



# Employment and Appeals Committee Agenda

Wyre Borough Council  
Date of Publication: 5 July 2019  
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**Employment and Appeals Committee meeting on Monday, 15 July 2019 at 6.00 pm in Committee Room 2, Civic Centre, Poulton-Le-Fylde**

1. **Election of Chairman and Vice Chairman**
2. **Apologies**
3. **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.

4. **Confirmation of Minutes** (Pages 1 - 2)

To confirm as a correct record, the minutes of the meeting of the Employment and Appeals Committee held on 25 February 2019.

5. **Policy Review** (Pages 3 - 6)

Report of the Head of Business Support.

- (a) Retirement Policy and Procedure (Pages 7 - 12)
- (b) Flexible Retirement Policy (Pages 13 - 16)
- (c) Social Media Policy (Pages 17 - 24)
- (d) Employee Code of Conduct (Pages 25 - 38)
- (e) Disciplinary Policy and Procedure "Protected Officers" (Pages 39 - 48)

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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, 25 February 2019 at the Committee Room 2, Civic Centre, Poulton-Le-Fylde.

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**Employment and Appeals Committee members present:**

Councillors R Amos, Atkins, Holden, Robinson, Shewan and A Turner

**Apologies for absence:**

Councillors B Birch, B Stephenson, Collinson and R Duffy

**Other councillors present:**

Councillor I Amos

**Officers present:**

Jane Collier, Senior Human Resources Advisor  
Duncan Jowitt, Democratic Services and Councillor Development Officer

No members of the public or press attended the meeting.

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**8            Declarations of interest**

None

**9            Confirmation of Minutes**

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

## **10 Policy Review**

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

Members of the committee asked appropriate questions related to the content of the policies and the human resources advisor provided comprehensive responses.

### **Decision taken**

The committee approved the new Apprenticeship Policy and the following reviewed human resources policies:

- Fostering Policy
- Gender Reassignment Policy
- Working Carers Policy
- Agile Working Policy
- Driving Policy

The meeting started at 6.00 pm and finished at 6.23 pm.

**Date of Publication:** 26 February 2019



Report of:	Meeting	Date
Human Resources	Employment and Appeals Committee	15 July 2019

Policy Review
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**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 Retirement Policy and Procedure	Appendix 1	Reviewed
Flexible Retirement Policy	Appendix 2	Reviewed
Social Media Policy	Appendix 3	Reviewed
Employee Code of Conduct	Appendix 4	Reviewed
Disciplinary Policy and Procedure	Appendix 5	Reviewed
“Protected Officers”		

- 5.2 The Retirement Policy and the Flexible Retirement Policy have both been reviewed with minor changes.
- 5.3 The Social Media Policy has been updated as part of the three yearly review and to ensure that the content in respect of Investigatory use is in line with the Council's RIPA Policy Statement.
- 5.4 The Employee Code of Conduct has been update for readability and useability purposes. In addition with CCTV cameras being installed at council sites it is important that staff are aware of the purposes of recording images and how these could legitimately be used.
- 5.5 The Disciplinary Policy and Procedure "Protected Officer" has been amended in line with the JNC Handbooks for Chief Executives (updated October 2016). The policy and procedure sets out the formal stages and the committees required within the JNC Handbook.

<b>Financial and legal implications</b>	
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.

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

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

**Processing Personal Data**

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

and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

report author	telephone no.	email	date
Head of Business Support	01253 887316	<a href="mailto:Liesl.hadgraft@wyre.gov.uk">Liesl.hadgraft@wyre.gov.uk</a>	June 2019

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

**List of appendices**

- Appendix 1 Retirement Policy and Procedure
- Appendix 2 Flexible Retirement Policy
- Appendix 3 Social Media Policy
- Appendix 4 Employee Code of Conduct
- Appendix 5 Disciplinary Policy and Procedure “Protected Officers”

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# **RETIREMENT POLICY AND PROCEDURE**

Revised July 2019

## 1. Introduction

- 1.1 Wyre Council no longer operate a compulsory retirement age and employees should, wherever possible, be permitted to continue working for as long as they wish to do so.

The purpose of this policy is to help managers and employees to understand the options which are available in relation to retirement.

## 2. Retirement Options and the Local Government Pension Scheme.

### 2.1 Normal Retirement Age (NRA)

The normal retirement age for Local Government Pension Scheme members has been aligned to the employee's individual State pension age at the time the employment is terminated (with a minimum of age 65). At this age you can choose to retire without the Council's consent and receive immediate payment of your scheme benefits. Your benefits will be calculated based on the service you have built up to this date and will not be subject to any reductions.

### 2.2 Early Retirement Age 55 or over

Employees who are aged 55 or over can voluntarily retire by giving the appropriate notice period for their post. However their pension benefits may be subject to reductions because they are leaving the scheme before the pension scheme's normal retirement age.

Depending on length of service certain protections may apply and members of the pension scheme should contact Lancashire Pension Service for more information.

## 3. Phased Retirement

- 3.1 An employee may decide that he/she does not wish to retire in the near future but would benefit from alternative working arrangements in the short or medium term. These employees may make a request to the Council for phased retirement.

Phased retirement allows a change of working pattern so that an employee can reduce his/her hours gradually (for example, move to part-time working) prior to retirement. It may also involve changes to the employee's responsibilities to help the Council with its succession planning, and help the employee to adjust to, and prepare for, retirement.

The Council will follow the principles in its Work Life Balance policy when considering any such requests.

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

## 4. Flexible Retirement

- 4.1 Employees who are members of the LGPS and are aged over 55 may apply for either or both of two flexible retirement options. These allow accrued pension benefits to be paid before the normal age of retirement, while the employee continues to work for the Council and draw a salary. In most cases the pension benefits payable will be reduced to reflect the fact that they are being paid early, and therefore, potentially for a longer period.

4.2 When applying for Flexible Retirement employees should define the period of time within which they will want to retire in entirety.

4.3 **For information on Flexible Retirement please see the separate Flexible Retirement Policy.**

## 5. Monitoring Performance

### 5.1 Workplace discussions

The Council currently invites all employees to regular workplace discussions as part of the 1-2-1 Performance Appraisal Process. During those discussions, the line manager will discuss the employee's performance, developmental or training needs and the Council's and employee's future plans and expectations in the short, medium and long-term. Where the employee is of an age where they may wish to retire those discussions could include their future plans or proposals for retirement.

The Council will offer pre-retirement training at no cost to the employee. Details of this training is available from Human Resources.

## 6. Giving Notice of Retirement

6.1 Employees who wish to retire should inform their line manager in writing as far in advance as possible and, in any event, in accordance with his/her notice period as set out in his/her contract of employment. This will assist the Council with its succession planning. The Council will write to the employee acknowledging the employee's notice to retire.

The Line Manager will arrange a meeting with the employee to discuss arrangements for retirement, including the intended retirement date, succession and handover plans, pension details and phased retirement, if applicable.

All employees should note that it is their responsibility to ensure they are aware of the LGPS Pension as they relate to their individual circumstances. Although the Council will provide an estimate of benefits, employees should consider their pension provision and take independent financial advice before making any decision in relation to retirement.

## 7. Succession planning

7.1 An employee who is shortly to retire will often have considerable knowledge in relation to his/her role and responsibilities. The Council may require the employee's assistance and cooperation for any succession planning implications.

Prior to retirement, employees should cooperate with the Council by providing full details of the status of work projects and future steps; developing a job description, including key competencies and skills required for the role; ensuring a smooth handover of work; and assisting in training any successor etc.

## 8. Redundancy

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

## 9. Retirement on the grounds of ill health

- 9.1 In cases where an employee's long-term ability to work is likely to be significantly affected by ill-health, the employee may become eligible for ill-health retirement under the terms of the LGPS.

The provisions of the scheme set stringent criteria for the management of all ill health retirements.

If a member's employment is ended due to ill health or infirmity of mind or body due to being:

- permanently incapable of discharging efficiently the duties of their employment; and
- they also have a reduced likelihood of being capable of undertaking any 'gainful employment' before normal retirement age;

they are entitled to receive immediate payment of pension benefits regardless of age, provided they have at least 2 years' membership or have transferred pension rights from a previous scheme.

Human Resources will provide detailed information (and assistance in making an application if appropriate) on request.

## 10. Employer Discretions on Early Termination of Employment.

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

## 11. Re-employment after retirement

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

## 12. Disputes

- 12.1 Employees who are unhappy with a decision in respect of their retirement arrangements or pension benefits are advised to contact Human Resources in the first instance to determine whether an informal resolution can be achieved.

The LGPS also contains procedures for complaints or appeals from staff within an Internal Disputes Procedure who think there has been a mistake or that their entitlement has been incorrectly assessed. Details can be obtained from Human Resources or direct from the Pension Fund Administrators (Lancashire County Council)

## 13. Equality Impact Assessment and Monitoring

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

## 14. Data Protection

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

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# **Flexible Retirement Policy**

## 1. Introduction

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

## 2. Regulations

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

## 3. Council Policy

- 3.1 This Policy sets out the Council's flexible retirement provisions and process by which requests from employees who have attained the age of 55, to draw all or part of their retirement benefits, will be considered in accordance with the Regulations. The policy provisions are summarised below.
- 3.2 All applications for flexible retirement must be submitted in writing to the Chief Executive or relevant Service Director.



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

#### **4. Terms and Conditions following Flexible Retirement**

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

#### **5. Equality Impact Assessment and Monitoring**

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

## 6. Data Protection

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



# **Social Media and Employment Policy**

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## **1. Policy Statement**

- 1.1 Wyre Council acknowledges that there is significant potential for using social media and that this can bring great advantages. The responsible, corporate use of social media is therefore encouraged.
- 1.2 This policy provides a structured approach to using social media and will ensure that it is effective, lawful and does not compromise Council information or computer systems/networks.
- 1.3 Users must ensure that they use social media sensibly and responsibly, in line with council policy whether using it on council business or personal use outside working hours. They must ensure that their use will not adversely affect the council or its business, not be damaging to the council's reputation and credibility or otherwise violate any council policies.
- 1.4 Personal use of social media during working hours is not permitted.

## **2 Supporting Policies and Guidance**

- 2.1 This Policy should be read in conjunction with the Social Media Guidance available on the Council's intranet or from the Engagement Team.
- 2.2 This policy has links to the following policies:
  - Employee Code of Conduct
  - IT Computer Use Policy
  - Safeguarding Children Policy
  - Safeguarding Adult Policy
  - Dignity at Work Policy
  - Disciplinary Policy
  - Data Protection Policy
  - RIPA Policy Statement

## **3. Definition of Social Media**

- 3.1 For the purposes of this policy, social media is a type of interactive online media that allows parties to communicate instantly with each other or to share data in a public forum. This includes online social forums such as Twitter, Facebook and LinkedIn. Social media also covers blogs and video- and image-sharing websites such as YouTube, Flickr and Instagram. This list is not exhaustive.
- 3.2 Employees should be aware that there are many more examples of social media that can be given and this is a constantly changing area. Employees should follow these guidelines in relation to any social media that they use.

## 4. Use of Social Media at Work

4.1 Social media will be made available for corporate / business use only.

If it is established that an employee's role should include the use of social media, approval should be sought by their Manager using the 'Social Media Access Form' from ICT, available on Topdesk.

4.2 Social media access for corporate / business use should be via an account registered to the employee's wyre.gov.uk email address only.

4.3 Responsibilities of Users

The following guidelines will apply to online participation and set out the standards of behaviour expected as a representative of Wyre Council.

1. Be aware of and recognise your responsibilities identified in this policy.
2. Remember that you are personally responsible for the content you publish on any form of social media.
3. Never give out personal details such as home address and telephone numbers. Ensure that you handle any personal or sensitive information in line with Data Protection.
4. Be aware of safeguarding issues, as social media sites are often misused by offenders. Safeguarding is everyone's business – if you have concerns about other site users, you have a responsibility to report these to your manager or the Designated Safeguarding Officer (see BRIAN for list of names).
5. Respect copyright, fair-use and financial disclosure laws.
6. Social media sites are in the public domain and it is important that you are confident about the nature of the information you publish. Permission must be sought if you wish to publish or report on meetings or discussions that are meant to be private or internal to Wyre Council. Don't cite or reference colleagues, customers, partners or suppliers without their approval.
7. Don't use insulting, offensive or discriminatory language or engage in any conduct that would not be acceptable in the workplace. Show consideration for others' privacy and for topics that may be considered objectionable or inflammatory.
8. Don't download any software, shareware or freeware from any social media site, unless this has been approved and authorised by the Information Technology Team.
9. During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views of proposals in such a way that that identifies them with any individual members or groups of members.

10. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the name, wards and parties of candidates at elections.

Please also see the guidelines– “Advice for Wyre Council employees using social media sites at work” available on BRIAN.

#### 4.4 Investigatory Use

The Surveillance Commissioners have provided guidance that certain activities will require authorisation under RIPA or RIP(S)A and this includes repetitive viewing of what are deemed to be “open source” sites for the purpose of intelligence gathering and data collation.

Whilst it is recognised that social media can be used for investigatory purposes (in accordance with RIPA guidance), such as identifying fraud, illegal events, debt recovery etc. under no circumstances should employees use social media for investigatory purposes without authority from the relevant Service Director or Chief Executive.

Officers who have the authority to carry out investigations using social media must comply with relevant guidance and legislation. See the RIPA Policy Statement on BRIAN or available from Legal Services for further information.

## **5. Monitoring use of social media during work time**

- 5.1 Social Media access is monitored in line with the guidelines set out in the IT Computer Use Policy and staff should have no expectation of privacy when using council equipment for private usage. N.B personal use should not be in work’s time as set out in section 1.4 so should be limited to lunch breaks or before/after clocking on to work.

## **6. Social media in your personal life**

- 6.1 The council recognises that many employees make use of social media in a personal capacity. While they are not acting on behalf of the council, employees must be aware that they can damage the council if they are recognised as being one of our employees.
- 6.2 Employees are allowed to say that they work for the council, and it is recognised that sometimes staff may want to discuss their work on social media. However, an employee's online profile (for example, the name of a blog or a Twitter name) must not contain the council's name.
- 6.3 If employees do discuss their work on social media, they must include on their profile a statement along the following lines: "The views I express here are mine alone and do not necessarily reflect the views of my employer." This does not however exempt you from the points as set out in 6.4.
- 6.4 Any communications that employees make in a personal capacity through social media must not:
  - bring the council into disrepute, for example by:

- criticising or arguing with customers, colleagues, Elected Members or rivals;
  - writing or knowingly confirming by liking or sharing negative, offensive or defamatory comments about individuals or other organisations or groups;
  - using foul or abusive language; or
  - posting images that are inappropriate or links to inappropriate content;
- breach confidentiality, for example by:
    - revealing information owned by the council;
    - giving away confidential information about an individual (such as a colleague or customer contact) or organisation (such as supplier or partner organisations); or
    - discussing the council's internal workings (such as its future plans that have not been communicated to the public);
- breach copyright, for example by:
    - using someone else's images or written content without permission;
    - posting anything that is copyrighted, including maps; or
    - failing to give acknowledgement where permission has been given to reproduce something; and
- do anything that could be considered discriminatory, or bullying or harassment of, any individual for example by:
    - making offensive or derogatory comments relating to sex, gender reassignment, race (including nationality), disability, sexual orientation, religion or belief or age;
    - using social media to bully another individual (such as an employee of the council);
    - posting images or links to content that are discriminatory or offensive.

6.5 As the owner of the social media account the employee should take the necessary measures to ensure that friends or relatives do not access their social media accounts and make any posts or comments that may put the employee at detriment of this policy.

6.6 Whilst employees need to be aware of their privacy settings, restricting these does not mean that they can post what they want about the Council, individuals or organisations associated with the Council. Postings can be copied by people entitled to access them and sent on to others beyond the control of the original poster. Hence merely having privacy settings does not mean that comments will be kept out of the public domain.

6.7 Any employee who feels that they have been harassed or bullied, or are offended by material posted by a colleague on to a social media site should inform their manager or a member of the HR Team.

6.8 For further information please see the guidelines – “Advice for Wyre Council employees using social media sites at home” available on BRIAN.

## **7. Use of social media in the recruitment process**



7.1 Unless it is in relation to finding candidates (for example, if an employee has put his/her details on social media websites for the purpose of attracting prospective employers), the HR department and managers will conduct searches, either themselves or through a third party, on social media only when it is directly relevant to the applicant's skills or claims that he/she has made in the recruitment process. For instance, a prospective employee might claim that:

- they have used social media in their previous job (for example, as a publicity tool); or
- their social media use is directly relevant to a claim made in an application (for example, if they run a blog based around a hobby mentioned in a CV or a skill that they claim to be proficient in).

7.2 There will be no systematic or routine checking of prospective employees' online social media activities, as conducting these searches during the selection process might lead to a presumption that the applicant's protected characteristics (for example, sexual orientation or religious or political beliefs) played a part in the recruitment decision.

## **8. Disciplinary action over social media use**

8.1 All employees are required to adhere to this and associated policies. Employees should note that any breaches of this policy may lead to disciplinary action. Serious breaches of this policy, for example incidents of bullying of colleagues, use of inappropriate language, accessing inappropriate and/or offensive channels or social media activity causing serious damage to the council, may constitute gross misconduct and lead to summary dismissal.

## **9. Equality Impact Assessment and Monitoring**

9.1 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.

## **10. Data Protection**

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

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# **Employee Code of Conduct**

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Appendix 1: Rules of Conduct

# Wyre Council Code of Conduct

## 1. Introduction

- 1.1 The public is entitled to expect the highest standards of conduct from all Council officers. Your role is to serve the Council in delivering services to the local community, providing advice and implementing its policies. In performing your duties, you must act with integrity, honesty, impartiality and objectivity.

This Code applies to all Wyre Council staff and describes the minimum standards of behaviour required. Maintaining these standards will ensure best practice and protect you from misunderstanding or criticism. Where the Council has a policy or protocol that provides more detail on specific issues, the name of the policy or protocol is in italics at the end of a section.

For ease of reference the main rules of conduct are listed in Appendix 1 but more detailed information is included below.

### 1.2 Key Points

There are four key points to remember in all that you do: **ensure your conduct:**

- is never influenced by personal gain;
- could not give anyone reason to question your motives;
- is always in line with the Council's policies and procedures.
- does not bring the Council into disrepute.

### 1.3 The Council's Constitution

The Council has certain powers and duties that are set out in a formal document, the Constitution. The Council must act under the Constitution and the law; otherwise it will be acting *ultra vires*, that is, beyond the scope or in excess of its legal power or authority.

While you may not use the Constitution in your day-to-day work it is a useful reference for all matters relating to the composition of the Council, rules about members and committee meetings, financial and procurement procedures and other issues of relevance to officers.

The Council has adopted a protocol to govern the relationship between members and officers which forms part of the Constitution.

## 2. Standards of Conduct

- 2.1 You have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in you, and in such a way as to preserve public confidence in the council.
- 2.2 You have a general duty to act in the interests of the council as a whole and the local community it represents.
- 2.3 As well as avoiding actual impropriety, you should avoid any appearance of improper

behaviour.

- 2.4 Where you have private interests which conflict with your public duty you must resolve this conflict in favour of the public interest.
- 2.5 You should make relevant declarations of interest whenever you consider that your personal interests may be in conflict with the authority's interests.
- 2.6 You should work with colleagues and councillors in a spirit of mutual respect and co-operation.
- 2.7 When making appointments, awarding contracts, or transacting other business, you should ensure that your decisions are made solely on merit.
- 2.8 You should ensure that confidential material, including material about individuals both written and verbal, is handled in accordance with legislative requirements.
- 2.9 You should avoid accepting gifts and hospitality that might reasonably be thought to influence your judgement.
- 2.10 You should ensure that your profile and related content on social media is consistent with how you wish to present yourself to the public. Using your public voice to criticise or embarrass the Council, councillors, colleagues or customers is not acceptable.
- 2.11 You should not post or forward a link to any abusive, discriminatory, harassing, derogatory, defamatory or inappropriate content i.e. anything that your colleagues, councillors, customers, clients etc. would find offensive, insulting, obscene and/or discriminatory.
- 2.12 When disagreeing with others' opinions on social media keep comments appropriate and polite at all times.

### 3. Proper Use of Council Resources

- 3.1 The Council is responsible for the efficient use of the public resources it controls including financial resources, equipment and its staff. You must not use council premises, property or facilities unless authorised to do so. Some facilities, such as photocopying, may be made available to officers for private use on agreed terms and with prior approval.

All officers have a duty to abide by the highest standards of probity in dealing with financial issues. You must operate within the financial regulations and financial procedure rules to ensure that all the Council's transactions, material commitments, contracts and other essential accounting information is recorded completely, accurately and on a timely basis.

You are required to ensure that Internal Audit and the Council's External Auditor are given access at all reasonable times to premises, personnel, documents and assets that they consider necessary for the purposes of their work.

#### 3.2 Use of Technology, Telephones, Internet and Email

You should be familiar with the rules relating to personal use of equipment, the

prohibitions on accessing or downloading racist, sexist, pornographic or violent websites or material, virus protection and the use of unapproved software.

Users must ensure that they use social media sensibly and responsibly whether business or personal use, in line with council policy. They must ensure that their use will not adversely affect the council or its business, not be damaging to the council's reputation and credibility or otherwise violate any council policies.

Officers may make personal telephone calls using the landline whilst at work but such calls should be kept to a minimum. All personal use of a works mobile will be charged at the full rate.

The Council does allow for personal use of e-mail and the internet providing that it is not excessive, does not interfere with your normal activities and it is made clear that any message sent is not on behalf of the Council.

For further information see:

*ICT Computer Use Policy*  
*Social Media and Employment Policy.*

## 4. Political Neutrality

### 4.1 Advice to Members

Employees serve the Council as a whole and not any political grouping or individual Councillor. Employees must always operate in a fair and even-handed manner.

Employee support is limited to information and advice on Council business. It does not extend to Party or external business.

Employees need to be aware that should they attend political group meetings these may include non-members of the Council who are not subject to the Council's Code of Conduct.

When providing information or advice to political groups, Employees must at all times maintain confidentiality and political neutrality.

### 4.2 Politically restricted posts

Some local government employees are contractually prohibited from participating in certain "political activities" as set out below and the Council is obliged, by law, to enforce this contractual obligation.

- Chief Executive;
- Monitoring Officer;
- Section 151 Officer;
- Service Directors;
- All posts where the salary is or exceeds spinal column point 38 (Grade 12);
- Posts where the holders are responsible for advising members or speaking on behalf of the authority on a regular basis (even where the salary is below point 38);

These posts are identified as being politically restricted on the job description and on the Council's Establishment list.

Where a local authority employee holds a politically restricted post, he/she may not:

- be an elected member of another authority (except Town or Parish Councils);
- hold office in a political party;
- canvass on behalf of a political party;
- become an MP or an MEP.

This restriction includes a prohibition on public acts in support of a political party such as canvassing and speaking or writing publicly in a personal capacity on subjects that are politically controversial, but other non-political public protests can be made in the same way as other officers.

## 5. Disclosure of Information

### 5.1 Confidentiality

Confidential information obtained in the course of your work must not be divulged to any person (inside or outside the Council's employment) who is not authorised to receive it, unless there is a requirement by law to do so. Similarly, no information concerning another employee's affairs, known about through work, is to be given to any person not authorised to receive it, without the consent of that employee.

If you are in any doubt about disclosing information then you are expected to seek guidance from your manager.

### 5.2 Transparency Code / Freedom of Information

The Council is committed to open government and the law requires that certain types of information must be made available to members, auditors, government departments, service users, and the public. In particular, the Freedom of Information Act 2000 gives a legal right of access to information held by the Council, subject to certain exemptions.

For further information or guidance concerning freedom of information requests please contact the legal services team and for the Open Data/ Transparency Code please contact the Electoral Services and Information Governance Manager.

## 6. Relationships

### 6.1 Employees should always remember their responsibilities to the community and should provide courteous, efficient and impartial service delivery to all groups and individuals within the community.

You are also expected to apply the same high standards of conduct in your dealings with colleagues as with the public. The disruption of other's work or the acting in any way that unnecessarily makes the tasks of others more difficult or more time consuming is unacceptable behaviour.

### 6.2 Relationships with Contractors

Orders and contracts must be awarded on merit, by fair competition, in accordance with the Council's Financial Regulations and Financial Procedure Rules.



You should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts.

Those involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

Employees who are privy to confidential information on tenders or costs for either internal or external contracts should not disclose that information to any unauthorised party or organisation.

### 6.3 **Appointments and other employment matters**

All appointments should be made on merit and in accordance with the Council's agreed procedures. In order to avoid any possible accusation of bias, managers should liaise with HR to ensure appropriate measures are put in place with the appointment process where they are related to an applicant, have a close personal relationship outside work with him or her, or if their knowledge of an applicant is such that they cannot maintain objectivity. This may include being excluded from the recruitment process.

Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a friend, partner, relative or a person to whom the employee owes (or is owed) an obligation.

## **7. Gifts and Hospitality and Registering Interests**

- 7.1 Offers of gifts and hospitality may include items ranging from diaries, stationery, boxes of chocolates, to free meals and golf days.

In exercising judgement as to whether to accept a gift or hospitality the question should be asked what public perception would be if the information was published given your role and circumstances.

It is your responsibility to ensure that you are not placed in a position that risks, or appears to risk, compromising your role with the council and you should not be seen to be securing gifts and hospitality by virtue of your job.

You should tactfully refuse all personal gifts and offers of hospitality that you think may damage public confidence in you.

## 7.2 Registering gifts and hospitality

The Council has a register for recording the receipt of gifts and hospitality, this register is kept by the Head of Governance.

If a gift is received or hospitality accepted **up to the value of £25**, unless it is of purely “token” value (e.g. diary, pen, free gift at an exhibition), it should be declared to your line manager, and reported to the Head of Governance, for inclusion in the Council’s register.

Prior to accepting any gift or hospitality with a **value of £25 or more**, the Officer should seek authorisation from their Director or Chief Executive. Only once consent has been given should the Officer take ownership and the details must then be passed to the Head of Governance immediately for recording in the Council’s Register.

In instances where the Chief Executive is in receipt of a gift or hospitality over the value of £25, approval must be sought from the Leader of the Council. However, if both the Chief Executive and the Leader of the Council are both in receipt of a gift or hospitality, approval must then be sought from the Cabinet.

The Council prohibits the acceptance of cash gifts of any value.

## 7.3 Personal Interests

Personal interests that may impinge or might reasonably be deemed by others to impinge on an employee’s impartiality or conflict with the duty owed to the Council should be declared in writing. These could be an officer’s interests outside work, membership or affiliations to societies or clubs, business interests etc. Anything that may lead to allegations of bias or favouritism; whether it is financial or political, should be declared.

Employees must also declare any financial or non-financial interests that they consider could bring about conflict with the Council’s interests, for instance:

- membership of an organisation receiving grant aid from the council
- membership of an organisation or pressure group which may seek to influence the Council’s policies
- having a beneficial interest in property or land which is within the Council’s district and is subject to any Council business e.g. subject to housing benefit / planning application etc.
- A financial interest (directly or indirectly) in a contract which the Council is about to enter into (or has already done do). This applies to an employee who is a member, a partner or an employee of a company or organisation party to a contract.

## 7.4 Declaring an Interest

Employees who have an interest, financial or non-financial, should not involve themselves in any decision or allocation of Council services or resources from which they, their friends, persons to whom they owe (or are owed) an obligation, or family might benefit and should ensure that the matter is referred immediately to their line manager. The details should then be passed to the Head of Governance to be entered onto the Council's Register.

7.5 For further information see the Gifts and Hospitality and Registering Interests Policy.

## 8. Outside Commitments

8.1 Although your activities during off duty hours are your personal concern they should not interfere with your duties as an employee of the Council, and you should not put yourself in a position where duty and private interests conflict. The Council will not normally prevent you from undertaking additional employment but any such employment must not, in the opinion of the Council, conflict with or be detrimental to the Council's interest or in any way weaken public confidence in the conduct of the Council's business

Officers at Grade 8 or above may not in any case engage in any business or take up any additional job without permission of the Director or Chief Executive. Directors require the permission of the Chief Executive and the Chief Executive needs the permission of Full Council.

Applications for consent should be submitted to Human Resources who will consult with the relevant Corporate Director, Chief Executive or Employment and Appeals Panel as appropriate.

The guiding principle will be that any such employment must not conflict with or react detrimentally to the authority's interests or in any way weaken public confidence in the conduct of the authority's business.

In any event, no outside work of any sort should be undertaken in the office and use of council facilities is forbidden.

The Council is mindful of its responsibility towards the health and wellbeing of its employees under the Working Time Regulations and the Health and Safety at Work Act and all employees are required to notify Human Resources of any other jobs they may have in addition to working at Wyre Council.

## 9. Fraud and Corruption

9.1 Council employees have an important role to play in relation to protection against fraud and corruption. You should report any concerns, associated with the Council's finances, resources and responsibilities, to a senior line manager or the Head of Governance.

9.2 Bribery is the act of offering money or other incentives to persuade somebody to do or not to do something, especially something dishonest or illegal. The Bribery Act makes it an offence for UK citizens and residents to pay or receive a bribe either directly or

indirectly. This includes transactions that take place in the UK and abroad, and in both private and public organisations.

Employees must be aware that it is a serious criminal offence for them to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in his/her official capacity.

For further information see:

*Anti-Fraud, Corruption and Bribery Policy.*

### 9.3 Raising Concerns at Work - Grievances and Whistleblowing

The Council is committed to the highest standards of openness, probity and accountability.

If you have any concerns arising from:

(a) your working conditions or relationships with colleagues that you wish to have resolved you should raise any such issues with your Line Manager, their superior or contact a member of the Human Resources team, you may also wish to seek the support of your trade union representative.

For further information see:

*Grievance Policy and Procedure* and *Dignity at Work Policy*

(b) any other aspect of the Council's operations, for instance if you become aware of any activities that you believe are illegal, improper, unethical or in some other way inconsistent with the Employee Code of Conduct, or the Council's Constitution, policies and procedures, there is a procedure for these concerns which follows the requirements of the Public Interest Disclosure Act 1998. You should normally raise such concerns with your immediate manager or their superior but this depends on the seriousness and sensitivity of the issues involved. If you believe that management is involved or there is serious malpractice you should approach the Head of Governance immediately.

For further information see:

*Whistleblowing Policy.*

## 10. CCTV

10.1 CCTV cameras are installed at the Wyre sites in addition to public places throughout the borough. Appropriate signs are clearly displayed so that employees, residents and visitors are aware they are entering an area covered by CCTV.

10.2 Images are being recorded for the following reasons:

- To assist in the prevention or detection of crime or equivalent malpractice
- To assist in the identification and prosecution of offenders
- To monitor the security of the relevant premises
- To ensure that health and safety and other council rules, policies and procedures

are being complied with.

- 10.3 Wyre Council accept that staff are entitled to a degree of privacy in the work environment. It is therefore not intended to enter into intrusive monitoring, however the council reserves the right to use images for monitoring purposes or as evidence as part of an investigation if there is appropriate reason to do so. Consideration in respect of this must be carried out in liaison with the HR Department and the council's Data Protection Officer.
- 10.4 All managers and authorised users of the CCTV systems are fully trained and aware of their responsibility under Data Protection legislation.

## 11. Breaches of the Code of Conduct

- 11.1 All employees are expected to accept and adhere to the Code of Conduct. Any breach of any part of the Code or its supporting policies and protocols may render the employee liable to disciplinary proceedings.
- 11.2 Further information on what may be considered to be breaches of the Code of Conduct and the likely consequences of doing so is to be found in the Council's Disciplinary Policy.

## 12. Equality Impact Assessment and Monitoring

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

## 13. Data Protection

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

# Appendix 1

## Rules of Conduct

If a breach of these rules is established, it will constitute misconduct and may lead to action being taken under the Council's Disciplinary Procedure. The more serious the breach the more likely it is possible that such a breach will be regarded as gross misconduct.

**The rules as set out below do not constitute a comprehensive list.**

All employees are required:

- a) To comply with any published work rule or with any legitimate and reasonable request, instruction or contractual requirement given by a supervisor, manager or Director.
- b) To act in a manner, whether at work or outside work, which will (having regard to the employee's position with the Council) ensure the confidence of the public in the Council and which will not have a serious adverse effect on any individual's employment. This includes any convictions for a criminal offence and any corrupt or improper practice or breach of trust.
- c) To act in a proper and orderly manner and always act within the law on the Council's premises or in the Council's vehicles or in association with any official duty.
- d) To act in a manner that would not result in an action against the Council for negligence.
- e) To comply with health and safety regulations.
- f) To act in accordance with the Council's equal opportunities policy.
- g) To treat colleagues, elected members, the public or clients on the Council's premises or in the Council's vehicles used in association with any official duty with dignity and respect. Any attempts to embarrass, ridicule, harass, threaten, intimidate abuse or assault could lead to disciplinary action being taken.
- h) Not to lose or damage the Council's equipment and/or property by wilful or negligent act.
- i) To act honestly in relation to the Council's property. Theft of or unauthorised or improper use of Council vehicles, equipment, materials or labour (including unauthorised use of or tampering with any computer or associated equipment and software) or theft from a service user would be regarded as a breach of this rule.
- j) To act honestly in relation to the Council's funds. Theft, misappropriation, failure to account for or fraudulently claiming any money belonging to the

Council or its service users would be regarded as a breach of this rule.

- k) To attend work between the contracted times and for the contracted number of hours a week and not to be absent from work without permission or, if sick, without notifying the supervisor or such absence. Doctors' medical certificates must be submitted within the prescribed time limits.
- l) To act in accordance with the Council's Promoting Attendance and Controlling Absence Policy and not to act in a manner which would impair recovery and delay a return to work when absent due to illness or injury.
- m) To accurately maintain the Council's records or documents. Alteration, mutilation or destruction of any record or document unless properly authorised to do so or falsification of any record or document will be regarded as a breach of this rule.
- n) To report or record any matter in respect of which there is a duty to report or record. For example, there is a duty to report to a suitable person (who may be a Police Officer) any illegal or corrupt act by another employee or another person on the Council's premises or who is using Council facilities.
- o) Not to disclose confidential information to any unauthorised person.
- p) To act in accordance with Data Protection Legislation
- q) To act in accordance with the Council's Social Media Policy.
- r) To ensure proper use of the council CCTV systems including disclosure of images.
- s) To act in accordance with the Council's safeguarding policies:
  - Safeguarding Children Policy
  - Safeguarding Adults Policy

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# **Disciplinary Policy and Procedure “Protected Officers”**

**(Chief Executive, Chief Finance Officer  
and Monitoring Officer)**

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## 1. INTRODUCTION

- 1.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 introduced specific regulations that make distinctive provisions for certain protections to be in place in the event of disciplinary action being considered against a Local Authority Chief Executive, Chief Finance Officer or Monitoring Officer. These officers will be referred to as the 'Protected Officers'.
- 1.2 This formal procedure reflects the requirements of these Regulations and the model procedures within the JNC handbooks for Chief Executives (updated October 2016).
- 1.3 Where an allegation is made relating to the conduct or capability of a protected officer or there is some other substantial issue that requires investigation and where this may potentially lead to dismissal, the matter will be considered as set out below by the Senior Officer's Disciplinary Committee (the Committee). If a recommendation to dismiss has been made it will also be considered by the Independent Panel prior to a final decision by Full Council. This includes situations of significant sickness absence where the next stage may be termination of employment (other than formal ill health retirements).

## 2. GENERAL GUIDELINES AND PRINCIPLES

- 2.1 The definition of disciplinary action as set out in the Local Authorities (Standing Orders) (England) Regulations 2001 as amended includes other reasons for dismissal such as capability or some other substantial reason including a breakdown in trust and confidence between the chief executive and the authority or situations of significant sickness absence (other than formal ill health retirements).
- 2.2 In general, informal conciliation is to be preferred if it can bring about a mutually agreed solution to the problems that have arisen. Where potential disciplinary problems (either conduct or performance) are identified then either of the parties may wish to approach the appropriate JNC Side Secretary. The Joint Secretaries are available at any stage in the proceedings to facilitate discussions between the parties and act as impartial conciliators.
- 2.3 Any officer within the scope of this policy has the right to be accompanied by a trade union representative or work colleague at any formal stage of the procedure. They and/or their representative have the right to put their side of the case and to call witnesses.
- 2.4 The Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) provide that the dismissal of a chief executive or protected officer in cases of disciplinary action (as defined by the regulations) may only take place if the proposal to dismiss is approved by way of a vote at a meeting of the authority, after they have taken into account:
  - any advice, views or recommendations of a panel (the Independent Panel)
  - the conclusions of any investigation into the proposed dismissal and
  - any representations from the protected officer concerned
- 2.5 The procedure:
  - specifies who has the authority to take disciplinary actions
  - ensures that action is not taken without careful investigation

- gives clear details of time scales and any deadlines associated with the various stages of the procedure.
- 2.6 The Service Director Performance and Innovation should be informed of all disciplinary concerns raised in respect of the Protected Officers. North West Employer Organisations will be the Council's main point of contact for advice and guidance on the employment and legal implications of dealing with the complaint. They will also attend and be involved in any part of the process as appropriate.
- 2.7 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.
- 2.8 At all stages in the procedure confidentiality must be respected by all the parties involved.
- 2.9 No officer will be dismissed for their first breach of discipline, unless it is a case of gross misconduct.
- 2.10 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.

### 3. FORMAL PROCEDURE

#### 3.1 Preliminary Investigation

- 3.1.1 The Committee will, as soon as is practicable inform the protected officer in writing of the allegations or other issues under investigation and provide him/her with any evidence that the Committee is to consider and his/her right to present oral evidence.
- 3.1.2 The protected officer will be invited to put forward written representations and any evidence including any written evidence from witnesses. The Committee will also provide the opportunity for the chief executive to make oral representations. At this initial consideration of the need to investigate further it is not anticipated that witnesses will be called; the discretion to do so lies solely with the Committee.
- 3.1.3 The Committee will give careful consideration to the allegations or other issues, supporting evidence and the case put forward by the protected officer before taking further action.
- 3.1.4 The Committee will decide whether
- the issue requires no further formal action under this procedure or
  - the issue should be referred to an Independent Investigator.
- 3.1.5 The Committee will inform the protected officer of its decision without delay.

#### 3.2 Suspension

- 3.2.1 Where there is enough evidence to suggest that the protected 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.

- 3.2.2 The decision to suspend will be made by the Committee having taken into consideration appropriate employment/HR advice. This will normally be carried out in person with the protected officer either by the full Committee or individually by the Committee Chair who ultimately has the delegated power to suspend. In certain circumstances however it may be that the protected officer is informed in writing of the decision to suspend.
- 3.2.3 The protected officer will receive confirmation of the suspension 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 2 months (unless there are exceptional circumstances).
- 3.2.4 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.
- 3.2.5 During the course of the investigation, the Independent Investigating Officer may need to review the suspension and recommend:
- that the Council terminates any suspension of the officer;
  - that any such suspension must continue after the expiry of 2 months.

### **3.3 Appointment of an Independent Investigator**

- 3.3.1 Cases will vary in complexity but the threshold test for the Committee in deciding whether to appoint an Independent Investigator is to consider the allegation or matter and assess whether:
- if it were to be proved, it would be such as to lead to the dismissal or other action which would be recorded on the protected officer's personal file and
  - there is evidence in support of the allegation sufficient to require further investigation.
- 3.3.2 The Committee select the Independent Investigator from a list maintained by the National Joint Secretaries.

### **3.4 The Independent Investigation**

- 3.4.1 Once appointed it will be the responsibility of the Independent Investigator to:
- investigate the issue/allegation
  - prepare a report stating in his/her opinion whether the evidence he/she has obtained supports any allegation of misconduct or incapability or supports a need for action under this procedure for some other substantial reason
  - recommend any disciplinary action (if appropriate) or range of actions which appear to him/her to be appropriate for the authority to take against the protected officer.
- 3.4.2 Where disciplinary action is recommended the Service Director Performance and Innovation will arrange a hearing with the Committee.

### **3.5 Cases Involving Child Protection, Vulnerable Adults or Financial Irregularities, or Wider Issues for the Council**

- 3.5.1 Any complaint involving allegations relating to child protection issues or vulnerable adults must be discussed with the Local Authority Designated Officer for children's social care and adult's social care, as appropriate at Lancashire County Council.
- 3.5.2 In accordance with the Financial Regulations and Financial Procedure Rules the Audit and Risk Manager must be notified of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources.

## 4. DISCIPLINARY HEARING

- 4.1 If the Committee accepts a recommendation to proceed to a full disciplinary hearing this will be convened in accordance with the arrangements described below.
- 4.2 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 Committee will act as the Hearing Panel;
  - 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;
  - the fact that the officer will have the opportunity to state their case and call and/or question any witnesses;
  - the protected officer's right of representation by a trade union representative or work colleague;
  - any previous warnings that could be taken into account when deciding the level of any disciplinary action;
  - the fact 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 Panel.
  - 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 Service Director for Performance and Innovation at least 3 working days before the hearing for distribution to the panel.
- 4.3 An appropriate independent employment specialist will attend with the Hearing Panel.
- 4.4 A model conduct of the disciplinary hearing is shown in section 7.
- 4.5 The Committee, having considered all associated factors may:
- Take no further action
  - Recommend informal resolution or other appropriate procedures
  - Refer back to the Independent Investigator for further investigation and report
  - Take disciplinary action against the protected officer short of dismissal
  - Propose dismissal of the protected officer to the Council.
- 4.6 If, following an investigation and disciplinary hearing, disciplinary action is required, the following options are available:
- Written Warning
  - Final Written Warning
  - Dismissal, and dismissal with offer of re-engagement

## 5. WHERE DISMISSAL IS PROPOSED

5.1 Where the Committee proposes dismissal, the Regulations require that before notice of dismissal is issued:

- an opportunity has to be given to the executive (Cabinet) to object, and
- the council must approve the dismissal.

### 5.2 **Executive Objections Procedure**

5.2.1 The Monitoring Officer will appoint a 'Proper Officer' to liaise with the Cabinet. If the Monitoring Officer is the one subject to disciplinary proceedings a Proper Officer will be appointed by the Corporate Management Team in liaison with Human Resources.

5.2.2 The Committee will inform the Proper Officer that it is proposing to the council that the protected officer be dismissed and that the executive objections procedure should commence.

5.2.3 The Proper Officer will notify all members of the executive of:

- The fact that the Committee is proposing to the council that it dismisses the protected officer
- Any other particulars relevant to the dismissal
- The period by which any objection to the dismissal is to be made by the Leader of the Council on behalf of the Executive to the Proper Officer

5.2.4 At the end of this period the Proper Officer will inform the Committee either:

- That the Leader has notified him/her that no members of the Executive have any objection to the dismissal
- That an objection or objections have been received and provide details.

5.2.5 The Committee will consider any objections and satisfy itself as to whether any of the objections are both material and well founded. If they are, then the Committee will act accordingly and may commission further investigation by the Independent Investigator and report if required.

5.2.6 Having satisfied itself that there are no material and well-founded objections to the proposal to dismiss, the Committee will inform the protected officer of the decision and put that proposal to the Independent Panel along with the Independent Investigator's report and any other necessary material.

### 5.3 **The role of the Independent Panel**

5.3.1 Where the Committee is proposing dismissal, this proposal needs to go before the Independent Panel which must be appointed at least 20 days before the meeting of Full Council at which the recommendation for dismissal is to be considered.

5.3.2 Both parties should be present or represented (the Committee might be represented by its Chair or other nominated person). The Panel should receive any oral representations from the protected officer, in which case it should invite any response on behalf of the Committee to the points made and may ask questions of either party.

- 5.3.3 The Independent Panel will review the decision and prepare a report for Full Council. This report should contain a clear rationale if the Panel disagrees with the recommendation to dismiss.
- 5.4 **The role of Full Council**
- 5.4.1 The Council will consider the proposal that the protected officer should be dismissed and must take into account:
- Any advice, views or recommendations of the Independent Panel
  - The conclusions of the investigations into the proposed dismissal
  - Any representations from the protected officer
- 5.4.2 The protected officer will have the opportunity to appear before Full Council and put his or her case forward before a decision is taken. They will have the right of representation at this meeting.
- 5.4.3 The Council is at liberty to reject the proposal to dismiss. It can then decide on the appropriate course of action which could include substituting a lesser sanction or referring back to the Committee to determine that sanction.
- 5.4.4 It should be noted that the Council's decision is the final stage in the process and in effect constitutes the appeal stage as well.

## 6. APPEALS

### 6.1 Appeals against dismissal

Where the Committee has made a proposal to dismiss; the hearing by Full Council will also fulfil the appeal function.

### 6.2 Appeals against action short of dismissal

If the Committee takes action short of dismissal, the protected officer may appeal to the Council's Employment and Appeals Committee. They will consider the report of the Independent Investigator and any other relevant information. The protected officer will have the opportunity to appear at the meeting and state his/her case.

6.3 The decision of the Appeals Committee will be final

## 7. EXAMPLES OF GROSS MISCONDUCT

- 7.1 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

## 8. ORDER OF CONDUCT OF DISCIPLINARY HEARING

- 8.1 The Hearing Panel Chairman 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
- 8.2 The Independent 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 Panel and their advisor may ask questions of the witness
- 8.3 The Officer or their representative can then question the Independent Investigating Officer.
- 8.4 The Hearing Panel and their advisor may question the Independent Investigating Officer.
- 8.5 The Officer or their representative presents the officer's response - which will include any mitigation, referring to documents and witnesses where appropriate.
- 8.6 If the officer or their representative calls a witness -
- They will question the witness
  - The Independent Investigating Officer may question the witness
  - The Hearing Panel and their advisor may ask questions of the witness
- 8.7 The Independent Investigating Officer questions the officer or their representative on their response to case.
- 8.8 The Hearing Panel and their advisor may question the officer or their representative.
- 8.9 Summing up by each side. The Independent Investigating Officer sums up the case first. The Officer/representative sums up last. New evidence should not be introduced during summing up. However the Hearing Panel reserves the right to seek further information

where it appears that there may be new evidence that could affect the outcome of that decision.

- 8.10 The Hearing Panel 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.
- 8.11 All parties are recalled and informed of the decision, the rationale for making that decision and that written confirmation will follow.
- 8.12 Where the decision is to issue a sanction short of dismissal, the officer will also be informed of their right of appeal.
- 8.13 Where the decision is to recommend dismissal or dismissal with an offer of re-engagement the matter will be referred to Full Council and action will continue as 5.4 above.

## 9. EQUALITY IMPACT ASSESSMENT AND MONITORING

- 9.1 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.

## 10. DATA PROTECTION

- 10.1 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.