

Report of:	Meeting	Date	Item No.
Human Resources	Employment and Appeals Committee	3 July 2017	5

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	Disclosure and Barring Service Policy	Appendix 1	Reviewed
	Secure Handling and Storage Policy	Appendix 2	Reviewed
	Recruitment of Ex-offenders Policy	Appendix 3	Reviewed
	Disciplinary Policy and Procedure	Appendix 4	Reviewed
	Work Experience Policy	Appendix 5	Reviewed
	Zero Tolerance Policy	Appendix 6	Reviewed
	Grievance Policy and Procedure	Appendix 7	Reviewed

Managing Restructures and Changes of Terms and Conditions	Appendix 8	Reviewed
Pay and TOIL Policy (para. 7)	Appendix 9	Reviewed
Flexitime Policy (para 9.9)	Appendix 10	Reviewed

- 5.2** The policies Appendix 1 - 4 have been reviewed and updated with very minimal changes.
- 5.3** The Work Experience Policy has been updated for readability and usability purposes and to ensure that managers understand they are responsible for those on work experience in their section.
- 5.4** The Zero Tolerance Policy has been updated with new Hate Crime contact details.
- 5.5** The Grievance Policy and Procedure has been updated for readability and usability purposes. There is an emphasis on using the informal part of the process before escalating to the formal. In addition the person investigating at stage 1 of the formal process will also be responsible for feeding back the outcome to the aggrieved.
- 5.6** Managing Restructures and Changes of Terms and Conditions has been updated to reflect the changes in management structure and includes some minor rewording.
- 5.7** Pay and TOIL Policy- para. 7 - There are times when the rate of pay as determined by job evaluation is not competitive in the relevant job market, causing serious recruitment and retention difficulties. In such cases recruitment and/or retention incentives may be offered to attract/retain staff with specialist knowledge and skills. These incentives have been collated and documented in section 7 of the policy. As this policy was previously amended in March 2017, only the relevant paragraphs are included for your consideration.
- 5.8** Flexitime Policy – para.9.9 has been added to clarify the position regarding time off for religious purposes and reads:
‘Wyre Council will grant employees reasonable time off during working hours for religious observance insofar as this is possible and practicable, however any time off would need to be made up through the flexi-time scheme or by agreement with the line manager’.

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

Other risks/implications: checklist

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

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

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

report author	telephone no.	email	date
Head of Business Support	(01253) 887316	Liesl.hadgraft@wyre.gov.uk	June 2017

List of background papers:		
Name of Document	Date	Where available for inspection
None		

List of appendices

- Appendix 1 Disclosure and Barring Service Policy
- Appendix 2 Secure Handling and Storage Policy
- Appendix 3 Recruitment of Ex-offenders Policy
- Appendix 4 Disciplinary Policy and Procedure
- Appendix 5 Work Experience Policy
- Appendix 6 Zero Tolerance Policy
- Appendix 7 Grievance Policy and Procedure
- Appendix 8 Managing Restructures and Changes of Terms and Conditions
- Appendix 9 Pay and TOIL Policy (para. 7)
- Appendix 10 Flexitime Policy (para 9.9)



Disclosure and Barring Service Policy

TABLE OF CONTENTS

Contents

		Page
1.	Policy Statement	1
2.	Key Points	1
3.	DBS Checks and when to use them	1
4.	Validity of DBS Disclosures	2
5.	Portability of DBS Disclosures	2
6.	DBS Disclosure requirements for those moving positions within the Council	3
7.	Frequency of DBS Disclosure checking	3
8.	Commencement of work prior to receipt of DBS Disclosure	4
9.	Receipt of DBS Disclosure	4
10.	Recruiting from overseas	5
11.	DBS Disclosures for agency workers/contractors/sub-contractors/volunteers	5
12.	Equality Impact Assessment and Monitoring	5
13.	Data Protection Act 1998	5
	Appendix 1- DBS Eligibility Flow Diagrams	6

1. Policy Statement

- 1.1 The Council is committed to safeguarding the welfare of those accessing our services and has a statutory duty of care towards vulnerable members of society under the Safeguarding Vulnerable Groups Act (2006) and the Exceptions Order to the Rehabilitation of Offenders Act (1975). However, this duty must be carried out with due regard to all other relevant legislation including the Protection of Freedoms Act 2012, the Rehabilitation of Offenders Act (1974), the Data Protection Act (1998), the Disclosure Barring Service (DBS) Code of Practice and the Human Rights Act (1998).
- 1.2 This policy will apply to those seeking paid work or volunteering opportunities with the Council. In addition, certain types of voluntary or seasonal work, student placements, elected members, preferred contractors and other regulated positions will also come under the provisions of the policy, if they involve unsupervised contact with children or adults.

2. Key Points

- 2.1 Wyre Council is committed to safeguarding the welfare of those accessing its services through the effective use of the DBS Disclosure vetting process for all relevant groups of employees.
- 2.2 Throughout this document where a “DBS Disclosure or check” is referred to, this covers all types of DBS check (i.e. standard/enhanced/enhanced + children’s and /or adult’s barred list check).
- 2.3 Where the term ‘vulnerable adult’ is used, this is where an adult is in receipt of or accessing a service which leads that adult to being considered vulnerable at that particular time.
- 2.4 Wyre Council uses the DBS Disclosure process as part of a range of checks for assessing the suitability of preferred candidates, volunteers, contractors, agency staff, those transferring within the Council, and the continued employment of those in specific roles which require reassessment.
- 2.5 The Council obtains and makes decisions based on information provided on DBS Disclosures in accordance with the Data Protection Act, the DBS Code of Practice and the Rehabilitation of Offenders Act.
- 2.6 This policy should be read in conjunction with the Council’s Recruitment of Ex-Offenders policy and the Secure Handling and Storage of DBS Certificate Information Policy.

3. DBS Checks and when to use them

- 3.1 It is best practice to determine the type of DBS Disclosure that is required by way of a risk assessment which should be undertaken by the manager responsible for the activity that the individual will be undertaking. Managers should conduct the risk assessment before the activity commences and in the case of recruitment to a vacant

post, this should take place prior to the recruitment process. Managers are also responsible for the on-going reassessment of the post/work to ascertain if the level and type of contact the individual has with children and/or vulnerable adults has changed and, if necessary, to initiate a new DBS Disclosure.

3.2 There are five types of check that are available. A series of flow diagrams are provided in Appendix 1 to enable you to establish, which, if any, level of check is required. The checks that are available are:

- **Enhanced Check for Regulated Activity (Children)** - used when someone is undertaking regulated activity relating to children (see Appendix 1 Diagram 1). This check involves a check of the police national computer, police information and the children's barred list.
- **Enhanced Check for Regulated Activity (Adults)** - used when someone is undertaking regulated activity relating to adults (see Appendix 1 Diagram 2). This check involves a check of the police national computer, police information and the adult's barred list.
- **Enhanced Check for Regulated Activity (Children and Adults)** - used when someone is undertaking regulated activity relating to both children and adults (see Appendix 1 Diagrams 1 & 2). This check involves a check of the police national computer, police information and the children's and adults barred list.
- **Enhanced DBS Check** - used where someone meets the pre September 2012 definition of regulated activity (see Appendix 1 Diagram 3). This level of check involves a check of the police national computer and police information.
- **Standard DBS Check** - used primarily for people entering certain professions such as: members of the legal and accountancy professions. Standard DBS checks just involve a check of the police national computer and do not include a check of police information or the children's or adult's barred lists.

Please note:

- You cannot apply for a DBS check for someone who is under 16 years old.
- From 10th September 2012 we are no longer able to obtain a DBS check for anyone undertaking "controlled activity". This means there is no longer eligibility for people with access to sensitive data to be DBS checked.

3.3 If there are concerns about an existing worker's suitability to continue working with children and/or adults then there is the discretion to undertake a DBS Disclosure. Due to the requirements of the DBS Disclosure process the individual concerned must give their consent for the DBS Disclosure to be obtained. Human Resources must be contacted for advice in these instances.

4. Validity of DBS Disclosures

4.1 There is no period of validity for a DBS Disclosure. A DBS Disclosure is technically out of date on the day it is issued as a new or further criminal conviction, caution, etc may be recorded against the individual at any time after the issue date.

- 4.2 Employees should inform their line manager immediately if following completion of a DBS Disclosure they are subsequently cautioned, charged, summonsed or convicted of a criminal offence. Failure to disclose such information may lead to disciplinary action being taken.

5. Portability of DBS Disclosures

- 5.1 Portability refers to the re-use of a DBS Disclosure, obtained for a position in one organisation and later used for a position in a new organisation.

5.2 Update Service

The DBS have introduced a subscription service that lets individuals keep their DBS Certificate up to date so that they can take it with them when they move jobs or roles. As an employer Wyre are able to carry out instant checks, known as Status Checks, to see if any new information has come to light since the Certificate was issued.

If the individual has not subscribed to the update service Wyre will not be able to accept portable DBS Disclosures for any positions and will therefore undertake a new DBS check as part of the recruitment process.

6. DBS Disclosure requirements for those moving positions within the Council

- 6.1 Where an individual has undertaken a DBS Disclosure for a position with the Council and they move to another position within the organisation, the DBS Disclosure will be acceptable in the following instances:
- the type of DBS Disclosure (i.e. Standard / Enhanced / Enhanced + relevant barred list check) is the same for the old and new post; and
 - the individual has not had a break in service of more than three months; and
 - the new work does not represent a significant increase in responsibility for, and contact with, children and/or adults.

7. Frequency of DBS Disclosure checking

- 7.1 Where a DBS Disclosure is required, the individual will complete a DBS check as part of a recruitment and selection process to ascertain their suitability for the post. This will be reviewed every 3 years.
- 7.2 Where an existing worker's DBS Disclosure reveals a criminal background or any cause for concern (i.e. it is a Positive DBS Disclosure) HR will contact the manager to discuss and advise on the issues. Further guidance on Positive DBS Disclosures can be found below in 'Receipt of DBS Disclosure'.

8. Commencement of work prior to receipt of DBS Disclosure

8.1 In all circumstances every effort must be made to ensure a DBS Disclosure is obtained prior to the individual commencing work with the Council. Only in exceptional circumstances can an individual commence work without the full results of the DBS Disclosure being known and this can only be authorised by the relevant Head of Service in liaison with the Head of Business Support. Prior to seeking such approval the following must have taken place:

- HR are in receipt of all of the other pre-employment checks and these have been confirmed as being satisfactory; and
- a correctly completed DBS Disclosure application form has been submitted and sent off to the DBS; and
- HR have checked and cleared the individual against the relevant barred list; and
- The line manager has undertaken a risk assessment to determine and ensure that sufficient safeguards are in place to ensure the individual has no unsupervised access to children or adults.

9. Receipt of DBS Disclosure

9.1 DBS issue one copy of the DBS Disclosure which is sent to the applicant (e.g. employee, volunteer etc) who must then ensure that the original certificate is sent to relevant contact within the Council.

9.2 If a positive DBS Disclosure (i.e. a Disclosure that reveals a criminal background or details that may be of concern) is received HR will contact the manager and advise on the next steps. The relevant Head of Service in liaison with HR must consider and approve a positive DBS Disclosure for an individual to commence/continue in employment.

9.3 In these instances a risk assessment is required to determine whether the risk of employing or continuing to employ an individual can be taken and what safeguards would need to be introduced to manage that risk.

9.4 In accordance with the Rehabilitation of Offenders Act a criminal conviction may not automatically prevent an individual from working with the Council.

Amongst other factors, managers must consider the following:

- the requirements of the role and the level of supervision the individual will receive
- the seriousness of the offence/issue raised and its relevance to the safety of employees, service users, clients or property
- how relevant the offence is on the role to be undertaken
- how much time has elapsed since the offence was committed and whether it was a one-off incident or part of a history of offending
- whether the individual's circumstances have changed since the offence was committed making re-offending less likely
- whether the individual was open and transparent about their past and declared their criminal background prior to receiving the DBS Disclosure.

10. Recruiting from overseas

- 10.1 DBS Disclosures do not record convictions that were committed abroad. When recruiting candidates who have spent a period of time living or working abroad, a DBS Disclosure must be obtained in the normal way and a DBS Disclosure or equivalent from the country(s) concerned may be required as well.

11. DBS Disclosures for agency workers/contractors/sub-contractors/volunteers

- 11.1 Agency workers, contractors, sub-contractors and volunteers must be assessed against the same criteria as those working directly for the Council to see if a DBS Disclosure is required (please refer to Appendix 1).
- 11.2 A standard clause relating to DBS Disclosure requirements has been developed and should be introduced into any contract which involves work with children or adults or providing services for, or in, establishments where children and /or vulnerable adults may be present.
- 11.3 It is the responsibility of the relevant department to put appropriate measures in place to validate and ensure contract compliance.

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 Act 1998

- 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 the requirements of the Data Protection Act 1998.

Appendix 1 – DBS Eligibility Flow Diagrams

Eligibility for DBS Check

This flow diagram and supporting guidance is designed to enable you to identify:

- a) Is a check required, and
- b) If it is, what type of check is appropriate.

The definitions provided in this document are to establish eligibility for a DBS check and have been developed by the Home Office in consultation with the Disclosure Barring Service (DBS), Independent Safeguarding Authority (ISA), Department of Health (DH) and Department for Education (DfE). The legislation which underpins these definitions is the Safeguarding Vulnerable Groups Act 2006 (SVGA) as amended by the Protection of Freedoms Act 2012.

Wyre Council has a duty to ensure it is not unnecessarily undertaking checks which could result in a breach of the Rehabilitation of Offenders Act 1974 (Exceptions) 1975, and may lead to Wyre Council losing registered body status which would mean that we would be unable to carry on undertaking DBS checks.

Steps to establish if a DBS check is required as defined in the diagrams attached

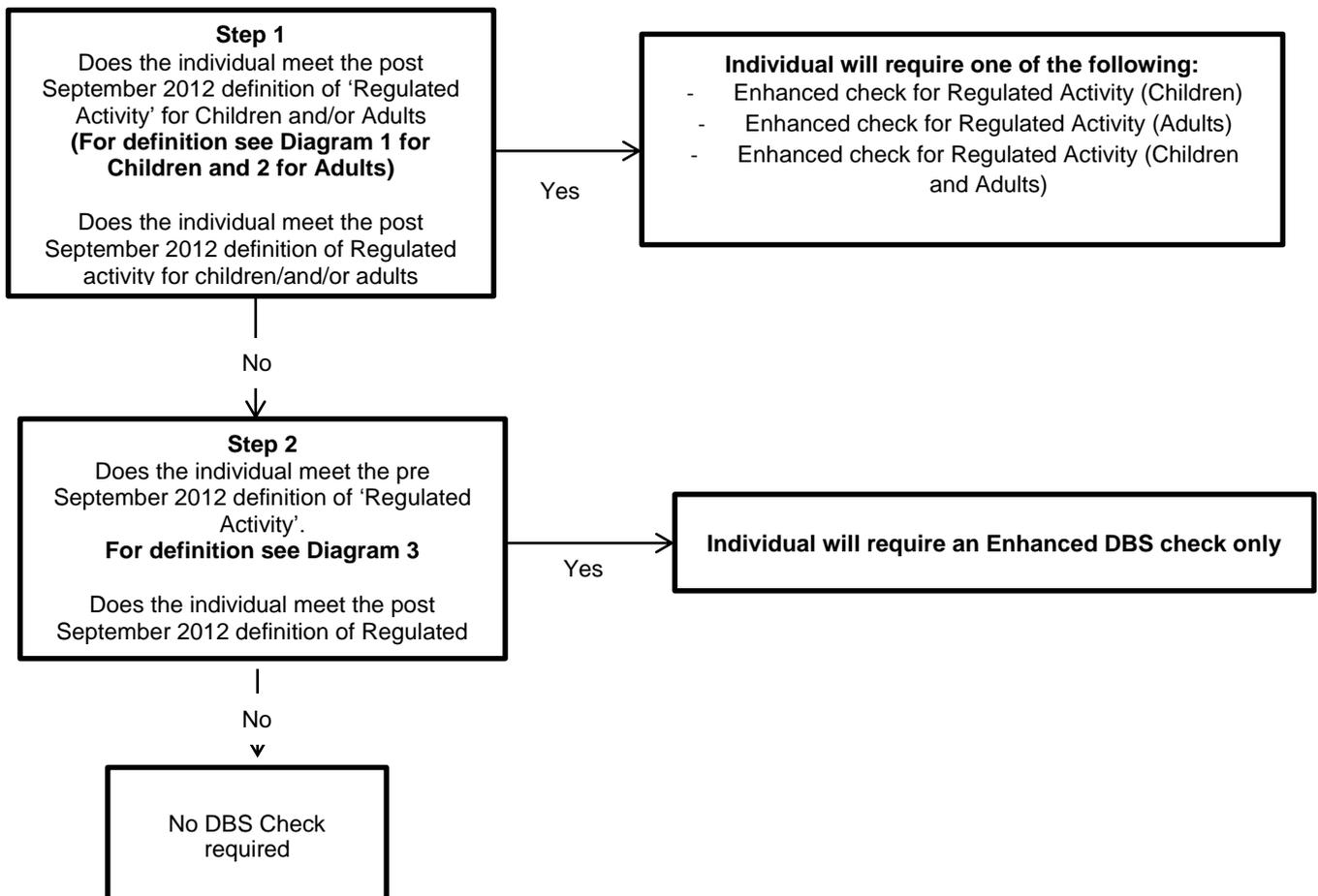


Diagram 1

**Regulated activity relating to Children
(Post September 2012 Definition)**

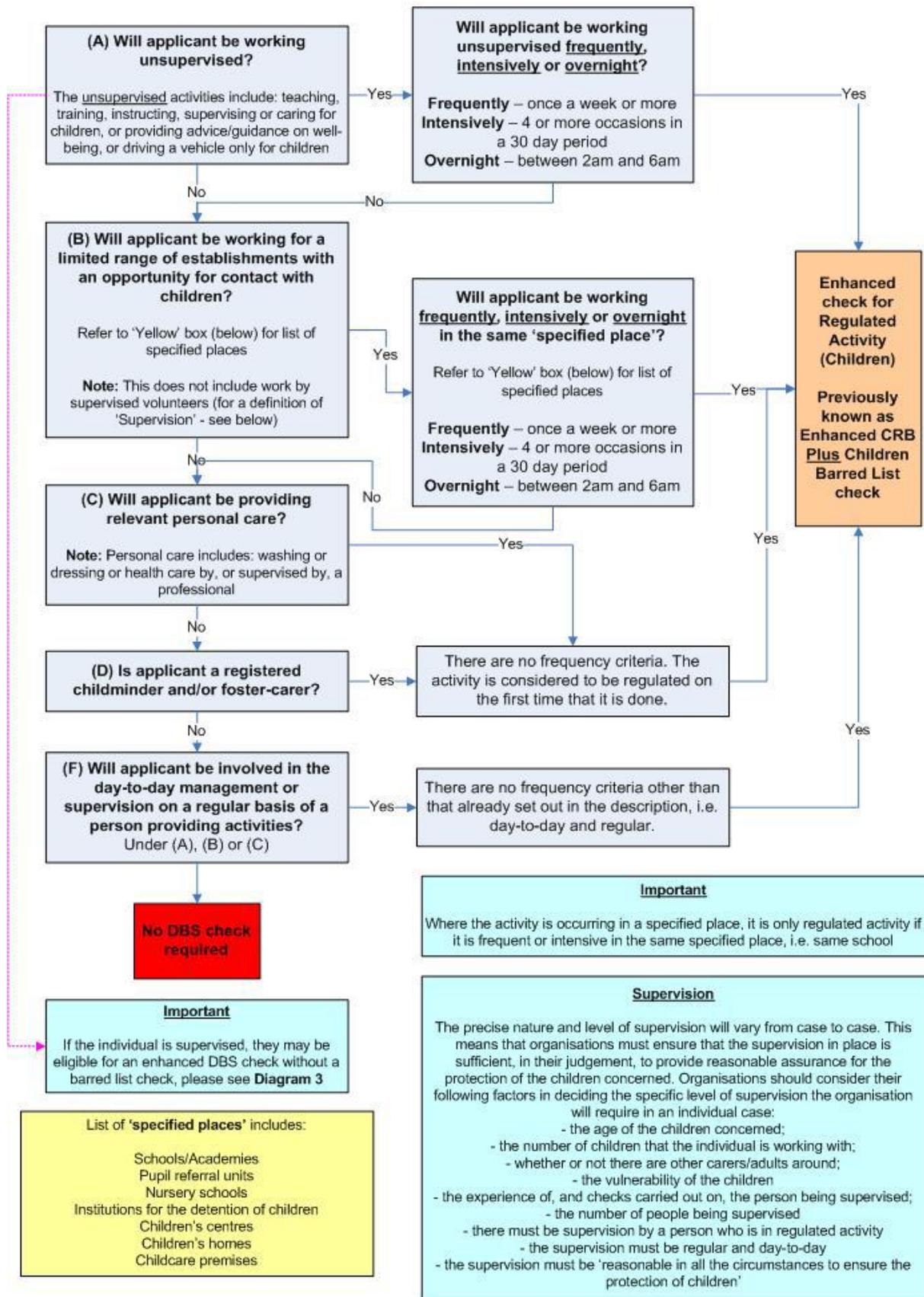
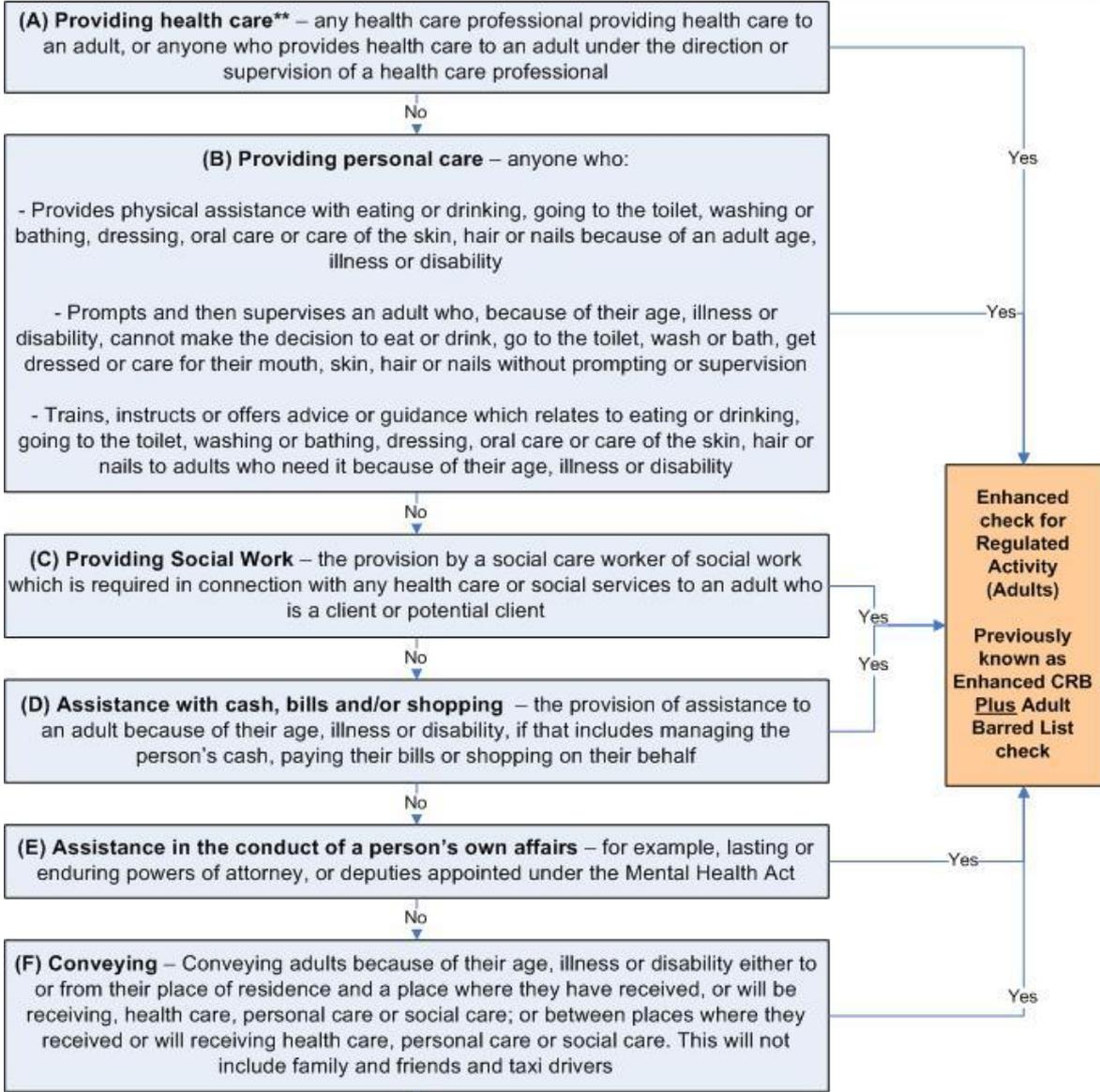


Diagram 2

**Regulated activity relating to Adults
(Post September 2012 Definition)**

Regulated activity relating to adults identifies activities which, if any adult requires them, lead to that adult being considered vulnerable at that particular time. There is not a requirement to do the activity a certain number of times before it is considered as engaging in regulated activity. Anyone meeting the six definitions below (including a person who provides day-to-day management or supervision of those people) will require an enhanced DBS check with an adults barred list check.

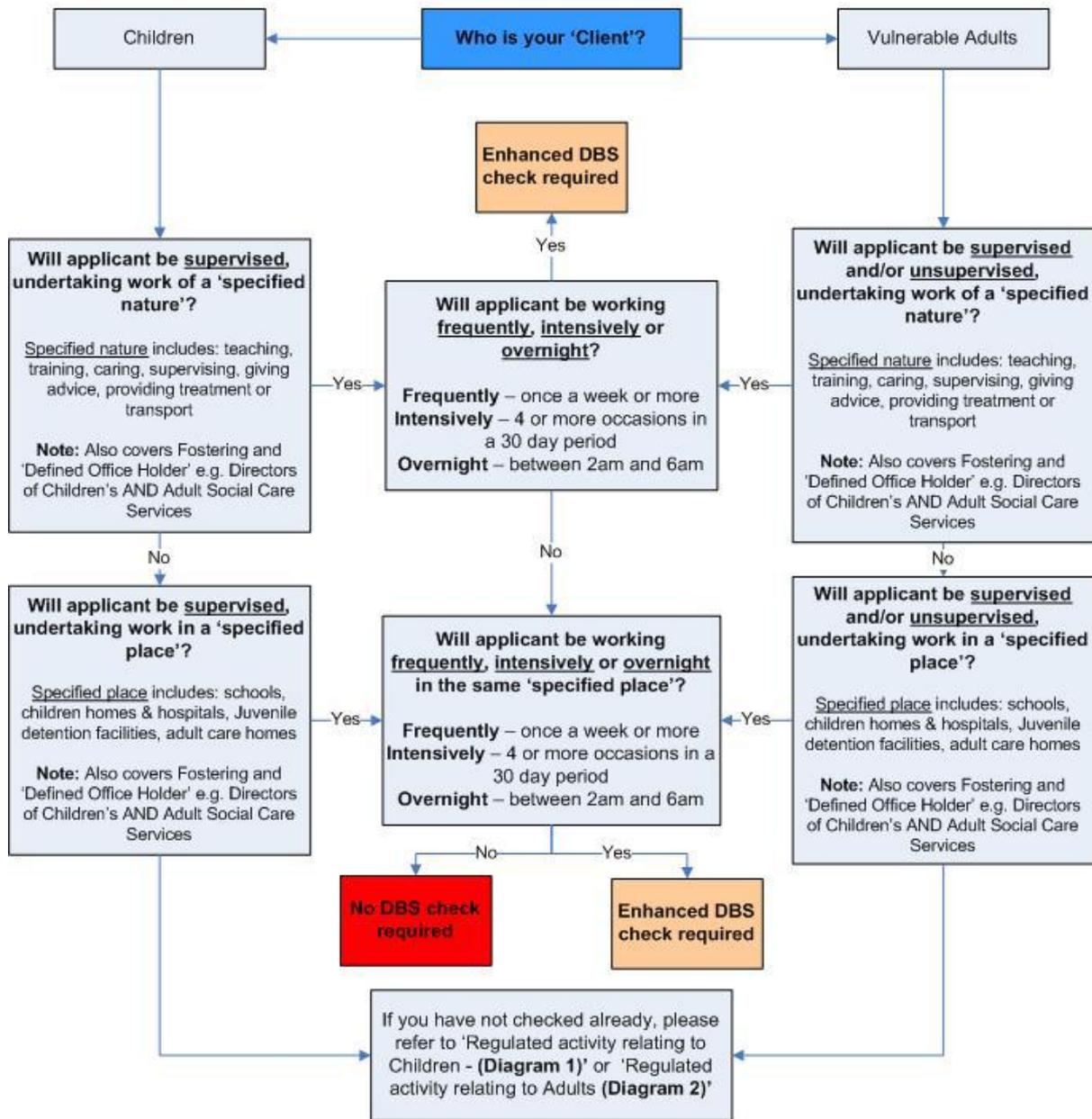


****Health Care** includes all forms of health care provided for adults, whether relating to physical or mental health, and includes palliative care. This includes diagnostic tests and investigative procedures. It also includes procedures that are similar to forms of medical or surgical care that are not provided in connection with medical condition, i.e. taking blood from a blood donor or cosmetic surgery.

For an Enhanced CRB check with no barred list check
If an individual does not meet the definition of 'regulated activity' as set out above but **does** fall within the old definition of regulated activity. (See **Diagram 3** to see if they meet the old definition)

Diagram 3

**DBS Check without a barred list check
(Pre September 2012 Definition)**



Important

Where the activity is occurring in a specified place, it is only regulated activity if it is frequent or intensive in the same specified place, i.e. same school

Supervision

The precise nature and level of supervision will vary from case to case. This means that organisations must ensure that the supervision in place is sufficient, in their judgement, to provide reasonable assurance for the protection of the children concerned. Organisations should consider their following factors in deciding the specific level of supervision the organisation will require in an individual case:

- the age of the children concerned;
- the number of children that the individual is working with;
- whether or not there are other carers/adults around;
- the vulnerability of the children
- the experience of, and checks carried out on, the person being supervised;
- the number of people being supervised
- there must be supervision by a person who is in regulated activity
- the supervision must be regular and day-to-day
- the supervision must be 'reasonable in all the circumstances to ensure the protection of children'



Policy for Secure Handling and Storage of DBS Certificate Information

TABLE OF CONTENTS

Contents

		Page
1.	General Principles	1
2.	Storage and Access	1
3.	Handling	1
4.	Usage	1
5.	Retention	1
6.	Disposal	1
7.	Equality Impact Assessment & Monitoring	2
8.	Data Protection Act 1998	2

1. General Principles

- 1.1 As an organisation using the Disclosure and Barring Service (DBS) checking service to help assess the suitability of applicants for positions of trust, Wyre Council complies fully with the Code of Practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information. It also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of certificate information and has a written policy on these matters, which is available to those who wish to see it on request.

2. Storage and Access

- 2.1 Certificate information is kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

3. Handling

- 3.1 In accordance with section 124 of the Police Act 1997, certificate information is only passed to those who are authorised to receive it in the course of their duties. A record is maintained of all those to whom certificates or certificate information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.

4. Usage

- 4.1 Certificate information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

5. Retention

- 5.1 Once a recruitment (or other relevant) decision has been made, certificate information is not kept for any longer than is necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep certificate information for longer than six months, the DBS will be consulted and full consideration will be given to the data protection and human rights of the individual before doing so. Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

6. Disposal

- 6.1 Once the retention period has elapsed, DBS certificate information will be immediately destroyed by secure means, i.e. by shredding, pulping or burning. While awaiting destruction, certificate information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack). No photocopy or other image of the certificate or any copy or representation of the contents of a certificate will be retained. However, notwithstanding the above, a record of the date of issue of a certificate, the name of the subject, the type of certificate requested, the position for which the certificate was

requested, the unique reference number of the certificate and the details of the recruitment decision taken may be kept.

7. Equality Impact Assessment and Monitoring

- 7.1 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.

8. Data Protection Act 1998

- 8.1 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 the requirements of the Data Protection Act 1998.

arm/empap/cr/17/0307lh1



Recruitment of Ex-offenders Policy

TABLE OF CONTENTS

Contents

		Page
1.	Policy Statement	1
2.	Rehabilitation of Offenders Act 1974	1
3.	Jobs covered by the Rehabilitation of Offenders Act 1974	1
4.	Jobs that are exempt from the Rehabilitation of Offenders Act 1974	2
5.	Job Applicants	2
6.	Protection of a Rehabilitated Person	3
7.	Council Employees	3
8.	Equality Impact Assessment and Monitoring	3
9.	Data Protection Act 1998	3
	Appendix 1	4

1. Policy Statement

- 1.1 Wyre Council is committed to equality of opportunity for all job applicants and aims to select people for employment on the basis of their individual skills, abilities, experience, knowledge and, where appropriate, qualifications and training.

Wyre will therefore consider ex-offenders for employment on their individual merits. The Council's approach towards employing ex-offenders differs, however, depending on whether the job is or is not exempt from the provisions of the Rehabilitation of Offenders Act 1974.

- 1.2 Wyre Council is committed to ensuring that all information provided about an individual's criminal convictions, including any information released in disclosures, is used fairly and stored and handled appropriately and in accordance with the provisions of the Data Protection Act 1998. Data held on file about an individual's criminal convictions will be held only as long as it is required for employment purposes and will not be disclosed to any unauthorised person.

2. Rehabilitation of Offenders Act 1974

- 2.1 The Rehabilitation of Offenders Act 1974 ensures those people who have been convicted of a criminal offence in the past are not discriminated against when seeking appropriate employment. A person convicted of a criminal offence and who receives a sentence of no more than 2.5 years in prison, whether suspended or not, is protected by the Act if they are not convicted again during a specified period referred to as the 'Rehabilitation Period'. Generally the more severe the penalty the longer the rehabilitation period. Further information on rehabilitation periods can be seen in Appendix 1.

- 2.2 Once a rehabilitation period has expired and no further offending has taken place, a conviction is considered to be 'spent'. Once a conviction has been spent, the convicted person does not have to reveal it or admit its existence. However there are some exceptions.

3. Jobs covered by the Rehabilitation of Offenders Act 1974

- 3.1 Wyre Council will not automatically refuse to employ a particular individual just because he/she has a previous criminal conviction.
- 3.2 During the selection process, Wyre Council will ask job applicants to disclose any unspent convictions, but will not ask job applicants questions about spent convictions, nor expect them to disclose any spent convictions.
- 3.3 If an applicant has a conviction that is not spent and if the nature of the offence is relevant to the job for which he/she has applied, the Council will review the individual circumstances of the case and may, at its discretion, decline to select the individual for employment.

4. Jobs that are exempt from the Rehabilitation of Offenders Act 1974

- 4.1 The Council has a duty of care to protect the well-being of the public and service users and in particular children and adults in its care who are considered to be especially vulnerable or at risk. The Exceptions Order overrules the employment rights an ex-offender would otherwise have in respect of spent convictions. Ex-offenders have to disclose information about spent, as well as unspent convictions, provided the employer states clearly on the application form or at the interview that the job applied for is exempted.
- 4.2 Exempted occupations fall into the following categories (see appendix 2 for examples):
- Work that brings the person into contact with groups such as the infirm, elderly, mentally ill and young people under the age of 18.
Professionals that have legal protection, for example, nurses, doctors, dentists, chemists, accountants.
Posts concerned with the administration of justice, for example, police officers, lawyers, probation officers, and traffic wardens.
Health service appointments

5. Job Applicants

- 5.1 The Council is committed to the fair treatment of its staff, potential staff and users of its services regardless of race, gender, religion, sexual orientation, responsibilities for dependents, age, physical/mental disability or offending background. We actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records. We select all candidates for interview based on their skills, qualifications and experience.
- 5.2 Pre-employment checks and other safe recruitment practices are a requirement to ensure that people who may pose a threat to children and adults are not given positions of trust where they could exploit those entrusted to their care.
- 5.3 As an organisation using the DBS disclosures to assess applicants' suitability for positions of trust, we comply fully with the DBS Code of Practice and undertake to treat all applicants for positions fairly.
- 5.4 A disclosure is only requested when it is legal to do so. The parameters are set out in the Council's Disclosure & Barring Service (DBS) Policy. For those positions where a disclosure is required all job adverts, application forms, and recruitment material will contain a statement that a disclosure will be requested before an appointment is made.
- 5.5 Unless the nature of the position allows the Council to ask questions about a person's entire criminal record we only ask about 'unspent' convictions as defined in the Rehabilitation of Offenders Act (1974).
- 5.6 We ensure that all those in the Council who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act (1974).

- 5.7 Having a criminal record will not bar a person from working at the Council. It will depend on the nature of the position and the circumstances and background of the offences. We do not discriminate unfairly against any subject of a disclosure on the basis of conviction or other information revealed. At interview, or in a separate discussion, we ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position before any offer of employment is considered.

6. Protection of a Rehabilitated Person

- 6.1 The unauthorised disclosure of information about a spent conviction is illegal. Unauthorised disclosure is where an official with access to information about the person's criminal record discloses this information other than in the course of official duties. Serious misuse of a person's criminal record could result in a prison sentence of up to six months or a fine of up to £1,000, or both.

7. Council Employees

- 7.1 Following appointment, employees have a responsibility to report any relevant changes of circumstance to their employer. These include any criminal investigations, convictions or warnings they may become the subject of, or any other relevant information which a reasonable employer might consider to impact on the employment of that individual. Employees should always discuss with their line manager any difficulties or problems that may impact on their suitability to work with children and adults so that appropriate support can be provided or action taken. Failure to disclose convictions with the line manager may result in disciplinary action.
- 7.2 Any existing employee may be asked to undertake a DBS re-check in line with Council policy. Refusing to comply with such a request may result in the employee being subject to formal disciplinary action for deliberate and/or unreasonable refusal to carry out lawful and safe instructions issued by an appropriate manager/supervisor, and/or to comply with a contractual agreement.
- 7.3 Confidentiality cannot be guaranteed where concerns arise about the welfare or safety of children or adults but any information sharing will be in accordance with relevant legislation and policy and only as is necessary in the circumstances.

8. Equality Impact Assessment and Monitoring

- 8.1 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.

9. Data Protection Act 1998

- 9.1 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 the requirements of the Data Protection Act 1998.

Appendix 1

The rehabilitation periods for sentences with additional “buffer periods” which run from the end date of the sentence are shown in the table below:

Sentence/disposal	Buffer period for adults (18 or over at the time of conviction or time the disposal is administered). This applies from the <u>end date of the sentence</u> (including the licence period).	Buffer period for young people (under 18 at time of conviction or the time the disposal is administered). This applies from the <u>end date of the sentence</u> (including the licence period).
Custodial sentence* of over 4 years, or a public protection sentence	Never spent	Never spent
Custodial sentence of over 30 months (2 ½ years) and up to and including 48 months (4 years)	7 years	3 ½ years
Custodial sentence of over 6 months and up to and including 30 months (2 ½ years)	4 years	2 years
Custodial sentence of 6 months or less	2 years	18 months
Community order or youth rehabilitation order **	1 years	6 months

*Custodial sentence includes a sentence of imprisonment (both an immediate custodial sentence and a suspended sentence), a sentence of detention in a young offender institution, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order, a sentence of your custody, a sentence of corrective training and a sentence of Borstal training.

**In relation to any community or youth rehabilitation order which has no specified end date, the rehabilitation period is 2 years from the date of conviction.

The following table sets out the rehabilitation period for sentences which do not have “buffer periods” and for which the rehabilitation period runs from the date of conviction:

Sentence/disposal	Rehabilitation period for adults (18 and over at the time of conviction or the time the disposal is administered)	Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered)
Fine	1 year	6 months
Conditional discharge	Period of the order	Period of the order
Absolute discharge	None	None
Compensation Order	On the discharge of the order (i.e. when it is paid in full)	On the discharge of the order (i.e. when it is paid in full)
Binding over order	Period of the order	Period of the order
Attendance Centre Order	Period of the order	Period of the order
Hospital Order (with or without a restriction order)	Period of the order	Period of the order

Referral order	Not available for adults	Period of the order
Reparation order	Not available for adults	None

Suspended sentences

A suspended prison sentence is treated as one that has taken effect and the rehabilitation period is the same as for the full sentence.

Consecutive and concurrent sentences

An offender may be sentenced at one time for several offences. If the court decides that imprisonment is the right penalty for more than one offence, it can order that these run concurrently or consecutively. If a person is sentenced to two terms of imprisonment of six months each, to run concurrently, the person will be subject to a rehabilitation period of seven years. If they were ordered to run consecutively, they would be subject to a rehabilitation period of ten years.

Extension of rehabilitation periods

Rehabilitation periods may be extended if a person receives further convictions while an original rehabilitation period is still running. If the second conviction is for a summary offence, i.e. an offence that can be tried only in a Magistrate's Court, then the first rehabilitation period is not affected and both rehabilitation periods will run their separate course. If, however, the second conviction is more serious and could be tried in a Crown Court, then neither conviction will become spent until the longer rehabilitation period has expired.

Where the original sentence resulted in a disqualification, probation or other penalty, the rehabilitation period will not be affected if the person is convicted of a further offence.

Appendix 2

Examples of the types of occupations, posts and activities in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

Please be aware that this is **not** a comprehensive list and merely gives an indication of the general types of employment that are included in the Exceptions Order.

1. Regulated activity with children and other activities which involve working closely with children such as caring for, training, supervising or being solely in charge of children under 18 (including adoption, fostering, day care and childminding)
2. Regulated activity and other activities which involve caring for, training, supervising or being solely in charge of other people in vulnerable circumstances (including social work and advocacy services)
3. Employment in healthcare professions (including medical practitioners, dentists, nurses, midwives, optometrists, registered pharmacists and osteopaths)
4. Employment concerned with national security (including the provision of air traffic services and employment by the UK Atomic Energy Authority)
5. Employment in the legal profession (including barristers, solicitors, legal executives, the Crown Prosecution Service and judicial appointments)
6. Offices and positions in HM Courts and Tribunals Service and the Judicial Office (including Justices' and sheriff's, court and tribunal security officers and contractors with unsupervised access to court-houses, tribunal buildings, offices and other accommodation used in relation to the court or tribunal)
7. Employment in law enforcement (including police constables and cadets, the naval, military and air force police, traffic wardens and employment in the Serious Fraud Office (SFO) and the Serious Organised Crime Agency (SOCA))
8. Offices responsible for the enforcement of warrants and writs (including Court officers who execute county court warrants, High Court enforcement officers, sheriffs and Civilian enforcement officers)
9. Employment in the Prison and Probation Services (including prison and probation officers, members of boards of visitors etc.)
10. Employment in the financial sector (including chartered and certified accountants, actuaries and all positions for which the Financial Conduct Authority or the competent authority for listings are entitled to ask exempted questions to fulfil their obligations under the Financial Services and Markets Act 2000)
11. For licensing purposes (including the National Lottery, gambling, firearms and drugs licensing purposes, Security Industry Authority licences, and licensing hackney carriages or private hire vehicle drivers)



Disciplinary Policy and Procedure

TABLE OF CONTENTS

Contents		
		Page
1.	Introduction	2
2.	Aims	2
3.	Scope	2
4.	Training	3
5.	Roles and Responsibilities	3
6.	General Principles	4
7.	Definitions	5
8.	Procedure	6
9.	The Informal Procedure – Informal Discussions	7
10.	The Formal Procedure	7
11.	Disciplinary Hearings	12
12.	Sanctions	14
13.	Appeals	15
14.	Equality Impact Assessment and Monitoring	15
15.	Data Protection Act	16
	Appendix 1 Examples of Misconduct	17
	Appendix 2 Frequently Asked Questions – Paid Suspension	20
	Appendix 3 Guidance on the Conduct of a Disciplinary Hearing	23
	Appendix 4 Frequently asked Questions – Disciplinary Procedure	26

1. Introduction

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

2. Aims

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

3. Scope

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

4. Training

-
- 4.1 All supervisors/line managers who have responsibility for managing conduct and might act as investigating officers or lead at hearings will attend an appropriate training course or demonstrate an appropriate level of competence. Elected members who sit on the Disciplinary Appeals Panel will also attend an appropriate training course or demonstrate an appropriate level of competence.

5. Roles and Responsibilities

- 5.1 It is the responsibility of individual **Employees** to:

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

- 5.2 It is the responsibility of **Managers** to:

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

- 5.3 It is the responsibility of **Human Resources** to:

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

6. General Principles

- 6.1 This policy and procedure is designed to encourage all employees to achieve and maintain satisfactory standards of conduct, and not purely as a means of imposing sanctions.
- 6.2 Standards of work and conduct required will be reiterated to ensure that employees are clear as to what is expected of them (this should also have been done at the outset of taking up employment).¹
- 6.3 All disciplinary proceedings will be dealt with confidentially and treated as an allegation subject to the outcome of any disciplinary hearing.
- 6.4 All disciplinary issues will be dealt with in a fair and timely manner and with clear decisions at all stages.
- 6.5 The Council reserves the right to implement the disciplinary procedure at any stage, if the employee's conduct warrants such action.
- 6.6 The Council's safeguarding policies must be referred to in circumstances where an allegation or incident is in relation to a child, young person or vulnerable adult.
- 6.7 Managers should consult Human Resources before a disciplinary investigation takes place. A representative from Human Resources will normally attend disciplinary hearings and where requested, disciplinary meetings. However, for avoidance of doubt, a disciplinary hearing held without a representative from Human Resources, shall not be regarded as being improperly conducted for the purposes of this procedure.
- 6.8 At all stages of the disciplinary procedure, except for the informal stage, an employee will have the right to be accompanied by an approved trade union representative or work colleague of their choice.
- 6.9 Electronic recordings should not be made of any meetings or hearings involved in the disciplinary process without the consent of those present.
- 6.10 An employee will not be dismissed for a first breach of discipline except in a case of gross misconduct, where the penalty will be summary dismissal without notice or pay in lieu of notice.
- 6.11 No disciplinary action will be taken against a trade union representative until circumstances have been discussed with a full time official of the trade union concerned.
- 6.12 Where disciplinary action is withdrawn or where the employee is cleared of any alleged misconduct, any written reference to the matter will be removed from the employee's personal file.

¹ See also the Wyre Borough Council Capability Procedure

- 6.13 An employee may appeal against any disciplinary action imposed in accordance with this procedure.
- 6.14 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.

7. Definitions

7.1 **Misconduct**

Examples of misconduct, which would normally justify the use of the Disciplinary Procedure has been attached as Appendix 1.

7.2 **Gross Misconduct**

Examples of serious offences that constitute acts of gross misconduct and potentially could lead to an employee's dismissal have been attached as Appendix 1.

Where misconduct is related to inappropriate conduct towards a child or vulnerable adult and it is perceived that the individual may pose a risk to children or vulnerable adults, details of the offence will be passed to the relevant external authorities by the Human Resources Team.

Similarly, where the misconduct is of a very serious nature, e.g. theft, fraud, details of the offence will be passed to the Head of Business Support who in liaison with Internal Audit/ Section 151 Officer may subsequently refer the matter on to external authorities, for example the police.

Neither of the two lists in Appendix 1 are exhaustive and one test that should be asked when determining if there is a potential for a misconduct allegation is - would a reasonable person be aware that disciplinary action would result from a certain act or omission?

7.3 **Conduct Outside of Work**

The Council does not seek to dictate how employees conduct themselves in their personal lives outside work. However, unlawful, anti-social or other conduct by employees which may jeopardise the Council's reputation or position will be dealt with through the disciplinary procedure. Examples of such behaviours are listed in Appendix 1.

7.4 **Cases of Alleged Criminal Activity**

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

8. Procedure

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

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

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

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

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

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

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

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

8.5 Criminal Conviction/Imprisonment

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

9. The Informal Procedure – Informal Discussions

9.1 Minor offences or lapses by the employee, should in the first instance, be dealt with by an informal discussion between a supervisor/manager and the employee concerned.

9.2 Nothing in this procedure is intended to prevent the normal process of management and supervision whereby managers manage performance including: performance and development reviews and 1:1s, allocating work, monitoring performance, drawing attention to errors, poor quality and minor misconduct whilst also highlighting work that has been done well either through routine management or regular appraisal.

Most cases of minor misconduct are best dealt with through such informal processes rather than through the formal disciplinary procedure.

9.3 The manager should discuss any problem with the employee at the earliest possible opportunity with the objective of encouraging and helping the employee to improve and stopping the matter from escalating. This may cover conduct, work performance, sickness or personal problems. It is an informal process designed to work through difficulties before they become so significant that disciplinary action may be necessary.

9.4 Clear goals need to be set and a review meeting scheduled to ensure improvement in behaviour/conduct is satisfactory within an agreed timeframe. Failure to improve behaviour or standards of performance within this timeframe may result in formal proceedings being invoked.

9.5 An informal written record of any discussion should be made, including date, outline of discussion, details of any agreed action, training or other support to be made available to the employee. Should the behaviour or conduct continue and move to Formal Disciplinary Procedure, these records will be important evidence.

10. The Formal Procedure

10.1 Advice from Human Resources

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

10.2 **Right to be accompanied**

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

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

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

and,

- Meetings held as part of the investigation process

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

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

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

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

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

10.3 **Investigation of alleged misconduct/gross misconduct**

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

10.3.1 **Investigating Officer**

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

If a financial irregularity is alleged, or the allegation involves the loss or suspected loss of assets, the theft or malicious alteration of data or the

investigation requires observation of the employee, the investigation will be carried out by Internal Audit.

10.3.2 **Police Involvement**

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

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

10.3.3 **Investigation Process**

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

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

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

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

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

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

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

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

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

- That no further action to be taken: or
- That Informal Action may be required: e.g. counselling, keeping under review, management action, training etc: or
- That disciplinary hearing should be held

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

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

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

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

10.4 **Suspension**

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

Suspension is most likely to be appropriate where the continued presence of the individual at work would pose a risk to themselves or others or where the employee would have an opportunity to frustrate the investigation by destroying or compromising evidence.

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

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

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

10.4.1 **Suspending an Employee**

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

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

- The employee's right to be accompanied at any further meetings.
- Details of the Council's Employee Support Programme and encourage the employee to make use of it.

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

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

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

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

10.4.2 **Contact During Suspension**

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

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

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

11. Disciplinary Hearings

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

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

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

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

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

11.4 Documents which the employee wishes to be considered and details of any witnesses s/he intends to call at the hearing must be provided to Human Resources at least 3 working days before the hearing.

All parties must respect the need for confidentiality, at all times, in relation to any information exchanged.

11.5 Every effort is made to arrange the timing of a hearing, such that it is suitable for all involved parties. However, it should be noted that where an employee is persistently unable or unwilling to attend a disciplinary meeting, the Council will have no option than to make a decision based on the evidence available.

Sickness may be a reason given for non-attendance but is only valid if the employee is genuinely too ill to attend a formal meeting or disciplinary hearing. An employee may be too sick to work but fit enough to attend such a meeting. An occupational health referral must take place if the employee is certificated as sick by their general practitioner or specialist.

A hearing can take place in the employee's absence or the employee can nominate a representative to attend on their behalf.

11.6 All disciplinary hearings will be conducted on the basis that there is no presumption of guilt.

11.7 A member of Human Resources will normally be present at Hearings to advise the chair of the hearing and ensure a fair and impartial process.

11.8 Once all of the evidence has been provided to the manager conducting the hearing, it will ordinarily be adjourned whilst a decision is reached.

11.9 The outcome of the Hearing will be conveyed as soon as possible. If it is not possible to confirm the outcome on the same day, the employee will be given an anticipated time scale for confirmation of the outcome and a subsequent meeting will be arranged to convey the decision. The decision will then be confirmed in writing within 5 working days of the hearing decision and be copied to the employee's representative if requested.

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

12. Sanctions

- 12.1 The Disciplinary process can be instigated at any stage dependant on the seriousness of the alleged conduct.

12.2 **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

A written warning may be issued by a line manager.

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

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

12.3 **Final Written Warning**

A final written warning may be given where:

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

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

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

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

12.4 Dismissal

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

12.5 Spent Warning

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

13. Appeals

13.1 At all stages employees have the right of appeal to the next level of management or to the Employment and Appeals Panel in the case of dismissal.

An employee may choose to appeal because;

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

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

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

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

The decision at the appeal is final.

14. Equality Impact Assessment And Monitoring

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

15. Data Protection Act 1998

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 the requirements of the Data Protection Act 1998.

Guidance Note on Examples of Misconduct and Gross Misconduct either during or outside work.

Misconduct

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

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

Gross Misconduct

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

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

- Theft or incitement to steal, attempted theft, fraud or fraudulent falsification of accounts, or other official records including abuse of the flexi time system, ie. swiping in or out for someone else.
- Providing false and misleading information, eg. on application forms, medical questionnaires or examination, at an accident investigation or at a disciplinary investigation.
- Wilful and deliberate damage to the authority's assets or to another employee's property.
- Incitement to or use of physical violence to anyone at all on the authority's premises or whilst on authority business, sufficiently serious to affect an employee's position at work.
- Bringing firearms or offensive weapons on authority premises.
- Accepting gifts or bribes for personal gain and hospitality, outside Wyre Borough Council policy.
- Disclosure of confidential information.
- Grossly offensive behaviour, harassment and bullying.
- Being incapable of work, or of working safely due to the influence of alcohol, or drugs*.
- Negligent or wilful failure to comply with legal requirements of the Council's various policies and procedures such as Health and Safety rules, Equal Opportunities, Safeguarding or the Data Protection Act, or any other legal or statutory requirement.
- Serious neglect of duty and responsibility associated with the post.
- Criminal offence bringing the Council into disrepute.
- Gross insubordination.
- Gross neglect of health and safety rules.
- Accessing material on the Internet of an 'inappropriate nature such as sites containing pornographic, sexist, racist, indecent, rude, obscene, political or violent material.
- Bringing the Council into serious disrepute.
- Deliberate falsification of Council documents.
- Serious breach of safety regulations endangering oneself and/or others.
- Criminal offences which are related to, or impact on an employee's ability to fulfil the terms of their contract, or are incompatible with an employee's role, or have the potential to damage the reputation of the Council.
- Discrimination against Council employees or members of the public in breach of the Council's equality and diversity policies.

- Corrupt or improper practice involving children or vulnerable adults.
- Using social network sites to make derogatory comments about other organisations or individuals in relation to their employment/work activity.
- The posting of photographs on social networking sites, or the distribution of photographs, that could bring the Council and/or its officers into disrepute and/or harm.
- Serious breach of the Council's ICT or Data Protection policy.
- Significant loss of public money or property for which the employee is responsible.
- Negligence whilst carrying out duties on behalf of the Council.
- Wilful neglect to obtain/retain the professional qualifications or membership as required by the job description.
- Failure to disclose any caution or conviction as required under the Rehabilitation of Offenders Act.
- Supplying and/or trafficking or drugs, money laundering activities, or the sale or distribution of illegal substances or products.
- Serious negligence which causes unacceptable loss, damage or injury, or acting in a manner dangerous to others.
- Unauthorised entry to computer records and deliberate misuse of the Council's computer resources and telephone services.
- Serious breach of any of the Council policies and procedures such as Financial Regulations or Financial Procedure Rules.
- Fraudulent claims made within job applications particularly in relation to qualifications, experience or job history.

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

Frequently Asked Questions – Paid Suspension

Q. When is paid suspension used?

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

Suspension will not be undertaken without obtaining advice from Human Resources and must be authorised by a Head of Service.

Q. How should I be notified of my suspension?

A. Normally you will be notified by your Head of Service (or nominated manager):

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

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

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

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

Q. Will continuous service be affected by suspension?

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

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

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

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

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

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

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

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

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

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

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

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

Your manager, or another nominated person if this is not appropriate, will keep in contact with you to both advise you of progress regarding the investigation and keep you updated with any development in connection with your job.

Q. How long can the suspension last?

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

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

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

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

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

This decision may be:

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

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

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

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

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

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

Guidance on the conduct of a Disciplinary Hearing

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

The Venue

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

Disciplinary Hearing – Order of Proceedings

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

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

The Management Case

The chair must outline the allegations against the employee.

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

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

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

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

The Employee's Case

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

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

Summing Up

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

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

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

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

Adjournment

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

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

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

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

The chair may decide to:

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

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

The Decision

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

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

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

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

DISCIPLINARY PROCEDURE

Frequently Asked Questions

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

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

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

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

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

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

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

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

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

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

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

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

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

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



Work Experience and Placement Policy

TABLE OF CONTENTS

Contents

		Page
1.	Work experience placements	1
2.	Work Experience and the National Minimum Wage (NMW)	1
3.	Principles	2
4.	Types of Placement	2
5.	Method of placement	3
6.	Induction and Supervision	4
7.	Tasks	4
8.	Disciplinary and Capability Issues	5
9.	Health & Safety	5
10.	Safeguarding	6
11.	Equality Impact Assessment and Monitoring	6
12.	Data Protection Act 1998	6
	Appendix A – National Minimum Wage Entitlement Examples	7
	Appendix B – Induction Process For Work Experience Placements	8

1. Work experience placements

- 1.1 Work placement schemes provide opportunities and benefits to both individuals and employers. They are a useful way for those wishing to enter local government to gain an insight into the work carried out and to make informed career choices. They also provide the opportunity to acquire new skills in a structured environment, and increase opportunities for future employment. They showcase career opportunities available within the council and develop management skills for existing staff.

2. Work Experience and the National Minimum Wage (NMW)

- 2.1 Work experience can be unpaid if the individual isn't a 'worker' or the placement is part of a further or higher education course.

An individual may be a worker whereby a contract is entered into (written, oral or implied) and there is an obligation for that individual to carry out some work or service. In these circumstances they would be entitled to core employment rights and protections such as the NMW and holidays.

For further information see Appendix A which provides examples of work placements that do and do not require payment of the National Minimum Wage.

If a Manager is approached by someone requesting work experience or a work placement they should contact Human Resources for advice as to whether they are likely to be classed as a worker or not and what options may be available.

- 2.2 Failure to pay the NMW to someone who is entitled to it is against the law. If an unpaid person claims that they are owed arrears of the NMW it is up to the Council to prove that they are not a worker and that no arrears are owed. Someone's entitlement to the NMW depends on the contractual relationship and not their job title.

2.3 **Exceptions to payment of the NMW**

In the following situations people are able to carry out work experience/placement opportunities without the requirement to pay them NMW.

- Students working as a required part of a UK-based further or higher education course don't qualify for the NMW if their placement does not exceed one year. The exemption does not apply to students performing work that is not related to their course, eg to help finance their studies or during a gap year.
- People undertaking work experience who are of compulsory school age are not entitled to the NMW. If someone is above compulsory school age but has stayed on in full or part-time education, they are entitled to the NMW unless they are undertaking a work placement as a required part of their studies.
- Someone who is carrying out a placement that does not involve any work being performed, such as work shadowing, so long as they are only observing and not performing work.

- Participants in government schemes or programmes to provide training, work experience or temporary work, or to help in seeking or obtaining work.
- Participants in EU Lifelong Learning Programmes.
- Volunteers – are individuals or groups who offer us their time, experience, knowledge and skills without financial gain beyond reimbursement of expenses, helping us to achieve our service objectives, or with the aim of providing a benefit to the local community. They are not in a contractual position (written or implied) with the Council. Volunteers should be reimbursed for any expenses they incur in volunteering, for example travel expenses. (See volunteer policy for further information).

2.4 It is possible to take people on for genuine work experience reasons but the more 'work' (as opposed to shadowing, observing etc.) they do and the greater the obligation to attend for work the greater the risks of the NMW applying.

3. Principles

- 3.1 Work experience is often undertaken by students as part of a further or higher education course to learn about the working environment within the Council.
- 3.2 Everyone on work experience should have the chance to try various tasks and develop skills that will make them more attractive to prospective employers. However they should not be relied on to fulfil roles that would otherwise be undertaken by a member of staff.
- 3.3 Work experience can be unpaid if the individual isn't a 'worker' or the placement is part of a further or higher education course.
- 3.4 If the terms of the placement are such that the individual is performing as a 'worker' the National Minimum Wage should be adopted throughout the duration of the placement.
- 3.5 Whether paid or not, the person on work experience may be entitled to the reimbursement of reasonable and pre-agreed expenses.
- 3.6 Before the start date, written confirmation of the work experience should be provided, clearly outlining the terms of the engagement. Where the National Minimum Wage applies, a standard, short-term contract is required.

4. Types of Placement

- 4.1 Placements can be either:
- a work-shadowing placement where the individual observes the work undertaken by the Council's employees but does not perform any work for the benefit of the Council, except for doing some work for illustrative or learning purposes; or
 - a work-experience placement, where the individual is expected to perform some work or provide some assistance to the council or to its employees.

4.2 **School Placements**

The Council will provide work experience placement to students from schools in the Wyre area or to students who are resident in the Borough. These will be mainly Year 10 students (aged 15 – 16). The Council will strive to ensure placements are available to students who may find it more difficult to get placements within our local businesses i.e. students with learning difficulties, special needs, etc.

Other requests will be considered outside these categories if opportunities are available.

4.3 **Work Shadowing**

This is where an individual is assigned to follow an employee going about his or her normal activities, allowing close observation of tasks, which for reasons of complexity, safety or security cannot be actively undertaken by the shadowing individual. This applies to persons from other organisations who wish to gain an insight into the Council and its services.

4.4 **Internship**

Work experience can be called a 'placement' or an 'internship'. Internships are sometimes understood to be positions requiring a higher level of qualification than other forms of work experience, and are associated with gaining experience for a professional career.

4.5 **Government Work Experience**

If an individual is between the ages of 16 and 24 and claiming Jobseeker's Allowance (JSA), they are eligible to apply for a work experience placement whilst continuing to receive JSA. In this instance, the placement should last for between two and eight weeks and should offer 25-30 hours of activity per week. During the period of the placement they will continue to actively look for work.

5. **Method of placement**

5.1 In order to ensure a fair and structured system work experience requests will be dealt with centrally. Each request for a placement will be dealt with by the Human Resources Section who can then allocate and keep records of placements throughout the Council. If an individual or an organisation approaches a section or manager directly, this request should be directed to Human Resources who will assess the feasibility of offering a placement.

5.2 Wherever possible where a placement is provisionally accepted then the individuals will be invited to come on a pre-placement visit where they will be escorted around the site/office to meet staff who they will be working with. This provides an opportunity for the potential individual to decide whether the type of work and the workplace environment is what they really want.

- 5.3 Once the arrangements are confirmed the individual will be sent a work experience application form and agreement to sign, which will include a confidentiality statement. This form will also ensure the Council gains all the information it needs e.g. about the interests and skills of the potential placement. A letter of confirmation of the placement will be sent by Human Resources once it is agreed. This will give reporting instructions such as contact name, start time, length of placement and location.
- 5.4 Any work experience placement, regardless of their age or from which organisation they have been placed, has the same responsibilities as any employee in so much as they must take reasonable care of their own health and safety and that of other people who may be affected by their actions. They must also co-operate with the Council in complying with our legal duties.
- 5.5 Prior to the commencement of the placement, the department that the placement is due to work in will undertake an appropriate risk assessment.
- 5.6 A copy of the Council's liability insurance document will be issued to the work experience placement if requested. If the placement includes travel in a council owned vehicle a copy of the councils vehicle insurance can also be issued on request.
- 5.7 Human Resources will keep a central record of all work experience placements and will be responsible for ensuring records are up to date and destroyed after 12 months of the placement ending. Details kept will include:
- Name of the individual
 - Age, gender, ethnic group and disability of the individual
 - Organisation/school the individual is from if applicable
 - Dates of the placement
 - Section/Division and name of responsible manager for placement

6. Induction and Supervision

- 6.1 All work experience placements should have a brief induction on their first day that outlines to them their duties and covers health and safety information. It is the responsibility of the Placement Manager (Manager or Supervisor in charge of the area where the placement is) to ensure that the Induction checklist (see Appendix B) is completed and signed off.
- 6.2 Individuals should dress smartly and appropriately for the area of work they are taking part in.

7. Tasks

- 7.1 The Placement Manager will ensure that the work experience person is given work that is commensurate with his/her skills and abilities. The work may cover a range of tasks and may be in one department or in different departments and may cover one area of work or different areas of work. Should there be insufficient work available the relevant line manager will make reasonable efforts to find the work experience person suitable alternative work within the Council.

8. Disciplinary and Capability Issues

- 8.1 The Council's disciplinary, grievance and capability procedures do not apply to work-experience personnel. Line managers and other personnel should observe basic principles of fairness in dealing with any issues of capability or conduct that may arise. In cases of capability, individuals should be informed of any shortcomings in their performance and given the chance to improve. In cases of misconduct, the line manager must have reasonable grounds for believing that the individual has been guilty of misconduct and should give him or her the opportunity to give any explanation/mitigation.
- 8.2 Where, in the opinion of the relevant line manager, the capability or conduct issues are serious, the matter should be brought to the attention of the HR department who may contact the school or college involved with the placement.
- 8.3 The Council reserves the right to terminate a placement immediately, should the work-experience person be guilty of serious misconduct or any negligence resulting in loss or damage to the Council.

9. Health and Safety

- 9.1 The Placement Manager must ensure that the work experience or work-shadowing placement has the same basic training on matters of health and safety as other workers.
- 9.2 To ensure the Health and Safety requirements are met, it is essential that:
- I. All individuals on placement are properly prepared and briefed on hazards within the work place and control measures to reduce or eliminate risk of injury before they start their placement.
 - II. Workplace supervisors/managers know exactly what is expected of them and are aware of their legal responsibilities.
 - III. If a placement is arranged for a person with special needs e.g. particularly a Disability or Learning Difficulties then the risk assessment must take account of this. In accordance with Health and Safety legislation, the Placement Manager must ensure that risk assessments of work areas are carried out prior to a school work experience student commencing a placement on Council premises. Before the placement begins the parent/guardian of the student should be advised of the risks, and how they will be reduced or eliminated. Students must also be fully prepared and briefed on hazards, and the measures in place to reduce or remove the risks.
 - IV. The tailored risk assessment should then be outlined to the applicant at induction.
 - V. Where it is appropriate for placements to wear appropriate Personal Protective Equipment this will be supplied and must be worn at all times.
- 9.3 A young person at work is an individual who has not reached the age of 18, and a child at work is an individual that has not reached the minimum school leaving age usually 15 years old.

Young people are at a greater risk at work for the following reasons:

- Lack of knowledge, experience and training
- A young person's body has not fully developed
- A young person is more likely to take risks, respond to peer group pressure and be over enthusiastic

Before employing a young person the Placement Manager must carry out a risk assessment to identify the control measures required to minimise the health and safety risks this will include consideration of whether those managing the placement should be DBS checked.

10. Safeguarding

- 10.1 All staff involved in the work placement of young people should be aware of the protocol for working with children set out in the Safeguarding Children's Policy.
- 10.2 For those who would benefit from site visits or other work out of the office a letter of permission may be required from the young person's parent or carer.

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 Act 1998

- 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 the requirements of the Data Protection Act 1998.

Appendix A – National Minimum Wage Entitlement Examples

Examples of Work placements that DO require payment of the National Minimum Wage

1. A request is received from a graduate who would like to work voluntarily to gain some work experience to improve their C.V. as they are having problems getting paid work. As the manager of the section you see this as an excellent opportunity not only for the individual to get valuable work experience but also for a project or area or work to be undertaken that is required within the service that you are struggling to find the resource to tackle. It is agreed orally that the workplacement will attend work Monday – Friday 9.00 – 15.00 and will undertake the activities as directed. The successful completion of the area of work to be undertaken is important to the service area therefore the workplacement would need to achieve certain objectives and targets.
2. A request is received from an individual requiring work experience and offering to do this without pay. There are tasks within the section that need doing that are normally or currently carried out by an existing paid member of staff. It is agreed with the individual seeking work experience that they will carry out these tasks. It is agreed that they will work on a regular basis and because these tasks are important to the service certain standards of performance are set.

Examples of Work placements that DON'T require payment of the National Minimum Wage

1. A request is received from a student where completion of their course/degree is dependant on the completion of a relevant work placement. Such placements can be for up to a period of one year.
2. A request is received from a graduate who would like to gain work experience to enable them to work within a certain profession. They will be shadowing a member of staff and will not be responsible for the completion of any specific tasks themselves.
3. A similar request is received, this time they will be carrying out some work projects but the arrangement is very casual with no requirement for the individual to attend specifically at any particular time or a specified number of hours and there is no obligation to work. The sort of work they will be carrying out would be that which is for their own experience or training purposes only and if carrying out a project they would not be held responsible if it wasn't completed or it failed. The danger would be with this sort of arrangement that if the individual concerned was competent the arrangement would become more regular and with this regularity and obligation to work then the obligation to pay the NMW would apply.



INDUCTION PROCESS FOR WORK EXPERIENCE PLACEMENTS

A member of staff from Human Resources will meet the student on their first day and go through the first stage of the procedure. Many induction needs are connected to the immediate working environment and these will be addressed when the student is taken to the Directorate, where the next stage of the induction will take place.

The guidelines can be altered to include any areas which are specific to a particular Directorate. It is intended that they will install a degree of uniformity into the Induction process.

Name **Start Date**

Job Title **Service Unit**

Human Resources

The following are guidelines for the Human Resources Induction Meeting:

		Yes	N/A	Date
1.0 Temporary Staff Badge	Issue of Temporary staff badge. Make sure student understands to return the badge to reception at the end of placement.			
	Importance of wearing the badge in the building.			
	Office opening hours.			
1.1 Work Experience placement form	Ensure student has completed prior to placement. If they have not, ask them to complete one at induction.			
1.2 No smoking policy	Explain WBC Policy.			
1.3 Internet and E-Mail Acceptable Use Policy (if appropriate).	Issue and explain.			

Induction Process undertaken by:

Name: **Date:**

I confirm that the above points have been explained to me

Name: **Date:**

Appendix B
Directorate

The following are guidelines for the Directorate Induction meeting:

		Yes	N/A	Date	
2.0	Job Description (should already have a copy, <u>if appropriate</u>)	Explain to the student about the duties they will be undertaking. Make sure the student knows who they are responsible to and who they can approach if they need any help.			
2.1	Starting & finishing times	Confirm with student what time they should start and finish. Normally 9.00am to 5.00pm. May be flexible due to travel arrangements			
2.2	Lunch breaks	Confirm what time to go for lunch and how long.			
2.3	Section/Directorate	Explain the structure of the Section /Directorate. Give a Directorate Organisational Chart.			
2.4	Sickness	Explain that they must notify either their Supervisor or Human Resources before 9.00am. Explain importance so that any work that needs completing is kept to schedule.			
2.5	Use of Office Equipment	Explain telephone system, photocopier etc, including private use. Issue telephone answering guidelines (if appropriate).			
2.6	I.T. Computer/Internet Use	Explain correct use of the Council's computers and Internet facilities (if appropriate)			
2.7	Civic Centre	Explain use of tea/coffee and lunch facilities available within the Civic Centre. Arrange a tour of the building.			
2.8	Customer Care	Explain the Council's commitment to Customer Care.			

Appendix B

Health & Safety

3.0 Rules & Regulations	Explain any prohibited machinery, equipment, substances, areas etc.			
	Explain that the student will be working to existing policies and procedures and the location of these.			
3.1 Hazards	Explain how to keep safe any loose clothing/long hair/jewellery			
3.2 Fire Safety	Explain who the fire warden within the section is, what to do if the fire alarm sounds and the nearest fire exits.			
3.3 First Aid	Explain the use of the accident book and procedure, where the first aid box is located and who is qualified to give first aid.			
3.4 General Behaviour	Explain security doors and building security in general. Explain that any unacceptable behaviour or health and safety breaches will result in the placement being terminated with immediate effect.			

Induction Process undertaken by:

Name:

Date:

I confirm that the above points have been explained to me

Name:

Date:

PLEASE RETURN TO HUMAN RESOURCES WHEN COMPLETED



Zero Tolerance Policy

Reviewed July 2017

TABLE OF CONTENTS

Contents

		Page
1.	Introduction	1
2.	Associated Policies	2
3.	Role and Responsibilities	2
4.	Risk Assessment	3
5.	Training	4
6.	Incident Reporting	4
7.	Equality Impact Assessment and Monitoring	5
8.	Data Protection Act 1998	5

1.	Introduction
1.1	<p>Wyre Council is committed to providing a safe and secure working environment and acts or threats of physical violence, intimidation, harassment, verbal abuse or coercion which an employee is subjected to during the course of their duties will not be tolerated.</p> <p>The Council will deal with all instances of violence or abuse in a robust and pro-active manner. The Zero Tolerance Policy and associated policies and procedures have been put in place to reduce risk and to enable staff to manage an aggressive or violent situation should it arise.</p>
1.2	<p>An act of work-related violence or aggression is defined as any incident in which a person is faced with an aggressive or violent situation, is verbally or physically abused, threatened or assaulted whilst undertaking duties expected of them in the course of their employment, regardless of the location at which it occurs.</p> <p>These include, but are not limited to:</p> <p>Verbal Abuse: any verbal abuse issued with the intent of creating distress, fear or intimidation to another individual, or group of individuals.</p> <p>Physical Abuse: any intentional movement of the body which may include touching, gesturing, pushing, striking, stalking, spitting, any unwanted intrusion of “reasonable space” of an employee or an intentional use of any object towards an individual.</p> <p>Creating a Hostile Working Environment: any intentional non-physical action that can be considered intimidating or harassing or which involves the explicit or implicit challenge to the safety, well-being or health of an individual.</p> <p>A Hate Crime: any criminal offence, perceived by the victim or any other person, as being motivated by hostility or prejudice based upon the victim’s disability, race, religion or belief, sexual orientation or gender identity. This could include verbal abuse, physical assault, damage to property, threats, intimidation or harassment. If no criminal offence is committed it will be recorded as a hate incident.</p>
1.3	<p>The Council will make clear its stance on zero tolerance through prominent information in public places:</p> <ul style="list-style-type: none"> • Benefit Mobile Advice Centre • Civic Centre Reception • Copse Road Depot • Marine Hall • Thornton Little Theatre • Fleetwood Market

	and will use the full extent of the law to protect its employees and support them in the prosecution of offenders.
2.	Associated Policies
2.1	The Dignity at Work Policy – makes a clear statement that unwanted or unaccepted harassment, bullying, victimisation or discrimination will not be tolerated.
2.2	Whistleblowing Policy – provides a confidential route for concerns to be brought to the attention of the Council without any fear of reprisals.
2.3	Lone Working and Personal Safety Policy states that the Council will not tolerate any acts of violence or aggression towards or from any of its employees and will implement suitable controls to prevent or eliminate work related violence and aggression.
3.	Roles and Responsibilities
3.1	<p>Managers:</p> <p>Managers should ensure that the Council’s policy and agreed procedures are communicated to service-users and visitors and that they are made fully aware that the Council will report any assaults on employees to the Police.</p> <p>Notices to this effect are displayed prominently within service areas.</p> <p>Key responsibilities:</p> <ul style="list-style-type: none"> • Encourage and support staff to report all incidents of abuse • Establish a safe system of working and ensure that they have specific guidance for their service areas which is written and communicated appropriately to staff. This should include arrangements for lone/mobile workers; • Carry out an assessment of the risk of violence /abuse within their working environment; • Ensure that staff attend appropriate training; • Ensure that records are maintained of risk assessments and training and that all reporting documentation has been completed; • Ensure that staff receive relevant and timely support following incidents; • Investigate reported incidents; • Inform staff of the outcome of the investigations; • Take appropriate action against service users who assault, threaten or abuse staff; • Evaluate the effectiveness of any measures undertaken.

3.2	<p>Employees:</p> <p>All employees will conduct themselves in such a way as to reduce the possibility of any conflict and will not act in a way that would create a violent, abusive or unsafe workplace environment for themselves and others.</p> <p>If confronted with a situation that has the potential to escalate into an abusive/violent incident an employee must make a serious attempt to remove him/herself from the situation and report the event to management.</p> <p>All staff have the responsibility to:</p> <ul style="list-style-type: none"> • Identify high-risk situations and agree action plans with managers as part of the risk assessment process; • Report and complete incident reports in an accurate and timely manner; • Undertake all training identified as appropriate to their role; • Always work in a professional way and be aware of how their own behaviour might be perceived by others; • Consider the safety of others who may be affected by their actions or omissions; • Make appropriate use of any personal safety equipment and facilities provided.
4.	<p>Risk Assessments</p>
4.1	<p>Prevention of violence/abuse at work must start with a full assessment of the risks. Risk Assessments should be carried out in line with the council's Health and Safety Policy and appropriate control measures will be implemented to protect individuals in their working environment.</p>
4.2	<p>Risk assessments should be in place to cover all reasonably foreseeable risks of violence or abuse.</p> <p>In carrying out a risk assessment the following may indicate that there is a risk of abuse or violence:</p> <ul style="list-style-type: none"> • Dealing with intoxicated / angry or distressed members of the public • Dealing with customers suffering from mental illness or stress • Customers who are confused / disorientated / suicidal / have a known criminal history • High-risk areas with contentious issues or complaints • Lone working • Situations where money, or other valuables may be a target for theft • When withholding or withdrawing a service / benefit
4.3	<p>The list shown above is not exhaustive and managers must take care to assess all possible personal security risks within their responsibility. Police assistance should be sought where the presence of drugs/weapons has been detected and/or to deal with violence or threatened/suspected violence.</p>

4.4	When dealing with a known or suspected violent or abusive individual, under no circumstances should staff see such people on their own. They should seek advice from their Line Manager before face-to-face meetings are arranged.
5.	Training
5.1	Training is provided for appropriate employees to manage conflict / personal safety aimed at equipping them to handle conflict and understand the issues of personal safety and the need for appropriate risk assessment and control measures.
5.2	Managers are responsible for ensuring their staff receive the training appropriate to their needs for their job role as identified in the risk assessment. The type of training will depend on the area of work and the risk assessments associated to those activities.
5.3	<p>Some of the training interventions that may be identified include:</p> <ul style="list-style-type: none"> • Risk assessment • Customer care • Dealing with aggression • Complaint handling • Incident reporting
6.	Incident Reporting
6.1	<p>Physical Assault, Threat of Physical Violence or Verbal Abuse</p> <p>In the event of an employee being threatened, receiving verbal abuse or being physically assaulted in the workplace the Head of Service and the Health and Safety Advisor should be contacted immediately. Consideration will be given in such event to reporting the matter to the police with the agreement of the employee who has been subject to the treatment.</p> <p>The line manager will ensure that all possible preventive action is taken to minimise the risk of a similar incident occurring. Actual incidents of violence and near misses will be reviewed as soon as possible after they occur, as a means of assessing whether or not there are any improvements that can be made to the risk assessment.</p>
6.2	<p>Police Involvement</p> <p>Council employees are entitled to ask the police to investigate alleged incidents of assault against them. Management should fully support staff wishing to take this course of action.</p> <p>Where there has been an act of violence in the workplace and the individual wants to prosecute, the council and the individual concerned would take advice from the police as to whether to proceed or otherwise.</p>

6.3	<p>Verbal Abuse</p> <p>In the case of verbal abuse the Council may need to consider the seriousness of the incident before involving the police. For example, someone swearing at a member of staff could be dealt with administratively through warning letters about their behaviour. However, where the verbal abuse involves threats or the use of a weapon the police should always be informed.</p>
6.4	<p>Hate Crime</p> <p>No hate incident or crime is too minor to report and staff are encouraged to report all incidents as soon as they occur which can be done through Lancashire Victim Services, contact details as follows: Tel: 0300 323 0085 E-mail: info@lancashirevictimservices.org Website: www.lancashirevictimservices.org Secure E-mail: vcu.lancashire@victimsupport.cjsm.net</p>
6.5	<p>Incident Report Form</p> <p>An incident report form must be completed by the employee subjected to the abuse / assault and forwarded to the relevant Head of Service and the Health and Safety Advisor.</p> <p>On receipt of the incident report form, the line manager will ensure that any necessary support arrangements, such as counselling are offered.</p> <p>Following a specific violent or aggressive incident by a member of the public/service user/visitor, and after appropriate consultation, the Head of Service will consider the possibility of banning the alleged offender(s) from Council premises.</p>
7.	<p>Equality Impact Assessment and Monitoring</p>
7.1	<p>Data will be collected as part of the wider Health and Safety incident reporting and will form part of the normal reporting regime to the Management Team.</p>
7.2	<p>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.</p>
8.	<p>Data Protection Act 1998</p>
8.1	<p>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 the requirements of the Data Protection Act 1998.</p>



Grievance Policy and Procedure

TABLE OF CONTENTS

Contents

		Page
1.	Introduction	2
2.	Principles	2
3.	Scope	3
4.	Training	3
5.	Roles and Responsibilities	3
6.	Exclusions to the Policy	4
7.	Areas of Possible Grievance	4
8.	Multiple Grievance	4
9.	Informal Stage	5
10.	Formal Grievance Procedure	6
11	Overlapping Grievance and Disciplinary Cases	9
12.	Appeals	9
13.	Effect of Resignation on Outstanding Grievance	9
14.	Equality Impact Assessment and Monitoring	10
15.	Data Protection Act 1998	10
	Appendix 1 – Grievance Pro-forma	11
	Appendix 2 – Procedure for the Grievance Hearing	13
	Appendix 3 – Procedure for the Employment Appeals Hearing	14

1. Introduction

- 1.1 The council and the trade unions attach great importance to establishing and maintaining good working relationships at all levels within the council by encouraging all employees to achieve and maintain acceptable standards of conduct and behaviour.
- 1.2 It is however recognised that, from time to time, working relationships may be affected by dissatisfaction due to a variety of reasons and any such issues should be resolved promptly in the interest of good employee relations. This policy and procedure ensure that staff are treated reasonably and consistently by providing a fair and equitable method of dealing with grievances before they develop into major problems.
- 1.3 The council encourages free communication between employees and their managers to ensure that questions and problems arising during the course of employment can be expressed and where possible resolved quickly and to the satisfaction of all concerned.
- 1.4 Both parties should be able to clearly demonstrate all reasonable efforts have been made to resolve the issues informally before the formal process is commenced.
- 1.5 Whilst a grievance is being considered the “status quo” will prevail whenever possible. “Status quo” means that any change causing the grievance will not be implemented.

2. Principles

- 2.1 This policy is designed to help managers, employees and their representatives’ deal with grievance situations in the workplace. It is clearly in everyone’s interests to resolve problems before they can develop into major difficulties for all concerned.
- 2.2 During the grievance procedure the following principles will be applied in order to ensure that employees receive consistent and fair treatment.
 - 2.2.1 **Confidentiality** – Confidentiality should be maintained by all those involved, including the employee and their representative, at all stages throughout the procedure by ensuring that only those people who need to know have access to details. While respecting confidentiality, it is important that the employee is free to discuss issues with their trade union representative or work colleague who may be able to assist or support them through what is acknowledged to be difficult circumstances. Written records will be treated as confidential.
 - 2.2.2 **Fairness** – Whenever a grievance process is being followed it is important to deal with issues fairly. There are a number of elements to this:

- Managers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
- Managers and employees should act consistently.
- The council will carry out any necessary investigations to establish the facts of the case.
- The council will inform employees of the basis of the hearing and give them the opportunity to put their case before any decisions are made.
- Employees have the right to be accompanied by an approved trade union representative or work colleague at any **formal** grievance meeting or interviews that are conducted as part of the investigation process.
- Employees are entitled to the right of appeal against any formal decision made with the exception of stage 3 where the decision made by the Employment Appeals Panel is final.

3. Scope

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

4. Training

- 4.1 All supervisors/line managers who might act as investigating officers or who lead at hearings will attend an appropriate training course or demonstrate an appropriate level of competence. Elected members who sit on the Employment Appeals Panel will also attend an appropriate training course or demonstrate an appropriate level of competence.

5. Roles and Responsibilities

- 5.1 It is the responsibility of individual **Employees** to:
- Be aware of the council's policy and procedure
 - Maintain acceptable standards of performance and conduct
- 5.2 It is the responsibility of **Managers** to:
- Seek advice from Human Resources in a timely manner
 - Comply with the council's policy and procedure
 - Ensure employees understand the policy and procedure
 - Ensure the policy and procedure is fairly and consistently applied
 - Recognise where circumstances make it difficult from time to time for staff to comply fully with the council's policy and procedure

- Assist, wherever possible, the employee to correct unacceptable behaviour

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

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

6. Exclusions to the Policy

This policy and procedure will not apply in the following circumstances:

- 6.1 Where the disciplinary, capability or managing attendance procedures are invoked and the matter would be better be dealt with by way of an appeal in line with the relevant procedure.
- 6.2 When a grievance is raised about a matter over which the council has no control, or where management is acting in accordance with council policy and procedures.
- 6.3 Where the grievance is the subject of collective negotiation or consultation with trade unions and staff.
- 6.4 Where an employee has serious concerns about an aspect of the council's work or those who work for the council. In such circumstances the Whistleblowing Policy is available to enable employees to raise concerns about workplace malpractices, suspicions of criminal acts, miscarriage of justice and dangers to health and safety.
- 6.5 Separate procedures are in place to deal with complaints of bullying and harassment (Dignity at Work Policy) and grading issues (Re-grading Policy) and therefore such matters are excluded from this policy.

7. Areas of Possible Grievance

- 7.1 The definition of a grievance is where an employee has a problem or concern about their work, working conditions or working relationships with colleagues that they wish to raise or have resolved.
- 7.2 This policy and procedure covers the following circumstances:
- A grievance by an employee relating to his/her employment
 - A collective grievance held by more than one employee about a particular issue concerning their employment.

8. Multiple Grievances

- 8.1 The Council reserves the right to refuse to hear a grievance if it clearly relates to one dealt with previously, where the grievance was dealt with in a proper manner and in accordance with policy and procedure.

9. Informal Stage

- 9.1 If an employee has a grievance or concern they should, in the first instance, raise this with their line manager. If they feel unable to discuss the matter with their direct line manager they should raise it with the next manager up in the structure or contact a member of the Human Resources team.
- 9.2 The manager should discuss the matter with the employee at the earliest possible opportunity with the objective of encouraging and helping the employee to find a way of dealing with the situation and stopping the need for the matter to escalate. It is an informal process designed to work through difficulties before they become so significant that the employee feels it is necessary to submit a formal grievance. The employee and the manager to whom the grievance is raised should make every effort to resolve the issue.
- 9.3 During the meeting the manager should ascertain what the employee's concern is and how the employee believes the matter should be resolved. It may be necessary for the manager to investigate the issue further and they should keep the employee informed of their progress in doing so. Once the manager has concluded their investigation they should meet with the employee to inform them of the outcome of their findings.
- 9.4 Although this is an informal part of the process the manager should make note of:
- The nature of the grievance
 - Their response
 - Any action taken
 - The reason for the action

This information will be useful should the issue progress to the formal stage.

The employee should be given a copy of any notes taken at this meeting or written confirmation of the discussion and agreed actions.

- 9.5 Where the grievance is about a disagreement with or the behaviour of another employee, mediation could be considered as a possible solution at this stage. Mediation is a process where a neutral person – the mediator - works with the individuals who have a disagreement to help them find a solution and reach an agreement that will sort out their problem or improve the situation. The mediator will not take sides or judge who is right or wrong. The aim of mediation is to find a way or reaching a resolution to a matter so that the two individuals can work together and agree a way forward.

10. Formal Grievance Procedure

- 10.1 Where the employee feels that a satisfactory resolution has not been reached informally, the employee should raise the issue formally by completing the Grievance Pro-forma (see Appendix 1) if they haven't already done so. It should be noted that no new issues can be considered once the pro-forma has been submitted and the formal stage of the grievance procedure has commenced. Where new issues are to be considered, a separate grievance would normally need to be submitted.
- 10.2 The Grievance pro-forma should be submitted to the employee's Line Manager who should consult with the Head of Business Support. If the grievance is about the employee's Line Manager it should be submitted to the Head of Business Support.
- 10.3 The Head of Business Support in liaison with the Line Manager or relevant Head of Service/Service Director will determine the appropriate person to deal with the Grievance.
- 10.4 If a pro-forma is received without first considering the informal process it will be referred back to the employee to be dealt with in line with section 9 of the policy.

Only in situations where it is considered that the grievance is so serious to negate the need for the informal procedure will this be bypassed.

10.5 **Advice from Human Resources**

To ensure compliance with the law, fairness and consistency, managers must consult with the Head of Business Support or a Human Resources Advisor before embarking on the formal procedure.

10.6 **Right to be Accompanied**

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

Any other employee interviewed as part of a grievance investigation also has the right to be accompanied.

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

The chosen representative is able to contribute to and ask questions at the meeting/ hearing. However the chairperson is entitled to expect the employee and not the representative to answer any questions asked.

If the chosen representative is not available at the proposed time of the meeting, the employee may request an alternative time and date so long as it is reasonable and falls within five working days of the original date. This

alternative date must have regard to the availability of the other employees involved in the hearing and may be extended by mutual agreement.

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

10.7 **Stage 1**

10.7.1 The manager nominated to deal with the grievance will invite the aggrieved employee to a meeting. The purpose of the meeting is to enable the manager to fully understand the nature of the grievance and to explore with the employee how the grievance might be resolved amicably for all concerned. The employee has the right to be accompanied at the meeting.

This meeting should be arranged as soon as possible without unreasonable delay but ideally within 10 working days of receipt of the grievance pro-forma.

10.7.2 Where necessary the nominated manager will carry out further investigation and meet with any other persons that may assist with the grievance.

Any employees questioned as part of an investigation will have the right to be accompanied.

10.7.3 At the end of the investigation the manager will inform the employee in writing of his/her decision and where appropriate will set out what action is intended to resolve the grievance. The letter will also inform the employee of the right of appeal to the next stage of the procedure. If it is decided that feedback should be provided face to face the employee will be advised of their right to be accompanied. The manager will also complete the management response section of the grievance pro-forma.

10.7.4 The manager dealing with the grievance will also ensure that feedback is provided to any person named as part of the grievance.

10.8 **Stage 2**

10.8.1 If the employee continues to be aggrieved then they can refer the matter to the relevant Head of Service/Service Director using the original pro-forma and the management response. This should normally be done within 10 working days of receiving the Stage 1 decision.

A meeting will normally be convened within 10 working days of receiving the appeal, with the Head of Service/ Service Director supported by a representative from the Human Resources team who may attend in an advisory role. The manager who held the meeting at stage 1 of the procedure will also attend to present their reasons for the decision made. The employee has the right to be accompanied at the meeting.

At least 5 working days' notice of the hearing will be given.

10.8.2 **Paperwork for the hearing**

Before a grievance hearing is held all the papers and documents, including the outcome of the Stage 1 Meeting and any investigation undertaken must be sent to the employee no later than 5 working days before the hearing. This should be sent with the letter calling the employee to the hearing.

Documents which the employee wishes to be considered and details of any witnesses s/he intends to call at the hearing must be provided to Human Resources at least 3 working days before the hearing.

All parties must respect the need for confidentiality, at all times, in relation to any information exchanged.

10.8.3 **Inability to Attend the Grievance Hearing**

Employees should make every effort to attend the grievance hearing. If an employee feels that they are unfit to attend they should contact the Head of Service/Service Director who is to chair the hearing. It may be appropriate to seek advice from Human Resources and/or seek a medical opinion from the Occupational Health Advisor. If the employee fails to attend an arranged occupational health appointment the hearing will normally go ahead and a decision will be made based on the information available.

If the employee fails to attend the arranged hearing, the hearing will be re-arranged. If the employee fails to attend the re-arranged hearing the hearing will go ahead in their absence and a decision will be made based on the information available. In exceptional circumstances the employee may send their representative to the hearing on their behalf.

10.8.4 The procedure followed at the hearing can be seen at Appendix 2.

The Chair will state at the close of the hearing that the decision reached will be confirmed in writing within 5 working days of the hearing and that the employee has the right to appeal against the decision reached.

After the meeting the Chair will complete the management response section of the Grievance pro-forma and send this with the letter confirming the decision reached at the hearing to the employee.

10.8.5 There may be circumstances where with the mutual agreement of both the Chair and the aggrieved employee that the grievance is dealt with in writing negating the need for a face to face hearing.

10.9 **Stage 3 – Employment and Appeals**

10.9.1 If the employee continues to be aggrieved then the matter can be referred to the Employment and Appeals Committee whose decision on the matter will be final.

This stage of the procedure is also used as the final stage of the appeal process that will be used in all relevant council policies.

10.9.2

An appeal under stage 3 will be submitted in writing to the Head of Business Support within 10 working days of receiving the Stage 2 decision (or letter confirming dismissal under relevant policies). The Head of Business Support will then liaise with Democratic Services.

On receipt of the appeal Democratic Services will make arrangements with the Chair of the Employment Appeals Committee (or his/her deputy) to convene an Employment Appeals Panel which will normally be within 20 working days.

10.9.3 The agreed paperwork will be circulated to the parties 5 working days in advance of the hearing which will include:

- Original Grievance Submission/letter of dismissal
- Any relevant papers supporting the stage 2 grievance/dismissal
- Letter of Appeal
- Specific detail of what the employee wishes to appeal against.

10.9.4 The employee submitting the appeal will be responsible for informing the Democratic Services manager of the names of any witnesses they may wish to call in support of their appeal. It will be the responsibility of the employee to notify the witnesses of the date, time and location of the hearing.

Any witnesses who are employees of Wyre Council that the employee submitting the appeal wishes to be available at the hearing will be responsible for informing their line manager of any request to attend an appeal hearing.

10.10 **Grievances About Other Employees**

If the grievance is against a specific individual the relevant line manager will be informed that a grievance has been raised. The manager must then inform the employee about the grievance outlining what it is regarding and advising that they will have the chance to give their version of events and provide any documentary evidence.

At the conclusion of the process the manager hearing the grievance will communicate the outcome and any recommendations to the manager of that employee. They will then communicate it to the employee concerned and act on any recommendations as required.

10.11 **Support for Employees involved in the Grievance Process**

It is recognised that the formal grievance process can be stressful for any persons involved. Human Resources will communicate with employees to support them during the process. Occupational Health and/or the Employee Support Programme will be available to any member of staff needing some additional support.

11. Overlapping Grievance and Disciplinary Cases

- 11.1 Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

12. Appeals

- 12.1 Any employee dissatisfied at the decision made at a grievance hearing has the right of appeal to the next stage of the procedure, with the exception of stage 3 where the decision made by the Employment Appeals Panel is final.

13. Effect of Resignation on Outstanding Grievance

- 13.1 Wherever possible a grievance should be dealt with before an employee leaves employment. If however, this is not possible, agreement with the employee will be sought on whether and how the grievance should be progressed.
- 13.2 In the case of a collective grievance the grievance will continue in accordance with this procedure for those employees who remain in the employment of the council.

14. Equality Impact Assessment And Monitoring

- 14.1 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.

15. Data Protection Act 1998

- 15.1 In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with the requirements of the Data Protection Act 1998.

**Appendix 1
Grievance Pro-Forma**



<p>Name(s):</p> <p>Service Area:</p> <p>Section:</p> <p>Post Title:</p>

<p>Background – What has happened? Please give details of time(s) and date(s) if appropriate. Please also give details of any action carried out as part of the informal process.</p>

<p>Why are you aggrieved?</p>

<p>What remedy do you want?</p>

Signed (Employee) _____ **Date:** _____

Received (Manager)

Date:

Management Response to the Grievance

Signed:

Date:

The response(s) to the grievance and any proposed remedies are acceptable/not acceptable

If not acceptable why do you remain aggrieved?

(To be submitted to your Director, within 10 working days of receipt of management's response if you wish to register an appeal)

Signed:

Date:

NB: If you wish to provide further information, please continue on a separate sheet

Appendix 2

Procedure for the Grievance Hearing

Introduction

The chair of the hearing will introduce those present and explain their reason for attendance. They will also explain the purpose of the hearing and how it will be conducted. A representative from Human Resources will normally be present to advise and support the Chair.

Employee's Statement of Grievance

The employee will state their grievance and desired outcomes. As part of this witnesses may be called.

The investigator, chair & HR representative may ask questions of the employee and any witnesses.

The investigator's Statement of Findings

The investigator will provide a summary of the investigation and its findings. As part of this witnesses may be called.

The employee, chair and HR representative may ask questions of the investigator and any witnesses.

Final Statements

Both the investigator and employee may sum up their case and make a final statement if they so wish.

Further Investigation

The chair may consider adjourning the meeting if it is necessary to investigate any new facts that arise.

Adjournment

The employee, investigator and any witness will then withdraw. The chair with the HR representative will consider the evidence. If it is necessary to recall either party or witness in order to clear up any point of uncertainty on the evidence given, both parties will be recalled notwithstanding the fact that only one may be concerned with the point giving rise to doubt.

Decision

The chair will, if possible, give a decision to the parties immediately after the hearing. On occasions, time constraints may make it necessary to adjourn the hearing for a longer period to properly consider the information provided. In this case, it will be agreed to re-adjourn the meeting at a later date or that the employee will be informed of the decision in writing. In any case, the decision made will be confirmed in writing within 5 working days of the hearing including what action, if any, should be taken, by whom and the agreed timescales. The employee will also be informed in the letter of their right to appeal against the decision reached.

Note: References to employee include the representative acting on the employee's behalf.

Appendix 3

Procedure for the Employment Appeals Hearing

Introduction

The chair of the Employment Appeals Panel will introduce those present and explain their reason for attendance. They will also explain the purpose of the hearing and how it will be conducted.

A representative from Human Resources (or Independent Advisor) will be present to advise and support the Panel. A further representative may also be in attendance to advise and support the chair of the stage 2/dismissal hearing (management representative). The chair of the Employment Appeals Panel will confirm that the hearing is a grievance appeal hearing or appeal against dismissal hearing and will explain how it will be conducted.

Employee's Statement of Appeal

The employee will state their grievance and desired outcomes. As part of this witnesses may be called.

The panel, the management representative and their relevant advisors may ask questions of the employee and any witnesses.

Presentation of the Management Representative

The management representative will provide a statement including the reasons for their decision at the stage 2 grievance hearing or dismissal. As part of this witnesses may be called.

The employee, the panel and their relevant advisors may ask questions of the management representative and any witnesses. The HR Advisor to the management representative may contribute as required.

Final Statements

Both the management representative and employee (last) may sum up their case and make a final statement if they so wish.

Adjournment

The employee, management representative (including their HR Advisor) and any witness will then withdraw. The panel with their advisor will consider the evidence. If it is necessary to recall either party or witness in order to clear up any point of uncertainty on the evidence given, both parties will be recalled notwithstanding the fact that only one may be concerned with the point giving rise to doubt.

Decision

The chair will, if possible, give a decision to the parties immediately after the hearing. On occasions, time constraints may make it necessary to adjourn the hearing for a longer period to properly consider the information provided. In this case, it will be agreed to re-adjourn the meeting at a later date or that the employee will be informed of the decision in writing. In any case, the decision made will be confirmed in writing within 5 working days of the hearing.

This is the final stage of the Council's internal process and the decision of the panel is final.

Note: References to employee include the representative acting on the employee's behalf.



Managing Restructures and Changes of Terms and Conditions

Revised July 2017

1.	Introduction
1.1	<p>This Council is committed to ensuring that it has an organisational structure in place that delivers cost effective services to the people of Wyre. This structure is reviewed periodically to reflect service requirements and the need to achieve corporate performance objectives. This means that it becomes necessary to introduce changes to the staffing levels from time to time.</p> <p>The document provides a framework for managing change effectively, fairly and consistently, through planning, consultation, and communication and in accordance with established good practice and employment legislation. This restructuring process will apply to all groups of staff other than Chief Officers.</p>
2.	Delegated Powers
2.1	<p>The Officer Delegation Scheme - Record of Decision Form is the document used to record and collate the approval from all stakeholders to a proposal that involves a change in staffing resource. It is mandatory for all amendments to the structure, staffing levels or terms and conditions of employment.</p>
2.2	<p>A copy of the Officer Delegation Form can be found on the intranet.</p> <p>For minor changes the proposals can be outlined in the Summary of Recommendations.</p> <p>For major changes or a series of changes involving a wider group of staff, teams or services (such as a restructure) a separate more detailed report should be attached.</p>
3.	Managing Minor Change
3.1	<p>It is recognised that there may be occasions where managers need to implement changes to working practices in order to meet changing business needs more effectively. Although this may bring about significant change in the way staff operate from day to day, the change to staffing structures and individual terms and conditions could be relatively minor.</p>
3.2	<p>These changes should be documented using the Officer Delegation Form and managers should always consult with Human Resources if the proposed changes, however minor, affect the individual's terms and conditions of employment.</p> <p>Following consultation with Human Resources, managers should meet with staff either individually or collectively to explain the need to implement the changes and to ask for views before implementation.</p> <p>See 'Guidance notes for the completion of Officer Delegation Scheme Form' for</p>

3.3	<p>more detailed guidance on how to document your proposal.</p> <p>Staff may wish to be accompanied by a trade union representative or colleague at a meeting to discuss changes to duties and working practices and this should be permitted.</p>
4.	<p>Managing Major Organisational Restructure</p>
4.1	<p>Where there is an organisational restructure that may result in changes to terms and conditions of employment, significant job change and/or redundancies then the following process must be followed:</p> <p>Management Planning (Pre-consultation)</p> <p>4.2 Managers considering organisational change that may impact on staff must gather information to support the need for change and build in appropriate timescales for planning their restructure. This should include adequate time for drafting their report, the appropriate formal consultation period and sufficient time for implementation of the changes, including notice periods if redundancies are proposed.</p> <p>4.3 Once managers have established their business case for making changes and developed their proposals in relation to their new structures they will need to:</p> <ul style="list-style-type: none"> ➤ Produce a report outlining their proposals with input from Human Resources and Financial Services. ➤ Obtain approval through the Officer Delegation Scheme, Service Director and/or Corporate Management Team in order to proceed to formal consultation and implementation. <p>4.4 It is important for managers to have a clear and accurate understanding of their current establishment in terms of the number of employees, post numbers, grades, hours, fixed term/permanent staff and details of employees who are on maternity/adoption or long term sick leave, etc.</p> <p>All new posts must have job descriptions and person specifications that have been subject to Job Evaluation.</p> <p>If redundancies are likely then managers are advised to obtain the potential cost as early as possible in the process. This includes the potential estimated costs for redundancy payments and the costs for early release of pension for employees who are over 55.</p>
5.	<p>Writing a Proposal</p>
5.1	<p>The report should be written in consultation with Financial Services and Human Resources and must include the following information:</p>

- A clear rationale for making the changes / including the benefits of the proposals;
- Details of the current position including staffing structure and post numbers;
- The proposed staffing structure and how it will operate;
- The number and grades of staff who are at risk of redundancy, the measures to be taken to avoid potential redundancies and the proposed method of selecting the staff at risk of redundancy.
- The proposed method of recruitment to any new posts, ensuring that all appointments are made strictly in accordance with Corporate Policies.
- The financial implications of the proposals and reference where appropriate to entitlements to redundancy payments, protected pay arrangements or early release of LGPS pension.

5.2 **Assimilation**

Assimilation applies where an employee is matched to a post without the need for an interview and:

- the duties of the postholder's substantive role remains substantially the same in terms of grade, responsibility and job content.
- the essential requirements of the person specification are met
- there is only one person eligible for the post, or the number of eligible persons and number of posts equate.

Once an employee has been identified as suitable for assimilation to a post, it should not be proposed that they be ring-fenced to any other position within the new structure.

Where there is more than one person 'matched' for a post or where the number of staff 'matched' is greater than the number of posts available the post will be ring-fenced.

5.3 **Ring-fencing**

Ring-fencing will apply where substantially similar roles are available but there are more matched employees likely to be displaced than available matching posts.

In which case the posts are reserved and 'ring-fenced' to those 'matched employees' i.e. those who would otherwise have met the criteria for assimilation.

Or

	<p>Where less similar roles are available but it is deemed that the new posts are potentially suitable for those staff in the same area of work whose posts are being deleted or substantially changed.</p> <p>The number and nature of 'ring-fences' will be agreed through consultation, and posts will be filled on a cascade basis meaning that higher graded posts will be dealt with first.</p> <p>5.4 Fixed term / temporary employees</p> <p>Temporary employees, who were appointed following a competitive selection process, may be considered for 'assimilation' or 'ringfencing' within the restructure process, provided they have at least two year's continuous service in that matching post. Short term temporary staff and seasonal staff are therefore excluded from this process.</p> <p>5.5 Employees on maternity leave</p> <p>Employers are under a statutory obligation to offer employees on maternity leave any suitable alternative vacancy. This means that if a vacancy that is suitable for the employee exists she must be offered the post even if this means that she is treated more favourably than other employees who are also at risk of redundancy.</p> <p>Managers are strongly advised to seek advice from human resources if one of their employees affected by the restructuring is on maternity leave.</p> <p>5.6 Other considerations</p> <p>Any individual whose existing post either no longer exists or whose post has "changed" will become part of a pool of at risk staff. Any new posts or vacancies identified as part of the restructure should be 'reserved' for this at risk group in the first instance,</p> <p>5.7 Assimilated staff are not part of this pool and will not be able to apply for these posts until the posts are opened up for competition to all council employees.</p> <p>5.8 Salary protection will apply to any individual appointed up to two grades below their substantive post. Salary protection will apply for 18 months from the date of appointment.</p> <p>Clearly there are a number of issues to be taken into account and final decisions on the filling of posts cannot be taken until after the consultation process is concluded. However those affected will be informed of their "at risk of redundancy" status at the commencement of the consultation process.</p>
6.	Formal Consultation.

<p>6.1</p>	<p>Approval to commence consultation.</p> <p>Managers will need to complete the Officer Delegation Form and obtain initial approval from their Service Director or Chief Executive, Financial Services and Human Resources <u>before</u> staff / trade union consultation can commence.</p> <p>In addition any proposal for early release must be considered by the Chief Executive in consultation with the Head of Finance.</p> <p>Managers must be guided by human resources when consulting on any organisational restructure that may result in changes to terms and conditions of employment, significant job change and/or redundancies.</p>
<p>6.2</p>	<p>Starting the process.</p> <p>There are no set rules regarding the duration of the consultation period unless the statutory provisions described below apply. Human Resources will advise on what may be a fair and acceptable period given the complexity of the report.</p> <p>Similarly there are no set rules on the number of meetings that need to be held. What is appropriate will depend on the suggestions put forward and the questions arising.</p> <p>The Head of Service and / or human resources would normally inform the local trade union representatives of the intention to commence consultation. They should be given the initial consultation document, draft job descriptions, person specifications and offered the opportunity to comment on the proposal, the grading process and intended procedure for achieving the restructure.</p>
<p>6.3</p>	<p>Consultation will commence with an initial meeting with staff to announce the restructure. At this meeting, you would set out the background and explain why the change is necessary, describe the differences between the current and proposed structure and how it would affect the service. As this is a sharing of information there is no entitlement to be accompanied by a trade union representative or colleague at this first meeting.</p>
<p>6.4</p>	<p>Staff should be encouraged to spend time reading the restructure report and to put forward any suggestions that they may have. They can ask any questions or raise any concerns, although it would be prudent to deal with any individual concerns at the follow up consultation meetings.</p>
<p>6.5</p>	<p>Consultation meetings:</p> <p>The Council is legally obliged to consult with staff on all contractual changes and to try and agree these by consensus. Consultation meetings should be arranged as soon as the initial meeting has taken place. Staff may be accompanied by a trade union representative or colleague at these meetings.</p>

6.6 Each member of staff must be allowed the opportunity to express their views, to raise any questions, and to discuss how the changes are likely to affect them personally. Managers must also ensure that they discuss individual options and explain how proposals for ring-fencing / assimilation were reached and the criteria for selection in any competitive process.

6.7 **Keeping records**

It is important that written records are kept of all stages of the consultation process, including minutes of meetings and all communications with unions, employee representatives and individual employees.

6.8 **Statutory provisions for consulting in redundancy situations**

Where the Council is faced with a potential redundancy situation or where a restructure is likely to result in a variation of contracts there are certain statutory provisions it has to comply with under S.188 of the Trade Union and Labour Relations (Consolidation) Act 1992 and subsequent legislation.

The Council recognises three trade unions (Unison, GMB and UCATT) for the purpose of collective consultation for proposed redundancies and the dialogue would normally start during the formal trade union meetings (consultative groups or joint negotiating committee.)

The statutory provisions set out a clear framework for formal trade union consultation and the human resources team will take the lead in such cases. Unilaterally imposing change without carrying out meaningful consultation may lead to grievances or constructive dismissal claims against the Council. Should a re-structure lead to the individual being made redundant, without appropriate consultation, the Council would be at risk of a complaint to an Employment Tribunal.

6.9 **Timescales for collective consultation:**

Where between 20 and 99 redundancies are proposed at one establishment within 30 days, consultation should begin at least 30 days before the first dismissal is to take effect; and

Where 100 or more redundancies are to arise at one establishment within 45 days, consultation should begin at least 45 days before the first dismissal is to take effect.

Where 19 (or fewer) redundancies are proposed, there is no statutory need for collective consultation. However, individual consultation and local collective consultation would still apply.

Note these consultation timescales also apply where a variation of terms are likely to be imposed following a process of dismissal and re-engagement.

Human Resources will take the lead in all such cases.

7.	Decision to Proceed
7.1	<p>At the end of the consultation period the Head of Service, in conjunction with the Chief Executive / Service Director, will consider all comments and make a decision on the way forward.</p> <p>If the decision is to proceed with a change to the current structure, the reasons for the decision will be confirmed in writing to the staff and trade unions.</p>
7.2	<p>The Human Resources Section will be responsible for the overall co-ordination of all 'appointments' made as a result of restructuring. Letters regarding notification of changes, assimilation or ring-fence proposals will be issued by Human Resources and all staff will be required to provide their written agreement to any contractual changes.</p>
8.	Equality Impact Assessment and Monitoring
8.1	<p>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.</p>
9.	Data Protection Act 1998
9.1	<p>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 the requirements of the Data Protection Act 1998.</p>



Pay and Time Off in Lieu Policy

1. Statement of Intent

- 1.1 Wyre Council intends to manage the pay of its workforce in order to regulate expenditure, ensure transparency, fairness and consistency in pay determination, control pay drift and conform with pay agreements reached on behalf of its employees both nationally and locally.

2. Scope

- 2.1 This policy explains the Council's agreed terms and conditions on pay and applies to all Wyre Council employees engaged on National Joint Council for Local Government Services [Green Book] conditions of service.

3. Roles and Responsibilities

3.1 **The Council is responsible for:**

The responsibility for the pay structure rests with the Council, who through its Officers and principally based on the advice delivered by the Head of Business Support will establish consistency and conform with equal pay legislation.

3.2 **The Chief Executive, Service Directors and Heads of Service will be responsible for:**

- providing Human Resources with appropriate documentation, including time sheets, variation of hours, overtime and mileage claims etc. to enable the payment of salaries and wages;
- providing Human Resources with job descriptions and other information required to enable the determination of grade, wage or salary level for posts in their services;
- advising Human Resources of any variation, or proposed variation, of duties and responsibilities attached to a post in their Directorate which may have implications for the wage, grade or salary for that post.

3.3 **The Head of Business Support is responsible for:**

- advising the Council on wage rates, salary levels, job evaluation, wage and salary review procedures;
- maintaining an up to date establishment list which will contain each post on the Council's establishment, with information relating to the remuneration and other payments relative to each employee;
- advising all employees of changes to their wage and salary levels, and making appropriate variations to their written particulars of employment as required by the Trade Union Reform and Employment Rights Act 1993, and Employment Rights Act 1996;
- administering the appeals procedures relating to grading matters;
- the payment of wages and salaries to the Council's employees in accordance with the terms of their contract with the Council;

- making lawful deductions from the wages and salaries of the Council's employees in accordance with legislation summarised in the Employment Rights Act 1996;
- issuing an itemised pay statement to each employee of the Council at or before the time at which any payment of wages or salary is made in accordance with the Employment Rights Act 1996.

4. **Pay Procedures**

4.1 Wyre Council will pay its employees' salaries which reflect the agreement reached by the National Agreement on Pay and Conditions of Service, except in circumstances

- where locally agreed variations are in place
- which are jointly agreed between the Council and representatives of its employees in the furtherance of successful tenders for areas of activity which are exposed to competitive tendering,
- where the Council has taken into its employment employees of other councils or contractors under the TUPE regulations.

4.2 The appropriate grade for any particular post will be determined by Job Evaluation and administered by Human Resources.

4.3 **New Appointments**

Staff newly employed by the authority will normally be appointed to the initial point of the established grade for the post unless their skills, experience or previous salary justifies paying a higher scale point within that established grade. Offers above the initial point should only be made in consultation with Human Resources and the Service Director / Chief Executive.

4.4 **Calculation of Salary for New Employees**

If an employee commences their employment part way through a month, the pay due to them will be calculated as follows:-

- Normal annual salary divided into 12 equal instalments to give monthly salary.
- Monthly salary divided by the number of days in the current month multiplied by the number of days due.

Example: For a start date of 11th September the calculation would be – monthly salary/30 days x 20 days.

4.5 **Calculation of Salary for Leavers**

If an employee terminates their employment and is due to leave part way through a month, the leaving date for pay purposes will normally be a Sunday.

The pay due to them will be calculated as follows:-

- Normal annual salary divided into 12 equal instalments to give monthly salary.

- Monthly salary divided by the number of days in the current month multiplied by the number of days due.

Example: For a leaving date of 11th September the calculation would be – monthly salary/30 days x 11 days

4.6 Incremental Progression

Progression through the grade from one increment to the next will normally take place on the 1 April each year until the maximum point of the scale is reached.

However Officers with less than six months service by 1 April will be granted their first increment six months after their appointment, promotion or re-grading

- 4.7 Increments may be accelerated within an employee's scale on the grounds of special merit or ability subject to approval of the Service Director (or Chief Executive if Finance or Planning.)

- 4.8 At the discretion of management and in consultation with Human Resources employees can be accelerated up to two increments (within the grade) subject to the successful completion of a final examination of an approved course of study.

- 4.9 Increments may be withheld from any employee following an adverse report on an officer (subject to the normal rights of appeal). Any increment withheld may be paid subsequently when the employee's service becomes satisfactory.

4.10 Recompense for Undertaking Temporary Additional Duties

An employee who, for any reason other than the annual leave of another officer, is called upon by their Service Director to undertake the full duties and responsibilities of a higher graded post for a continuous period of at least four weeks is entitled to receive a salary in accordance with the first increment of the grade of the higher graded post temporarily occupied. Once qualifying the higher salary will be paid with effect from the first day on which the employee was required to undertake the duties and responsibilities of the higher graded post.

- 4.11 Where an employee undertakes additional responsibility in the absence of a more senior officer (for any reason other than annual leave), albeit not the full duties and responsibilities, any entitlement to additional payments will be subject to the qualifying period set out in 4.8 above and will be based on an evaluation of the additional duties under the Council's Job Evaluation Procedure.

Such payments are to be determined by the Head of Business Support after consultation with the Service Director / Chief Executive.

4.12 Grading, Re-grading and Appeals

Proposals for the management of the grading of new and changed posts, re-grading applications and appeals can be found on the Councils' Intranet.

4.13 Calculation of Accrued/Overtaken and Unpaid Leave

Leave is calculated based on a 5 day working week (pro-rata for part time staff). Examples of calculations are shown below:

On leaving an employee has 10 days untaken accrued leave entitlement – weekly salary/5 days x 10 days paid with their final pay.

On leaving an employee has overtaken their leave entitlement by 3 days – weekly salary/5 days x 3 days deducted from their final salary.

An employee wishes to take 6 days unpaid leave – weekly salary/5 days x 6 days deducted from their salary.

4.14 **Equal Pay Audit**

Human Resources will conduct an equal pay audit every two years.

4.15 **Equality Impact Assessment**

Human Resources will assist Line Managers to conduct an Equality Impact Assessment on restructuring proposals that have the potential to impact on a significant number of individuals.

5 Overtime and Time Off in Lieu (TOIL)

5.1 Overtime pay is defined as the additional pay claimed as a result of additional hours worked to contracted hours. It can be planned or occasionally unplanned. Unless an employee has a contractual entitlement to overtime or it has been authorised in advance by the appropriate line manager a claim for overtime will not be considered.

Planned overtime is pre- determined and the need for the overtime will have come about either from special one off project work or to carry out essential IT work.

5.2 Time off in Lieu (TOIL) is defined as time taken off to compensate for planned (or occasionally unplanned) time worked in addition to contracted hours.

Subject to working patterns and contractual arrangements TOIL should normally only apply to hours worked before 7.15am and after 7.00pm.

5.3 Employees who work additional hours on an ad hoc basis are recompensed either with an overtime payment or time off in lieu (TOIL) through the flexible hours recording system.

5.4 **Employees on or below scp 28**

Employees on or below scp 28 who are required to work additional hours beyond their working week are entitled to receive overtime payments / TOIL on the following basis:

Monday to Saturday – time and a half

Sundays and Public and Extra Statutory holidays – double time (min 2 hours)

5.5 **Employees paid on scale point 29 or above**

Those who are paid on scale point 29 and above will receive overtime payments as outlined above but these will be calculated at scp 28.

Staff paid on scale point 29 and above will be entitled to TOIL at plain time for hours worked from Monday to Thursday, time and a half for Fridays and Saturdays and double time for Sundays and Bank Holidays.

5.6 Part time employees

Part time employees are entitled to receive overtime payments / TOIL only at times and in circumstances in which full-time employees in the establishment would qualify. Otherwise a full working week for full time employees shall be worked by a part time employee before these enhancements apply.

5.7 Work undertaken under the emergency plan

Where recall to work is outside an employees' usual/contracted working hours and their skill and professional knowledge means their attendance is critical to the emergency, the normal restriction that part time workers will need to have worked 37 hours before attracting overtime payments / TOIL at enhanced rates will be set aside. This arrangement must have been previously agreed with the Service Director for payment to be made.

Employees recalled to work under the emergency plan will be paid as follows:

Employees on or below scp 28 who are required to work additional hours beyond their working week are entitled to receive overtime payments on the following basis:

Monday to Saturday – time and a half

Sundays and Public and Extra Statutory holidays – double time (min 2 hours)

Those who are paid on scale point 29 and above will receive overtime payments as outlined above but calculated at scp 28.

Travel time will be included in the time worked

5.8 Working Hours

The Council is mindful of the Working Time Regulations and has a duty of care to protect the health and safety of its employees by ensuring that they do not work too many hours. The normal working week is one of 37 hours and employees should not work more than 48 hours a week unless agreed by the line manager. Any requirement to work beyond the Working Time Regulations should be referred to the human resources team in the first instance.

If any employee regularly works additional hours, then working hours may need to be formally amended to reflect this.

5.9 Record Keeping

Where an employee currently utilises the Council's flexitime system this will be the mechanism by which additional hours worked will be managed. The arrangements for the operation of the flexitime system are detailed in the relevant policy and procedure.

Post holders who are required to work outside the normal core flexi time (7.15 am to 7.00pm Monday to Friday) on a regular basis, may have their carry over limit increased up to a maximum of 4 days to accommodate operational requirements. Any increase in the carryover from 2 to 4 days must be agreed by the Head of Service in consultation with the HR team.

It is the responsibility of Line Managers to monitor the accumulation of TOIL and additional hours should normally only be worked with the prior agreement of the Line Manager.

5.10 **Taking TOIL**

Every effort should be taken to take TOIL as soon as possible after it is accrued, however, it is recognised that this may be restricted due to operational requirements.

Where TOIL of more than half of a normal working day is being claimed this should be claimed in line with the principles of booking flexi or annual leave.

6. Additional Payments and Allowances

6.1 **Saturday and Sunday Working**

Where employees are required to work a five day in seven week; plain time rates apply to the first 37 hours of any working week (excluding Public Holidays), irrespective of which days are worked and, thereafter, the appropriate additional hours provisions apply.

6.2 **Night Work**

To qualify for night work, the night time period must be 7 hours long and include the period between midnight and 5am.

Employees who work at night as part of their normal working week are entitled to receive an enhancement of time and one third for all hours worked between 8pm and 6 am.

6.3 **Evening Work**

A number of posts work into or in the evening on an ad hoc basis and are recompensed either with an additional hours payment or time off in lieu. The time off in lieu entitlements will be calculated in accordance with this policy and administered via the flexible hours recording system.

If any employee regularly works evenings, then their working hours may need to be formally amended to reflect this.

6.4 **Public and Statutory Holiday.**

Payment / TOIL for work undertaken on Public and Statutory Holidays will be made in accordance with National Agreement on Pay and Conditions of Service.

6.5 **Severe Weather Standby and Operational Standby**

A current weekly payment of £87.82 will be paid for Severe Weather Standby (previously referred to as Albion and Neptune standby) and Operational Standby and is increased in line with national pay awards. Where there is a recall to work to deal with an incident, employees will be paid in accordance with work undertaken under the emergency plan as set out in section 5.7 of this policy.

6.6 **Recall to Work /Informal Standby**

Where an individual is not on formal standby, but they may be recalled to work to deal with a matter that has arisen, it is proposed that no standby payment be paid (on the basis that there is no requirement for the employee to be on standby). However they should be recompensed in accordance with the provisions below:

- Time and a half is paid (or corresponding time off in lieu given) to any officer recalled to duty on scp 28 or below
- Plain time is paid (or corresponding time off in lieu given) to any officer recalled to duty on scp 29 or above
- Travel time be included in the time worked

Should any part time employee be called to work under the emergency plan the normal restriction that part time workers will need to have worked 37 hours before attracting TOIL / overtime payments at enhanced rates will be set aside.

6.7 **Key holders call out**

Key holders who do not receive regular standby payments and are called out to deal with an alarm at the Council premises for which they have responsibility will be paid in accordance with the provisions below:

- Two hours at double time (or corresponding time off in lieu given) to officers on scp 28 or below.
- Two hours at plain time (or corresponding time off in lieu given) to officers on scp 29 or above.

6.8 **Duty Officers**

The Duty Officer role is not allocated to any particular post but these additional jobs are open to any employee to apply for. Where the Duty Officer is called out monitoring ensures that the provisions of the Working Time Directive are not breached.

The current weekly payment for Duty Officer standby of £266.10 is unchanged. The Duty Officer will also be re-imbursed 1 hour of flexi for each week they are on duty irrespective of whether they are called out or not.

On occasions where a call out exceeds 3 hours flexi time claimed will be the period of the call out less 1 hour. It is expected however that this will only be required in exceptional circumstances.

Where the emergency plan is activated then the Duty Officers will be paid in accordance with the emergency plan in section 5.7

6.9 Food Safety Inspections

These rates are updated by the value of the annual pay award each year.

7. Recruitment and Retention Incentives

7.1 The Council is committed to the principles of equal pay for work of equal value. However, there are times when the rate of pay as determined by job evaluation is not competitive in the relevant job market, causing serious recruitment and retention difficulties particularly where certain specialisms are required.

In exceptional circumstances, it may be appropriate to consider payment of a recruitment or retention incentive to ensure the delivery of high performance services. These incentives may be in the form of a relocation package, a golden hello or a market supplement.

7.2 Proposals for payment of incentives must be made in consultation with Human Resources and include supporting evidence of the recruitment / retention difficulties and give consideration to the cost and implications on existing staff.

7.3 All proposals to offer a recruitment or retention incentive must be approved by the Chief Executive / Service Directors and Section 151 Officer.

7.4 All incentive payments are subject to a requirement to repay in the event that the employment terminates for whatever reason within a specified time and individuals will be required to sign contract agreements to this effect.

7.5 Relocation Allowance

The decision to offer such a recruitment incentive must be based on the business need, taking into account the purpose of the post, the difficulties in recruitment, the benefits to be gained and the alternatives to the employee relocation taking place.

Relocation expenses are judged on a case-by-case basis and each employee's situation and circumstances will be unique. The Council therefore retains discretion to tailor the relocation package to suit the particular circumstances and needs of each employee.

All offers of relocation are subject to HM Revenue & Customs regulations.

7.6 Golden Hello

In circumstances where it is expected that there will be exceptional difficulties recruiting to a position (irrespective of grade), a sum of money may be offered as an incentive.

This payment is discretionary and will only be made where there is clear evidence that the salary payable is in monetary terms, significantly lower than the market rate and there are serious recruitment and difficulties associated with the position.

Payments are normally made in the form of a cash lump sum and are subject to normal income tax and national insurance deductions.

7.7 Market Supplement

A Market Supplement is a time limited additional payment to the basic salary of a job evaluated position. This payment is discretionary and will only be made where there is clear evidence that the basic salary payable is significantly lower than the market rate, there are exceptional difficulties with recruiting suitably qualified and experienced staff or that the individual's expertise cannot otherwise be retained.

8. Equality Impact Assessment And Monitoring

- 8.1 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.

9 Data Protection Act 1998

- 9.1 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 the requirements of the Data Protection Act 1998.

9. Recording Flexitime in Special Circumstances

- 9.1 Where an employee starts or finishes their working day at a location which is not their usual base of work, they should ensure that their actual start/finish times are added to the flexi system at the first available opportunity excluding the time it normally takes to travel home to office or office to home.
- 9.2 Adjustments for the time spent outside the office on official business, should include travelling time between the office and the other place of business, subject to a maximum adjustment of 11 hours 15 minutes per day. If travelling from home and back to place of business or event, deduct the time that it normally takes to travel from home to office and back.
- Adjustments for attending agreed seminars, conferences and externally organised training events should be dealt with in the same way.
- 9.3 When attending approved 'College' day release (including day/evening class) the maximum adjustment is your standard hours for that day. Employees who leave the office for 'college' during the course of the day and are absent for the remainder of the day should swipe in/out as normal and submit an adjustment for the difference up to a maximum of their normal standard hours for that day.
- 9.4 Staff who assist with election duties for Wyre during their normal working day will be able to claim back time up to their normal working hours for that day. Credit will not be given for duties outside of the normal working day such as the Poll Officer/Presiding Officer training and the count. Nor will time be given for any election duties carried out on a normal day off.
- 9.5 Credit will not be given for staff carrying out election duties for another Council.
- 9.6 Any employee working overtime (which has been agreed by their Manager) must have already completed their normal standard hours on the current day, or they must not commence overtime before 17.00. Employees must not swipe out to commence overtime (due to Fire Evacuation Procedures) but should submit a negative adjustment for the hours worked so that they can be deducted off the flexi system.
- 9.7 Under normal circumstances staff will not be credited for time away from work for doctor or dentist appointments.
- 9.8 Where a hospital appointment is necessary (ie. where the employee has no control over the timing of the appointment), this will be treated as an authorised absence and the time allowed. Time credited will be from leaving the office to:

- Returning to the office; or

- Leaving hospital if not returning to the office, less lunch break if appropriate
- It should be noted that except in exceptional circumstances time should not exceed 7 hours 24 minutes for the day (or equivalent if part-time).

9.9 **Time off for Religious Practices.**

Wyre Council will grant employees reasonable time off during working hours for religious observance insofar as this is possible and practicable, taking into account the needs of the service and whether or not such arrangements might cause disturbance or disruption to other members of staff and/or their work or work patterns.

Any time off would need to be made up through the flexi-time scheme or by agreement with the line manager.

In some cases, where the flexi scheme does not operate, days off for religious observances can be requested through the normal annual leave procedure or through the Council's TOIL procedures where these apply. Where it is not possible to take annual leave or TOIL, employees can request time off as unpaid special leave.

However, where an employee requests time off at a particularly busy time or at a time when the employee's absence would otherwise cause difficulties for the business or his/her department, or where the amount of time off requested is unreasonable or excessive (taking into account the needs of the business), the organisation reserves the right to refuse to grant some or all of any of the time off requested.

9.10 **Working Patterns**

In circumstances where the needs of the service require a change in the existing working arrangements, or sections where the working pattern varies with the needs of the service, it may be possible to objectively justify a requirement for employees to work shifts at times or on days that they do not wish to work for religious reasons.

However, before a decision is made, managers are advised to contact HR in the first instance to discuss and explore further alternatives.

All employees, whatever their religion or belief, will be treated equally in respect of requests for time off for religious observance or requests for alterations to their working patterns for religious reasons.