



Employment and Appeals Committee Agenda

Wyre Borough Council
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Employment and Appeals Committee meeting on Monday, 29 October 2018 at 6.00 pm in the Committee Room 2, Civic Centre, Poulton-Le-Fylde

1. Apologies

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 1 - 2)

To confirm as a correct record, the minutes of the previous meeting of the Employment and Appeals Committee.

4. Policy Review

(Pages 3 - 6)

Report of the Head of Business Support.

- (a) Promoting Attendance and Controlling Absence (Pages 7 - 32)
- (b) Employee Training and Development Policy (Pages 33 - 40)
- (c) Dignity at Work Policy (Pages 41 - 62)
- (d) Chief Officers Disciplinary Policy (Pages 63 - 72)
- (e) Redeployment Policy and Procedure (Pages 73 - 82)
- (f) Eyesight Testing Policy and Procedure (Pages 83 - 86)

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Employment and Appeals Committee Minutes

The minutes of the Employment and Appeals Committee meeting of Wyre Borough Council held on Monday, 2 July 2018 in Committee Room 2, Civic Centre, Poulton-Le-Fylde.

Employment and Appeals Committee members present:

Councillors Rita Amos, Alice Collinson, Graham Holden, Ron Shewan and Ann Turner

Apologies:

Councillor(s) Barry Birch, Ian Duffy, Ruth Duffy, Julie Robinson and Val Wilson

Other councillors present:

Councillor(s) I Amos

Officers present:

Liesl Hadgraft, Head of Business Support and Monitoring Officer
Duncan Jowitt, Democratic Services and Councillor Development Officer

No members of the public or press attended the meeting.

1 Election of Chairman and Vice Chairman

Councillor Turner was elected as chairman and Councillor Amos was elected vice-chairman.

2 Declarations of interest

None

3 Confirmation of Minutes

The minutes of the previous meeting were approved as a correct record.

4 Policy Review

The head of business support submitted a report presenting nine of the council's existing human resources policies that had been reviewed and updated.

The committee suggested some minor corrections and asked relevant

questions about the policies to which the head of business support responded thoroughly.

Decision taken

All the reviewed human resources policies below were approved:

- Capability Policy and Procedure
- Disclosure and Barring Service Policy
- Secure Handling and Storage Policy
- Managing Stress in the Workplace
- Shared Parental Leave Policy and Notification Procedures
- Agency Worker Policy and Guidance
- Drugs and Alcohol in the Workplace Policy
- Employer Discretions Policy
- Long Service Award

The meeting started at 6.00 pm and finished at 6.37 pm.

Date of Publication: 4 July 2018



Report of:	Meeting	Date	Item No.
Human Resources	Employment and Appeals Committee	29 October 2018	4

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 Promoting Attendance and Controlling Absence	Appendix 1	Reviewed
Employee Training and Development Policy	Appendix 2	Reviewed
Dignity at Work Policy	Appendix 3	Reviewed
Chief Officers Disciplinary Policy	Appendix 4	Reviewed
Redeployment Policy and Procedure	Appendix 5	Reviewed
Eyesight Testing Policy and Procedure	Appendix 6	Reviewed

- 5.2 The Promoting Attendance and Controlling absence policy has been reviewed and following circulation to managers for feedback has been updated to take into consideration suggestions made.
- 5.3 Employee Training and Development Policy has been reviewed with minor amendments.
- 5.4 The Dignity at work policy has been reviewed and updated for readability and useability purposes. An additional appendix has also been included to provide examples of harassment and bullying.
- 5.5 Chief Officers Disciplinary Policy and Procedure has been reviewed with minor amendments.
- 5.6 The Redeployment Policy has been updated with minor amendments and a table included as an appendix to set out pay protection and interview status for the different redeployment circumstances.
- 5.7 Eyesight Testing Policy and Procedure has been updated to take into consideration new procedures set out by ASE the Corporate Eye care provider used by the Council.

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.

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

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

report author	telephone no.	email	date
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List of background papers:		
name of document	date	where available for inspection
None		

List of appendices

Appendix 1	Promoting Attendance and Controlling Absence
Appendix 2	Employee Training and Development Policy
Appendix 3	Dignity at Work Policy
Appendix 4	Chief Officers Disciplinary Policy
Appendix 5	Redeployment Policy and Procedure
Appendix 6	Eyesight Testing Policy and Procedure

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Promoting Attendance and Controlling Absence Policy and Procedure

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1. Policy Statement

- 1.1 Wyre Council values the contribution of its employees in the delivery and maintenance of high levels of service. Whilst recognising that employees may occasionally be prevented from attending work through ill health, the Council has a duty to maintain service delivery, provide value for money and minimise disruption. The Council is, therefore, committed to managing attendance and sickness absence and believes that it is the responsibility of line managers and employees, with the support of HR and trade unions, to work together to promote and improve attendance.
- 1.2 The Council recognises that the majority of employees have good attendance levels. However, there are a minority of employees who have an unacceptable level of absence, which has a negative impact on colleagues who have to cover their absences. By implementing this policy the Council aims to strike a reasonable balance between the pursuit of its' business needs and the genuine needs of employees to take time off work due to sickness.
- 1.3 This Policy and Procedure has been developed to ensure that there is a consistent, supportive and fair approach to dealing with absence, which applies to all employees and all types of absence. The council does however recognise that discretion should be allowed in certain circumstances and when this does occur it is important that decisions are taken in liaison with Human Resources to ensure a consistent approach is maintained.
- 1.4 It is the Council's policy to pay employees the rate of pay whilst absent from work as set out in the Contract of Employment and Statement of Particulars. Payment is however conditional upon an employee complying with the Council's Policy and Procedure, including notifying their manager of the absence, issuing the Council with Doctor's Certificates, attending return to work interviews, attending Occupational Health appointments and maintaining appropriate contact with the Council.

2. Aims of the Policy

- 2.1 The aim of this Policy and Procedure is to ensure:
- All employees are treated fairly, consistently and sensitively during times of illness and are made aware of any support mechanisms that may be available to them.
 - All employees understand their responsibilities and follow sickness reporting arrangements.
 - Managers have a structured framework to assist them in managing sickness absence.
 - Reasonable adjustments are considered for employees where applicable.
 - Absence records are monitored and action taken at the specific trigger points.
 - There is an agreed procedure for managing sickness absence that must be followed.
 - The highest levels of quality and service can be maintained to allow the Council to fulfil its obligations to all users of its services.
- 2.2 The Promoting Attendance and Controlling Absence Policy and Procedure is designed to provide guidance on management of both long term and short term sickness absence. The Council will take a supportive approach, whilst aiming to achieve a balance between the needs of the individual and the needs of the service.

3. Scope

- 3.1 This policy applies to all employees with the exception of those individuals who are under probation for whom the full procedural arrangements do not apply and should be managed in line with the Probationary Policy and Procedure.
- 3.2 This policy and the payment of sick pay exist to support our employees when they are sick. Arrangements under the Work Life Balance Policy apply, where employees require time away from work due to personal matters.

4. Notification and Reporting Arrangements

- 4.1 These guidelines have been produced to help employees understand the importance of their personal contribution toward improving attendance and controlling absence, by ensuring that they acknowledge the importance of attending work and fully understand what is expected of them.
- 4.2 All absences and absence information should be logged in the Council's sickness management system from the initial notification of absence to the employee's return to work including the return to work interview.

5. Notification of Sickness or Injury

5.1 On the First Day of Absence

5.1.1 On the first day of absence you must report sickness absence as early as possible to your line manager and no later than 10.00 am, (or in accordance with the instructions issued by your line manager if you work non-standard hours) on your first day of absence.

5.1.2 You will need to let your manager know the following:

- The reasons for your absence
- When you think you will be able to return to work
- How and when you will keep your manager updated of your progress
- Give a contact number so that you can be reached if you do not contact them
- Advise of any work/issues that will need to be dealt with during your absence.

5.1.3 It is not normally acceptable for someone to telephone on your behalf or for you to inform your manager of your absence by text or email. Neither is it acceptable for you to ring a colleague. If your Line Manager is not immediately available you must leave a telephone number where your Line Manager can make contact with you. It is not sufficient to provide 'sick', 'unwell' or 'personal' as reasons for absence.

5.2 Contact during your first week of absence

5.2.1 You must keep your line manager informed of your progress whilst absent. Except in exceptional circumstances or by prior agreement by your line manager contact should not be made by text or email.

5.2.2 Where the employee is unsure whether they will be fit to return to work, but the absence is still considered to be short term, they must maintain a regular pattern of contact with their manager. As a minimum this should be on day 1, 3 & 5 of the absence or if agreed by the employee on a daily basis.

5.2.3 In exceptional circumstances it may be impossible for the employee to telephone in person, e.g., if they have been seriously injured and are so incapacitated that they are unable to make it to the phone. The person making contact on behalf of the employee must be prepared to provide the information that would normally have been provided by the employee. The employee must make direct contact with the line manager as soon as they are able to do so.

5.3 **Eighth Day**

5.3.1 On the eighth day of absence (or first available working day after this) the employee must contact the manager and further discuss the reason for their continued absence, likely duration of sickness, any treatment they are receiving and any other relevant matters.

5.3.2 In addition, from the eighth day of absence the employee must obtain a “Statement of Fitness to Work” or medical certificate signed by a doctor to certify the reason for their absence.

5.4 **Contact during longer periods of absence**

5.4.1 When an employee is absent from work due to sickness it is important that regular (at least weekly) contact is maintained between the manager and employee. It is expected that this contact will be via the telephone or in person. It is important to maintain contact for the following reasons:

- To maintain a regular dialogue between the employee and manager
- To ensure that the employee does not feel isolated. It is recognised that where an employee begins to feel disconnected from their work environment they are less likely to return to work in the short term
- To ensure that opportunities to provide relevant support and assistance for the employee are identified
- To provide the employee with opportunities to raise any concerns they have regarding their absence
- To allow the manager to temporarily reallocate duties.

5.5 **Informal Welfare Meeting**

5.5.1 Where Occupational Health have not been involved in the early stages of the absence and it is apparent that an employee is going to be absent from work for a longer period of time thereby likely to reach the trigger for long term absence (4 weeks or more), the line manager must arrange to meet with the employee to discuss their current health situation and what assistance the Council can provide to assist them in a return to work. This meeting will normally take place at 2 weeks of absence.

5.5.2 This is a welfare discussion and is not part of any formal process, however on occasion it may be helpful if a member of the HR Team attends; particularly if detailed advice is required regarding support available and/or adjustments.

5.5.3 The employee will also be made aware of when the formal process maybe initiated, however this will be dependent on the discussions that take place at the welfare meeting.

5.5.4 The meeting will normally take place either at the employee’s home or at the workplace. The location of the meeting will be largely determined by the employee’s health and mobility.

5.5.5 Whilst this is an informal meeting, a brief follow up letter, incorporating what has been discussed, will be sent to the employee by the manager, following the welfare meeting to clarify discussions.

5.6 **Statement of Fitness to Work / Fit Notes**

5.6.1 Medical certificates are now also known as a “statement of fitness to work”. Doctors are able to indicate on the certificate whether the employee is able to return to work with some minor and/or temporary adjustments.

5.6.2 Managers are expected to give full consideration to whether the proposed adjustments can be accommodated, to support the employee back to work at an earlier point. In some circumstances it may be appropriate to consider temporarily moving the employee to a different role or service, if suitable alternative work is available.

- 5.6.3 If the employee believes that they are well enough to return to work, prior to the expected return to work date on the medical certificate, the employee should first discuss this issue with their manager or HR. Fit notes are advice notes and as such an employee may decide that they feel sufficiently well to return to work earlier than the GP anticipated.
- 5.6.4 Employees are expected to return to work promptly at the end of their medical certificate.

6. Responsibilities

6.1 Managers

6.1.1 Each manager has the general responsibility to:

- Ensure all employees are aware of the policy and reporting arrangements
- Ensure confidentiality of personal information at all times and fair, consistent treatment of staff
- Maintain accurate records of absence by ensuring the sickness management system is kept up to date with all relevant information
- Pro-actively manage attendance and promote the wellbeing of staff, including undertaking risk assessments and identifying any underlying causes if there are high absence rates within the workgroup
- Check whether the employee's absences are work related, and if so, explore ways to remove or reduce the factor causing concern.
- Monitor/manage all sickness absence effectively
- Involve HR and Occupational Health in addressing sickness absence
- Ensure absence is never ignored
- Ensure that return to work interviews are carried out for every absence, ideally on the employee's first day of return to work.
- Obtain medical advice about an employee's ability to undertake their job utilising advice provided by GP's in employees 'fit notes' and holding case conferences with Occupational Health where appropriate. This should be undertaken as part of the council's duty of care towards its employees.
- Maintain reasonable and appropriate contact with employees who are absent
- Ensure that the probationary period of each new employee is used appropriately, that attendance records are monitored and that appropriate action is taken if any problems emerge.

6.1.2 In order to set a positive example to their staff, it is expected that line managers will personally aim for excellent attendance.

6.1.3 Line managers should be aware of and acknowledge those individuals who have good attendance e.g. 1-2-1 meetings.

6.2 Employees

6.2.1 In line with their contract of employment, all employees are expected to attend work unless unfit to do so. The payment of sick pay is part of the contract of employment that employees enter into with the Council and as such the employee is required to make themselves available throughout their absence for meetings with managers or HR, appointments with Occupational Health, or for telephone discussions. In addition, employees are required to:

- Ensure that medical advice and treatment is received as quickly as possible and follow all recommended medical advice or treatment in order to facilitate a prompt return to work.

- Attend any appointments made with Occupational Health and comply with all advice they give which will facilitate a return to work.
- Respond in a timely manner to any communications from the Council and attend management meetings as required.
- Raise with their manager any concerns with their job which they feel are making them ill or contributing to their illness/absence.
- Refrain from any activity, domestic, social or sporting, which may be prejudicial to recovery, cause further absence or bring into question the reason for the continued absence.
- On return to work, attend and participate in a return to work interview with their line manager.
- Co-operate with all reasonable attempts to facilitate a safe and full return to work including undertaking alternative duties.
- Advise their line manager if they intend to go on holiday or are living at a different address whilst absent from work due to sickness absence.
- Ensure that they fully inform their GP or consultant of any options and adjustments that the Council is prepared to put in place to support their early return to work.
- Request annual leave for holidays that they take during a period of sickness absence in accordance with the Council's procedure for requesting annual leave and do not take such annual leave unless that request is granted.

7. Occupational Sick Pay

7.1 Entitlement to Occupational Sick Pay

7.1.1 The Council's Sickness Scheme and contractual/occupational sick pay is intended to supplement Statutory Sick Pay and Employment Support Allowance so as to maintain normal pay during defined periods of sickness absence. The entitlements given below reflect national conditions of service.

7.1.2 There is provision in the Sickness Absence Scheme for employees to receive pay for up to the following periods:

	Full Pay	Half Pay
During 1 st year of service	1 months full pay	after 4 months service - 2 months half pay
During 2 nd year of service	2 months full pay	2 months half pay
During 3 rd year of service	4 months full pay	4 months half pay
During 4 th & 5 th year of service	5 months full pay	5 months half pay
After 5 years' service	6 months full pay	6 months half pay

7.1.3 Sickness benefits are calculated by establishing the employee's accrued benefits, as detailed above, then calculating backwards from the first day of a current period of absence and including any sickness periods within the previous twelve months.

7.1.4 Full sick pay will be an amount which, when added to Statutory Sick Pay and Employment Support Allowance receivable, will secure the equivalent of normal pay.

7.1.5 In the case of half pay periods sick pay will be an amount equal to half of normal earnings plus an amount equivalent to Statutory Sick Pay and Employment Support Allowance receivable, so long as the total sum does not exceed normal pay.

7.1.6 Where there is medical evidence that an employee is no longer or unlikely to be sufficiently fit to fulfil the responsibilities of the job, the Council reserves the right to terminate employment before the expiry of contractual/occupational sick pay, in accordance with this policy.

7.2 **Withdrawal of occupational sick pay**

7.2.1 The payment of occupational sick pay is dependent upon the employee complying with the requirements of this Policy and Procedure. An employee will not automatically be entitled to occupational sick pay where they:

- fail to notify of absence or fail to maintain appropriate contact in line with the policy and procedure
- abuse the sickness scheme, including, but not limited to, reporting in sick on the same date an earlier request for annual leave was declined;
- submit a medical certificate, after being advised that they are the subject of disciplinary action, which leads to a delay in the disciplinary process;
- submit a medical certificate following their suspension in connection with a disciplinary matter;
- fail to attend an OH appointment;
- are absent due to or attributable to deliberate conduct prejudicial to recovery or the employee's own misconduct or neglect;
- suffer an injury sustained whilst working in their own time, on their own account for private gain or for another employer;
- are incapacitated due to actively participating in professional sport;
- continue to work for another employer, whilst off sick from the Council. This matter may constitute gross misconduct and if proven could lead to dismissal;
- fail to return to work despite appropriate agreed adjustments being put in place.

7.2.2 The following situations will be classed as unauthorised absence and an employee will not automatically receive any sick pay in respect of the following:

- any day's leave (or part day) which has not been notified, in line with this document, will be treated as unauthorised absence;
- failure to provide contact details or maintain contact;
- failure to comply with the requirements for the provision of medical certification.

7.2.3 In each of the above circumstances it will be for the Head of Service in liaison with the Head of Business Support to determine if sick pay should be withdrawn from the employee. The decision will be made based on the facts available to them.

7.2.4 Where sick pay is withdrawn the employee will be advised of the reasons; the length of time sick pay will be withdrawn; and their right of appeal for reinstatement of sick pay to the Director. In these circumstances, the employee will be asked to enter their grounds for appeal in writing, and their appeal will be considered at stage 2 of the Grievance Procedure by the relevant Director.

7.2.5 Where any part of sick pay is reinstated this will be reimbursed to the employee at their next normal salary payment date.

8. Return to Work Interviews

8.1 Return to work interviews must be conducted after every period of absence ideally on the first day of the employee's return. They are an important part of absence management and can help identify short and long term absence problems at an early stage. They also provide a manager with an opportunity to start a dialogue with staff about underlying issues which may be causing the absence and allow them make changes which will support the employee.

- 8.2 Return to work interviews are informal discussions and employees have no statutory right to be accompanied.
- 8.3 The manager should express their concern for the employee's welfare, balanced with their concerns about service delivery and the impact on other team members. The manager should also discuss with the employee options for further assistance to improve their attendance, if required.
- 8.4 It is important that the employee's absence record is discussed and that they are made aware of where they are in respect of the triggers.
- 8.5 If the employee has reached the triggers they should be advised that they will need to attend an Absence Management Meeting.
- 8.6 The return to work form must be completed on the Crown system to record the points discussed at the meeting.

9. Referral to Occupational Health

- 9.1 The Council seeks to support employees via the provision of an on-site Occupational Health advisor. The role of Occupational Health is to provide advice and guidance to the Council and employees on matters relating to employee health and attendance. The OH provider will work with the Council to support good levels of attendance.
- 9.2 Where a manager has concerns about an employee's health a referral to OH may be beneficial. The manager may wish to seek advice on this matter from the HR section.
- 9.3 There are several circumstances during which employees may be referred to Occupational Health. They are:
 - where sickness absence is giving cause for concern e.g. repeated spells of sickness or long term absence
 - following an accident at work
 - where an employee has been off sick for a period of 2 weeks or the absence is expected to last 2 weeks or more
 - where their sickness pay entitlement has been exhausted
 - where there is concern about the particular aspects of an employee's health in relation to their ability to do their job
 - muscular skeletal or stress/depression related problems
 - where it is known, prior to an absence, that an employee is going to require time off work for health related issues, e.g. elective surgery.
 - where the employee may not be fit for their substantive role but may be fit for adjusted duties
- 9.4 Prior to the referral the manager should discuss with the employee why they consider a referral to OH will be of assistance. Managers will complete a referral form for the initial OH appointment, which is available on the HR pages of the intranet. It is important that information on the form is factually correct and provides the OH advisor with sufficient information to ensure the employee gets benefit from the appointment and the Council receives relevant information as a consequence.
- 9.5 HR will book an appointment for the employee and will inform the manager and employee of the date, time and location of the appointment.
- 9.6 The OH provider will ensure that the employee is aware of their rights under the Access to Medical Reports Act, if the OH advisor considers it beneficial to obtain a report from the employee's GP or consultant.

- 9.7 Following the appointment the OH advisor will provide written guidance in the form of a report, provided to the manager and HR, the employee may also request a copy. The manager should consider the content of the report and discuss with the employee.
- 9.8 All Council employees are required to attend medical appointments or examinations with the Council's nominated OH provider where applicable.
- 9.9 If an employee refuses to be referred to OH or refuses to permit medical information to be shared with the Council, management will be required to base any judgements, including the employee's suitability to continue to work for the Council, on the information available to them at the time.
- 9.10 The provision of an Occupational Health service is of benefit both to the Council and to employees. Wasted appointments are costly to the Council and could have been used for another employee's benefit. Where an employee confirms that they will attend an OH appointment and then subsequently fails to attend, consideration will be given to withdrawing sick pay for the period up to the next available OH appointment.
- 9.11 **Being accompanied to an Occupational Health Appointment**
- In normal circumstances an employee should be seen on their own to enable confidential information to be discussed. Where an employee has a learning disability, or communication/ language problem then a suitably qualified assistant may be invited into the consultation to improve the communication process. The Occupational Health Advisor will be able to advise when this may be applicable and who would be suitably qualified taking into consideration the nature of the employee's disability.
- 9.12 Should an employee request to be accompanied by a family member or trade union representative or colleague during a consultation they will be asked to wait outside the room whilst discussing confidential issues and then invited to join the appointment only if it is appropriate for them to do so. Inviting 'third parties' into a meeting means that the consultation becomes an open meeting and the clinician will require to be accompanied by a member of the client's management team. This may be in person or via a conference call. These meetings are termed Case Conferences where non confidential issues such as workplace support including phased return and other adjustments can be discussed.
- 9.13 The Occupational Health appointment is not part of any formal process and therefore it would not be appropriate for a union representative or work colleague to accompany the employee in any formal capacity.

10. Absence Management

- 10.1 **Short term absence** is normally identified as absence that has no underlying long term medical condition and is attributable to minor ailments. Often the employee will only be absent for a few days.
- 10.2 The trigger points for managing short term absence are as follows:
- 10 working days of absence (pro-rata for part time staff), in any 'rolling' twelve month period;
 - 3 periods of absence of 1 day or more in any 'rolling' twelve month period;
 - a pattern of absence which is causing concern whereby at the Manager's discretion the formal procedure may be initiated. This may include, but is not limited to, a pattern of absences occurring at the beginning or end of a week; during school holidays; coinciding with sporting or other events; or when an employee reports sick on the same day that a leave request had been declined.

- the manager has concerns regarding the employee's welfare or ability to undertake their normal duties
- 10.3 Where an employee works less than a 5-day working week then the trigger points should be pro rata according to the number of days a week they work.
- 10.4 Please be aware that in some cases a short term absence pattern could be related to a disability, a long term condition or become a disability in the long term. However, absences that are medically certified or attributable to a disability or long-term medical condition can still be regarded as short term absences and managed under this part of the policy.
- 10.5 **Long term absence** is normally identified as an absence from work for 4 weeks or more normally due to an underlying medical condition and/or where there is no prospect of a return to work in the near future. The trigger point for managing long term absence is 4 weeks.
- 10.6 When an employee's absence reaches the trigger points for either short term or long term sickness as defined above, the manager will review the attendance record with the employee using an Absence Management Meeting, where review periods and targets for improvement will be set.
- 10.7 There may be occasions where holding an Absence Management Meeting is not appropriate but this must be decided in liaison with Human Resources.
- 10.8 Where procedures are followed it is legitimate to dismiss on the grounds of 'some other substantial reason' (where no underlying medical condition is identified) or 'capability' where an underlying medical condition is identified.

11. Absence Management Meetings (Formal Process)

- 11.1 The purpose of the Absence Management Meeting is to provide assistance and support to the employee to improve his/her attendance to a satisfactory level.
- 11.2 Absence Management Meetings are not disciplinary meetings. The aims of these meetings are to:
- Establish the reasons for the absence; is it medical or non-medical.
 - Explain to the employee the impact the absence is having on the organisation.
 - Discuss possible ways of reducing absence in the future.
 - Investigate any reasonable adjustments.
 - Discuss the possibility of requiring additional information from Occupational Health and what this entails.
 - Inform of possible actions if level of absence is not improved.
 - Set a review period and targets for improvement to reduce absences.
- 11.3 **Right to be accompanied**
- At all formal stages of the Absence Management Procedure (i.e. formal Absence Management Meetings) employees may, if they wish, be accompanied by a recognised trade union representative or work colleague. Although it would not normally be acceptable for this to be a close relative consideration will be given to this in exceptional circumstances.
- 11.4 **Notice**
- Employees will be given at least 5 working days' notice of the meeting. Where a trade union representative or work colleague is not available this should not unduly delay the meeting. However the Council will seek to accommodate the request to rearrange the meeting but it is not expected that this would need to happen on more than one occasion.

11.5 Managers should treat individuals in a sensitive manner. Discussions between an employee and the manager will be kept confidential so far as reasonably possible. The meetings will be arranged at a suitable venue which will normally be the employee's place of work. However, in some circumstances (depending on the employee's health and well-being) this may be held at the employee's home with their consent or other suitable location.

11.6 Further details of the Absence Management Meetings are in the absence management procedure, Appendix 1.

11.7 **Review Periods**

One of the outcomes of the Absence Management Meetings will be to set a relevant period of time for the manager to review the employee's attendance. The review periods should normally be set for a 2 – 4 month period. In certain circumstances it may be appropriate to set a longer review period depending on the level of the meeting, previous attendance record and nature of the absence/absences This must be done in consultation with Human Resources.

If the employee's absences do not improve during the review period the manager will need to decide whether another absence management meeting is needed.

11.8 **Target setting**

Targets will also be set as an outcome of the Absence Management Meeting. The purpose of the target is to set a clear expectation of the level of attendance and improvement required from the employee. The target set will need to be below the Council's trigger points outlined above for short term and long term absence and will be reviewed within the period set. For example if the review period set is 2 months it may be legitimate to issue a target of "no absences".

When setting review periods or targets it may be necessary for managers to use their discretion on what they are. This should be done in liaison with HR and consideration will be given to the individual circumstances and the nature of the illness.

11.9 **Sustaining the employees Return to Work**

When the employee returns to work they are expected to achieve and maintain a level of absence which does not exceed the Council's trigger point or the agreed target set by their manager. The point where the manager got to in the absence management procedure will remain "live" for one year. The employee's absences will be reviewed throughout this time and if the satisfactory improvement proves only to be of a temporary nature then the manager has the option of returning immediately to the point in the procedure the employee had reached when they returned to work.

11.10 Where an employee returns to work following a period of long-term absence (i.e. over 4 weeks) they will have also exceeded the trigger points for short term absence and further short term absence will be managed under this procedure from the point in the procedure they had previously reached.

11.11 If the employee had previously been managed under the short term absence procedure prior to being absent on long term sickness they will return to the point in the procedure they had previously reached.

11.12 **Repeated long term absences**

Where an employee has had 2 or more periods of absence in any 24 month period, they will automatically be referred to a Stage 2 Attendance Management Meeting. At this meeting the

absences will be reviewed in detail and consideration will be given to how the employee can improve their attendance.

12. Phased Return to Work

- 12.1 Following a period of long-term absence Occupational Health may recommend that a phased return to work would be beneficial. The phased return period will normally be for four weeks or less and involves a gradual build-up of hours and/or duties employees will receive their normal pay from day one of the phased return.
- 12.2 If the employee wishes to request to increase the phased return beyond four weeks, they will be asked to cover non-working time during the extended period with annual leave. A phased return to work may include modification to days or hours of work or adjustment to duties.

13. Reasonable Adjustments

- 13.1 The Council is required to consider making reasonable adjustments to assist employees' who have a disability as defined under the Equality Act 2010.
- 13.2 Adjustments may take a number of forms and may be temporary or permanent, including:
- the provision of practical aids or adaptations to premises or equipment;
 - reduction in working hours or changed working pattern;
 - amendment to duties (normally temporary).
- 13.3 The Council will give consideration to adjustments both from the perspective of the employee and also with due regard to the reasonableness of those adjustments from an operational point of view.
- 13.4 In many cases it will be possible to accommodate adjustments to some degree or other; however in some cases it may not be considered reasonable to accommodate all or some of those adjustments. Where this is the case the manager should be able to clearly explain their reasons for being unable to accommodate the adjustments.

14. Redeployment

- 14.1 Redeployment will only be considered when other options to return the employee back to their substantive role have been unsuccessful and where medical advice indicates that an employee is unable to perform the duties of their current role, with reasonable adjustments.
- 14.2 In some cases, Occupational Health will not be able to recommend redeployment, despite the employee being unable to return to their substantive post.
- 14.3 The aim of redeployment will be to find a position that the employee can fulfil and where reasonable adjustments can be accommodated, if required.
- 14.4 Opportunities for redeployment are limited and these are dependent upon vacancies that exist in the organisation at the time that redeployment is being considered. This will include both permanent and fixed term vacancies. If an employee is offered and accepts redeployment into a fixed term vacancy, as an alternative to the termination of employment, they will transfer from permanent contract of employment to a fixed term contract of employment.
- 14.5 Where an employee is redeployed for health reasons, into a fixed term appointment, the normal arrangements for notice, redeployment and redundancy will apply to the employee at the end of the contract.

- 14.6 Where an employee is re-deployed due to health reasons to a lower graded post, pay protection does not apply.
- 14.7 If no suitable redeployment opportunities are available and the employee is unable to return to their existing role, consideration will be given to progressing the formal absence management procedure through to stage 3 of the procedure.

15. Ill Health Retirement

- 15.1 Where an employee is no longer able to perform their duties and it is not possible to redeploy them into an alternative role, ill health retirement or dismissal will be considered.
- 15.2 Where an employee may be eligible for ill health retirement (release of pension due to reasons of ill health) they will be referred to an Independent Physician through Occupational Health, for an assessment of their health.
- 15.3 Where ill health retirement is being considered, HR will be able to provide general information on the ill health provisions within the Pension Scheme Regulations.
- 15.4 To qualify for ill health retirement the Pension Scheme requires that the employee is permanently incapable of discharging the duties of their current employment, and has a reduced likelihood of any gainful employment before normal retirement age.
- 15.5 Consideration must be given to the possibility of reasonable adjustments to the employee's substantive role and to the option of suitable alternative employment within the Council, before the Physician will be able to advise the Council that the employee is eligible for release of pension benefits.
- 15.6 There are 3 Tiers of ill health retirement within the Pension Scheme Regulations and the Physician will advise the Council of which of these Tiers the employee satisfies.
- 15.7 There are occasions where an employee with a serious long term or terminal condition may wish to be dismissed and/or may be eligible for early release of pension benefits and therefore there may be some discretion on the application of the procedure.

16. Appeals

- 16.1 At all stages of the formal Absence Management Procedure employees have the right of appeal to the next level of management or to the Employment and Appeals Panel in the case of dismissal.
- 16.2 Appeals must be submitted in writing to the Head of Business Support within 10 working days of receipt of the written outcome of the meeting clearly stating the grounds for appeal.
- 16.3 Appeals against any formal level within the Absence Management Procedure except dismissal will only be considered for the following reasons:
- To appeal against the level of target or duration of review period set.
 - The employee believes that the original hearing officer reached an unfair decision.
- 16.4 Where possible the appeal will be heard within 10 working days of an appeal being received.
- 16.5 The decision of the hearing officer will be communicated to the employee in writing within 5 working days of the hearing.
- 16.6 The decision of the hearing officer will be final.
- 16.7 **Appeals against dismissal**

Appeals against dismissal will be heard by the Employment Appeals Panel.

- 16.8 An appeal hearing shall be arranged not less than 5 working days and not more than 20 working days after receipt of the appeal letter, unless otherwise agreed by both parties.
- 16.9 The employee will have the right to be accompanied by a work colleague, or, if they are a member of a trade union, a trade union representative.
- 16.10 All information relating to the appeal will be available at least 5 working days before the hearing.
- 16.11 The appeal format will be:
- The staff member will be given an opportunity to state their case. The manager and panel will be entitled to ask questions of the staff member.
 - The manager or management representative will provide a statement including the reason for the decision to dismiss. The staff member and panel may ask questions of the manager.
 - The Members of the Panel and HR representative advising the panel may seek clarification of any matter raised. The Chair has the right to adjourn the hearing to allow further investigation of any allegations or facts.
 - Once the Panel is satisfied it has all the information needed to make a decision, the Chair will invite the staff member, and then the manager, to summarise their case.
 - The hearing will then be adjourned, and all the available evidence reviewed by the Panel before a decision is reached.
- 16.11 The decision of the Panel at this stage will be final and will be communicated in writing as soon as possible (normally within 5 working days of an appeal hearing).
- 16.12 The options available to the Panel are:
- Disallow the appeal, and uphold the original decision;
 - Uphold the appeal, and reinstate the staff member to their former position;
 - Reinstate the staff member to their former position with a recommendation for a further period of target setting, monitoring and review;
 - Consider the possibility of a suitable alternative post if available.

17. Sickness During the Working Day

- 17.1 If an employee has worked for more than half his/her expected hours and then has to leave work through ill-health, this will be counted as a full day's attendance.
- 17.2 If an employee has worked for less than half his/her expected hours and has to leave work through ill-health, this will be counted as a full day's sickness absence for monitoring purposes, and will be counted in the calculation of trigger points.

18. Accident or Injury at Work

- 18.1 If an employee considers their illness arises from an accident at work they must notify their line manager immediately so that the Accident Incident Reporting Form can be completed. An employee who is absent from work due to an accident or injury at work should be treated in the same way as if their absence was due to sickness and therefore the Absence Management Procedure should be followed. Absences must still be supported by a doctor's certificate if they persist for longer than seven calendar days.
- 18.2 Absences due to a work related accident, incident, disease or dangerous occurrence must be treated on a case by case basis. The line manager should seek advice as appropriate from Health and Safety. It is the line manager's responsibility to ensure that accident/incident reports are completed so that where necessary reports and information can be forwarded to the HSE in line with the RIDDOR Regulations.
- 18.3 An absence which counts as a confirmed work-related injury or illness will continue to accrue towards the trigger points as set out in this policy. It is anticipated, however, that in such cases the emphasis will normally be focussed on providing reasonable support for the employee to enable them to return to work within a reasonable timescale.
- 18.4 In accordance with the Local Scheme of Conditions of Service an employee who is absent from work as a result of an accident is not entitled to a sick pay allowance if damages may be receivable from a third party. The Council may at its discretion advance the allowance provided the employee agrees to refund the amount from any damages awarded. It is the employee's responsibility to inform the Council of any claims they have submitted and damages awarded.

19. Medical/Hospital Appointments

- 19.1 Attendance at doctors, dentists and hospital appointments are not classed as sick leave and they should not be recorded as such.
- 19.2 Wherever possible, employees should make medical/dental appointments outside of their normal working hours. However, where this is not practical, they must be made to cause minimal disruption to the working day, i.e. lunchtime, early, late appointments and may be required to make up the time, either by the employee staying late or by using flexi time where this scheme is operated.
- 19.3 If it is not possible to arrange appointments out of work hours permission to attend during work hours should be sought and should not be unreasonably refused. Except in cases of emergency, the employee should advise their line manager of the proposed time of the appointment as soon as possible and must produce an appointment card or letter if asked. Where there are a series of appointments for regular and on-going treatment, acceptable arrangements need to be approved by the line manager for handling these.
- 19.4 Under normal circumstances time will not be credited to staff for time away from work for doctor or dentist appointments however where a hospital appointment is necessary this will be treated as authorised absence and time credited in line with section 9.8 of the Flexitime Policy.

20. Disability Leave

- 20.1 Disability leave is different from sick leave or annual holiday entitlement. It is most commonly used to allow staff paid time off for rehabilitation, assessment or treatment.
- 20.2 Examples of situations where disability leave might be appropriate include:
- time off to attend annual check-ups
 - medical appointments that occur unavoidably during working hours
 - time off for treatment or surgery, such as chemotherapy, etc.
 - time off to attend physiotherapy
 - time off for counselling and hospital appointments
 - time off for specific rehabilitation activities such as sign language training.
- 20.3 Time taken for disability leave should always be recorded separately to sickness absence. An appointment card or letter must be produced upon request.

21. Annual Leave Entitlement in Relation to Sickness Absence

- 21.1 Any employee who becomes unfit for work either immediately prior to or during a period of pre-booked annual leave must comply with sickness reporting procedures (where practical) and provide a Fit Note to cover the period they wish to reclaim.

In such situations the reason for the employee remaining unfit for work must not conflict with likely activities undertaken whilst on holiday or activities required to undertake the holiday itself. If the employee becomes fit for work whilst still on leave, they should also confirm the date on which they would have been fit to work on their return from leave.

- 21.2 Employees who are absent due to long term sickness accrue their annual leave entitlement and may request to take annual leave during a period of long term absence. Any employee wishing to take leave during long term absence should request this in writing via their line manager.
- 21.3 Where an employee returns to work in the current leave year, every effort should be made to encourage them to take their remaining contractual annual leave entitlement to assist with their rehabilitation back to work. Should they be unable to take all of the leave, they are allowed to carry it forward into the new leave year.
- 21.4 Where an employee returns to work in a new leave year, they still have the right to the contractual annual leave they accrued whilst off sick during the previous leave year, which they should be allowed to carry forward into the new leave year. However, it is recommended that the employee be encouraged to take most or all of this leave in a block in the first month after their official return to work date or to assist with extending a phased return to work.

22. Absence From Home Address When Absent On Sick Leave

- 22.1 There are occasions when an individual who is absent on sick leave is away from his/her home address, e.g. to stay with parents; convalesce; go on holiday (acceptable as long as nothing is done which might worsen the condition or otherwise prolong the sickness absence). The employee must agree to provide the line manager with the revised necessary contact details and the length of time they are likely to be away from home.

23. Abuse of Sickness Scheme

- 23.1 In cases where abuse of the sickness policy is suspected, which may include, failure to report sickness absence at the appropriate time; non-attendance at an Occupational Health appointment without reasonable cause; failure to submit a Doctor's fit note at the appropriate time; submission of forged or false fit notes; deliberate conduct prejudicial to the employee's own recovery; or due to the employee's misconduct or neglect, sick pay may be suspended and consideration may be given to disciplinary action. Advice from HR must be sought in these cases. See also section 7.2.

24. Cases of Suspected Misconduct

- 24.1 There occasionally will be circumstances where some form of disciplinary action may be appropriate. This only applies in cases of misconduct. Where there is a sickness or welfare issue the matter will be dealt with under the Attendance Review Procedure.
- 24.2 The action that needs to be taken, or indeed when to take it, will vary in each case and will be dependent upon the facts. The following situations would normally be those where consideration may be given to instituting the Disciplinary Procedure:-
- Failure to follow the notification rules by not contacting the Designated Officer during the first day of absence and having no good reason for doing so.
 - Providing an unsatisfactory reason for being absent from work.
 - Frequent short-term sickness absence, and suspicious patterns of absence where there is no satisfactory account at the return to work interview.
 - Unauthorised absence.
 - Deliberate falsification of a doctor's certificate.
 - Abuse of the Council's sickness scheme.
 - Refusal to return to work when appropriate agreed adjustments are put in place

The last three examples are potentially gross misconduct.

- 24.3 On each occasion the responsible line manager should take action in accordance with the normal disciplinary procedure. It is important that minor misdemeanours are not ignored.
- 24.4 If the Disciplinary Procedure is invoked, the first stage will be to investigate the situation by interviewing the employee as soon as possible in order to determine the reason for absence and to consider any other evidence available.
- 24.5 The overall objective is to improve the individual's attendance record to an acceptable standard. Any warnings given should be accompanied by a timescale for improvement and the situation must be monitored and reviewed throughout this period.

25. Sickness and 1-2-1 Meetings

- 25.1 The 1-2-1 meetings provide an opportunity to consider an individual employee's sickness and review the overall picture, examine possible trends and learn, by seeking to determine how well supported the employee was on their return. The review does not replace the Return to Work interviews or other good management practice in dealing with sickness absence issues.

26. Equality Impact Assessment and Monitoring

- 26.1 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.

27. Data Protection

-
- 27.1 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 – ABSENCE MANAGEMENT PROCEDURE

Short term absence is normally identified as absence that has no underlying long term medical condition and is attributable to minor ailments. Often the employee will only be absent for a few days. Short term absence is the most disruptive in terms of service delivery.

Long term absence is identified as an absence from work for 4 weeks (or more) with an underlying medical condition and/or where there is no prospect of a return to work in the near future.

For long term absence cases progression to formal action may not be necessary if the return to work is imminent or if the manager feels that progress is being made and an early return to work/improvement is likely (as discussed at informal welfare meeting), no further action is required except, where the manager considers appropriate, a referral to Occupational Health to confirm fitness to return to duty.

Informal Actions

Short term absences

- Return to work discussions after every absence
- Discuss absences and identify any underlying reasons
- See if any assistance can be offered
- Advise employee of consequences of hitting trigger points
- Maintain records of all discussions

Long term absences

- Informal welfare meeting (At two weeks).
- Keep in touch with the employee
- Send copies of any communications that have been issued to staff, e.g. core brief (unless the employee has requested they do not want to receive such items).
- Any changes in sick pay entitlement should be communicated to the employee, e.g. full pay reduces to half pay.
- Ensure employees are aware that they can access the Employee Support Programme

Stage 1 Absence Management Meeting

In cases where an employee's attendance meets the Council's Trigger Points, or there is a pattern of absence which is causing concern, the employee will be invited to attend a Stage 1 Absence Management Meeting with their line manager.

Template letters are available from HR for all written correspondence as part of the Attendance Management Procedure

Preparation before the meeting:

The manager will write to the employee and invite the employee to a meeting to discuss their sickness absence. The manager may invite a member of Human Resources to also attend this meeting if required, this is recommended in the majority of cases.

The letter from the manager must:

- Require the employee to attend a meeting to discuss the matter – informing him/her of the stage of the procedure they are at;
- Give at least five days' notice;
- Set out details of the unsatisfactory attendance, including a copy of all relevant documentation, e.g. copies of return to work interview notes and Occupational Health advice;
- Advise the employee that they have the right to bring a trade union representative or work companion;

- Advise that if the employee refuses or fails to attend the meeting without good reason a decision can be made in his/her absence. Managers must take advice from Human Resources in these circumstances.

During the Meeting:

The purpose of the Stage 1 Absence Management Meeting is to:

Short term absence

- Discuss the employee’s absence record;
- Review the number of and/or pattern of absences;
- Explore the reasons for the high level of absences;
- Discuss (if available) any OH information that has already been requested;
- Identify areas for support;
- Set an improvement target and review period;
- Explain the consequences of failing to achieve the target

Long term absence

- Review the employee’s absence to date;
- Review what steps are being taken to assist the employee back to work;
- What steps the employee and their medical advisors are taking to facilitate that process;
- Review recent OH advice (as appropriate);
- Consider opportunities to temporarily or permanently amend hours or duties;
- Consider opportunities to introduce other workplace adjustments;
- Consider the likely timescale within which the employee will return to work;
- Discuss the next steps and inform the employee of the potential outcomes if their absences continue.
- Set a monitoring period to review the employee’s absence

The employee will be expected to participate in the discussion and offer their own suggestions for how they might improve their attendance.

In cases where the employee has an underlying disability, as defined in the Equality Act 2010, advice must be obtained from HR on the appropriate target and review period. Subject to the nature of the absences and the nature of the disability it may be appropriate to set a more generous target as an adjustment under the act.

Where appropriate reference should be made to other supporting policies such as work life balance and flexible working options.

Outcomes of meeting:

- A review period should be set for the employee to achieve a sustained improvement in their attendance or return to work. The sustained improvement required is for the employee to reduce their current level of sickness to below the Council’s trigger point. The monitoring period may be brought to an end earlier if the employee fails to meet the level of attendance required;
- Agree on any reasonable adjustments or forms of support that might be put in place to reduce absences;
- Advise the employee that should their attendance not significantly improve, or they are unable to return to work during the monitoring period set, then they will be subject to a Stage 2 Absence Management meeting;
- The outcome of the Stage 1 Absence Management meeting will be confirmed in writing to the employee.

Follow Up Action:

Short term absence

- A follow up review meeting must be arranged for the end of the review period. If the employee’s attendance has improved the manager should commend them on the

Long term absence

- The manager will stay in touch with the employee and review absence at the end of the review period.

improvement shown and advise that they are no longer subject to formal review.

- The manager should advise that if the employee's attendance deteriorates again, so that they exceed the trigger point in the 12 months following the successful completion of the review period they will automatically re-enter the formal process at Stage 2.
- The manager will write to the employee following the review meeting to confirm the outcome and what was discussed.
- If the level of attendance has not reached the required level and the employee will be subject to Stage 2.

**Stage 2
Absence Management
Meeting** If following the review period set at the Stage 1 Absence Management Meeting the employee fails to provide an immediate and sustained improvement in their attendance or are still absent from work, they will be invited in writing to attend a Stage 2 Absence Management Meeting.

Preparation before the meeting:

The meeting will normally be held by the Head of Service who will write to the employee and invite them to a meeting to discuss their sickness absence. A member of Human Resources should also be invited to the meeting.

The letter from the manager must:

- Require the employee to attend a meeting to discuss the matter – informing him/her of the stage of the procedure they are at;
- Give at least five days' notice;
- Set out details of the unsatisfactory attendance, including a copy of all relevant documentation, e.g. copies of return to work interview notes and Occupational Health advice;
- Refer to previous warning(s);
- Inform the employee that they have the right to bring a trade union representative or work-place companion;
- Advise that if the employee refuses or fails to attend the meeting without good reason a decision can be made in his/her absence. Managers must take advice from Human Resources in these circumstances.

The manager should ensure that the employee has been referred to OH prior to the meeting if this has not already taken place so that OH advice is available for consideration at the Stage 2 meeting.

During the Meeting:

The purpose of the Stage 2 Absence Management Meeting is to:

Short term absence

- Review and reaffirm issues previously discussed with regard to the employee's attendance;
- Review the number of and/or pattern of absences;
- Explore the reasons for the high level of absences;
- Discuss any recent OH advice;
- Identify any further areas for support;

Long term absence

- Discuss any progress or improvements in the employee's health
- Review the employee's absence to date;
- Review what steps are being taken to assist the employee back to work;
- What steps the employee and their medical advisors are taking to facilitate that process;
- Review recent OH advice (as appropriate);
- Consider opportunities to temporarily or permanently amend hours or duties;
- Consider opportunities to introduce other workplace adjustments;

- Review the efficacy of any support already provided to the employee and amend if appropriate;
- Set an improvement target and review period;
- Explain the consequences of failing to achieve the target.
- Consider the likely timescale within which the employee will return to work;
- Discuss the next steps and inform the employee of the potential outcomes if their absences continue.

The employee will be expected to participate in the discussion and offer their own suggestions for how they might improve their attendance.

Outcomes of meeting:

Short term absence

- Set a monitoring period for the employee to achieve a sustained improvement in their attendance. The sustained improvement required is for the employee to reduce their current level of sickness to below the Council's trigger point.

Long term absence

- Set a further monitoring period in order to review the employee's absence. If at the end of the monitoring period they have been unable to return to work and the prognosis is still unclear or redeployment has not been successful then they will progress to the next stage of the procedure which could lead to dismissal on the grounds of capability where an underlying medical condition is identified.

- Agree on any further reasonable adjustments or forms of support that might be put in place to reduce absences
- Decide whether to utilise the option of requesting the employee to produce a GP's Fit Note from the first day of each period of sickness absence during the monitoring period any cost will need to be reimbursed by the Council.
- Advise the employee that if there is no improvement within the review period the employee will be required to attend an Absence Management Meeting at Stage 3 of the procedure the outcome of which could be dismissal.
- The outcome of the Stage 2 Absence Management meeting will be confirmed in writing to the employee (template letter available from HR)

Follow Up Action:

Short term absence

- A follow up review meeting must be arranged for the end of the review period. If the employee's attendance has improved the manager should commend them on the improvement shown and advise that they are no longer subject to formal review.
- The manager should advise that if the employee's attendance deteriorates again, so that they exceed the trigger point in the 12 months following the successful completion of the review period they will automatically re-enter the formal process at Stage 2.

Long term absence

- The manager will stay in touch with the employee and review absence at the end of the review period.

- The manager will write to the employee following the review meeting to confirm the outcome and what was discussed.
- If the level of attendance has not reached the required level and the employee will be subject to Stage 3.

**Stage 3
Absence Management
Meeting**

If following the review of Stage 2 the employee still fails to provide a sustained improvement in their attendance or return to work, they will be invited in writing to attend a Stage 3 Absence Management Meeting to discuss the way forward the outcome of which may be dismissal.

Preparation before the meeting:

The manager will write to the employee and invite them to a meeting to discuss their sickness absence. The meeting will need to be chaired by a Corporate Director and a member of HR must also be in attendance.

The letter from the manager must:

- Require the employee to attend a meeting to discuss the matter – warning that a possible outcome of this meeting is dismissal;
- Give at least five days' notice;
- Set out details of the unsatisfactory attendance, including a copy of all relevant documentation, e.g. copies of return to work interview notes and Occupational Health advice;
- Refer to previous warning(s);
- Inform the employee that they have the right to bring a trade union representative or work-place companion;
- Advise that if the employee refuses or fails to attend the meeting without good reason a decision can be made in his/her absence. Managers must take advice from Human Resources in these circumstances.

A Human Resources representative must be present at the Stage Three meeting. His/her role is to advise the Director on correct procedures and attendance management measures, but the Director makes the final decision on any attendance management measure that may be applied.

During the Meeting:

Short term absence

- The Director chairing the meeting will consider whether, having reviewed the information presented, there are any further actions that the Council can take to assist the employee in improving their attendance and thereby continuing in employment;
- The employee will be given the opportunity to present their case and any mitigating circumstances;
- Others involved such as the line manager may also be asked to provide information on what steps have been taken to improve the employee's attendance.

Long term absence

- The Director chairing the meeting will consider whether an employee is able to continue in employment and all reasonable alternatives to retain the employee in work have been considered;
- The employee will be given the opportunity to give an explanation as to why their attendance has not improved and any mitigating circumstances;
- Others involved in managing the absence such as the line manager may also be asked to provide information on what actions have been taken.

When reaching a decision about whether or not to terminate employment the Director will consider issues such as:

Short term absence

- Operational needs of the service and the need for the work to be undertaken;

Long term absence

- How long the employee has been absent;
- The nature of the incapacity;

- The impact of the employee's absence and ill health on other employees and service delivery;
- The employee's absence record;
- Financial and cost implications;
- Representations made by the employee and their representative
- What actions have been taken to attempt to enable the employee to continue in employment;
- What if any consideration has been given to alternative duties on either a temporary or permanent basis
- Medical advice received.
- The likelihood of a return to work in the near future;
- The operational needs of the service and the need for the work to be undertaken;
- The impact of the employee's absence and ill health on other employees and service delivery;
- Financial and cost implications;
- Representations made by the employee and their representative;
- What steps have been taken to attempt to enable the employee to continue in employment;
- What, if any, consideration has been given to alternative duties on either a temporary or permanent basis;
- Medical advice received.

The above lists are not exhaustive and the weight attached to each issue will depend upon the circumstances of the case. It will be the responsibility of the Director in making the decision to balance both the needs of the employee and the requirement for effective delivery of Council services.

Outcomes of meeting:

Short term absence

- If the Director concludes that the employee is to be dismissed for short term persistent absence the dismissal will be linked to the employee's inability to attend work to an acceptable standard
- If the Director decides that dismissal is not appropriate a further review period and targets should be set.

Long term absence

Following due consideration of the information provided at the Stage 3 Attendance Meeting the Director may consider any of the following actions:

- A further period of review whilst the employee's absence continues to be supported/managed, before the convening of another meeting at stage 3 of the procedure;
- Retirement on the grounds of ill-health (this can only be considered if supported/recommended by Occupational Health Physician);
- Dismissal on the grounds of capability due to ill health

Follow Up Action:

- The outcome of the Absence Management Hearing will be confirmed in writing to the employee.

Right of Appeal (see section 14)

Employees have the right of appeal against the decision of the hearing officer following each of the formal stages of the Absence Management Procedure.

Appeals must be submitted in writing within 10 working days of receipt of the written outcome of the hearing clearly stating the grounds for appeal to the Head of Business Support.

Appeals against dismissal will be heard by the Employment and Appeals Panel.



Employee Training and Development Policy

November 2018

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1. Statement of Intent

- 1.1 Wyre Council are committed to ensuring that all staff have the necessary experience, skills, knowledge and competence required to enable them to do their job effectively.
- 1.2 Our policy is therefore to develop the overall competencies of all staff to ensure that we have a flexible and change ready workforce that it continues to achieve high standards and provide quality, value for money services to the people of Wyre.
- 1.3 Employee development refers to the progression of an individual's potential and career in terms of knowledge, skills, personal abilities, competencies and understanding to support the council's corporate objectives and priorities set out in the Business Plan. It should embrace a wide range of learning experiences, both within and outside the council and is a continuing process that can help individuals to:-
- Improve their performance to achieve objectives
 - Identify and develop their potential
 - React positively to change
 - Increase their job satisfaction
 - Improve their self-confidence, motivation and initiative.

2. Principles

- 2.1 The Council is committed to equal opportunities and therefore all staff will have equal access to, and opportunity to participate in, the Council's training and development provision.
- 2.2 The key approach of the Council is that training and development is needs-driven and not provision-driven to ensure that the development provided is appropriate to the needs of the individual, the service and the organisation.
- 2.3 Staff training and development needs will primarily be identified through the Council's Induction Programme and Performance Appraisal Scheme - My 1-2-1. However, identifying training needs will also be an on-going process at all levels of the Council.
- 2.4 Staff training and development can be achieved through a variety of methods and interventions such as; on-the-job training and development, workshops, self-directed study, participation on courses, seminars, or conferences, undertaking a vocational or professional qualification, secondment, work placement, work shadowing, coaching, mentoring etc.
- 2.5 The investment in training and development will be evaluated at all levels to assess achievements; development measured against competencies and future effectiveness. All line managers undertake a formal evaluation of the effectiveness of the training and development of individual staff as part of the annual performance appraisal process.

3. Responsibilities

3.1 Training and development is the responsibility of all Council staff and in particular:

3.1.1 **Corporate Management Team and Senior Leadership Team for:**

- promoting a climate of continuing learning and development
- allocating an appropriate level of resources to fund training and development activities
- identifying annual organisational priorities to which training and development can be aligned.

3.1.2 **Line managers and supervisors for:**

- actively promoting the Council as a learning organisation
- identifying staff training and development needs
- facilitating access to staff development opportunities
- assessing the effectiveness and performance gain from staff development.

3.1.3 **Employees for:**

- participating in performance appraisal meetings and taking responsibility for identifying areas where their work might be developed
- attending all training and development opportunities
- applying their learning in their work
- assessing the value of the training and development courses they undertake.

3.1.4 **Human Resources Team**

- Developing an annual organisational training programme to meet individual and organisation needs.
- Designing or commissioning appropriate training to deliver this programme.
- Assisting with the evaluation of the effectiveness of the training and development opportunities provided

4. Eligibility for Training

4.1 Staff with permanent, temporary or fixed term contracts may apply for course / study leave. Approval will be given on the basis of the appropriateness and relevance of the training to the individual and the business needs of the Council. Training will be prioritised in levels as follows:

1. Statutory and Mandatory training
2. Training identified in a Personal Development Plan
3. Training to support organisational development
4. Training to support employee development / career progression.

5. Resourcing Training and Development

5.1 A central training budget is held by the Head of Business Support, which covers training such as technical training, short courses (e.g. seminars, conferences, workshops),

professional programmes of longer term study (usually towards a qualification) or internal programmes to meet corporate organisational needs. The latter may include:

- statutory training
- Health & Safety
- Management training and development
- Information and skills to meet new targets, initiatives and policy developments
- Any knowledge or skills that are required by a significant proportion of employees.

5.2 The level of funding given for each training/study leave application will be at the discretion of the Head of Service in consultation with human resources.

5.2 Where a course is related to, but not essential for the delivery of a service / job but offers scope for personal, professional and career development it is possible that the applicant may be asked to make a contribution to the cost.

6. Individual Financial Support

6.1 All staff who follow a course of study (including professional qualification or training event) will be expected to complete the course and should make appropriate formal application to ascertain approval and financial commitment.

6.2 Allowable Costs

Once approval to study is given, employees are entitled to financial assistance as follows:

- Tuition/course fees
- Registration fees
- Examination fees
- Reasonable expenditure on books and other essential equipment up to a maximum of £60 (All items purchased will remain the property of the Council)
- Travelling expenses in line with current Financial Procedures
- Reasonable costs for accommodation in line with current Financial Procedures

6.3 Re-imbusement of Professional Subscriptions

Where there is a requirement to join a professional association to undertake a qualification course, the Council will reimburse subscriptions for the duration of the course, however, once qualified it is the employee's personal responsibility.

6.4 **Re-sitting of examinations** Any costs incurred with resitting of examinations should normally be met by the individual employee. (The Service Director may approve payment in exceptional circumstances)

7. Repayment of Training Expenses

7.1 Where an employee is required to attend a course, conference or seminar as an essential part of their job they will not be required to pay back any financial assistance. However it is not in the Council's interests to invest valuable resources in individual training that is not subsequently reinvested in the organisation.

- 7.2. Where funding is granted for an individual to pursue a professional qualification or training course that has significant personal value to them, they will be required to enter into an agreement to repay the cost of that training / course should they leave the authority whilst undertaking the training or within two years of the qualification being obtained unless:
- the courses is externally funded
 - the employee is facing redundancy or ill health retirement
- 7.3 These courses will be identified in advance by the Head of Business Support in liaison with the relevant Service Director and all staff applying for these courses will be required to confirm their agreement to repay prior to enrolment.
- 7.4 The Council also retains the right to reclaim the costs incurred if a member of staff fails to show satisfactory progress in study or discontinues the course.
- 7.5 Re-claims will be made on the basis of 100% if the employee is part way through the course or just qualified with a rebate of 1/24 for each month completed since qualifying.
- 7.6 All repayments will include fees and expenses but will exclude salary paid in respect of the time spent on the study.

8. Entitlement to Time Off for Training

8.1 Training Course Attendance

Paid time off will normally be given for the time spent attending approved training events/courses when the member of staff would otherwise have been on duty. Staff should make clear the number of days they are required to attend for tuition on their application form.

- 8.2 Where the training event/course is not compulsory, the Head of Service in consultation with human resources may wish to compromise on the number of paid days off allowed.
- 8.3 Part time staff who take part in training events that exceeds their daily contracted hours, will be paid up to the full-time hours for that day, or, alternatively, it may be agreed that time off in lieu is given.
- 8.4 Members of staff who have to attend a training event which results in the employee's travelling and training event attendance time going over and above the normal daily hours, may claim time up to a maximum 11.15 hours for that day.
- 8.5 For day release and professional qualification courses it is not the Council's policy to pay a member of staff for hours spent on college days that exceed the average daily hours. Therefore, if a member of staff attends college for a full day, they are entitled to have 7.24 maximum (pro rata for part time staff) credited to their clock. If they attend college for an afternoon and evening, they are entitled to be credited for their normal afternoon hours (for full time staff this will be 3.42 maximum, for part time staff it will be the hours they would normally have worked that afternoon). The maximum of 11.15 does not therefore apply.

- 8.6 Where a training event/course has been approved which includes compulsory attendance at a residential school, the employee is entitled to their normal days' pay.
- 8.7 Where the residential school covers a weekend the employee is expected to attend in their own time as commitment to the course and they will not be entitled to any credit on the clock.
- 8.8 Paid time off can also be given to complete work based/service improvement projects which form part of a study programme, subject to approval by the appropriate Line Manager.

8.9 Distance Learning

Where training is undertaken on a distance-learning basis the employee does not receive any time off for day release. Therefore a number of paid days off will be offered depending on the requirements of the course. Up to fifteen working days per annum may be allowed dependent on the likely duration of the course, (including any days allowed under associated training events/residential school and study leave subject to 8.7 above).

The number of anticipated days off required must be stated on first booking the course and any time off should be agreed with the Head of Service in consultation with HR prior to booking and included on the training agreement form

8.10 Study Leave and time off for examinations

Leave will be granted with pay for employees undertaking qualification training for final revision purposes for all exams.

This will be in accordance with the length of the examination, i.e. half day examination = half day leave.

Study leave is granted at the discretion of the Head of Service, and is allocated in the same way as examination leave but is subject to a maximum of five days.

Study leave will normally be taken during the period of two weeks prior to the exams

Re-sits must be undertaken in a member of staff's own time

9. Entitlement to Time Off for Training (not endorsed by the Council)

9.1 Whilst the Council is committed to support the vast majority of training requests employees are entitled to request time off without pay for training provided they have twenty six or more weeks' continuous service.

9.2 Approval is more likely if (but not exclusively):

- The training enhances the employee's own performance and that of the business
- The nature of the training could lead to an accredited or recognised qualification or it could improve skills that are relevant to the role of the employee
- There is minimal impact on the remaining staff and the service provided.

- 9.3 The council is not bound to offer payment covering any fees or expenses incurred by the employee studying under this entitlement.

10. Evaluation

- 10.1 The investment in training and development will be evaluated at all levels to assess achievements; development measured against competencies and future effectiveness.
- 10.2 Evaluation will encompass:
- Reaction – “happy sheets” at the time of or immediately following training
 - Learning – post 6 months from training event to assess how effective learning has been on working practice
 - Behaviour – assessment against competencies through appraisal process
 - Results – targets met and outcomes.
- 10.3 To ensure equality of opportunity relevant data will be gathered and this will be monitored to ensure that opportunities are being accessed.
- 10.4 Evaluation will need to demonstrate a clear benefit to the overall requirement to improve individuals’ performance and ultimately improve services to the people of Wyre.

11 Equality Impact Assessment and Monitoring

- 11.1 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.

12. Data Protection

- 12.1 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.



DIGNITY AT WORK

Updated November 2018

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1. Policy Statement

- 1.1 Wyre Council is committed to providing a working environment where all employees are treated with dignity and respect, and are valued for the different skills and abilities that they bring into the workplace. The Council will not tolerate its employees being treated in a way that they find unwanted or unacceptable through harassment, bullying, victimisation or discrimination either by another employee or a third party.
- 1.2 The Council values the contribution that all of its employees make to the provision of quality services. We recognise that such a contribution is most effective in conditions which are free from unnecessary anxiety, stress and fear, and where employees are able to work in an atmosphere which values them as individuals.
- 1.3 Unwanted or unacceptable treatment can take many forms - verbal, non-verbal or physical. Whatever its form, the employee has the right to have it stopped and the Council will take all steps possible to ensure such incidents are treated seriously, responsibly, fairly and in confidence. In addition the Council will ensure employees are aware of the types of behaviour that could be unacceptable to others.

2. Breaches of the Dignity at Work Policy

- 2.1 The council will take appropriate disciplinary action, including dismissal for serious offences, against any employee who breaches this Dignity at Work policy. This includes any employees who make what are later, after investigation, found to be malicious claims.
- 2.2 In addition, we will not tolerate victimisation of employees for making allegations of bullying and harassment in good faith, or for supporting someone who makes such allegations. Victimisation is a disciplinary offence.
- 2.3 It should be remembered that bullying and harassment can, in some circumstances, be considered to be a criminal offence, and that any employee found guilty of such could be held personally accountable for their actions under criminal law.

3. Scope

- 3.1 The principles outlined in this policy apply to all employees including those engaged by the council in the capacity of an interim, agency staff or consultant, along with external companies engaged as contractors.
- 3.2 This policy is not intended to deal with one-off incidents of verbal or physical abuse by members of the public towards an employee. However it is important that employees report such instances to their Managers and

complete an 'Incident Report Form' so that steps can be taken to ensure such behaviour is not repeated.

- 3.3 During the course of employment there may be occasions when a manager needs to make constructive and justified criticism of an individual's performance. This would not be considered bullying or harassment for the purpose of this policy, but instead would be recognised as a legitimate management role intended as a measure to improve an individual's overall performance. Such comments must remain professional, concentrate on the performance of the individual in relation to their work or attendance at work and not become personal in any way.

4. Purpose

4.1 The purpose of the Dignity at Work policy is:

- To ensure that employees are aware of the types of behaviour which are unacceptable so that they can take steps to ensure that such conduct does not occur.
- To give employees who are harassed, bullied, victimised or discriminated against both informal and formal routes to bring such treatment to an end.
- To ensure that anyone accused of such behaviour is treated fairly, quickly, sensitively and appropriately.
- To inform, guide and encourage employment practices which promote the right to be treated with dignity and respect.

4.2 The procedures that support the policy are intended to provide assistance to employees who have been harassed, bullied, victimised or discriminated against, to ensure a fair investigation of any such claim is undertaken and to promote a positive resolution for all concerned.

5. What is Bullying and Harassment?

5.1 Harassment

Harassment is defined by the Equality Act 2010 as '*unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating and intimidating, hostile, degrading, humiliating or offensive environment for that individual*'.

Protected characteristics under the Act are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

Incidents may be persistent or isolated, the key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

5.2 **Bullying**

Bullying is not specifically defined in UK law but ACAS advice says that bullying *'may be characterised as: Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means which, undermine, humiliate, denigrate or injure the individual or group of employees.*

This kind of conduct is usually sustained.

5.3 **However bullying is not:**

- legitimate and constructive criticism of an employee's performance
- an occasional disagreement between two people
- momentary loss of temper which an individual regrets and apologises for

5.4 **Harassment and Bullying Behaviours**

Harassment and bullying may be against one or more persons and may involve single or repeated incidents ranging from extreme forms of intimidating behaviour, such as physical violence, to more subtle forms such as ignoring someone. It can often occur without witnesses and takes place in face-to-face interactions as well as online. Examples include:

- unwanted physical contact
- unwelcome remarks about a person's age, dress, appearance, race or marital status, jokes at personal expense, offensive language, gossip, slander, sectarian songs and letters
- posters, graffiti, obscene gestures, flags, bunting and emblems
- isolation or non-cooperation and exclusion from social activities
- coercion for sexual favours
- pressure to participate in political/religious groups
- personal intrusion from pestering, spying and stalking
- failure to safeguard confidential information
- shouting and bawling
- setting impossible deadlines
- persistent unwarranted criticism
- personal insults

The effect of this conduct can leave the recipient feeling upset, threatened, humiliated or vulnerable and undermines his/her self-confidence. This can lead to accidents, absenteeism, stress, poor performance, an apparent lack of commitment and employees leaving. It can also lead to poor behaviour on the part of the employee in retaliation.

5.5 **Other Definitions relevant under the Policy**

5.5.1 **Discrimination**

Less favourable treatment 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).

5.5.2 **Victimisation**

Less favourable treatment as a result of having undertaken action against the Council or one of its employees.

5.6 See also Appendix 1 and 2 for further examples of what can be seen as forms of bullying and harassment

6. Supporting Policies and Legislation

6.1 There is a body of legislation that refers to discrimination and harassment at work. Failure to deal effectively with allegations or incidents may lead to legal action against the Council as well as individual employees. The Council has a legal responsibility to ensure a healthy and safe working environment that is free from unlawful discrimination.

6.2 This policy also has links to the following:
Equal Opportunities Policy
Whistleblowing Policy
Grievance Policy
Disciplinary Policy
Employee Code of Conduct
The Members' Code of Conduct and the Protocol on Member/Officer Relations.

6.3 Where an employee believes/complains that a Member's behaviour is unacceptable, he or she may raise the issue using this procedure and attempts will be made to deal with it through the informal routes. However, the only formal route is for the employee to submit a complaint to the Wyre Council Monitoring Officer. The mechanism to do this can be obtained from the Monitoring Officer.

7. Roles and Responsibilities

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

- set a good example by treating all staff and customers with dignity and respect

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- be fully conversant with this policy and the procedures for dealing with complaints and to ensure that staff are also aware of them
 - implement this policy promptly and consistently and to make every effort to ensure that unwanted, unreasonable and offensive behaviour does not occur
 - recognise that staff affected by bullying or harassment may be reluctant or nervous about complaining, could fear reprisal or be worried about damaging their career prospects
 - treat each complaint seriously, sensitively and confidentially
 - ensure that there is no intimidation, victimisation or unfair treatment against any employee who has complained of, or assisted with the investigation into an allegation of bullying or harassment.

7.2 If a manager is aware that an incident of harassment, bullying, victimisation or discrimination has occurred s/he should not wait for an employee to submit a complaint but should deal with the matter through the disciplinary procedure and deal with it like any other issue of misconduct.

7.3 Persistent or serious failure on the part of managers or supervisors in this respect can, in certain circumstances, give rise to action being taken against them under the capability and/or disciplinary procedure.

7.4 **It is the responsibility of the Human Resource Team to:**

- ensure compliance with the policy and its supporting legislation
- provide advice, support and guidance to all parties on the application of the policy
- regularly review and monitor the effectiveness of the policy
- ensure that staff affected have the support they require to deal with their situation

7.5 **It is the responsibility of the Investigating Officer to:**

- be fully conversant with the Dignity at Work Policy and its supporting procedures including the grievance, disciplinary and equal opportunities policies
- conduct a thorough and impartial investigation
- prepare a clear, accurate and unbiased report for consideration by the Director.

7.6 **Employees**

Differences in culture, attitudes and experience, or misinterpretation of social signals, can mean that what is perceived by the person experiencing the

behaviour as bullying and harassment, may be perceived by others as normal. Employees should be aware that they may need to modify their behaviour in response to the feelings and sensitivity of others.

7.7 It is the responsibility of employees to:

- ensure that their own standards of conduct do not cause offence
- ensure that they avoid any behaviour which has been brought to their attention as causing offence
- discourage inappropriate behaviour by others by making it clear that they find their actions unacceptable
- support colleagues who are being bullied or harassed and to encourage them to deal with their concerns in accordance with this policy.

7.8 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. It should also be noted that the inaction of a witness, particularly one in a more senior role, could be construed as silent agreement or support for the alleged bully or harasser.

7.9 Acts of discrimination, harassment, bullying or victimisation will be dealt with under the Council's disciplinary procedure. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.

8. Procedures

8.1 General

Any employee who feels that s/he is being subjected to behaviour which undermines his/her dignity should let his/her objections be known, otherwise the person engaging in the unwelcome behaviour may be unaware of the effects of his/her actions.

They may choose to do this by:

- raising the matter directly (verbally or in writing) with the person whose behaviour has caused the complaint:
- informing their line manager / appropriate manager and asking them to intervene.

8.2 Before deciding what course of action, if any, to take, the employee may wish to discuss the matter on a confidential basis with their line manager, a Human Resources Advisor or their trade union representative.

8.3 It has to be emphasised that in order to maintain working relationships, matters should be dealt with by informal intervention wherever possible.

9. Informal Procedure

9.1 Approach the Alleged Offender Directly

In many cases raising the matter with this person and pointing out that his/her behaviour is unacceptable, may be sufficient to bring it to an end.

The employee may find it helpful to rehearse what s/he intends to say to the person concerned so that s/he feels more confident about initiating the discussion and articulating the precise nature of the offending behaviour and its effects.

9.2 The complainant should make the alleged offender aware of the following:

- What behaviour is upsetting them
- What harmful effects this behaviour is causing
- That they will keep a diary of any further incidents
- That, unless the bullying / harassment stops, the complainant will initiate further informal or formal procedures

9.3 Alternatively, the complainant can write directly to the alleged offender detailing the offensive behaviour and confirming the requirement to stop any further bullying or harassment.

9.4 The complainant should keep a record of any informal action taken, along with a note of the date and what was said by those involved. This is necessary should evidence be required at a later date if the bullying or harassment continues or subsequently recurs.

9.5 Intervention of a Line Manager / Appropriate Manager

Where the employee is not confident about approaching the alleged offender or where a direct approach has not resolved the matter, s/he should request the intervention of a manager.

9.6 The manager should establish the precise nature of the offending behaviour and the context in which it occurred and consider:

- the perception of the complainant, as harassment is often felt differently by different people
- could what has taken place be reasonably considered to have caused offence?
- whether the offending action amounts to inappropriate behaviour and if so was the action intentional
- whether disciplinary action may be appropriate.

9.7 In some cases the employee may wish to discuss the complaint on a strictly confidential basis without any immediate intervention on the part of the

manager. In these circumstances the manager should be vigilant and intervene if s/he observes any inappropriate behaviour.

- 9.8 If the employee asks the manager to approach the alleged offender on his/her behalf, the manager should undertake to speak with the person concerned as soon as possible.
- 9.9 Where appropriate the manager should attempt to resolve the matter in an informal and non-confrontational manner and avoid labelling the person as a bully/harasser but explain the nature of the complaint and give the alleged offender the opportunity to respond.
- 9.10 Unless the alleged offender disputes the allegation or the informal procedure reveals that a serious problem exists (in which case the manager should seek advice from Human Resources) s/he will continue on an informal basis to:
- impress upon the offender that his/her behaviour is causing distress to the employee
 - outline the possible repercussions of engaging in this behaviour
 - obtain a commitment from the offender that the behaviour will not be repeated
 - ensure that the offender is aware of what is expected of him/her in future
 - identify training issues and review work practices as necessary .
 - arrange a meeting between the parties involved in order to try and seek reconciliation (subject to the complainant's agreement).
- 9.11 If a resolution is found the matter may end there, however the situation should be monitored to ensure that there is no recurrence and a record should be made of all action taken.
- 9.12 Should the informal approach prove unsuccessful, the complaint should be referred to human resources who may recommend mediation or progression to formal procedures.

10. Mediation

- 10.1 Mediation can be used where initial discussions have failed to resolve the matter satisfactorily. Both sides must agree to mediation and either side has the right to withdraw during the process. If mediation does not resolve the issue then the complainant has recourse to the formal procedure.
- 10.2 If the complainant wishes to use mediation this should be raised with their line manager, trade union representative or with Human Resources who will ensure this option is explored. Human Resources will determine whether an internal or external mediator should be used.

- 10.3 A mediator would facilitate discussions between the two parties to try and bring about a resolution. . Where appropriate an agreement or shared action plan will be sent to both parties.

11. Formal Procedure

- 11.1 If the matter is unresolved through the informal procedure or mediation, or if after consultation with Human Resources the matter is considered to be too serious to be dealt with informally, the complainant (or the complainant's representative) should be advised to make a formal complaint to the Head of Business Support.
- 11.2 The complaint should include the name of the alleged offender, dates of any incidents, witnesses and details of any informal action already taken. The complaint will be acknowledged in writing within five working days of receipt.
- 11.3. In extreme circumstances, depending on the seriousness of the offence, the alleged offender may be suspended on full pay in accordance with provisions of the disciplinary procedure.
- 11.4 The Service Director will appoint an independent investigating officer in consultation with Human Resources. The investigation officer may be accompanied by a member of human resources in certain circumstances (normally serious/complex situations).

12. Conducting the Investigation

- 12.1 Once the investigating officer has been nominated he/she will meet with the complainant and after taking advice from Human Resources, will make a decision as to how the investigation should progress. Where it is apparent that the complaint is unlikely to fall within the definition of bullying, harassment or sexual harassment human resources will advise the complainant that it may be more appropriate to deal with the matter under the grievance or disciplinary procedure. In any event a full investigation will be required and the investigation officer will be guided by which ever policy is deemed to apply.
- 12.2 **Investigating Process - Complaints of bullying and harassment**
- The investigation should begin as soon as is practically possible and aim to be completed normally within one month. All parties will be kept informed if the investigation continues beyond this timescale.
- 12.3 All parties will have the right to be accompanied by a trade union representative or work colleague throughout all stages of the investigatory process and subsequent meetings under the formal procedure.
- 12.4 Confidentiality must be very strictly respected and information limited to those who have a need to know (and limited to no more than they need to know).

The investigating officer will therefore ensure that all parties are made aware that the content of the investigation is confidential.

- 12.5 If the two parties work together consideration will be given as to whether arrangements could be made to separate them during formal investigations. If this is not possible consideration should be given to other arrangements e.g. working from home or a change of location.
- 12.6 The investigator(s) will conduct separate interviews with the complainant and the alleged offender with a view to establishing the facts surrounding the allegations.
- 12.7 The alleged offender must be given at least 5 working days' notice that they need to attend an investigatory interview.
- 12.8 The principles of natural justice require that the alleged offender is fully aware of the complaint or allegation being made, and has the opportunity to respond to the complaint. S/he must therefore be informed in writing of the nature and details of the complaint prior to the first meeting.
- 12.9 Notes of interviews should ideally be agreed and signed by the interviewee. If for any reason it is not possible to agree the record, any points of dissent should be noted.
- 12.10 Any witnesses should also be called for interview and signed statements taken as appropriate.
- 12.11 Both the complainant and the alleged offender will be given a copy of the investigation report and will be advised *in writing* that they may submit any comments on the report within 10 working days.
- 12.12 On completion of the investigation, the investigator(s) will submit a written report to the Service Director and the Head of Business Support.

13 Outcomes

- 13.1 The Service Director will in consultation with Human Resources consider all the facts (requesting further information from the Investigator(s) if necessary) and make one of the following decisions:-

- 13.2 **No case to answer**

The Service Director will meet with both parties involved and discuss justification for the decision.

- 13.3 **Case to answer – Resolution, but no formal disciplinary action**

The Service Director will confirm the outcome to both parties. A meeting will be held (giving 5 days' notice) at which both parties will be expected to attend,

together with their representatives if required. The meeting will discuss ways in which the conflict can be resolved and the steps which need to be taken to achieve this.

The relationship between the two parties will be discussed fully and openly and the offender will be required to commit to stop the unwanted behaviour. Both parties will be given the opportunity to recognise and address areas of development.

13.4 Case to answer - Disciplinary action appropriate

The Service Director may find recourse in the Disciplinary Procedure where it is felt that the situation is serious enough to merit this. When this happens, it may not be appropriate to conduct a meeting with both parties present at the same time. In which case the Service Director will conduct separate meetings in the first instance. The offender will be required to commit to stop the unwanted behaviour immediately and further resolution or mediation meetings will be arranged as appropriate.

13.5 Where it has been decided to follow a disciplinary process, care must be taken not to cause further stress and worry. The bullying and harassment investigation report will be used for the disciplinary process and the Investigation Officer will present the case to the Hearing Officer. This will help to prevent individuals having to go over their evidence, and therefore re-visiting the cause of their distress, more than is absolutely necessary.

13.6 Where a serious complaint is upheld and the complainant has indicated that they would rather move than remain in post this should be considered. In this circumstance the principles of redeployment will be followed.

13.7 Where the complaint is not upheld no record of the investigation will be kept on the personal file. However consideration will need to be given as to whether the parties can continue to work together and consideration may need to be given to offering individual counselling or mediation at this stage.

13.8 Right of Appeal

The complainant has the right of appeal to the Employment and Appeals Panel if dissatisfied with the outcome or resolution to the complaint. The grounds for the appeal should be stated in writing to the Head of Business Support within 10 working days of receipt of the decision.

13.9 Victimisation

Individuals who retaliate against an employee for making a complaint using this procedure will be dealt with under the Disciplinary Procedure.

13.10 **Deliberately false or malicious allegations**

If, at the conclusion of the investigation, a complaint is found to be deliberately false and malicious the matter will be dealt with under the Council's Disciplinary Procedure.

14. **Support**

- 14.1 Management support and guidance will be offered to all parties (including witnesses) to support them throughout the process, and whilst this is not compulsory it is highly recommended.
- 14.2 In some circumstances formal counselling may be appropriate and this will be arranged following advice from the Occupational Health Advisor.
- 14.3 In some circumstances an individual involved in the complaint may feel that they cannot continue to work in their substantive post during the course of the investigation. In this circumstance temporary redeployment may be requested but the investigating officer in conjunction with Human Resources will make the decision as to the appropriateness of this action.
- 14.4 In serious cases the alleged harasser may be suspended in accordance with the Disciplinary Procedure.
- 14.5 If an individual has sickness related absence prior to or during an investigation this will be managed in line with the Promoting Attendance, Controlling Absence Procedure.

15. **Equality Impact Assessment and Monitoring**

- 15.1 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.

16. **Data Protection**

- 16.1 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.

Harassment and Bullying – Guidance with examples

Harassment

Harassment occurs when someone engages in unwanted conduct which has the purpose or effect of violating someone else's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

If a person engages in unwanted conduct with the purpose of violating someone's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment then it amounts to harassment irrespective of its actual effect on the person.

However, in some cases, conduct which is intended to be friendly could also amount to harassment. Even if there is no intention to create one of the negative environments described above, conduct will amount to harassment if it has the effect of creating such an environment.

When deciding if conduct has such an effect, each of the following must be taken into account:-

- **the perception of the complainant**
- **the other circumstances of the case**
- **whether it is reasonable for the conduct to have that effect.**

Example

An employee with learning disabilities is teased by colleagues who tell him to go to the stores and ask for non-existent items such as a "long weight". Other new employees have been through the same sort of teasing and shared the joke but this worker finds it humiliating and upsetting.

The Equality Act 2010 protects against three particular types of harassment:-

- harassment related to the protected characteristics of race, disability, gender, gender reassignment, age, sexual orientation and religion or belief
- sexual harassment
- less favourable treatment of an employee because s/he submits to or rejects sexual harassment or harassment related to sex or gender reassignment.

Unwanted conduct can include any kind of behaviour, including spoken or written words or abuse, imagery, graffiti, physical gestures, facial expressions, mimicry, jokes, pranks, acts affecting a person's surroundings or other physical behaviour.

Examples include:-

- Threats or insults
- Offensive or suggestive comments, including those by phone, text, on social media etc.
- Unwanted attention, including leering and touching or personal intrusion from pestering/spying/stalking
- Mimicking someone's accent
- Using derogatory or informal slang about people's characteristics
- Pressure for dates
- Offensive jokes or teasing, including those sent by text or email
- Offensive gestures or looks
- Display of offensive posters, photos or graffiti
- Circulating offensive or suggestive letters or e-mails
- Posting offensive messages on blog sites or websites
- Using a mobile phone to film, photograph or record someone
- Asking intrusive questions about someone's personal life
- Gossiping about colleagues with other people
- Physical assault
- Failure to safeguard confidential information

A single act of harassment which is sufficiently serious can lead to a complaint – harassment should always be considered in terms of the impact it has on an individual.

Examples

Repeated jokes swapped across the office over a number of weeks about Muslim people and Islam, even if there is no malicious intent and they are not directed at anyone, could be viewed as harassment to a worker who is not known to be Muslim.

A group of workers exclude a Muslim colleague from the staff room during a break on the grounds that “you might be carrying a bomb”. This could be harassment even if it only happens once, and was intended as a joke.

Harassment can be said to be related to a protected characteristic if the person being harassed has that protected characteristic or if there is any connection with that protected characteristic.

Examples

Where women in an office are referred to as dumb blondes, dollybirds or floozies an individual woman may be able to establish that she has been subjected to unwanted conduct.

An employee, A, who has a disabled child has to work alongside a colleague, B, who expresses the view that disabled people are given far too much favourable treatment by society. B continually and unfairly criticises the work of a third colleague, C, who is disabled. Although B does not know that A has a disabled child and his criticisms are aimed at C, this could amount to harassment of A because it is related to a protected characteristic.

Harassment occurs even if the person harassed does not have the characteristic – a person might be perceived wrongly to have the characteristic, or be harassed because of their association with someone who has the characteristic such as a family member, carer, friend, or partner.

Example

A male worker who is very youthful is called “sonny” by his manager is frequently asked if he has started to shave, and is subjected to other banter implying that he is not yet an adult. Although the manager knows that the worker is in fact an adult and the banter may be genuinely funny rather than offensive, this may amount to harassment related to age.

Protection is also provided where someone is subjected to harassment related to a protected characteristic even where it is known that they do not have that characteristic.

Example

If an employee is subjected to homophobic banter and name calling, even though his colleagues know that he is not gay and he is aware that they know he is not gay, this may amount to harassment related to sexual orientation.

Any conduct does not have to be directed at the complainant – it will still be unlawful if it is related to a protected characteristic, and has the purpose or effect of violating a person’s dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

Example

If a trainer makes comments of a sexual nature to a mixed audience this may amount to harassment where it creates a humiliating or offensive environment for a person in the audience.

Bullying

Bullying can be obvious, or it can be subtle and insidious. Examples taken from both types of behaviour include:

- Malicious rumours and allegations, including fabricating complaints from clients and other members of staff
- Open aggression, threats, shouting, abuse and obscenities, persistent negative attacks or persistent unwarranted criticism
- Sending aggressive emails (avoid CAPITALS – they have the same impact and effect as shouting!).
- Humiliation, criticism and ridicule, belittling efforts and undervaluing contribution
- Undermining professional status
- Withholding information, opportunities or training with the intent of deliberately affecting a colleague's performance or development
- Picking on one person when there is a common problem
- Ostracising, isolating and marginalising an individual, excluding the person from any discussion or decision making
- Unreasonably or unnecessarily removing areas of responsibility or imposing inappropriate tasks which are not in keeping with the duties and level of the post
- Insulting or offensive remarks made about your appearance, lifestyle, habits or attitudes
- Unfair allocation of work, setting unfeasible deadlines and over monitoring
- Making threats or comments about job security without foundation
- Making jokes about someone in front of others with intent to isolate them from the group, or excluding them from social gatherings
- Cyberbullying – using Information and Communications Technology (particularly mobile phones, the internet and social media) to upset someone else

It is important to note that bullying does not consist of a manager legitimately carrying out their management responsibility in a proper and reasonable manner.

What Bullying is Not

The following do not constitute bullying:

- An isolated incident of inappropriate behaviour may be an affront to dignity at work but, as a one-off incident, is not considered to be bullying, e.g. an occasional bout of anger or a conflict of views.
- Fair and constructive criticism of an employee's performance, conduct or attendance.
- Reasonable and essential discipline arising from the good management of the performance of an employee at work.
- Actions taken which can be justified as regards the safety, health and welfare of the employees.
- Legitimate management responses to crisis situations which require immediate action.
- Complaints relating to instructions issued by a manager or assignment of duties.

FORMS OF HARASSMENT

1. Race

This is offensive or hostile treatment of an individual on the basis of their race, nationality, ethnic origin, or skin colour.

Examples include: Racial abuse of a physical, verbal or prejudicial nature, racist jokes, insults, ridicule or name calling of a racist nature, the display of racially offensive written or visual material including graffiti and open hostility to black and other racial groups.

More subtle forms include: Deliberate unfair allocation of work, unequal treatment in the application of conditions of employment, unreasonable pressure to complete tasks, exclusion from conversation and normal workplace activities or social events, unreasonable withholding of permission to attend training or similar events and disproportionate monitoring of timekeeping.

2. Gender and Gender Reassignment.

This is unwanted conduct of a sexual nature, or other conduct based on gender affecting the dignity of women and men at work.

Examples include: Unnecessary touching and invasion of another person's body space, unwelcome advances, patronising comments, propositions, pressure of sexual activity, suggestive remarks, innuendoes or lewd comments, jokes of a sexual or prejudicial nature, leering or sexually suggestive gestures, unwanted comments on dress or appearance and the display of pornographic or sexually suggestive pictures, objects etc.

3. Disability

This is unfair and unwelcome treatment based on the fact that a person has a physical, sensory or mental impairment.

Examples include: Offensive patronising language, action or behaviour including jokes about disability, inappropriate comments and questioning regarding a person's impairment, the consistent or repeated failure to provide clear identified facilities or requirements in order for a person to perform his/her duties or receive an adequate support, prevention of attendance at training or similar events etc.

4. Age

Ridiculing or demeaning behaviour based on stereotypical perceptions and prejudices, about a person because of their mature age and experience (or lack of experience in the case of a young person).

Examples include: Unnecessary stipulation of age as a criteria in job descriptions, not taking a person seriously because of his/her age, unfair exclusion of people from training or promotion.

5. Sexual Orientation

Behaviour, which condemns, ridicules or excludes individuals on the basis of stereotypical perceptions of Sexual Orientation.

Examples include: Offensive jokes, ridicule or name calling, comments that are anti-lesbian or anti-gay or which stereotype lesbians or gay men, the display or circulation of offensive written or visual material, use of verbal abuse, threats or derogatory comments about people who are, or are assumed to be lesbian or gay, using intrusive questioning about a person's partnership or domestic circumstances, the systematic exclusion of lesbians or gay men from workplace activities, and unequal treatment in the application of conditions of employment.

6. HIV/AIDS

Treating somebody adversely because he/she has or it is suspected/believed that he/she has HIV or AIDS.

7. Religious/Belief

Socially unacceptable behaviour, which fails to accommodate or acknowledge the rights or needs of individuals with different and dedicated religious convictions, beliefs and practices. This may take many forms including criticising people for items worn for religious reasons, denigrating cultural festivals, or making derisory comments against an individual's beliefs.

8. Stalking

Examples include: pestering an individual, either in person or in writing or by electronic formats or on the telephone. Stalking can also involve following an individual or spying on them, alarming the recipient or causing distress and may involve violence or lead to a fear of violence.

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Chief Officers Disciplinary Policy and Procedure

(Excluding "Protected" Officers)

November 2018

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1. Aims

- 1.1 The objective of this procedure is to encourage Chief Officers to achieve and maintain appropriate and high standards of behaviour in line with the Staff Code of Conduct and to provide a fair and consistent method of dealing with allegations of misconduct.

2. Scope

- 2.1 The procedure applies to Chief Officers employed under Joint Negotiating Committee for Chief Officers of Local Authorities Conditions of Service.
- 2.2 It does not apply to the Chief Executive, the Monitoring Officer or Section 151 Officer who will be subject to a separate disciplinary procedure.

3. General Guidelines and Principles

- 3.1 In general, informal conciliation is to be preferred if it can bring about a mutually agreed solution to the problems that have arisen.
- 3.2 Any officer within the scope of this policy has the right to be accompanied by a trade union representative or work colleague at any stage of the procedure. They and/or their representative have the right to put their side of the case and to call witnesses.
- 3.3 The procedure:
- specifies who has the authority to take disciplinary actions
 - ensures that action is not taken without careful investigation
 - provides a right of appeal
 - gives clear details of time scales and any deadlines associated with the various stages of the procedure.
- 3.4 The Head of Business Support should be informed of all disciplinary concerns in order to provide advice on the employment and legal implications and attend and be involved in any part of the process as appropriate.
- 3.5 If the officer concerned is a trade union steward or representative, the Council will inform the regional office of the trade union concerned prior to commencement under this procedure.
- 3.6 At all stages in the procedure confidentiality must be respected by all the parties involved.
- 3.7 No officer will be dismissed for their first breach of discipline, unless it is a case of gross misconduct.
- 3.8 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.

4. Procedure

4.1 Pre-Hearing Action/Preliminary Investigation

4.1.1 If the problem cannot be resolved by informal conciliation, a preliminary investigation will take place to determine if a question of discipline exists.

4.1.2 The Chief Executive may determine whether or not to suspend the officer (See Section 4.2).

4.1.3 Any investigation regarding alleged misconduct by a Chief Officer will be undertaken by an investigating officer appointed by the Chief Executive.

4.1.4 The Investigating Officer will notify the officer concerned of the allegations which are being investigated and that they will be given the opportunity to make representations on their behalf.

4.1.5 The Investigating Officer may inspect any documents relating to the conduct of the officer which are in the possession of the Council or which the Council has power to authorise them to inspect.

4.1.6 The Investigating Officer may require any employee to attend an interview as part of the investigation to answer questions concerning the conduct of the officer concerned

4.1.7 The Investigating Officer will interview the officer concerned giving at least 5 working days' notice in writing of the requirement for them to attend any investigative meeting. The letter should also give them an appropriate amount of information about the allegations and their right to be accompanied by a trade union representative or work colleague at the interview.

4.1.8 The Investigating Officer will produce a report for the Chief Executive. This report will:

- state whether (and if so the extent to which) the evidence they have obtained supports any allegation of misconduct against the officer; and
- recommend whether it is appropriate for disciplinary action to be taken against the officer.

4.1.9 Where disciplinary action is recommended human resources will arrange a disciplinary hearing with the Chief Executive as the Hearing Officer.

4.2 Suspension

4.2.1 Where there is enough evidence to suggest that the officer may be guilty of gross misconduct or where the officer's continuing presence at work compromises the investigation or impairs the efficient exercise of the Council's functions, the officer will be suspended from duty.

- 4.2.2 Gross misconduct is generally defined as misconduct serious enough to destroy the employment contract between the employer and the employee and to make any further working relationship and trust impossible. (See section 8)
- 4.2.3 A Chief Officer can only be suspended on the authority of the Chief Executive. An officer will be informed in writing at the earliest opportunity stating the reasons for the suspension, who they may contact within the Council while they are suspended and that suspension will be on full pay and should last no longer than 60 days (unless there are exceptional circumstances).
- 4.2.4 It will be made clear to the officer that suspension is not a disciplinary penalty and that it will not prejudice any future disciplinary hearing.
- 4.2.5 The Investigating Officer may recommend
- that the Council terminates any suspension of the officer;
 - that any such suspension must continue after the expiry of 60 days.

4.3 Cases Involving Child Protection, Vulnerable Adults or Financial Irregularities, or Wider Issues for The Council

- 4.3.1 Any complaint involving allegations relating to child protection issues or vulnerable adults must be discussed with the designated Local Authority Designated Officer (LADO) at Lancashire County Council.
- 4.3.2 In accordance with the Financial Regulations and Financial Procedure Rules the Head of Governance must be notified of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. The Head of Governance will undertake all such investigations as are considered necessary, including notifying and liaising with the police where criminal offences are suspected. The results of the investigations will form part of any action taken under this Disciplinary Procedure.

5. Disciplinary Hearing

- 5.1 If the Chief Executive accepts a recommendation to proceed to a full disciplinary hearing this will be convened in accordance with the arrangements described below.
- 5.2 The officer must receive formal notice of a disciplinary hearing. The letter must give at least 5 working days' notice of the hearing and will include:
- confirmation that the Chief Executive will act as the Hearing Officer
 - the date, time and location of the hearing;
 - the investigation report, which will include details of the allegations;
 - any other supporting evidence and any witnesses that will be called;
 - that the officer will have the opportunity to state their case and call and/or question any witnesses;
 - that the employee will have the right to invite a trade union representative or work colleague to represent them;

- any previous warnings that could be taken into account when deciding the level of any disciplinary action;
- that, depending on its findings, the hearing could result in disciplinary action and (adding where appropriate) that this could include dismissal.
- the right to submit a written statement to the Hearing Officer.
- A request that any documents which the officer wishes to be considered and details of any witnesses s/he intends to call are provided to Human Resources at least 3 working days before the hearing.

5.3 A member of the Human Resources team or an appropriate independent employment specialist will attend with the Hearing Officer.

5.4 A model conduct of the disciplinary hearing is shown in section 9.

5.5 The Hearing Officer will be required to reach a decision and –

- may exonerate the officer; or
- state their opinion as to whether (and if so the extent to which) the evidence they have obtained supports any allegation of misconduct against the officer;
- determine the disciplinary sanction if any (see Section 6)

6. Sanctions

6.1 If, following an investigation and disciplinary hearing, disciplinary action is required, the following options are available:

6.2 **Written Warning**

A written warning may be given where:

- Informal attempts to resolve the matter have failed, or
- the matter is considered to be too serious to be resolved by informal processes

6.3 **Final Written Warning**

A final written warning may be given where:

- The officer'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 officer has committed an offence which is serious but does not warrant dismissal.

6.4 **Time limits for warnings**

Unless there are exceptional circumstances, disciplinary warnings will be disregarded for disciplinary purposes once the following periods of time have elapsed since the warning was given:

- written warnings – 12 months
- final written warnings – normally 24 months

6.5 Depending upon the nature of the misconduct, a final written warning may remain in force for a period of greater than 24 months. In this event the officer must be told at the outset and in writing how long the warning will remain in force and the reason for the longer time period. In exceptional circumstances (for example abuse against children and vulnerable adults), the written warning may be extended for as long as the officer concerned is employed in their current job or a similar job. If an officer considers that the extended time period is unreasonable, they may appeal to the Employment and Appeals Committee.

6.6 **Dismissal**

If, following an investigation and disciplinary hearing, the Hearing Officer is satisfied that the officer is guilty of gross misconduct, the officer will be dismissed without notice or pay in lieu of notice. OR

If, while a final written warning is still in force, the officer's conduct is still unsatisfactory, as determined by a subsequent investigation and disciplinary hearing, the Hearing Officer will normally dismiss the officer without notice or pay in lieu of notice.

6.7 **Written confirmation of sanctions**

The officer will receive written confirmation of the Hearing Officer's decision, together with:

- full details of the sanction
- the reason for the sanction;
- whether it is a written warning, final warning or dismissal;
- their right of appeal (see section 7);
- that a note will be kept on their personal file indicating that a warning has been given, the reasons for it and any required improvements in conduct which have been specified;
- that further misconduct may lead to further disciplinary action which could include dismissal;
- that the warning will be disregarded for further disciplinary purposes after the expiry of the time period.

7. Appeals

7.1 An officer who wants to appeal against a dismissal or any other level of formal disciplinary sanction should inform the Head of Business Support within ten working days of being told the decision in writing. The officer must explain the grounds for the appeal, specifying whether it relates to the facts of the matter, the level of sanction imposed or the way the procedure was followed.

7.2 All appeals will be considered by a panel of three members of the Employment and Appeals Committee.

- 7.3 The purpose of an appeal is:
- to review the decision taken;
 - to consider whether the procedure has been followed correctly.
- 7.4 An appeal is not a re-hearing of the disciplinary hearing, but a review of the decision. The outcomes open to the appeal committee are to:
- i. uphold the appeal;
 - ii. reject the appeal in full;
 - iii. reject the appeal in part and impose a lower level of warning;
 - iv. in exceptional circumstances, reject the appeal and impose a higher level of warning up to and including a final written warning.

8. Handling Gross Misconduct

- 8.1 Some of the offences which may be regarded as gross misconduct are (this list is not exhaustive)
- theft, unauthorised use or removal of the council's, a service user's, a client's or a fellow employee's property
 - falsification of time-sheets, expenses claims or other records
 - fighting or physical assault
 - sexual or racial harassment
 - harassment or discrimination on the grounds of race, gender, sexuality, disability, age or religious belief
 - deliberate damage to council or a fellow employee's property
 - inability to carry out normal work through being under the influence of alcohol or other drugs (medically prescribed drugs may be an exception)
 - deliberate disregard for safety rules
 - serious negligence causing unacceptable loss, damage or injury
 - a serious breach of the Code of Conduct
 - misuse of an employee's official position for personal gain, or for the inappropriate benefit of a friend, colleague or member of the employee's family
 - failure to comply with a reasonable management instruction, despite being warned of the consequences
 - abuse of a service user
 - Non-disclosure of criminal convictions, cautions, and bans e.g. from driving that have occurred during the employees employment with the council

9. Order of Conduct of Disciplinary Hearing

- 9.1 The Hearing Officer will begin the formal hearing by
- introducing the people present
 - explaining the purpose of the meeting
 - checking any arrangements for representation
 - outlining the format to be followed

9.2 The Investigating Officer presents the case from their investigation, referring to any documents and witnesses.

If they call a witness -

- they will question the witness
- the employee or their representative may question the witness
- the Hearing Officer and his advisor may ask questions of the witness

9.3 The Officer or their representative can then question the Investigating Officer.

9.4 The Hearing Officer and his advisor may question the Investigating Officer.

9.5 The Officer or their representative presents the officer's response - which will include any mitigation, referring to documents and witnesses where appropriate.

If the officer or their representative calls a witness -

- They will question the witness
- The Investigating Officer may question the witness
- The Hearing Officer and their advisor may ask questions of the witness

9.6 The Investigating Officer questions the officer or their representative on their response to case.

9.7 The Hearing Officer and their advisor may question the officer or their representative.

9.8 Summing up by each side. The Investigating Officer sums up case first. The Officer/representative sums up last. New evidence should not be introduced during summing up, however the Hearing Officer reserves the right to seek further information where it appears that there may be new evidence that could affect the outcome of his decision.

9.9 The Hearing Officer and their advisor adjourn to consider and decide on whether the allegations are substantiated and (taking into account any current warning) on any consequent action.

9.10 The employee is recalled and informed of the decision, the rationale for making that decision, the right of appeal and that written confirmation will follow.

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.

dems/empapp/cr/18/2910lh1 Appendix 4



REDEPLOYMENT POLICY AND PROCEDURE

Revised November 2018

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1. Policy Statement

- 1.1 Wyre Council is committed to good employment practices and aims to support its employees in difficult circumstances. This policy outlines the Council's approach to supporting individuals who need to be considered for redeployment within the Council.

2. The Aim

- 2.1 This policy applies to all employees who have at least 2 years continuous service and aims to ensure that the Council meets its moral and legal obligations to maintain staff in employment in the following circumstances:

- When, by reason of disability and/or other medical reason, the individual is no longer able to continue in his/her current role, despite consideration of reasonable adjustments to that role.
- Where, as a result of organisational restructuring, the individual's job no longer exists in its current format.
- When a potential redundancy situation arises for reasons other than organisational restructuring.

Other Circumstances where the Re-deployment Policy will Apply

- He or she is incapable of carrying out their current duties and no disciplinary issues apply.
- There has been an incident of harassment or bullying.
- Management considers redeployment as an alternative to dismissal (following a disciplinary hearing).

3. Supporting Policies and Legislation

3.1 **Redeployment in Circumstances of Redundancy - Employment Rights Act 1996**

The Council is required to consult on potential redundancies and must consider alternative employment for employees under threat or notice of dismissal for redundancy.

The Employment Rights Act provides for a statutory four-week trial period in the new post where the alternative employment is offered and accepted in a redundancy situation.

Employees being re-deployed as an alternative to redundancy should be aware that if they unreasonably refuse suitable alternative employment they lose their statutory right to redundancy payment.

3.2 **Redeployment of Employees with a Disability – Equality Act 2010**

The Equality Act 2010 requires the Council to make reasonable adjustments (physical or otherwise) to enable an employee with a disability to carry out his/her job. Discrimination

will occur if the Council fails to comply with the duty to make these adjustments, and the failure to do so cannot be justified. If an employee is unable to carry out his/her job, despite reasonable adjustments or such adjustments are not possible, then redeployment will need to be considered.

Managers making appointments are encouraged to waive formal qualification criteria in these circumstances, particularly where they are satisfied that the employee is capable of satisfactorily carrying out the full duties of the job, taking into account his/her experience and any re-training which may be required. This is provided that the lack of qualifications does not prevent them from fulfilling the duties of the post, e.g. for statutory or regulatory reasons.

Where necessary, the final decision on qualification and suitability will be made by the appropriate Service Director, following consultation with Human Resources.

3.3 **Other Council policies and procedures, which are relevant to this policy:**

- Early Retirement Policy.
- Equal Opportunities Policy.
- Dignity at Work Policy.
- Ill-Health Retirement Procedure.
- Disciplinary Procedure.
- Grievance Procedure.
- Managing Attendance/Ill health Policy.
- Redundancy Support Procedure
- Redundancy Policy and Selection Procedure

3.4 **Priority**

Employment legislation may require that specific categories of staff are considered for redeployment opportunities before consideration of other redeployment candidates. The Council will therefore give higher priority to individuals in a redundancy or disability situation.

4. **Suitable Alternative Employment**

4.1 Wherever possible, the Council will seek to maintain individuals in work of a broadly comparable nature. The following criteria will be used to determine the suitability of alternative employment:-

- The nature of the work
- The qualifications, skills and experience required to carry out the work
- The aptitude or capability of the individual to undertake the work
- Working arrangements i.e. hours of work, shift arrangements etc.
- Level of responsibility relative to previous role
- Grade and pay
- Location

5. **Roles and Responsibilities**

The employee, management and the Human Resources will each have a role to play in seeking and gaining suitable redeployment opportunities. These responsibilities are as follows:

5.1 The appropriate Head of Service or Service Manager will:

- Meet with the employee to ensure that they are aware of how to access the support available
- Ensure that the employee is aware of what is required of them in terms of seeking re-deployment.
- Support the employee in completing the redeployment form.
- Discuss suitable vacancies within the service area.
- Keep the Human Resources Manager informed of any opportunities within the service area
- Hold progress meetings with the employee during the redeployment process.
- Retain responsibility for working with the employee throughout the redeployment process.
- Provide advice, guidance and personal support to the employee throughout the redeployment process.

5.2 Human Resources will:

- Ensure that the employee is included on a list of employees seeking redeployment.
- Inform the employee of the measures, which will be undertaken to secure, wherever possible, alternative employment.
- Maintain a list of current vacancies within the Council and identify potential redeployment opportunities.
- Ensure that the employee is made aware of any potential redeployment opportunity.
- Ensure that both competitive and non-competitive interview processes are fair and equitable.
- Ensure appointing managers do not unreasonably refuse an application from an employee seeking redeployment.
- Ensure appointing managers do not unreasonably refuse to allow an employee seeking redeployment a trial period.
- Encourage the employee, where appropriate, to explore employment opportunities outside the Council, discussing issues such as career change and appropriate retraining.
- Seek advice from the Council's Occupational Health Adviser to make sure any redeployment opportunity is appropriate to the employee's health/medical condition.

In particular, the Council's Human Resources Advisor will ensure the Council meets its legal obligations (as described above) in situations where employees require redeployment due to redundancy or disability.

5.3 The employee will be expected to:

- Take personal responsibility for completing a redeployment form to seek redeployment within the Council.
- Actively search for opportunities advertised, on the intranet.
- Fully prepare his/herself for any recruitment process they attend.
- Attend meetings with management /Human Resources, when required
- Seek and utilise opportunities which will develop his/her skills base and improve his/her qualifications.

- Not refuse reasonable opportunities.

6. Redeployment Procedure

- 6.1 For the procedure to be applied successfully the employee must accept a shared responsibility for actively seeking and gaining suitable alternative employment.

The procedures followed and level of support given to an employee may differ according to the circumstances giving rise to the need for redeployment.

As the Council will give higher priority to individuals in a redundancy or disability situation this procedure will apply in all such cases.

In cases of redundancy, the provisions of the redeployment policy will apply from the point at which an individual's post is deemed to be 'at risk'. Eligibility for redeployment will cease on expiry of a fixed-term contract or the expiry of notice issued in relation to redundancy or ill-health. Individual employees should therefore put themselves forward for consideration for any suitable vacancies prior to expiry of their notice period.

7. Identification of Suitable Vacancies

- 7.1 Managers will be encouraged to identify suitable opportunities for redeployment for individuals within their own sections. In such cases, individuals may be slotted in to a new role where it is deemed to be suitable alternative employment in line with the criteria outlined in section 4.

Such action should, however, only be considered in consultation with Human Resources and the appropriate employee representatives. Such opportunities will be brought to the attention of all staff subject to redeployment within the section and a structured assessment process should be undertaken where more than one individual wishes to be considered for the position.

- 7.2 The Manager should meet with the individual concerned to discuss any other options that may be available (see also 5.1). These may include termination of employment, early retirement or redundancy.

- 7.3 If no suitable opportunities for redeployment exist within the section, or an individual wishes to be considered for alternative roles across the Council, he/she will be required to complete a redeployment form so that they may be included on a central list held by Human Resources.

The redeployment form will record:

- The employee's preferences for the general areas of work and / or specific jobs they would wish to be re-deployed to.
- The minimum and maximum hours per week the employee is seeking or is able to work.
- Whether the employee is able to work shifts or irregular hours, be on-call etc.
- The employee's education and qualifications, employment history, knowledge, training, skills and experience.
- Details of any health issues will be added to the form as appropriate, for example, where the employee is being re-deployed due to a medical condition.
- Any disability, which might require adjustments to specific duties or the workplace.

The appropriate Manager will assist the employee in completing the form if necessary.

Human Resources will examine each job vacancy to assess whether, outwardly, it may constitute suitable alternative employment for an employee who is on the redeployment list.

8. Applications for Vacancies

- 8.1 The Human Resources Advisor will determine eligibility for consideration for the vacant post in accordance with the criteria outlined above (see paragraph 4.1).

Where an individual meets the essential criteria for the post, he or she will be invited to apply if they have not already done so. The Human Resources Advisor will then send a copy of the employee's redeployment form and application to the relevant appointing Manager.

Prior consideration will be given to individuals in a redundancy or disability situation, this enables these employees to be interviewed for the post before other applicants are given consideration. A final decision on qualification and/or suitability will be made jointly by Human Resources and the Manager.

If more than one 'at risk' individual seeking redeployment expresses an interest in a particular post, a competitive selection process will be undertaken in accordance with the Council's Recruitment and Selection Policy.

Any external advertising will be delayed pending the outcome of the interviews.

- 8.2 If following the interview the individual meets the requirements of the post he or she will be appointed before other candidates. If they are unsuccessful the recruiting manager will be responsible for providing feedback so that they may present themselves more effectively in future interviews.

9. Offers of Suitable Alternative Employment

- 9.1 A formal offer of alternative employment will be made to the employee as soon as possible and before their termination date. This will be undertaken by Human Resources and include:

- The nature of the job and the terms and conditions applicable;
- The provision for a trial period of up to 4 weeks (or longer where it is necessary to retrain the employee), during which the relevant parties can consider if the alternative employment is suitable.

Any agreement relating to a trial period will:

- Be in writing containing sufficient information for the employee to make a decision on whether or not to accept;
- Be made before the original employment ends;
- Specify the date the trial period begins and ends.

- 9.2 An employee may decline an offer of suitable alternative employment however they must be aware that to do so without just cause may mean they lose the right to any redundancy pay and can no longer continue employment with the Council.

If an employee is re-deployed to a fixed-term post, which is not extended or renewed at the end of the fixed-term, the Council will make a redundancy payment to the employee, in accordance with the Redundancy Policy, on the basis of total continuous service.

- 9.3 The number of offers of suitable alternative employment given to an employee is dependent upon the employee's circumstances and would be subject to consultation with the individual and their representative.
- 9.4 Employees who are redundant will remain on the list until the end of their notice period. Other applications will be removed after a maximum of 6 months.

10. Trial Periods

- 10.1 Where the Council has made a formal offer of an alternative post individuals who are in a redundancy situation have a right to a trial period of four weeks. The trial period is a statutory provision enabling both the employee and the Council to assess whether or not the post is genuinely suitable for the employee

If, during this period, the employee or Council concludes that the alternative job is not suitable, the individual will remain eligible for a redundancy payment. If, however, the employee unreasonably terminates the contract, he/she will not be entitled to a redundancy payment.

Eligibility to a redundancy payment may also be lost if an individual unreasonably refuses an offer of suitable alternative employment. The trial period of four weeks may be extended by written agreement with both parties.

The employee will have his/her salary protected during the period of the trial. They will only be paid enhanced payments e.g. shift allowances when the employee carries out such arrangements during his/her trial.

Where a trial proves to be unsuccessful for reasons beyond the control of the Council and/or the employee, such that it would not be deemed a fair trial, this will not count towards the allocated number of offers of suitable alternative employment.

However, if it is determined the employee has not made sufficient effort to carry out the new job or has requested unreasonable adjustments to the job, the unsuccessful trial will count towards the number of offers.

11. Terms and Conditions of Employment

- 11.1 In general, where redeployment is offered, the terms and conditions that will apply will be in accordance with the employee's conditions of service and Council policy prevailing at the time. Specific protection arrangements that are currently in force are as follows:

11.2 **Pay**

Any existing protection enjoyed by an employee will continue for the term of the agreement.

Any protection to terms and conditions of employment will be for a maximum of 18 months under this policy. Enhanced payments such as shift allowances, contractual overtime, etc will not be protected in any redeployment opportunity.

Pay Protection applied in different redeployment circumstances as set out in Appendix 1.

11.3 **Working Week**

Working hours will be determined by the needs of the service to which an employee may be redeployed and give consideration to the Councils policy and practices relating to work-life balance and flexible working.

11.4 **Holidays**

Contractual terms and conditions will apply, subject to the termination of any enhanced arrangements that may have been in place relative to the employee's previous post.

11.5 **Pension.**

The Human Resources Advisor will provide administrative advice relating to an employee's pension. For detailed advice employees should contact **Your Pension Service** at Lancashire County Council 01772 530530. Email: Pensions.helpdesk@lancashire.gov.uk

12. Equality Impact Assessment and Monitoring

- 12.1 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.

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.

Appendix 1

Redeployment Circumstances

	As an alternative to Redundancy	Health/Medical/ Disability reasons	Capability reasons	Employee deemed to have been bullied/harassed	As an alternative to dismissal (following a disciplinary hearing)
Status of Interview ¹	Non Competitive	Non Competitive	Competitive	Non Competitive	Competitive
Pay Protection	Yes	No	No	Yes	No

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¹ Employees being redeployed will be guaranteed an interview on the above basis providing they meet the selection criteria.

Where the redeployment opportunity would lead to a promotion for the employee, the interview process will always be competitive. In these circumstances the employee will not have the opportunity of a trial period to see if the job is suitable to them. However they will still have to demonstrate within a suitable time period that they can carry out the full duties of the post, before they are permanently appointed to it.



Eyesight Testing Policy and Procedure

Reviewed November 2018

1. Policy Statement

- 1.1 Under the Health and Safety (Display Screen Equipment) Regulations 1992 the Council is required to provide employees who are identified as “users” of Display Screen Equipment (DSE) with an appropriate eye and eyesight test.
- 1.2 “Users” are defined in Regulation 1 of the DSE Regulations as “an employee who habitually uses [DSE] as a significant part of his [or her] normal work”.
The above would apply if most or all of the following criteria are met:
- The employee has no discretion over whether to use a VDU or not.
 - The employee uses a VDU screen for concentrated periods of an hour or more at a time, more or less on a daily basis.
 - The employees’ job entails the fast transfer of information between the employee and the screen.
 - Attention and concentration demands are high and may be critical consequences if an error occurs.
- 1.3 The Council will also provide eye tests for those employees who drive Council vehicles as part of their role and staff are reminded of their duty to ensure that they meet the minimum vision standards in deciding on their fitness to drive.
Procedure for Eyesight Testing

2. Procedure

- 2.1 Eyesight tests are administered on behalf of the Council by the ASE Eyecare Scheme through which appointments can be arranged at Boots Opticians and some other opticians depending on location. Local branches of Boots Opticians can be found in Blackpool, Cleveleys, St. Annes, Preston and Lancaster (see intranet for further details of these and other branches).
- 2.2 Employees requiring an eyesight test should contact Human Resources who will register their details (subject to the employee’s permission) with ASE Eyecare.
- A Voucher will be issued which they will need to take with them to their appointment.
 - Employees should make an appointment in their own time with the branch of their choice.
- 2.3 If the outcome of the eyesight test is that corrective appliances are required solely for VDU use the Council will cover the cost of glasses provided they have been selected from the range shown to you by the Opticians (value of £40). The difference in cost of any upgrade from the standard range would be at the employees’ own cost.
- 2.4 If employees require corrective appliances but not specifically for VDU work they will need to purchase these themselves.

- 2.5 The Council are invoiced for the cost of eyesight tests and VDU glasses so employees do not need to pay any money unless upgrading VDU glasses or purchasing non VDU specific corrective appliances.
- 2.6 Employees are entitled to further tests at regular intervals, which will normally be every two years unless experiencing particular visual difficulties.

3. Drivers

- 3.1 If the outcome of the eyesight test is that corrective appliances are required for driving the Council will contribute £40 towards the cost.

4.. Opticians of Employees' Choice

- 4.1 Whilst it is the Council's preference that Employees use the procedure outlined above, they may if they wish attend an opticians of their choice. Employees will need to obtain an Eyesight Test form from Human Resources and book the appointment in their own time. The Council will contribute £15 towards to cost of the test and £40 towards the cost of VDU glasses if required. This can be claimed back using HR21 or the Wyre Council Expenses form, which should be sent to Human Resources with receipts and a copy of the completed Eyesight Test form.

5. Equality Impact Assessment and Monitoring

- 5.1 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

dems/empapp/cr/18/2910lh1 Appendix 6

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