to calculate your benefits paid on flexible

retirement will not be taken into account in any subsequent calculation of benefits.

5. EQUALITY IMPACT ASSESSMENT AND MONITORING

- 5.1 The operation of this policy will be monitored for its impact on different staff groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.

6. DATA PROTECTION

- 6.1 In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with Data Protection requirements.

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Retirement Policy and Procedure

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1. INTRODUCTION

- 1.1 Wyre Council no longer operate a compulsory retirement age and employees should, wherever possible, be permitted to continue working for as long as they wish to do so.
- 1.2 The purpose of this policy is to help managers and employees to understand the options which are available in relation to retirement.

2. RETIREMENT OPTIONS AND THE LOCAL GOVERNMENT PENSION SCHEME

- 2.1 **Normal Retirement Age (NRA)**
The normal retirement age for Local Government Pension Scheme members has been aligned to the employee's individual state pension age at the time the employment is terminated (with a minimum of age 65). At this age you can choose to retire without the Council's consent and receive immediate payment of your scheme benefits. Your benefits will be calculated based on the service you have built up to this date and will not be subject to any reductions.
- 2.2 **Early Retirement Age 55 or over**
Employees who are aged 55 or over can voluntarily retire by giving the appropriate notice period for their post, however their pension benefits may be subject to reductions because they are leaving the scheme before the pension scheme's normal retirement age.
- 2.3 Depending on length of service certain protections may apply and members of the pension scheme should contact Lancashire Pension Service for more information.

3. PHASED RETIREMENT

- 3.1 An employee may decide that he/she does not wish to retire in the near future but would benefit from alternative working arrangements in the short or medium term. These employees may make a request to the Council for phased retirement.
- 3.2 Phased retirement allows a change of working pattern so that an employee can reduce his/her hours gradually (for example, move to part-time working) prior to retirement. It may also involve changes to the employee's responsibilities to help the Council with its succession planning, and help the employee to adjust to, and prepare for, retirement. The Council will follow the principles in its Work Life Balance policy when considering any such requests.

- 3.3 Phased retirement would not include release of the employee's pension benefits.

4. FLEXIBLE RETIREMENT

- 4.1 Employees who are members of the LGPS and are aged over 55 may apply for either or both of two flexible retirement options. These allow accrued pension benefits to be paid before the normal age of retirement, while the employee continues to work for the Council and draw a salary. In most cases the pension benefits payable will be reduced to reflect the fact that they are being paid early, and therefore, potentially for a longer period of time.
- 4.2 When applying for Flexible Retirement employees should define the period of time within which they will want to retire in entirety.
- 4.3 For information on Flexible Retirement please see the separate Flexible Retirement Policy.

5. MONITORING PERFORMANCE

- 5.1 **Workplace discussions**
The Council currently invites all employees to regular workplace discussions as part of the 1-2-1 Performance Appraisal Process. During those discussions, the line manager will discuss the employee's performance, developmental or training needs, the Council's and employee's future plans and expectations in the short, medium and long-term. Where the employee is of an age where they may wish to retire those discussions could include their future plans or proposals for retirement.
- 5.2 The Council will offer pre-retirement training at no cost to the employee. Details of this training is available from Human Resources.

6. GIVING NOTICE OF RETIREMENT

- 6.1 Employees who wish to retire should inform their line manager in writing as far in advance as possible and, in any event, in accordance with his/her notice period as set out in his/her contract of employment. This will assist the Council with its succession planning.
- 6.2 The Council will write to the employee acknowledging the employee's notice to retire.
- 6.3 The Line Manager will arrange a meeting with the employee to discuss arrangements for retirement, including the intended retirement date, succession and handover plans, pension details and phased retirement, if applicable.

- 6.4 All employees should note that it is their responsibility to ensure they are aware of the LGPS Pension as they relate to their individual circumstances. Pension estimates are available from Lancashire Pension Service; employees should consider their pension provision and take independent financial advice before making any decision in relation to retirement.

7. SUCCESSION PLANNING

- 7.1 An employee who is shortly to retire will often have considerable knowledge in relation to his/her role and responsibilities. The Council may require the employee's assistance and cooperation for any succession planning implications.
- 7.2 Prior to retirement, employees should cooperate with the Council by providing full details of the status of work projects and future steps; developing a job description, including key competencies and skills required for the role; ensuring a smooth handover of work; and assisting in training any successor etc.

8. REDUNDANCY

- 8.1 The rules of the LGPS require that scheme members who are made redundant at or after age 55 will be entitled to immediate payment of unreduced pension benefits.

9. RETIREMENT ON THE GROUNDS OF ILL-HEALTH

- 9.1 In cases where an employee's long-term ability to work is likely to be significantly affected by ill-health, the employee may become eligible for ill-health retirement under the terms of the LGPS.
- 9.2 The provisions of the scheme set stringent criteria for the management of all ill health retirements.
- 9.3 If a member's employment is ended due to ill health or infirmity of mind or body due to being permanently incapable of discharging efficiently the duties of their employment and they also have a reduced likelihood of being capable of undertaking any 'gainful employment' before normal retirement age they are entitled to receive immediate payment of pension benefits regardless of age, provided they have at least 2 years' membership or have transferred pension rights from a previous scheme.
- 9.4 Human Resources will provide detailed information (and assistance in making an application if appropriate) on request.

10. EMPLOYER DISCRETIONS ON EARLY TERMINATION OF EMPLOYMENT

- 10.1 The Council has certain discretionary functions available under the Local Government Pension Scheme (LGPS) that assist with the administration of the pension fund. A written statement of the Council's policy in relation to the exercise of certain discretionary functions available under those regulations is to be found on the intranet.

11. RE-EMPLOYMENT AFTER RETIREMENT

- 11.1 Employees who retire can seek re-employment via the Council's normal recruitment procedures. In some cases re-employment will affect payment of pension benefits and can lead to abatement of pension.

12. DISPUTES

- 12.1 Employees who are unhappy with a decision in respect of their retirement arrangements or pension benefits are advised to contact Human Resources in the first instance to determine whether an informal resolution can be achieved.
- 12.2 The LGPS also contains procedures for complaints or appeals from staff within an Internal Disputes Procedure who think there has been a mistake or that their entitlement has been incorrectly assessed. Details can be obtained from Human Resources or direct from the Pension Fund Administrators (Lancashire County Council).

13. EQUALITY IMPACT ASSESSMENT AND MONITORING

- 13.1 The operation of this policy will be monitored for its impact on different staff groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.

14. DATA PROTECTION

- 14.1 In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with Data Protection requirements.

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Together
we make a
difference

DRIVING AT WORK POLICY

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1. POLICY STATEMENT

- 1.1 Wyre Council is committed to the delivery of its obligations under Health and Safety legislation and recognises that it has a responsibility not only to protect staff who use motor vehicles on council business but to ensure that others are not put at risk by our work related driving activities.

2. INTRODUCTION

2.1 Policy Aims

- To minimise the number of accidents, incidents and injuries resulting from work related driving;
- To define managers' and individuals' responsibilities for work related road safety;
- To ensure risk in relation to work related driving is assessed in a systematic and ongoing way and that safe systems and methods of work are put in place to reduce the risk as far as is reasonably practicable
- To increase staff awareness of the risks associated with work related driving;
- To ensure that training is available to staff on how to manage the risks associated with work related driving;
- To ensure full reporting and recording of all accidents and incidents arising in the course of work related driving.

In addition the successful management of driving at work, whilst in compliance with legislation, will not only have a direct effect on reducing accident figures, but also a long term cost saving in operational budgets by reducing insurance costs, repair and maintenance bills, running costs, carbon footprint, emissions etc.

Good management will additionally reduce any negative effects on the councils' reputation that may arise from poor driving standards.

2.2 Scope of the Policy

These arrangements apply to all persons engaged in work-related driving activities whilst in the course of their employment for Wyre Council whether they be owner-drivers or users of vehicles that are leased or hired for use on council business or any vehicle owned by the council.

2.3 Definition of work related driving

Work-related driving is defined as: “any driving activities carried out by employees or volunteers in the course of their work whether it is on a frequent or occasional basis”.

‘Business Use’ – for the purposes of this policy business use shall mean:

- Any travel on behalf of the council once you have arrived at your usual place of employment and before you leave it at the end of your day’s work; and
- Any travel for the purposes of the council to a location other than your usual place of employment.
- Any travel for the purposes of the council from a location other than your usual place of employment to home or some other place on non-council business.

It shall not include the travel to and from your usual place of employment at the start and finish of your working day, or during any official absences from work e.g. lunch breaks unless the vehicle used is a council owned, hired or leased vehicle.

2.4 Authorisation to use a motor vehicle on council business

The use of any motor vehicle for council business will only be permitted when authorised by a Corporate Director or line manager in accordance with this policy and the associated procedure.

3. THE LEGAL POSITION

3.1 It is not intended to go in to detail to explain the whole Legislative Framework but the key areas of legislation are as follows:

The Health and Safety at Work etc. Act 1974 requires employers to ensure:

- So far as is reasonably practicable, the health and safety of all employees while at work;
- That all work equipment is suitable for its intended use and properly maintained and used i.e. that both employees and vehicles (including private vehicles) are fit to be on the road;
- That others are not put at risk by the council’s work-related driving activities.

This means that both management and employees can be prosecuted for road traffic accidents involving work-related journeys, even when the driver is using their own vehicle.

3.2 Management of Health and Safety at Work Regulations 1999

The Regulations require employers to carry out an assessment of the risks to the health and safety of employees, while they are at work, and to other people who may be affected by their work activities. The Regulations also require a periodic review of all risk assessments.

3.3 Corporate Manslaughter and Corporate Homicide Act 2007

This Act sets out a new offence to convict an organisation where a gross failure in the way activities are managed or organised results in a person's death. If found guilty companies, organisations and public bodies face considerable penalties and individuals potential imprisonment.

3.4 Road Vehicles (Construction and Use) (Amendment) (No. 4) Regulations 2003 (S.I. 2003, No. 2695)

Prohibits drivers from using a hand-held mobile phone, or similar device, while driving (Note: "driving" also includes a stationary vehicle with the engine running). It also makes it an offence (e.g. for an employer) to "cause or permit" a driver to use a hand-held mobile phone while driving.

3.5 Other relevant legislation includes:

- The Road Traffic Act 1991.
- Road Safety Act 2006.
- Health Act 2006.
- Provision and Use of Work Equipment Regulations 1998 (S.I. 1998, No. 2306).
- Workplace (Health, Safety and Welfare) Regulations 1992 (S.I. 1992, No. 3004) – including the provisions of the Health and Safety (Miscellaneous Amendment) Regulations 2002 (S.I. 2002, No. 2174).
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (S.I. 1995, No. 3163).
- Health and Safety (First Aid) Regulations 1981 (S.I. 1981, No. 917).
- Working Time (Amendment) Regulations 2006 (S.I. 2006, No. 99).

4. RESPONSIBILITIES

4.1 The remainder of this document refers to the operational and safety requirements for the use of motor vehicles on council business and is set in four parts relating to different categories of staff and management.

- Responsibilities of drivers on council business i.e. The Grey Fleet
- Responsibilities of drivers of council-owned vehicles or vehicles hired or leased by the council
- Management responsibilities in relation to drivers.
- Management responsibilities for council-owned vehicles or vehicles hired or leased by the council.

5. RESPONSIBILITIES OF DRIVERS OF VEHICLES USED IN THE COURSE OF COUNCIL BUSINESS

5.1 Licence Requirements

All drivers must:

- Be holders of a licence valid for the category of vehicle which they are driving;
- Notify their manager if their drivers licence has been suspended or cancelled or has limitations placed on it;
- Make their licence available for inspection on an annual basis.

5.2 Insurance

Drivers who use their own vehicles must ensure that they have valid insurance for use on council business, and must make their insurance certificate available for inspection as required. Any change of vehicle or terms of insurance must be notified to Human Resources and authorised line manager immediately.

For the purpose of this policy the authorised line manager is a person nominated by your Director to authorise business travel.

Note:

Insurance held in the name of one partner or spouse may not cover both partners and spouses for business use unless this is specifically requested. The council will not accept liability for claims which are not covered by the driver's own insurance.

Council property such as computer equipment is insured under the council's policy, but this excludes theft from an unattended vehicle. Such thefts are unlikely to be covered by the employee's own policy. All such property should be removed from unattended vehicles. If this is impossible in specific circumstances equipment must be hidden from view and preferably locked in a boot.

5.3 Maintenance of Vehicles

Staff using their own vehicle(s) for official duties must ensure that they are in a roadworthy condition and that a valid MOT certificate is available for inspection on request. Drivers must also decline to drive any vehicle hired for use on official duty if they have reason to suspect that it is not roadworthy.

5.4 Legislative Requirements

Drivers must comply with all traffic and related road safety laws whilst driving on official duties including:

- Adhering to speed limits and the conditions of the Highway Code;
- The restrictions on the use of mobiles;
- The use of seatbelts;
- Not exceeding the maximum load weight for the vehicle;
- Ensuring that goods and equipment to be carried are properly secured.

The Highway code was updated on the 29th January 2022 this includes 8 major changes. All staff must make themselves aware of the changes listed below.

Hierarchy of Road Users.

People Crossing the Road at Junctions.

Walking, Cycling or Riding in a Shared Space.

Positioning in the Road when Cycling.

Overtaking when Cycling and Driving.

People Cycling at Junctions.

People Cycling, Riding a Horse and Driving Horse Drawn Vehicles on Roundabouts.

Parking, Charging and Leaving Vehicles.

5.5 The road user and the law

It is important to note that references to 'road' generally include footpaths, bridleways and cycle tracks, and many roadways and driveways on private land (including many car parks). In most cases, the law will apply to them and there may be additional rules for particular paths or ways. Some serious driving offences also apply to all public places, for example public car parks.

5.6 Fitness to Drive

Drivers must not drive, attempt to drive or be in charge of a vehicle unless they are medically fit to do so. Any medical condition or injury that is likely to have an adverse effect on the ability to drive should be reported to Human Resources and the authorised line manager immediately.

It is also the driver's responsibility to:

- Ensure their eyesight meets the requirements of the Highway Code, with or without corrective lenses.
- To notify the DVLA of any disability or condition which currently affects their fitness as a driver or which might do so in the future (unless the effect of the disability or condition is not expected to last more than 3 months).
- Ensure that they are competent in knowledge and ability to drive particularly when it may be some time since they undertook any formal instruction.

For disabled staff, any necessary reasonable adjustments must be made to the vehicle that they are driving for business use.

5.7 **Substance Misuse**

The problems of driving while under the influence of alcohol or drugs are well known, employees must not consume alcohol or illegal drugs before driving to work.

5.8 **Drinking whilst driving on council business is prohibited.**

Drinking heavily or late the night before means there is still a high possibility of being above the legal limit for driving the following morning. Any drivers found to be driving under the influence of alcohol or illegal drugs will be dealt with in accordance with the Council's Disciplinary Policy and the Council's Drugs and Alcohol in the Workplace Policy.

Any manager who suspects an employee is unfit to drive because they show evidence of being under the influence of alcohol or drugs must stop them from doing so. Testing may be appropriate in line with the Drugs and Alcohol in the Workplace policy. The Council also reserves the right to call the police if a person is suspected of driving whilst under the influence of alcohol or drugs.

Contraventions of this nature will be regarded as gross misconduct and could lead to dismissal.

5.9 **Smoking**

The council's Smoking Policy prohibits smoking in any council vehicle. An employee who uses their private car on council business must also refrain from smoking during those journeys.

The use of e-cigarettes is also prohibited in both council vehicles and private cars whilst on council business.

5.10 **Road Traffic Offences**

Drivers are required to report any driving accidents or incidents which occur whilst driving on council business or in a council owned vehicle, and convictions for any driving offences whether arising as a result of driving on council business or not.

Payment of any motoring-related penalties or fines and, if using a hire car, for the payment of any administration charges related to traffic offences imposed by the hire company will normally be the responsibility of the employee.

If you believe consideration should be given to the reimbursement of the penalty or fine, for example, if you have had cause to park a vehicle in a restricted area, without in your opinion causing an undue safety hazard, to unload heavy materials, then you will need to submit your case in writing to the relevant Corporate Director or Chief Executive. Please note employees should pay the fine before seeking reimbursement.

Any driver found breaching traffic or road safety law whilst on council business may face disciplinary proceedings.

Any driver found in charge of a vehicle under the influence of alcohol or drugs whilst on council business may be charged with gross misconduct and could therefore be dismissed from their post. The Council also reserves the right to call the police if a person is suspected of driving whilst under the influence of alcohol or drugs.

Vocational drivers (LGV) must report immediately to the Transport and Maintenance Team Manager, if you are found guilty of any new motoring offence. Wyre Council hold a Goods Vehicle, Operators License and have a duty to report all motoring offences committed in any vehicle to the Traffic Commissioner.

5.11 **Use of Mobile Phone/ Blue-tooth Devices**

It's a specific offence to operate a hand-held mobile phone or similar device while driving and the regulations apply equally to drivers of all types of motor vehicle (including tractors / ride on mowers etc.). The exact definition of "use" of a mobile phone and of "driving" is broader than we think. A driver of a vehicle that is off the road and not moving, may be considered to be driving if the engine is on. Therefore, a driver who stops their vehicle to use their phone, will need to turn their engine off first.

Although there are hands free/ blue tooth devices that are legally compliant any driver seen not to be in control of a vehicle whilst using a hands free phone etc. can be prosecuted for that offence.

Wyre Council therefore prohibits the use of hands-free phones of any description in Wyre Council vehicles. The use of hand-held phones and 2-way radios is prohibited in any vehicle whilst driving on council business.

The only situation in which it is permitted to use a phone while driving is to dial 999 or 112. This is only allowed if there is a genuine emergency and the driver is unable to stop and park their vehicle at that moment.

5.12 **Satellite Navigation Systems (Sat Nav)**

It is important that staff are not distracted by any devices they have in their car and this will also include sat navs. Do not adjust or operate devices while actually driving; routes in the sat nav should be set before the journey starts. If it is necessary to make adjustments or to input new information, only do so when stopped in a safe place.

5.13 Business Travel

In order to reduce the risk to safety, as well as the environmental and financial impacts, steps should be taken to eliminate all unnecessary business journeys.

Staff are required to:

- Consider alternatives to travelling and make optimum use of diary planning to minimise the number of journeys to be made.
- Use the most economic and efficient method of travel, taking into account the cost of travel, environmental impact and timing factors.
- Use a council vehicle whenever possible.
- Follow all safety advice and guidance in respect of vehicle cleanliness, use of hand sanitisers and other PPE as instructed.

5.14 Use of a bicycle for work travel

5.14.1 Officers who wish to use their bicycle for work purposes may do so if it is considered to be an efficient and effective mode of transport. It is expected that this will be more appropriate for short journeys only and approval must first be sought from their line manager. Consideration will be given to the journey in question and whether use of this form of transport will enable officers to carry out their duties in an effective and timely manner.

5.14.2 If using a bicycle for business travel the following measures must be observed:

- The bicycle must be in good, roadworthy condition and fit for purpose.
- Appropriate safety equipment must be worn such as helmet and fluorescent outer wear.
- Staff must ensure that the bicycle and any equipment carried (including council owned equipment such as laptop/tablet/phone) is covered by their own insurance in case of loss/accident whilst using the bicycle for business travel.

Staff are responsible for adhering to these requirements and must supply their own PPE and any other equipment required for the safe transport of themselves and any council equipment.

6. REIMBURSEMENT OF TRAVEL EXPENSES

6.1 Car Mileage Claims

Only persons entitled to use their vehicles on official business are allowed to claim travelling allowance. All such persons will have been designated by their Corporate Director as car users and will have been issued with an official log book by the Human Resources Section.

6.2 **Bicycle Mileage Claims**

If use of a bicycle is approved for business travel a mileage allowance in line with the relevant HMRC rates may be claimed. The same conditions apply to journeys undertaken by bicycle e.g. deducting normal home to work travel if the journey commences from home.

6.3 **Use of log book**

Full details of every journey must be recorded into the log book. Details must show:

- Date and times of journeys;
- Full details of journey (so as to allow independent verification of mileage claimed);
- Number of passengers;
- Purpose of journey;
- Miles travelled.

The log book is the sole detailed record of official journeys and must be kept on hand at all times and is subject to inspection on request.

The loss of a log book must be reported to Human Resources immediately.

6.4 All claims should be made in accordance with Wyre Council's Financial Regulations and Financial Procedure Rules. These guidelines apply to all attendances at meetings, courses, seminars etc. Mileage allowances are paid in accordance with the mid band of the Casual User NJC rates.

All travel and subsistence claims should be made monthly using either the HR21 system or the "Staff Travel and Subsistence Allowance" claim form. Officers claims submitted more than two months after the expenses were incurred will be paid only with the express approval of the relevant Corporate Director or Chief Executive and will be capped at 12 months. Claims will be paid on or around the 15th of each month with salary payment.

All claims must be authorised by the appropriate line manager who should be a nominated signatory. It is the driver's responsibility to ensure accurate recording of mileage and validity of claims.

Any change of vehicle or use of more than one vehicle should be clearly indicated in the log book and the mileages for different vehicles, should be shown separately on the travel claim forms.

6.5 When travelling long distances it is likely that second class rail transport will be cheaper than travel by car. Officers should be mindful of cost when planning transport for a long journey, although in certain cases public transport may not be the most efficient way to travel.

Officers should normally claim whichever is the cheaper of either public transport costs (eg. second class rail fare) or car mileage allowance, unless:

- It is neither practical nor cost-effective to travel by public transport (e.g. this would entail travelling the previous day and involve overnight accommodation, or include additional transport costs eg. taxi fares).
- The relevant Corporate Director or Chief Executive expressly authorises a particular method of travel due to specific operational circumstances (e.g. the shorter travelling time by car as opposed to public transport will make greater use of an officer's time).

6.6 The majority of claims will reflect situations where attendance is required during office hours at another location. The journey is from place of work to location and return to place of work, with the claim reflecting the actual mileage run. All deviations from this normal situation must be appropriately detailed in the Log Book provided, indicating both the total journey undertaken and the actual claim being made.

Where an employee travels to a location other than their normal place of work, either from home or on the way home, expense claims will be considered only in respect of any mileage incurred which is over and above their usual home to work mileage.

Any attempt to submit a false expense claim may be treated as gross misconduct and dealt with in accordance with the Council's Disciplinary Procedure.

6.7 **Expenses Claims and Tax**

All payments in excess of the HMRC rate for tax allowances (45 pence per mile from tax year 2011/12 to present date (June 2022) or 25 pence on mileage exceeding 10,000) will be classed as a taxable income and will be taken into consideration when calculating tax and national insurance liability at the end of each pay period.

Drivers who are authorised to use council vehicles to travel to and from their normal place of work can only be treated as having no taxable benefit provided that the records of authorised business mileage confirm that there was no personal use of the vehicle.

7. RESPONSIBILITIES OF DRIVERS OF COUNCIL OWNED VEHICLES OR VEHICLES HIRED OR LEASED BY THE COUNCIL

7.1 This section should be read in conjunction with Part A of this policy.

Use of Council Vehicles

Wyre Council vehicles must only be used to carry goods and passengers on authorised journeys. Authority shall only be considered to have been given when:

- The journey is for official Council purposes, and/or
- The employee is acting on the instruction of a duly authorised officer of the Council.

Only authorised passengers should be carried in council vehicles, these passengers will be as follows:

- Council employees on duty, or travelling to and from duty.
- Persons engaged on work for or on behalf of the council.
- Persons carried in the event of an emergency.
- Persons transported as part of a council service.
- Other persons as authorised by management.

It is the legal responsibility of a driver to ensure that passengers and goods are carried safely at all times, all passengers should wear seatbelts and all loads must be securely fixed and present no danger to the vehicle occupants or to third parties.

No goods will be carried in a council vehicle other than property which belongs to the Council, or tools, equipment and materials being used on behalf of the Council, or as otherwise authorised by management.

Council vehicles must be kept clean and tidy inside and outside at all times. All equipment must be properly stowed and the vehicle washed as often as is required to keep them clean.

7.2 **Authorisation for home to work travel.**

All drivers must obtain formal approval for using a Council vehicle for home to office travel, approval will only be given where there is an economic or operational reason for allowing this to happen.

Applications must be made using the “COUNCIL VEHICLES – authorisation for home to work travel form.”

Economic or operational reasons include instances where the:

- Home to work base distance is less than the distance between the nearest Council approved parking area and the work base.
- Council vehicle is required to provide a service outside normal working hours.
- Risk assessment concludes that the council vehicle is best parked at officer’s home address.

The authority for the use of a council vehicle for home to work travel can only continue whilst there is a legitimate business reason for doing so. Any changes in duties, work area in relation to current address etc should be reported to the line manager, the Transport & Maintenance Team Manager and/or relevant Head of Service/Corporate Director immediately.

7.3 **Drivers’ Checks**

To ensure council vehicles are used safely and kept in a roadworthy condition in compliance with current legislation it is the responsibility of all drivers to ensure that there are no obvious deficiencies in the vehicle.

Before a Council fleet vehicle is used for the first time each day (or first time by a driver that day), a thorough check must be made of its external and internal condition of the Operator's Licence that certain vehicles, such as refuse collection vehicles, are subject to a daily vehicle check. The Council applies this principal to all its fleet.

Drivers will rectify defects themselves where possible e.g. by topping up oil and coolant or cleaning mirrors or windows. Any remaining defects should be reported as soon as possible, but no later than the end of the shift.

If in the opinion of the driver a defect prejudices the safety of the vehicle, then it must not be driven and the defect/s reported to their line manager and Transport workshop immediately.

Tyres

Tyres should be checked carefully each day and any issues reported. Drivers are reminded that tyre problems should be dealt with in the same manner as a breakdown i.e. reported to the Transport workshop.

Drivers using their own vehicles must ensure the tyres have at least the minimum legal tread requirement and that tyres are adequately inflated.

Trailers

If you passed your car driving test from 1 January 1997, you are now allowed to tow trailers up to 3,500kg MAM (New Legislation 16th December 2021).

Although the new rules allow you to tow a 3,500kg trailer, all Drivers with the new entitlement must attend a certified Trailer Towing Course, before authorisation will be given to tow a trailer.

Before a trailer is towed, check that the vehicle and trailer are equipped with suitable towing attachments and electrical connections. Where required, a trailer board must be complete with lights, number plate and indicators. Ensure that breakaway cables are in good condition and always secured before moving off.

7.4 **Vehicle Security**

All Wyre Council vehicles must be garaged or parked overnight in designated parking areas in agreed locations.

Vehicles parked overnight away from the council premises must be legally parked where they will not inconvenience the public or any other road users. Parking problems should be reported to the line management.

A driver in charge of a council vehicle is responsible for the security of the vehicle and its contents whenever the vehicle is left unattended.

The following actions must always be taken on such occasions:

- The parking brake must be engaged.
- All doors and windows must be closed and locked.
- If fitted, anti-theft devices must be switched on.
- The ignition key must be removed from the vehicle.
- All valuable items should be removed from the vehicle overnight.

Vehicle keys must be kept secure at all times. Unless there is a legitimate business reason for retaining the keys overnight they should be stored in a secure area as agreed by the line manager.

Following these procedures will ensure that all unauthorised movement can be clearly identified by means of the tracker system.

7.5 **Accidents, Damage or Theft:**

The driver should:

- Immediately report any accident, damage or loss to the line manager, Transport & Maintenance Team Manager, Audit and Risk Team and where required the police;
- Under no circumstances admit liability or make offer payment to a third party or insurer;
- Obtain the full name and address of each driver and witnesses together with the registration number of the vehicle(s) involved;
- Ensure that the vehicle and its contents are secured until such times as the vehicle can be moved. If the Police have been involved the vehicle should only be moved once it has been established that their initial investigation has been completed.

Wherever possible photographs and a detailed sketch (showing road markings) may also assist if liability is subsequently disputed. 'Bump' cards are kept in all Council Vehicles which must be completed as soon as possible after an accident.

An incident report form giving full details of any incident must be submitted to the Transport & Maintenance Team Manager within 24 hours. All damage should be recorded in the vehicle effect book and be attended to as soon as possible.

7.6 Defect Reporting Repairs and Breakdowns

As soon as a defect is noticed or damage has occurred the Transport & Maintenance Team Manager and line manager should be informed immediately.

The Transport Section will either attend the vehicle at the roadside or arrange for recovery of the vehicle. Only the Transport Section is authorised to carry out repairs or to instruct a third party to carry out repairs on council vehicles.

7.7 Training

All users of official vehicles are given basic training by the Transport & Maintenance Team Manager. This training will include an introduction to the vehicle checking and reporting procedures.

7.8 The Quartix Tracking System

A Vehicle Tracker system has been installed on the majority of the council's vehicles. This helps to improve efficiency by assisting with workload planning and also protects our vehicle assets and employees. It will also provide valuable data to enable us to minimise our carbon footprint.

Staff who drive vehicles fitted with the Quartix system are issued with tracker keys which should be used for each journey. These keys identify the driver of the vehicle and it is therefore important that staff do not allow other drivers to use the vehicle whilst their tracker key is being used. Doing so would potentially leave the staff member liable for prosecution of any offence that may occur when the vehicle is being used by another driver.

How is it managed?

- All managers responsible for vehicles are able to scrutinise the system to identify vehicle location etc. They also receive regular performance reports that enable them to monitor driver journeys, speed, idling time (with or without engine running), etc.
- A manager is only able to monitor the operation of the vehicles that he or she has responsibility for.
- The Transport & Maintenance Team Manager and certain nominated officers have access to the complete system so as to monitor the overall performance of the fleet.

Wyre Council accept that staff are entitled to a degree of privacy in the work environment. It is therefore not intended to enter into intrusive monitoring, however

the council reserves the right to introduce direct monitoring if the performance reports indicate that a driver is in serious breach of the council's Policies and Procedures.

Any driver found breaching these policies and procedures or traffic/road safety laws whilst driving a council vehicle could face disciplinary procedure.

All managers and authorised users of the system are fully trained and aware of their responsibility under Data Protection legislation.

8. MANAGEMENT RESPONSIBILITIES IN RELATION TO DRIVERS

- 8.1 To ensure that all employees of Wyre Council remain fully compliant with legislation, arrangements must be in place to manage driving at work. Managers should be confident that as a minimum, systems are in place to control the risks that the systems are followed and correctly supervised and that compliance with policies and procedures is monitored.

In addition management of business mileage can help generate benefits in the following key areas:

- health and safety - ensuring fulfilment of duty of care for employees driving for work and avoiding financial and reputational damage linked to road-related accidents and injuries;
- environmental sustainability - reducing carbon emissions by removing unnecessary road mileage and transferring travel to public transport and pool and hire cars with lower emissions;
- financial efficiency - achieving direct cost savings by reducing the number of journeys made and promoting the use of the most cost effective method of transport in each case.

Some elements of Managing Driving at Work will be delivered corporately:

Human Resources

Inspection of documents for use of private vehicles
Occupational Health Assessments

Health & Safety

Current Health and Safety legislation
Accident/Incident Recording
Accident/Incident Investigation

Risk & Insurance

Provision of insurance cover
Claim management
Risk management information

The Transport & Maintenance Team Manager manages the Council Fleet including Operator Licensing, driver assessments, and maintenance of vehicles.

Managers must be able to satisfy themselves that all procedures for managing driving at work are being adhered to.

8.2 Who advises on Driving at Work?

The initial point of contact on matters regarding work related driving is the Transport & Maintenance Team Manager who will be able to advise on matters relating to vehicles and driving. The Audit and Risk Team, Human Resources and the Health and Safety Advisor will advise on risk to the council from its' driving activities and the measures required to manage those risks.

8.3 Document Checks

Managers must ensure that each driver:

- Holds a driving licence that is current and appropriate for the vehicle used for council business.
- Does not have a health problem, which may place a restriction on their ability to drive.
- Has successfully completed any assessment or training to drive the vehicle(s) associated to the post - **Council operated vehicle only**.
- Is aware of this policy and its associated guidelines.
- Has submitted all the required documentation in terms of driving licence, insurance for use of a private vehicle on council business, MOT certificates etc. to the Human Resources Section either at the recruitment stage or prior to the use of the vehicle.

The Human Resources section will assist managers by maintaining a system of annual checks on all drivers.

Checks will also be required following Road Traffic Accidents (RTA), changes in health or licence category restrictions which may rule the employee unable to continue driving a vehicle on behalf of the council. Managers are therefore required to inform Human Resources immediately they become aware of such instances.

8.4 Assessment of Risk

It is the manager's responsibility to conduct a risk assessment on individual driving duties. This may be of a generic nature linked to a particular post outline.

See arrangements for Risk Assessment, which are available on the council's intranet. Copies can also be obtained from the Human Resources team.

A post may require the employee to:

- Operate a vehicle owned, hired or leased by the council;
- Use their own means of transport;
- Hold a particular category of driver licence e.g. LGV.
- Provide evidence of a particular level of competence e.g. Minibus or Mini-digger;
- Drive in adverse weather conditions;
- Drive during unsociable hours;
- Travel beyond the council boundaries.

Once the Risk Assessment has been carried out, suitable control measures must be introduced to remove or reduce the associated hazards.

In addition the manager will:

- Deal with reports of any accidents, driving incidents and near misses.
- Ensure vehicle inspections are taking place.
- Ensure that all faults are being reported and repaired.
- Ensure that vehicles are kept clean and free from equipment that may hinder safe driving.
- Ensure that drivers do not put themselves unnecessarily at risk by driving beyond their capabilities or travel unnecessarily in adverse weather conditions etc.
- Identify any training needs and deal with any driving-related concerns raised by staff.

Where it is identified that a qualified driver poses a risk to him/herself and /or others then the Corporate Director will in consultation with the Occupational Health Advisor and Health and Safety Advisor determine whether or not that driver can continue to drive Council owned vehicles.

The Manager must:

- obtain as much relevant information as possible from the employee, including why their driving may be affected
- get advice from Human Resources if the proposed action is likely to have a significant effect on the individual's employment
- take them off driving duties until further clarification can be obtained
- refer them to the Council's Occupational Health Service to:
 - 1) confirm the employee's condition and that it stops them from driving
 - 2) advise whether the condition is permanent
 - 3) advise on the suitability of temporary or permanent redeployment
 - 4) advise on reasonable adjustments

8.5 Deterioration in driving performance

Managers must investigate formal written complaints based on observations of poor driving to assess whether driver assessment is necessary.

Get advice from Human Resources if you are considering any of the redeployment options below, as this could have a significant effect on the individual's employment.

Options available to the manager are:

- the employee has driving tuition
- to initiate the capability procedure
- they're redeployed temporarily to a job that doesn't involve driving
- they're redeployed permanently to a job that doesn't involve driving.

The Transport & Maintenance Team Manager monitors fleet vehicle incidents. Where a fleet vehicle driver has **two** incidents for which they're at fault, the Transport & Maintenance Team Manager will contact their manager who will take action in accordance with advice from Human Resources.

Where it is considered that an employee's driving performance has deteriorated to such an extent that the Council has no confidence in their ability to drive safely, and all the options described above have been considered, the Council may have no alternative but to dismiss the employee. This action will only be taken in consultation with Human Resources.

8.6 Monitoring Business Travel

Significant additional miles can be driven through poor planning, or sending vehicles to short notice appointments when they are not necessarily the nearest available.

It is the line manager's responsibility to ensure that:

- Staff travelling within work make maximum use of council vehicles or explore public transport options before using their private cars
- Staff members attending an event where public transport is not viable, seek to use the most economical form of transport and lift share where possible.
- Staff make optimum use of diary planning to minimise the number of journeys to be made.

8.7 Authorisation of Mileage Claims

It is the line manager's responsibility to check that:

- They agree that the journeys claimed for have been undertaken.
- The vehicle used is the one recorded as the authorised vehicle.
- The claim represents the most appropriate way of travelling, bearing in mind cost and time taken.
- The journey has taken place within the last 2 months.

All unreasonable looking claims should be challenged and refused if they cannot be justified. Any claim submitted after 2 months of the event must be referred to the relevant Corporate Director of Chief Executive (see section 6.3).

Most claims will be made via the HR21 system which is set up to recognise authorised line managers. Any other claims should be made on the “Staff Travel and Subsistence Allowance” form which will need to be signed by an authorised line manager. It is the line manager’s responsibility to ensure they are registered as an authorised signatory’ before authorising claim forms. The Human Resources section retain details of all current authorised signatories and will reject claims that are not correctly approved.

8.8 **Monitoring Use of Council Vehicles**

Data from the Quartix system should be scrutinised to ensure that drivers use the most direct routes and that the operational efficiency of the fleet is maximised through planning work schedules that make more efficient use of council vehicles.

From an environmental perspective the three most important issues to be managed are:

- Speeding – the excessive use of speed will significantly increase the vehicle’s fuel consumption and therefore the council’s cost and CO2 emissions.
- Engine Idle Time – an idling engine is extremely inefficient and therefore an unnecessary and costly waste of fuel.
- Out of Area Operations – although this is principally an operational management issue in terms of employee productivity, this information will also highlight where additional and potentially unnecessary mileage is occurring.

It should also be noted that driver behaviours such as aggressive acceleration and braking will also increase fuel consumption.

The reporting of these behaviours will be particularly useful as they can aid the targeting of driver training sessions and promote best practice.

8.9 **Dealing with Infringements**

Although the vehicle tracker system has been installed with a view to improving efficiency and work force planning, managers are required to deal promptly with any safety infringements identified.

Failure to deal with blatant breaches of traffic or safety law for instance could not only bring the council into disrepute but could constitute a major breach of Health and Safety Law. The Council has a duty of care towards staff and road users and persistent misuse of a council vehicle cannot be tolerated.

Breaches of this nature may be dealt with under the Disciplinary Procedure.

Vehicle accidents are one of the most common and serious causes of industrial injuries for office-based staff. Managers should:

- Include provisions related to safe driving in their Health and Safety Action Plans.
- Consider assisting staff to undertake refresher driving courses.

Not place employees under pressure which results in unsafe driving.

9. MANAGEMENT RESPONSIBILITIES FOR COUNCIL OWNED VEHICLES OR VEHICLES OWNED BY THE COUNCIL

9.1 **This section should be read in conjunction with Part C of this policy.**

The Transport & Maintenance Team Manager has responsibility for ensuring that council operated vehicles are:

- Procured following the council policy;
- Fit for the purpose intended;
- Correctly maintained and regularly inspected;
- Secure with systems in place for recovery in the event of breakdown or accident;
- Constructed and used in accordance with legislation.

9.2 **Vehicle Documentation**

The Transport & Maintenance Team Manager will:

- Ensure that all council vehicles are appropriately licensed and that they are tested by their due date, in line with MOT legal requirements.
- Make arrangements for an annual inspection of driving licences held by all employees permitted to drive council vehicles.
- Make all documents relating to council vehicles including the Wyre Council certificate of insurance and MOT test certificates available for inspection.

The Transport Section will also make arrangements for the following documents to be made available in every vehicle at all times:

- vehicle defect book;
- daily inspection checklist.
- Wyre Council's Drivers Handbook – Health and Safety at work
- Important Notice Sticker – Detailing the Drivers Responsibilities and Breakdown Information

9.3 **Management of the Quartix Tracking System**

The Transport & Maintenance Team Manager will be responsible for the overall management of the Quartix system and will use the data obtained to assist in maximising efficiency savings and minimising fleet emissions through mileage and fuel management.

9.4 **Vehicle Safety Inspections and Repairs**

All vehicles maintained by the council must be made available for safety inspections and routine servicing in accordance with the schedule provided by the Transport & Maintenance Team Manager.

The Transport Section should be contacted immediately if there is any doubt about the safety of a vehicle. They will either arrange for transfer of the vehicle to the Council Depot for repair or carry out an inspection of the vehicle at its location.

All hired vehicles must be checked for damage immediately on receipt and the hire company notified of any discrepancies in their record of vehicle damage.

9.5 **'O' Licence and special licence requirements**

The Council is required to hold a special licence to operate vehicles over 3.5 tonnes (an 'O' licence). The Transport & Maintenance Team Manager will be responsible for meeting the obligations covering inspection, servicing, operational management and record keeping on such vehicles.

10. EQUALITY IMPACT ASSESSMENT AND MONITORING

- 10.1 The operation of this policy will be monitored for its impact on different equality groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.

11. DATA PROTECTION

- 11.1 In implementing this policy, the council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with Data Protection requirements.

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Long Service Award Policy

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1. INTRODUCTION

1.1 Introduction

The council wishes to recognise and reward long serving employees' loyalty to the council within their employment. Long service will be formally acknowledged in accordance with this policy.

2. AWARD

- 2.1 An award to the value of £150 will be in the form of an appropriate gift or redeemable voucher obtained from a range of retail or other appropriate organisations.

3. ELIGIBILITY

- 3.1 To be eligible for an award an employee:-
- must be currently employed by the Council; (The programme does include those on long term sickness, long term disability assistance programmes and also family leave and military leave)
 - must have completed 20 years continuous service with Wyre Council (a break in service of up to eight years for maternity reasons will be disregarded as breaks when determining continuous service, except if other full time employment has been taken).
- 3.2 A further long service award of £150 will be made to those who have **40 years** and **50 years** of service with Wyre Council.
- 3.3 Where a previous long-service award has been made in the previous 10 years the payment is not exempt from HM Revenue and Customs deductions. This payment must be made via the payroll system so that the appropriate deduction can be made in respect of tax and National Insurance.
- 3.4 From 1 January 2022 all long service awards will be in the form of an appropriate gift or redeemable voucher obtained from a range of retail or other appropriate organisations.

4. PROCEDURE

- 4.1 The Human Resources section will identify those employees who are eligible for the receipt of an award, verify the employee's continuous service and inform them of their entitlement to a Long Service Award.
- 4.2 The employee will be invited to choose their gift/voucher to the value of their award, subject to 3.3 above.
- 4.3 Where section 3.3 does not apply no tax or National Insurance will be payable on the award as Wyre Council policy is compliant with HMRC Regulations.

5. EQUALITY IMPACT ASSESSMENT AND MONITORING

- 2.1 The operation of this policy will be monitored for its impact on different equality groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.

6. DATA PROTECTION

- 6.1 In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with Data Protection requirements.

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Preventing Illegal Working
Policy and Procedure

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1. INTRODUCTION

- 1.1 The Council has a statutory duty to prevent illegal working by carrying out prescribed document checks on all potential and current employees in order to confirm that they have the right to work in the UK.

All checks should be carried out before the employment commences. If it is found that an employee has a time limit on their stay in the UK then these checks must be repeated at least once every 12 months to ensure that there is a continuing right to work here. Additionally if there's a restriction on the type of work they can do and, or, the amount of hours they can work, then we must not employ them in breach of these restrictions.

Failure to carry out such checks could result in a fine of up to £20,000 for each employee found to be working illegally. Furthermore the penalty for knowingly employing someone illegally is up to 2 years in prison plus an unlimited fine.

- 1.2 The Home Office have produced a comprehensive guide for employers and provided that the Council follows this and can demonstrate that all the required document checks are carried out then it will have a legal excuse (known as a statutory excuse) against payment of a civil penalty if it was found to be employing an illegal worker.

2. WHO IS ENTITLED TO WORK IN THE UK?

- 2.1 There are work restrictions on nationals from certain countries, these could be a restriction on the type of work they can do and, or the amount of hours they can work.

Swiss Nationals and nationals from the following European Economic Area (EEA) can work in the UK subject to checks that they have been granted Settled Status:

Austria	Germany	Malta
Belgium	Greece	Netherlands
Bulgaria	Hungary	Norway
Croatia	Iceland	Poland
Cyprus	Ireland	Portugal
Czech Republic	Italy	Romania
Denmark	Latvia	Slovakia
Estonia	Liechtenstein	Slovenia
Finland	Lithuania	Spain
France	Luxemburg	Sweden

- 2.2 The Council will always ask for, check and take copies of acceptable documents to confirm immigration status of **all** prospective employees.
- 2.3 **Asylum seekers**
Asylum seekers do not normally have the right to work here and may only be lawfully employed if the Home Office lift restrictions on them taking employment.
- 2.4 **Students**
Not all international students (those from outside the EEA) are entitled to work while they are in the UK, but some are allowed to take limited employment providing the conditions of their permission to study permit this.
- 2.5 Where a student does have a limited right to work, the working hours that they may undertake depend on when they applied for permission to come to or stay in the UK, the type of course they are studying and the type of educational provider with whom they are studying.
- 2.6 **Applications for employment from persons other than those allowed to work in the UK without restrictions (see paragraph 2.1) will only be considered following consultation with the Home Office.**

3. CHECKING THAT A PERSON IS ENTITLED TO WORK IN THE UK

- 3.1 **What documents are acceptable?**
The documents that are acceptable for proving someone has the right to work in the UK are split into two lists. These lists are called List A and List B. (See Appendix 1)
Any of the documents, or specified combinations of documents, described in List A show that the holder has an on-going right to work in the UK.
Any of the documents, or specified combinations of documents, described in List B show that the holder has a right to work in the UK for a limited period of time. If the checks are made correctly, these checks must be checked at least every 12 months if the Council is to be protected from prosecution and penalties.
- 3.2 **Step 1 – Documents to be produced**
All prospective employees (or existing employees, if you are carrying out repeat checks) must be asked to provide one of the single documents, or specified combinations of documents from List A or List B (see Appendix 1).
Only original documents are to be accepted.
If a new or existing employee is only able to provide documents from List B, these documents must be checked again at least once every twelve months.

3.3 **Step 2 – Examination of documents**

The Council is required to take all reasonable steps to ensure the validity of the documents produced and that they correspond in every way to the person to be employed. This should be done by:

- checking that photographs are consistent with the appearance of the person
- checking that dates of birth listed are consistent across documents and that you are satisfied that these match up with the appearance of the person
- checking that the expiry dates of any limited leave to enter or remain in the UK have not passed
- satisfying yourself that the documents are genuine, have not been tampered with and belong to the holder
- asking for a further document in explanation if you are given two documents which have different names. The further document could, for example, be a marriage certificate or a divorce decree absolute, a deed poll or statutory declaration.

These documents should also specify that the prospective employee (or an existing employee undertaking a re-check) is allowed to undertake the post.

3.4 **Step 3 – Record of documents**

All relevant pages of the document should be photocopied or scanned. Copies of passport or other travel documents must include:

- the document's front cover and any page containing the holder's personal details particularly those providing details of nationality, his or her photograph, date of birth, signature, date of expiry or biometric details; and
- any page containing UK Government endorsements indicating that the holder has an entitlement to be in the UK and is entitled to undertake the work in question.

Other documents should be copied in their entirety.

3.5 A record should then be kept of every document that has been copied. The officer who has checked and copied the document should sign and date the copy to confirm that they have checked the original document.

All copies of the documents should be kept securely in the employee's HR file for the duration of the employment and for a further two years after the employment has ceased. This will enable the Home Office to determine the Council's liability if they detect anyone who is employed illegally.

3.6 **Required documentation not produced prior to recruitment**

The Council will refuse to employ any person who fails to produce evidence of their entitlement to work in the UK.

3.7 Carrying out repeat checks

If the potential employee provides a document or documents, from List A, this will establish an "excuse" for the duration of their employment.

If the employee presents a document from List B, this is likely to indicate that they only have limited leave to be in the UK. To comply with the regulations and avoid penalty, follow-up checks must be made by repeating steps 1 to 3 at least once every 6 months until the individual provides documents indicating that they can remain permanently in the UK.

Document Type	Excuse Type	Frequency of Checks
List A	Continuous	Before employment starts only
List B – Group 1	Time limited	Before employment starts and again when permission (as set out in the document checked) expires
List B – Group 2	Time limited	Before employment starts and again after six months (as set out in the Positive Verification Notice).

3.8 If the required documentation is not produced, or it is found that the employee is no longer allowed to work or carry out the work in question in the UK the Council must terminate the contract of employment on expiry of the document confirming the right to work.

This action will only be taken in consultation with Human Resources.

4. TRANSFER OF UNDERTAKING (PROTECTION OF EMPLOYMENT)

4.1 Employees who are acquired as a result of a Transfer of Undertakings (Protection of Employment) transfer will be required to provide the documents as outlined above. The Council will have 60 days from the date of transfer to check and copy the relevant documentation.

5. AVOIDING DISCRIMINATION

5.1 It is important that the Council adopt procedures which protect us from prosecution, but equally important to ensure that these procedures do not fall foul of the Race Discrimination Laws. The Human Resource team will ensure that there are no discriminatory practices and all potential employees will be treated in the same way and be required to provide documentation as outlined in this procedure before they start work.

This will ensure that we have complied with the changes and have a valid defence against payment of a civil penalty if it is found that an employee is not legally allowed to work in the UK.

6. EQUALITY IMPACT ASSESSMENT AND MONITORING

- 6.1 The operation of this policy will be monitored for its impact on different equality groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.

7. DATA PROTECTION

- 7.1 In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with Data Protection requirements. .

DOCUMENTS THAT SHOW AN ONGOING RIGHT TO WORK

All prospective employees (or existing employees, if you are carrying out repeat checks) must be asked to provide one of the single documents, or specified combinations of documents from List A or List B

However documents included on list B show a right to work for up to 12 months only. Follow up checks will therefore be required at least once every 12 months to ensure legal employment.

LIST A

1. A passport (current or expired) showing the holder is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
2. A passport or passport card (in either case, whether current or expired) showing that the holder is an Irish citizen.
3. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man, which has been verified as valid by the Home Office Employer Checking Service, showing that the holder has been granted unlimited leave to enter or remain under Appendix EU to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules.
4. A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
5. A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer.
6. A birth or adoption certificate issued in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer

7. A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer.
8. A certificate of registration or naturalisation as a British citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer.

LIST B

Group 1 – Documents where a time-limited statutory excuse lasts until the expiry date of leave

1. A **current** passport or travel document endorsed to show that the holder is allowed to stay in the United Kingdom and is allowed to do the type of work in question.
2. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man, which has been verified as valid by the Home Office Employer Checking Service, showing that the holder has been granted limited leave to enter or remain under Appendix EU to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules.
3. A current immigration status document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer.

Group 2 – Documents where a time-limited statutory excuse lasts for 6 months.

1. A document issued by the Home Office showing that the holder has made an application for leave to enter or remain under Appendix EU to the immigration rules on or before 30 June 2021 together with a Positive Verification Notice from the Home Office Employer Checking Service.

2. A Certificate of Application (digital or non-digital) issued by the Home Office showing that the holder has made an application for leave to enter or remain under Appendix EU to the immigration rules (known as the EU Settlement Scheme), on or after 1 July 2021, together with a Positive Verification Notice from the Home Office Employer Checking Service.
3. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man showing that the holder has made an application for leave to enter or remain under Appendix EU (J) to the Jersey Immigration Rules or Appendix EU to the immigration Rules (Bailiwick of Guernsey) Rules 2008, or Appendix EU to the Isle of Man Immigration Rules together with a Positive Verification Notice from the Home Office Employer Checking Service.
An Application Registration Card issued by the Home Office stating that the holder is permitted to take the employment in question, together with a Positive Verification Notice from the Home Office Employer Checking Service.
4. A Positive Verification Notice issued by the Home Office Employer Checking Service to the employer or prospective employer, which indicates that the named person may stay in the UK and is permitted to do the work in question.

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Extended Authorised
Absence (EAA) Policy

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1. INTRODUCTION

- 1.1 The Council is committed to equality of opportunity in employment for all staff and to developing work practices and human resource policies that support work-life balance. The Council has developed an EAA scheme to enable employees to take extended periods of unpaid time away from work and to help employees strike a balance between paid work and personal life.
- 1.2 The aims of the EAA Scheme are to attract and retain staff by demonstrating a commitment to their long-term career and personal development, to reduce the number of leavers and resulting recruitment and training costs, to support the Council's Equal Opportunities Policy and to contribute to work-life balance.

2. DETAILS OF THE SCHEME

- 2.1 All periods of EAA are unpaid.
- 2.2 A request for EAA would not normally be considered from an employee who has less than 12 months continuous service. Special consideration may be made for employees with exceptional circumstances.
- 2.3 All requests for EAA will be subject to operational requirements. Consideration will be given to the following issues:
- The technical skills of the employee and the range of similar skills within the Council.
 - The knowledge of the employee and the availability of similar knowledge within the Council.
 - The investment in training and development that has been made by the Council to develop the employee's competence within his/her post.
 - The impact on service delivery and the workload of other employees.
 - The ability/need to recruit a temporary appointment to cover the period of absence and the cost involved.
 - The likely benefits to be realised by the employee and the Council
 - Whether the absence could assist in a career progression opportunity for another member of staff

- 2.4 Employees may apply for a period of EAA of between three months and two years depending on their individual needs. The maximum of two years ensures that Wyre as a council does not find itself at a disadvantage covering roles with limited resources.
- 2.5 A period of EAA may be taken in addition to Maternity Leave, Adoption Leave or Parental Leave or other statutory entitlements that may be available (see appropriate policies).
- 2.6 An employee may seek to take more than one EAA period, but there must be at least three years between each period.

3. REASONS FOR TAKING AN EAA

- 3.1 EAA could be taken for any of the reasons listed below, or simply to have a break from paid employment. Possible reasons for a period of EAA could include:
- Childcare responsibilities
 - Caring responsibilities
 - Travel
 - Study
 - To pursue a personal interest
 - To undertake Territorial Army activities
- In certain circumstances EAA may not be the most appropriate arrangement for an employee. Human Resources will ensure that the individual concerned is advised of any suitable alternatives and that these options are fully discussed before any final decisions are made. These alternatives could include: special leave, maternity leave, adoption leave, parental leave, or flexible working.

4. CONDITIONS OF SERVICE DURING A PERIOD OF EAA

- 4.1 **Duration**
- The duration of the EAA will be clearly specified and agreed before commencement of the break, and an employee will not be entitled to return to work before the expected end of the period. However the Council will consider requests to return earlier than previously agreed.

4.2 Service Accrual

The period of the EAA will not be regarded as a break in service in relation to continuity of employment for the purposes of calculation of notice periods and redundancy payments.

However:

The period of EAA will not count as qualifying service for the following:

- incremental progression
- calculation of increased annual leave entitlement
- calculation of increased sick pay entitlement
- long service award

4.3 Pay and Benefits

All periods of EAA are unpaid.

The period of EAA is therefore not subject to the sickness absence scheme nor counted for sick pay purposes or occupational maternity pay / adoption leave pay or paternity pay.

There is no entitlement to contractual or statutory annual leave or bank holidays during a career break. There will be no accrual of annual leave during the period of the EAA.

All annual leave, bank holiday entitlement, flexi, TOIL etc. accrued should be taken prior to commencement of the EAA. . No payment in lieu of outstanding leave will be made and no “carry over” of leave allowed unless the employee has been unable to take it because of operational reasons. Any annual leave that has been taken but yet not accrued by the employee will be deducted from the employee’s last payment of their salary.

4.4 Local Government Pension Scheme

Whilst you are on a period of EAA you will not accrue benefits in the pension scheme which will affect the amount you are entitled to on retirement. Therefore you have the option to pay Additional Pension Contributions (APCs) when you return to work to cover any ‘lost’ pension.

If you elect to buy back all of your lost pension within 30 days of returning to work then the cost of the contract will be split with the Council paying 2/3rds of the cost. However if your election is received after 30 days of returning to work, or if you elect to purchase some, but not all, of your lost pension you must fund 100% of the APC yourself.

Further information on buying back of lost pension can be attained from Payroll.

Employees on authorised leave of absence from the Pension Scheme will remain eligible for death-in-service benefits.

4.5 Other Conditions

- Employees who are required to maintain professional registration will be expected to meet the cost of re-registering on return to work.
- An employee must obtain consent from the Council if they are undertaking paid work for another organisation during EAA. Such consent will not be unreasonably withheld and the requirement is primarily designed to avoid any conflict of interest.
- Employees can continue membership of a trade union and would still be subject to the benefits of membership, providing that subscriptions are kept up to date. The employee would have to make their own arrangements to pay the trade union subscriptions.
- Employees will need to relinquish the Council's property i.e. mobile telephones, laptops, keys, protective clothing etc. prior to an employee commencing their EEA.
- Employees will continue to be subject to, and will abide by Wyre Council's policies and code of conduct during the period of their EAA.
- Contact details and emergency contact information must be kept up to date during the EAA.

5. KEEPING IN CONTACT

- 5.1 The employee's Line Manager shall ensure that contact is maintained with employees who are taking EAA. This may include, for example, provision of information through email or inviting them to seminars, training sessions or social events that the Council may organise.
- 5.2 It is particularly important that employees are invited, where practicable, to any training which may be connected with the introduction of new courses, systems or procedures and are kept up-to-date with information on changes which may affect them, such as pay awards, Directorate or section reorganisations or new legislation. Any time spent on such training will be compensated for by the equivalent time off when the employee returns to work.
- 5.3 In addition, employees taking an EAA are encouraged to keep in contact with their section/team during the EAA.

6. ORGANISATIONAL CHANGES DURING EEA

- 6.1 If organisational changes occur, the Council will ensure that employees taking an EAA are involved in any consultations or other appropriate procedures as far as possible on the same basis as all other affected employees.

- 6.2 Where an employee's post is likely to become subject to redundancy during the EAA the Council will inform the employee as required by statute and the Council's procedures. It is the employee's responsibility to ensure that the Council has up to date contact details, and is available for consultation.

7. RETURNING TO WORK

- 7.1 The actual date of return will be subject to mutual agreement between the employee and the relevant Head of Service or Corporate Director.
- 7.2 In order to ensure the effectiveness of the EAA Policy, the Council will seek, as far as possible, to place an employee returning from EAA in their former job or suitable alternative employment.
- 7.3 Line managers will consider whether it is necessary to arrange for a special period of induction, retraining or re-familiarisation on return to work.
- 7.4 Failure to return at the agreed end date of the EAA will be subject to the provisions of the relevant policy and could result in the termination of the employee's contract of employment.
- 7.5 A request from an employee who wishes to return to work prematurely will be considered, taking into account the reasons, any relevant business considerations and the need to be fair and equitable in the treatment of any temporary replacement.

8. SALARY ON RETURN TO WORK

- 8.1 At the end of EAA, an employee will return to their previous salary uplifted for any agreed pay awards.

9. RESIGNATION DURING EEA

- 9.1 If an employee decides to resign during EEA, they must submit a written statement of resignation to the Human Resources Manager.. The contract of employment will normally cease from the date when the resignation is received, i.e. it is not expected that a notice period will be worked.

10. APPLICATION PROCEDURE

Employees who wish to take EAA should follow the procedures detailed below:

- 10.1 Apply to their Head of Service or Corporate Director at least three months in advance of the proposed start date of the period of EAA, using the EAA Application Form and forward a copy of the form to the Human Resources team.
- 10.2 A representative of the Human Resources team will arrange to meet with the employee and their line manager in order to clarify any aspect that may need resolution.
- 10.3 The Head of Service/ Corporate Director will consider the request in consultation with a representative of the Human Resources team and the Line Manager and they may decide to approve or refuse the request.
- 10.4 EAA may be refused for operational or financial reasons. If the application is refused, the Head of Service or Corporate Director will provide reasons for the refusal in writing to the applicant.
- 10.5 If the employee concerned is dissatisfied with the decision, they should follow the procedure laid out below (refusal of EEA).
- 10.6 The date for commencement and termination of the EAA will be by mutual agreement between the employee and their Head of Service or Corporate Director and will need to take into account outstanding work activities and arrangements for temporary staffing.
- 10.7 Before the EAA commences the relevant line manager should carry out a pre-break interview. The interviews should cover areas of mutual interest including:
 - Arrangements for keeping in touch.
 - Name of contact person.
 - Arrangements for any periods of work/training.
 - Arrangements for returning to work.
 - Pension.
- 10.8 A written record of the pre-break interview should be forwarded to the Human Resources team for entry on to the employee's personnel file.
- 10.9 On returning to work, after completion of the EAA, the employee should be welcomed back by the line manager with a re-entry interview. The interview should cover areas of mutual interest such as:
 - Changes within the section/team and Council.
 - Employee's salary, working pattern, pro rata holiday entitlement etc.

11. REFUSAL OF EEA

- 11.1 Staff who feel that they have been unreasonably refused EAA or who feel that they have been victimised for requesting one should, in the first instance, raise the matter with their Head of Service or Corporate Director and inform the Human Resources Manager. They can also consult with their trade union and have the right to raise the matter through the Resolution procedure.
- 11.2 The Human Resources Manager shall record all complaints. All applications, agreements and refusals shall be monitored, with the aim of bringing about consistency between Directorates/Sections in the way that policies related to work-life balance are implemented throughout the Council.
- 11.3 None of the conditions within this policy affect an employee's right to benefit from any contractual or statutory rights that may govern the entitlement to other forms of leave/absence (paid or unpaid). Any advice or guidance required on these matters can be gained from the Human Resources team.

12. EQUALITY IMPACT ASSESSMENT AND MONITORING

- 12.1 The operation of this policy will be monitored for its impact on different equality groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.

13. DATA PROTECTION

- 13.1 In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with Data Protection requirements. .

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Together
we make a
difference

Equal Opportunities Policy

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1. OUR COMMITMENT

- 1.1 The Council is committed to providing equal opportunities in employment and to eliminating unlawful discrimination in employment, job applicants or to customers.
- 1.2 This policy is intended to assist the Council to put this commitment into practice. Compliance with this policy should also ensure that employees do not commit acts of unlawful discrimination.
- 1.3 As part of the Council's commitment to anti-discrimination and tackling Hate Crime we endorse the International Holocaust Remembrance Alliance Definition of Anti-Semitism details of which are shown in Appendix 1.
- 1.4 Striving to ensure that the work environment is free from harassment and bullying and that everyone is treated with dignity and respect is an important aspect of ensuring equal opportunities in employment. The Council has a separate Dignity at Work Policy, which deals with those issues.

2. THE LAW

- 2.1 The Equality Act 2010 sets out protected characteristics that qualify for protection from discrimination, these are as follows:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Political opinion or affiliation is not a protected characteristic under the Equality Act 2010; however since 25 June 2013, any employee dismissed for a reason related to political opinion or affiliation may bring a claim for unfair dismissal to tribunal irrespective of their length of service.

It is unlawful to discriminate directly or indirectly in recruitment or employment on grounds of these protected characteristics.

- 2.2 It is unlawful to treat someone less favourably on grounds of disability or age, unless the less favourable treatment can be justified.
- 2.3 Discrimination after employment may also be unlawful, e.g. in refusing to give a reference or in the form of reference given.
- 2.4 It is unlawful to discriminate directly or indirectly in the provision of goods, facilities or services to customers on grounds of the protected characteristics.
- 2.5 It is unlawful to discriminate, without justification, on grounds of disability or to fail to make reasonable adjustments to overcome barriers to using services caused by disability. The duty to make reasonable adjustments includes the removal, adaptation or alteration of physical features, if the physical features make it impossible or unreasonably difficult for disabled people to make use of services.
- 2.6 It is unlawful to victimise someone because he or she has alleged unlawful discrimination or supported someone to make a complaint or given evidence in relation to a complaint.
- 2.7 Some types of harassment or bullying will be unlawful discrimination.

3. TYPES OF UNLAWFUL DISCRIMINATION

- 3.1 **Direct discrimination** occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (perceptive discrimination), or because they associate with someone who has a protected characteristic (associative discrimination).

An example of direct sex discrimination would be refusing to employ a woman because she was pregnant.

Unlike the other forms of discrimination, direct discrimination on the grounds of age can be justified if it can be shown that the discriminatory treatment is a proportionate means of achieving a legitimate aim.

This means that:

- there must be a genuine business need behind the measure (such as health and safety reasons or training requirements);
- the measure must, in practice, demonstrably contribute to the achievement of that business aim;
- the measure must be appropriate, when the importance of the business aim is weighed up against the discriminatory effects; and
- there must not be another, less discriminatory, way of achieving the same aim.

Perceptive and associative discrimination are both forms of direct discrimination (see below).

3.2 **Perceptive discrimination** is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.

An example of perceptive discrimination would be rejecting a male applicant for a job on the basis that it is wrongly thought that the applicant was gay because he came across as camp during the interview.

3.3 **Discrimination by Association**

It is also unlawful to discriminate against an individual because they “associate with” someone with a particular protected characteristic (marital and civil partnership status are excluded from this provision). Examples could be direct discrimination or harassment because:

- the employee socialises with friends who hold a particular religion or belief
- the employee is married to someone of a particular race or skin colour
- the employee needs time off work to care for a disabled child, partner or parent
- the employee refuses to carry out an employer's instruction to discriminate on the grounds of age.

3.4 **Indirect discrimination**

Unlawful indirect discrimination occurs if all of the following conditions are satisfied.

- The employer applies a provision, criterion or practice to everyone (or to everyone in a specific category, eg all the applicants for a vacant job).
- The provision, criterion or practice puts, or would put, people who have a particular protected characteristic at a particular disadvantage when compared with people who do not have that characteristic.
- The provision, criterion or practice puts, or would put, an individual at that disadvantage.
- The employer is unable to show that the provision, criterion or practice is a proportionate means of achieving a legitimate aim.

The discrimination does not have to have been intentional for an employer to be found guilty of unlawful indirect discrimination.

An example of indirect sex discrimination could be requiring everyone to work full time unless there is a good reason, unrelated to sex, as to why the particular job has to be done on a full-time basis, since requiring everyone to work full time will normally adversely affect a higher proportion of women than men.

3.5 **Failure to make reasonable adjustments** is where arrangements disadvantage an individual because of a disability and reasonable adjustments are not made to overcome the disadvantage.

3.6 **Harassment** is “unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”.

The most important criterion in establishing whether behaviour amounts to harassment is the perception of the person on the receiving end of the particular behaviour. The motive of the harasser is largely irrelevant – it is the effect on the victim that is determinative. Legislation provides that it must be reasonable for the victim to take the view that the conduct in question amounted to harassment.

Examples

Harassment (related to one of the protected characteristics) can include:

- physical abuse
- offensive or hostile language
- offensive jokes or banter
- belittling or derogatory remarks to or about someone
- teasing or taunting
- offensive nicknames
- the transmittal of offensive material by email
- mimicking someone’s accent or mannerisms in a demeaning way
- ignoring someone.

3.7 **Harassment by a Third Party** - employers are liable for harassment if they fail to protect employees from persistent harassment by third parties, for example contractors, members of the public, service users.

3.8 **Victimisation** is where someone is treated less favourably than others because he or she has alleged unlawful discrimination or supported someone to make a complaint or given evidence in relation to a complaint.

4. EQUAL OPPORTUNITIES IN EMPLOYMENT

- 4.1 The Council is committed to the elimination of unlawful discrimination in all aspects of employment including recruitment, promotion, opportunities for training, pay and benefits, discipline and selection for redundancy.
- 4.2 Person and job specifications will be limited to those requirements that are necessary for the effective performance of the job. Candidates for employment or promotion will be assessed objectively against the requirements for the job, taking account of any reasonable adjustments that may be required for candidates with a disability. Disability and personal or home commitments will not form the basis of employment decisions except where necessary.
- 4.3 Questions asked as part of the selection process relating to the health of candidates will be limited to those that have been identified as being intrinsic to the role. This will be done through risk assessment with the advice of Occupational Health as appropriate.
- 4.4 The Council will consider any possible indirectly discriminatory effect of its standard working practices, when considering requests for variations to these standard working practices. This may include the number of hours to be worked, the times at which these are to be worked and the place at which work is to be done. The Council will refuse such requests for variations only if the Council considers it has good reasons, unrelated to any prohibited ground of discrimination, for doing so. The Council will comply with its obligations in relation to statutory requests for contract variations. The Council will also make reasonable adjustments to its standard working practices to overcome barriers caused by disability.
- 4.5 The Council will monitor the ethnic, gender and age composition of the existing workforce and of applicants for jobs, and the number of people with disabilities within these groups, and will consider and take any appropriate action to address any problems, which may be identified as a result of the monitoring process.
- 4.6 The Council cannot lawfully discriminate in the selection of employees for recruitment or promotion, but the Council may use appropriate lawful methods, including lawful positive action, to address the under-representation of any group which the Council identifies as such in particular types of job.

5. DIGNITY AT WORK

- 5.1 The Council has a separate dignity at work policy concerning issues of bullying and harassment on any ground, and how complaints of this type will be dealt with.

6. CUSTOMERS, SUPPLIERS AND OTHER PEOPLE NOT EMPLOYED BY THE COUNCIL

- 6.1 The Council will not unlawfully discriminate against customers using or seeking to use facilities or services provided by the Council.
- 6.2 Employees should report any bullying or harassment by customers, suppliers, visitors or others to their manager who will take appropriate action.
- 6.3 The Equality Act 2010 provides that it is unlawful for an employer to discriminate against a person because of any of the protected characteristics:
- in the arrangements it makes for the purpose of deciding to whom it should offer employment
 - in the terms on which it offers employment
 - by not offering employment.
- Job applicants are therefore protected throughout the entire process of recruitment against any form of discrimination.
- 6.4 Unless a job is one to which an occupational requirement applies, the Council will not state in any job advertisement that the organisation is seeking someone with a particular protected characteristic.
- 6.5 The Council has designed its job application forms so that personal details, eg name, gender, date of birth, nationality, ethnic origin, marital status and age, can be entered on to a separate page of the form which can then be detached from the main part of the form (and held confidentially by the HR department) before the shortlisting process begins.
- The purpose of this is to reduce the possibility of unlawful discrimination arising during the shortlisting process. If those carrying out the shortlisting are not aware of the candidates' racial background, age, etc then no discrimination can occur.

7. TRAINING

- 7.1 The Council will provide training in equal opportunities to managers and others likely to be involved in recruitment or other decisions concerning staff.
- The Council will ensure that there is equal treatment and equal access to training for all staff irrespective of their gender, family status, race, religion, sexual orientation, age, disability and part-time status.

Training should be flexible as regards:

- timing – so as not to disadvantage employees who, because of family commitments or for religious reasons, cannot work on a particular day or at a particular time
- duration of individual sessions and regular breaks, eg to accommodate the needs of an employee with a disability or someone who wishes to pray at regular intervals
- location and venue – which should be suitable for people who have limited mobility or who use a wheelchair.

8. EMPLOYEES' RESPONSIBILITIES

- 8.1 Every employee is required to assist the Council to meet its commitment to provide equal opportunities in employment and the elimination of unlawful discrimination.
- 8.2 Employees can be held personally liable as well as, or instead of, the Council for any act of unlawful discrimination. Employees who commit serious acts of harassment may be guilty of a criminal offence.
- 8.3 Acts of discrimination, harassment, bullying or victimization against employees or customers are disciplinary offences and will be dealt with under the Council's disciplinary procedure. Discrimination, harassment, bullying or victimization may constitute gross misconduct and could lead to dismissal without notice.

9. GRIEVANCES

- 9.1 If a member of staff considers that they may have been unlawfully discriminated against, they may use the Council's grievance procedure to make a complaint. If the complaint involves bullying or harassment, the grievance procedure is modified as set out in the dignity at work policy.
- 9.2 The Council will take any complaint seriously and will seek to resolve any grievance, which it upholds. Employees will not be penalised for raising a grievance, even if the grievance is not upheld, unless the complaint is both untrue and made in bad faith.
- 9.3 Use of the Council's grievance procedure does not affect employees' right to make a complaint to an employment tribunal. Complaints to an employment tribunal must normally be made within three months of the act of discrimination complained of taking place.

10. EQUALITY IMPACT ASSESSMENT AND MONITORING

- 10.1 The operation of this policy will be monitored for its impact on different staff groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.

11. DATA PROTECTION

- 11.1 In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with Data Protection requirements.

Appendix 1

The International Holocaust Remembrance Alliance Definition of Anti-Semitism

“Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”

Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere could, taking into account the overall context, include, but are not limited to:

- Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective – such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.
- Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).
- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.
- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavour.
- Applying double standards by requiring of it a behaviour not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
- Drawing comparisons of contemporary Israeli policy to that of the Nazis.
- Holding Jews collectively responsible for actions of the state of Israel.

Anti-Semitic acts are criminal when they are so defined by law (for example, denial of the Holocaust or distribution of anti-Semitic materials in some countries).

Criminal acts are anti-Semitic when the targets of attacks, whether they are people or property – such as buildings, schools, places of worship and cemeteries – are selected because they are, or are perceived to be, Jewish or linked to Jews.

Anti-Semitic discrimination is the denial to Jews of opportunities or services available to others and is illegal in many countries.

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Domestic Abuse and the
Implications in the
Workplace Policy

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1. POLICY STATEMENT

- 1.1 Wyre Council recognises that domestic abuse is a widespread problem that cannot be ignored and that everyone has the right to a life free from abuse in any form. The council strives to create a working environment that promotes the view that abuse against any person is unacceptable, that the responsibility for the abuse lies with the perpetrator and to help and support employees involved in or experiencing domestic abuse.

For the purpose of this policy domestic abuse is defined as follows:

“Any incident of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been intimate partners or family members regardless of gender or sexuality.”

The council acknowledges that while it is mainly women who experience domestic abuse this policy is not gender specific and applies equally to men who need advice or support.

All employees have the right to raise the issue of domestic abuse with the council in the knowledge that the issue will be treated with sympathy and confidentiality and that an effective support system will be available to them.

2. AIMS OF THE POLICY

- 2.1 To demonstrate the Council’s commitment to and support for any employee experiencing domestic abuse.
- 2.2 To provide advice about appropriate action to take should anyone be experiencing domestic abuse.
- 2.3 To publicise support for anyone experiencing domestic abuse.
- 2.4 To set out what the Council may do if an employee is found to be a perpetrator of domestic abuse.

3. MANAGER'S ROLES

3.1 A manager may become aware or suspect that an employee is experiencing domestic abuse although the employee might not feel able to raise the issue with anyone. Managers should be alert to signals such as

- frequent absence from work, lateness or needing to leave work early
- reduced quality and quantity of work or missing deadlines
- spending an increased number of hours at work for no reason
- changes in the way an employee communicates - a large number of personal calls or texts or a strong reaction to personal calls
- physical signs and symptoms such as unexplained or frequent bruises or other injuries
- excessive clothing on a hot day
- changes in personal grooming practices
- changes in social behaviour, for example, not turning up to work social activities
- obsession with leaving work on time.

In these cases offering appropriate support may mean that the employee is able to deal with their situation more effectively. The issues surrounding domestic abuse can be complex and sensitive and if managers have concerns they should seek advice from Human Resources.

3.2 Managers must have a sensitive approach and ensure that employees are offered support if the issue of domestic abuse has been disclosed to them. Managers are advised:

- a) Regularly check in with the employee
- a) To ensure privacy and confidentiality as far as possible;

- b) To ensure a non-judgemental approach, taking the employee seriously and above all, listening and believing what they are told;

- c) That an employee may wish to involve a third party i.e. a friend, rather than their line manager;

- d) That additional issues such as age, gender, sexuality, ethnicity, race and disability may also face the employee and managers should be aware of this;

- e) To support the employee in whatever they decide to do by exploring the support and options available to them.

- f) Ensure the employee has information regarding the Council's Employee Assistance Programme and consider referring to Occupational Health.

- g) Keep confidential records of any disclosure or action taken in relation to an alleged perpetrator of domestic abuse.

- 3.3 Managers must maintain a secure environment for all employees. In cases of domestic abuse the Council's risk assessment procedure should be followed. To ensure a secure environment it may be necessary to consider, with the employee concerned, the possibility of informing colleagues of any potential risk.
- 3.4 Colleagues should always be reminded of the confidentiality of the issue and information should only be disclosed with the express permission of the employee concerned.
- 3.5 Confidentiality is of utmost importance for managers dealing with an employee who informs them that they are experiencing domestic abuse. However, there may be circumstances where confidentiality cannot be guaranteed, when there are concerns about children or vulnerable adults or where the council needs to act to protect the safety of employees. In these circumstances the manager will discuss with the employee the reason for disclosing any information to a third party and will seek the employee's agreement where possible.
- 3.6 Additional courses of action could include:
- a) reminding reception and switchboard staff in particular, but all employees in general, that personal details of employees are not to be divulged;
 - b) changing work times and patterns, along with office layout to ensure the employee is not visible through the windows or front reception points;
 - c) offering changes in specific duties e.g. removal from reception duties, or redeployment to another post if changes cannot be easily made;
 - d) agreeing what to tell colleagues and advising them what response they should give if the abuser telephones or calls at the work place;
 - e) reviewing systems for recording whereabouts of employees during the working day and minimising the risks to lone workers from outside visits/meetings;
 - f) recording all incidents of violence or threatening behaviour via the Council's Incident Reporting Procedure. Incidents can include persistent phone calls, emails or visits by the alleged perpetrator. Details of witnesses to incidents should also be recorded. If legal proceedings follow, the records could be used as evidence;
 - g) considering offering paid or unpaid leave or any other flexible working options for employees experiencing domestic abuse in accordance with the Council's Flexible Working and Work Life Balance Policy so they can visit one of the advice organisations, the police or a doctor or to address concerns, such legal, financial or housing.
 - h) changing payment arrangements;
 - i) encouraging staff to seek advice of the professionals and providing advice on useful contacts;

- j) referral, with employee's consent, to appropriate counselling services.
- 3.7 Attendance at court will be necessary if criminal charges are brought. Leave will be granted in accordance with the Council's Leave and Work Life Balance Policy.
- 3.8 Managers will reassure employees of confidentiality as far as is practicable. There are, however, some circumstances in which confidentiality cannot be assured. These occur when there are concerns about children or vulnerable adults or where the council needs to act to protect the safety of employees.
- In such cases specialist advice will be sought and the employee will be advised as to why the breach is required seeking their agreement where possible.

4. THE COUNCIL'S APPROACH TO EMPLOYEES WHO ARE ALLEGED OR ACTUAL PERPETRATORS OF DOMESTIC ABUSE

- 4.1 Employees should be aware that domestic abuse is a serious matter that can lead to criminal convictions.
- 4.2 **Conduct at Work**
- Perpetrators of domestic abuse might use workplace resources such as telephone, fax or email to threaten, harass or abuse their current or former partners, and may involve other colleagues who may or may not be aware of their motives in assisting them.
- Such abuse requires an effective employer response because it could be damaging and potentially dangerous for those being abused, as well as possibly bringing the Council into disrepute if the abuse is allowed to continue.
- Similarly, proven harassment and intimidation of Council employees by their partner or ex-partner who also works for the Council will be viewed seriously and may lead to disciplinary action being taken.
- 4.3 **Conduct Outside of Work**
- Conduct outside of work (whether or not it leads to police action/a criminal conviction) can also lead to disciplinary action against an employee because of its employment implications and because it undermines the confidence the Council (as an employer) has in the employee.

4.4 Taking Action

Acts of verbal or physical abuse by our employees on or off duty are unacceptable and impact not only on our employment relationship with those employees, but also damages the reputation and good standing of the council.

Under our normal disciplinary procedure, acts of harassment or bullying of fellow employees, clients, customers, suppliers or members of the public visiting the organisation, violent, threatening or abusive behaviour is considered to be gross misconduct and will lead to formal investigation that can lead to dismissal.

Employees should also be aware that conduct outside of work could lead to disciplinary action being taken because of its impact on the employment relationship and the reputation of the council.

We also recognise that perpetrators of domestic abuse may wish to seek help and support voluntarily. We commend staff accepting accountability for their actions and we commit to providing them with access, when appropriate, to specific support or counselling services e.g. domestic abuse perpetrator training or anger management training.

5. EQUALITY IMPACT ASSESSMENT AND MONITORING

- 5.1 The operation of this policy will be monitored for its impact on different staff groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.

6. DATA PROTECTION

- 6.1 In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with Data Protection requirements.

Appendix A

Professional help

Line managers should encourage employees to seek professional help but should not make contact with them personally. This may include reporting instances of violence to the police, or seeking help from specialist organisations such as:

General

National Domestic Abuse Helpline - 0808 2000 247 (Freephone and 24 hour) / www.nationaldahelpline.org.uk

Citizens advice bureau - www.adviceguide.org.uk

National centre for domestic violence – 0800 970 2070 / www.ncdv.org.uk

Galop: 0800 999 5428 / www.galop.org.uk

For women

Women's aid - www.womensaid.org.uk

Scottish Women's aid – 0800 027 1234 / www.scottishwomensaid.co.uk

Welsh Women's aid - 0808 8010800 / www.welshwomensaid.org

Jewish Women's Aid - 0800 591203 / www.jwa.org.uk

Shakti Women's Aid (Scotland) - 0131 475 2399 / shaktiedinburgh.co.uk

Refuge - 0800 2000 247 / www.refuge.org.uk

Southall Black Sisters - 020 8571 9595 / www.southallblacksisters.org.uk

Muslim Women's Helpline - 020 8904 8193 or 020 8908 6715 / www.mwnhelpline.co.uk

IKWRO: Women's rights organisation for Middle Eastern and Afghan women - 020 7920 6460 / ikwro.org.uk

For men

ManKind Initiative: 01823 334 244 / www.mankind.org.uk

Respect Men's Advice Line: 0808 801 0327 / www.respect.uk.net

The Dyn Project (Wales): 0808 801 0321 / www.dynwales.org

For perpetrators

Respect: 0808 802 4040 / www.respect.uk.net