



Report of:	Meeting	Date	Item No.
Human Resources	Employment and Appeals Committee	14 November 2016	4

Policy Review

1. Purpose of Report

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

2. Outcomes

2.1 The amendment to existing policies and procedures.

3. Recommendation/s

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

4. Background

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

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

5. Key Issues and Proposals

5.1	Safeguarding Children Policy	Appendix 1	Reviewed
	Pay and Time off in Lieu Policy	Appendix 2	Reviewed
	Domestic Abuse and Implications in the Workplace	Appendix 3	Reviewed
	Agency Worker Policy	Appendix 4	Reviewed
	Equal Opportunities	Appendix 5	Reviewed

- 5.2** The Safeguarding Children Policy has been updated to include sections on Child Sexual Exploitation, Counter Terrorism and Prevent Strategy. It has also been updated to include new lead and designated officers.
- 5.3** The Pay and Time off in Lieu Policy now includes an explanation of how starters and leavers salaries are calculated when they start/leave part way through the month and how the calculation for accrued/overpaid/unpaid holidays is carried out.
- In addition Albion and Neptune Standby has been renamed Severe Weather Standby and Operational Standby and the Section relating to Duty Officers has been updated following the conclusion of a consultation exercise.
- 5.4** Domestic Abuse in the Workplace has been reviewed and amended for readability and application.
- 5.5** The Agency Worker Policy includes an updated schedule of transfer fees depending on the number of weeks an agency worker is with the Council before becoming permanent
- 5.6** The Equal Opportunities Policy has been reviewed with only minor changes.

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.

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

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List of Background Papers:		
Name of Document	Date	Where available for inspection
None		

LIST OF APPENDICES

- Appendix 1 Safeguarding Children Policy
- Appendix 2 Pay and Time off in Lieu Policy
- Appendix 3 Domestic Abuse in the Workplace
- Appendix 4 Agency Worker Policy
- Appendix 5 Equal Opportunities

arm/e&a/cr/16/1411lh1



Safeguarding Children Policy

Important!

If you're worried about a child please use the flowchart on the back page to decide the correct course of action

Reviewed November 2016

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1. Our Commitment to Safeguarding

- 1.1 Wyre Council delivers a range of services and activities that impact on the lives of children both directly and indirectly. Safeguarding children and young people, ensuring their welfare, safety and health is of paramount importance. We are committed to providing safe and supportive services that will give children the opportunities to achieve their full potential. This includes:
- Having commitment from senior managers and councillors to safeguarding
 - Having a safe recruitment and selection process
 - Ensuring that all relevant staff are DBS¹ checked at the appropriate level
 - Providing training at the appropriate levels for staff, volunteers and councillors
 - Having Designated Safeguarding Officers to provide guidance and advice to staff
 - Having information about our safeguarding processes easily accessible on our website for children, young people and their families
 - Having all the relevant information for staff available on our intranet and from their line manager
 - Having an easily understandable reporting and monitoring system
 - Working co-operatively with partner organisations/services, including using the Common Assessment Framework (CAF)
- 1.2 We want to make sure that all children and young people have a safe, healthy and happy life and get encouragement for them to do their best.
- 1.3 This policy and guidance will provide all staff, volunteers and councillors with a clear understanding of the issues around safeguarding including their responsibilities, the council's processes and procedures, and what to do in an emergency. It should be considered in conjunction with the council's Safeguarding Adults Policy.

2. What Safeguarding means at Wyre Council

- 2.1 All children and young people (defined as people under the age of 18) have the right to be safe from harm and to be able to live and grow with confidence in their communities.
- 2.2 As a district council we have a duty and responsibility to ensure the safeguarding and promote the welfare of children and young people (as per the Children Act 2004, Section 11). This has been further defined by statutory guidance ("*Working Together to Safeguard Children*" - 2010) to mean:
- Protecting children from maltreatment
 - Preventing impairment of their health and development
 - Ensuring they are growing up in circumstances consistent with the provision of safe and effective care, and undertaking that role, so as to enable those children to have optimum life chances and to enter adulthood successfully
- 2.3 There are certain council services that will regularly deal directly with children, families and

¹ The Disclosure Barring Service (DBS) replaced the Criminal Records Bureau (CRB) in December 2012

vulnerable people – for example, Housing Options, Leisure Services and Community Safety. Some of the work they do will be classed as ‘regulated activity’ by the government, such as unsupervised coaching of young people. These staff and services must operate in a manner that ensures the safety of all service users, and staff must receive training as appropriate, especially if they undertake regulated activity.

- 2.4 Other services will have little or no direct contact with children or vulnerable people. However, safeguarding is everybody’s business and everyone has a duty to ensure children are safe and that abuse and neglect is reported. All staff at the authority must receive awareness raising or guidance on safeguarding to ensure they know what is meant by abuse and neglect and what to do if they see it.

This includes knowing what to do outside of work as responsible citizens if they are concerned about the welfare of a child or young person.

- 2.5 As a council we have appointed a **Lead Designated Safeguarding Officer**, who takes a strategic and operational lead on matters related to safeguarding children and young people within the authority. Responsibilities include:

- To act as first point of contact for the Council on issues of Child Protection both internally and externally
- Liaise with Lancashire Safeguarding Children Board as appropriate
- Promote child protection throughout the Council in conjunction with the Management Team
- Ensure the Safeguarding Children Policy is communicated and updated as necessary
- Represent Wyre Borough Council on relevant local groups
- Keep an up to date knowledge and understanding of the area of Child Protection this will include attending relevant training
- Ensure all relevant information is communicated to the Designated Officers
- Ensure safe storage of all reports and records of incidents, disclosures and allegations.
- Provide a point of contact with the Children’s Social Care Duty Officer and hold an up-to-date list of contacts for statutory child protection agencies
- Oversee/carry out all responsibilities of Designated Child Protection Officers.

In addition there are five **Designated Safeguarding Officers** who are responsible for the following:

- Provide a point of contact for staff who want to test concerns about child protection issues and act appropriately – seeking advice from or making referral to statutory agencies
- Receive reports or incidents of suspected or actual abuse in liaison with the Lead Designated Child Protection Officer
- Report incidents/seek advice from relevant agencies
- Pass on records to the Lead Designated Child Protection Officer for safe storage
- Act in support of the Lead Designated Child Protection Officer as appropriate, undertaking any necessary actions in their absence.

Safeguarding Contacts have also been appointed and although they have not had the level of training of the Designated Safeguarding Officers they are able to offer initial support and

advice to staff before handing over to a Designated Officer. Contact details for these officers can be found on Page 13.

- 2.6 As a council we also need to ensure that robust safeguarding procedures are applied when entering into contracts and service-level agreements. It is the responsibility of the officer managing the agreement to make sure that the organisation concerned has appropriate policies and procedures relating to safeguarding, and that their staff have relevant training and are DBS checked where necessary.

3. Understanding Abuse

- 3.1 The council has a duty to ensure children and young people are protected from abuse whilst in our care, and staff members are also required to report abuse should they suspect it is occurring outside of the council's area of responsibility. There are four types of child abuse that we wish to safeguard against. They are defined in the UK Government guidance *Working Together to Safeguard Children 2010* (1.33 – 1.36) as follows:

1. Physical abuse: may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child. Physical harm may also be caused when a parent or carer fabricates the symptoms of, or deliberately induces, illness in a child.

2. Emotional abuse: Emotional abuse is the persistent emotional maltreatment of a child such as to cause severe and persistent adverse effects on the child's emotional development. It may involve conveying to children that they are worthless or unloved, inadequate, or valued only insofar as they meet the needs of another person. It may include not giving the child opportunities to express their views, deliberately silencing them or 'making fun' of what they say or how they communicate. It may feature age or developmentally inappropriate expectations being imposed on children. These may include interactions that are beyond the child's developmental capability, as well as overprotection and limitation of exploration and learning, or preventing the child participating in normal social interaction. It may involve seeing or hearing the ill-treatment of another. It may involve serious bullying (including cyberbullying), causing children frequently to feel frightened or in danger, or the exploitation or corruption of children. Some level of emotional abuse is involved in all types of maltreatment of a child, though it may occur alone.

3. Sexual abuse: Sexual abuse involves forcing or enticing a child or young person to take part in sexual activities, not necessarily involving a high level of violence, whether or not the child is aware of what is happening. The activities may involve physical contact, non-contact activities, such as involving children in looking at, or in the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways, or grooming a child in preparation for abuse (including via the internet). Sexual abuse is not solely perpetrated by adult males. Women can also commit acts of sexual abuse, as can other children.

4. Neglect: Neglect is the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development. Neglect may occur during pregnancy as a result of maternal substance abuse. Once a child is born, neglect may involve a parent or carer failing to:

- provide adequate food, clothing and shelter (including exclusion from home or abandonment);
- protect a child from physical and emotional harm or danger;
- ensure adequate supervision (including the use of inadequate care-givers); or
- ensure access to appropriate medical care or treatment.

It may also include neglect of, or unresponsiveness to, a child's basic emotional needs.

4. Child Sexual Exploitation (CSE)

- 4.1 CSE is a type of sexual abuse in which children are sexually exploited by people who have some form of power or control over them. It involves forcing or enticing a child (under the age of 18) to take part in sexual activities whether or not the child is aware of what is happening, including exploitative situations, contexts and relationships where children (or a third person or persons) receive 'something' (e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money) as a result of performing, and/or others performing on them, sexual activities. CSE can be a form of organised or complex abuse, involving a number of abusers and/or a number of children.
- 4.2 CSE can occur through use of technology without the child's immediate recognition, for example the persuasion to post sexual images on the internet/mobile phones with no immediate payment or gain. In all cases those exploiting the child/young person have power over them by virtue of their age, gender, intellect, physical strength and/or economic or other resources.
- 4.3 Wyre Council provides training to enable staff to understand and recognise signs of child sexual exploitation and any member of staff who has concerns about a child should report these to a Designated Officer.
- 4.4 Help and advice regarding CSE in Blackpool, Wyre and Fylde is available from "Operation Awaken", telephone 01253 477261, email awaken@lancashire.pnn.police.uk.

5. Prevent

- 5.1 The Counter Terrorism and Security Act came into force on 1 July 2015 which placed duties on local authorities to have due regard to the need to safeguard and PREVENT people from being drawn into terrorism.

5.2 Prevent Strategy

Prevent is a Government strategy led by the Home Office and focuses on working with individuals and communities who may be vulnerable to the threat of violent extremism and terrorism. Supporting vulnerable individuals and reducing the threat from violent extremism in local communities is a priority for statutory partners and their partners.

5.3 Channel

Channel is a multi-agency safeguarding programme run in every local authority in England and Wales. It works to support vulnerable people from being drawn into terrorism and provides a range of support such as mentoring, counselling, assistance with employment etc. Channel is about early intervention to protect vulnerable people from being drawn into committing terrorist-related activity and addresses all types of extremism.

5.4 Any member of staff who identifies concerns, for example as a result of observed behaviour or reports of conversations to suggest the child supports terrorism and/or extremism, must report these concerns to a designated officer, who will consider what further action is required.

5.5 If staff have any concerns about someone and would like more advice ring 101/999 if urgent, if not then email concern@lancashire.pnn.police.uk. Additional contact details available in section 13.

6. How to protect children and young people

6.1 What to do if you're worried about a child

Staff members should follow the flowchart on the back of this document, dependent on the situation.

- **In an emergency, where there is a serious or immediate threat to a child:** call 999
- **Not an emergency, in work hours:** contact your line manager. If they aren't available contact one of the council's Designated Safeguarding Officers or Safeguarding Contacts (see page 12 for contact details)
- **Not an emergency, outside work hours:** contact the local Lancashire County Council Social Services
 - 08.45 – 17.00 Monday to Friday: 0300 1236720
 - All other times: 0300 1236722
- **You wish to remain anonymous:** anyone can contact the NSPCC helpline, 24 hours a day, on 0808 800 5000.

6.2 What to do if a child or young person discloses abuse

Children and young people often don't disclose abuse, and when they do it's rarely directly to professionals. Partly this is due to lack of awareness of services, and partly to do with trust and a fear of losing control of a situation. It's therefore very important that if a child or young person discloses abuse to a staff member they should:

- Listen carefully
- Respond sensitively and take the matter seriously
- Make the child fully aware that the staff member cannot 'keep a secret' and must disclose any evidence of abuse to the appropriate agency
- Make a note of everything that was discussed as soon as possible after the disclosure (see 'how to record your concerns' below).

Confidential support is available from the NSPCC and council employees should be aware of their Helpline Number – 0808 800 5000.

6.3 **How to record your concerns**

If you are made aware of any instance of abuse, or have any concerns about it, it is important to note down the details in writing as soon as possible. As well as aiding you in taking the appropriate action as described above, it will also enable you to complete a safeguarding referral form, which is available on the intranet or from your line manager. This ensures the council can maintain a full corporate record of all safeguarding issues encountered by staff, which allows us to take action to reduce them in future. A copy of the referral form must be sent to the Lead Designated Safeguarding Officer.

7. Communications and Media

7.1 **Photography and Video Footage**

In order to protect children and young people consent may be required from a parent or guardian before photographs or video can be taken by council staff or on council property.

7.2 **e-Safeguarding**

e-Safeguarding refers to all safeguarding issues which relate to the use of Information and Communications Technology (ICT). There are two main elements to these issues:

- **e-Security:** Procedures to protect the physical network infrastructure to ensure all confidential information and electronic data that the council holds relating to children and young people is securely maintained. These procedures form part of our overall approach to electronic data sharing, which restricts the use of removable media (such as USB drives) and also governs secure external data transfer by SFTP (secure file transfer protocol) and secure GCSX (Government Connect Secure Extranet) e-mails.

- **e-Safety:** Procedures to ensure that any child or young person accessing the internet whilst being employed by or under the care of council staff, whether on council premises or not, know their access rights and responsibilities and are kept safe. Every new employee with PC access is required to sign an 'IT Computer Use Policy' that governs their use of the network, e-mail, software, the web, etc. The council also operates 'iCritical' software that filters any inappropriate content.

8. Recruitment and Selection

8.1 We must ensure that the people who work with children, whether they are paid employees or volunteers, are safe to do so. As a council we need to make sure that our practices and standards are consistent across all services in recruitment and selection of staff/volunteers that will be working with/having access to children.

8.2 The following points express the actions we will take during the recruitment and selection process to ensure this. They take into account the latest (September 2012) changes to the

national vetting and barring scheme as per the 2012 Protection of Freedoms Act.

- All posts will be assessed by the HR team and the line manager to identify which posts will undertake regulated activity
- All advertising of regulated posts will be explicit in the need for DBS clearance
- Successful candidates will produce confirmation of identity by producing two from the following – passport, birth certificate, driving licence (photographic identity, confirming date of birth, proving current address)
- Two written references will be taken up. Where possible at least one should be associated with former work with children/young people
- Induction will include explanation of the council’s Safeguarding Policy and relevant service-specific procedures
- The new employee/volunteer will sign that they understand and will comply with the policy
- Training needs will be identified and places booked on the appropriate level of child protection, Common Assessment Framework (CAF) and other training sessions as relevant
- DBS Checks will be refreshed at a minimum of 3 yearly intervals

8.3 **Supervision**

Regular supervision and management of staff is carried out as part of the ongoing process for all staff, including a 6-monthly review of performance and welfare.

8.4 **Work Experience for Young People**

Individual services may offer work experience positions to young people as part of their ongoing education. The work protocol and recruitment and selection procedures outlined within this policy will apply. The Human Resources department are available to offer tailored advice, including advising whether any member of staff supervising young people needs to undertake a DBS check.

9. **Training**

9.1 It is the responsibility of each service, in liaison with Human Resources, to make sure that all staff have received the appropriate level of training for them to be confident and competent when working with children and are able to recognise and respond to safeguarding concerns. Training has to be up-dated regularly, to keep up with new developments and initiatives.

9.2 **New Starters**

All new starters will have an introduction to the safeguarding policy and procedures through their induction process.

New starters who have had child protection/safeguarding training through a previous employer will still have to do the council’s training – this training includes how to work within the council’s safeguarding policy and procedures. In this way we make sure that staff that have contact with

children have a workable understanding of council policy and have the knowledge and skill to make sure that children are safe.

Should a specific job role require a higher level of training, the recruiting manager in liaison with Human Resources will ensure that the appropriate training, whether internal or external, is undertaken as soon as possible after the new employee starts.

9.3 **All staff**

Any training needs relating to safeguarding issues will be identified through an employee's annual appraisal process. Staff with regular contact with children will update their training every 3 years (as a minimum) and it is the responsibility of the line manager in liaison with Human Resources to arrange for this training to take place.

9.4 **Members**

Basic Safeguarding training will be offered to all members via the 'Member Training Programme'.

9.5 **Specialist Training**

The Designated Safeguarding Officers will inform responsible officers such as the Safeguarding Contacts and other relevant officers about any relevant interagency and professional training opportunities to ensure they are able to deal effectively with a wide range of queries and situations.

10. **Working Protocol for Staff, Volunteers and Councillors**

10.1 It is important for all staff, paid or unpaid, and councillors to behave correctly and to be positive role models for the children who they come into contact with. In particular, any staff in regular, unsupervised contact with children and young people, or any other 'regulated activity' (as defined by the Protection of Freedoms Act 2012) must adhere to appropriate guidelines.

10.2 As set out in section 9 above, full training will be provided to any staff member having regular contact with children and young people. Managers must also develop local policies and systems to maximise staff safety including the need to carry out risk assessments as appropriate – if staff feel that they have a training need or want to know more they should speak to their line manager.

10.3 The following are common sense points for anyone to take into account which will help to create a positive culture and also safeguard staff against false allegations:

- Treat all children and young people fairly and with respect. Maintain professional boundaries and don't have favourites.
- Respect a child/young person's right to privacy.
- Always work in an open environment, avoiding private or unobserved situations, where appropriate encourage the young person to bring in a friend, leave a door open.
- Inform colleagues if there is need for a confidential chat with a young person, let them know where you are and how long you'll be.
- Don't give lifts to young people unless parents have been notified. Where

circumstances require the transportation of children, another Council representative must be present, ensure your manager is aware of this and how long you will be. Take a mobile phone to communicate reasons for any delays.

- Don't take young people to your home.
- If you have to visit a young person in their home always make sure that your manager is aware of this and you record the home visit.
- Don't develop social relationships with young people who are service users (including via social media).
- Don't accept money or gifts from service users – don't give money or gifts to service users.
- Be aware of physical contact with a young person – any support or assistance should be provided openly and appropriately – see the guidelines of appropriate sports/activities National Governing Body.
- If working with mixed gender groups of young people off site (on trips, at different venues) ensure there are always male and female staff with them unless previously agreed with the Designated Safeguarding Officer.
- Don't smoke or drink alcohol in the presence of young people in any work related environment.

11. Allegations against Staff, Volunteers or Councillors

11.1 Staff who work with children can be vulnerable to malicious or misplaced allegations against them. Unfortunately there are also occasions where some adults/professionals have been found to be perpetrators of child abuse or displaying unsuitable behaviours which would harm the children they work with.

11.2 Allegations of harm or inappropriate behaviour made against staff, either paid or unpaid, are serious and must be dealt with by the **Local Authority Designated Officer (LADO)**, a professional who is employed by Lancashire County Council and is independent of Wyre Council who has been appointed by the Lancashire Safeguarding Children Board.

The LADO's role includes:

- The management and oversight of individual cases
- Providing advice and guidance to employers and voluntary organisations
- Liaising with the police and other agencies
- Monitoring the progress of cases to ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process

For contact details see page 13.

11.3 **Guidance for staff on dealing with allegations of harm or inappropriate behaviour**

If someone (a child, parent, service user, fellow colleague, etc) makes an allegation to you or a member of staff:

- Do NOT investigate yourself but speak to your line manager

- Your line manager will contact the Lead Designated Safeguarding Officer and Human Resources
- The Lead Designated Safeguarding Officer will contact the LADO directly at the earliest available opportunity

If you have concerns about your line manager, the DSCO, or anyone else that may make the above process inappropriate, please refer to the council's Whistleblowing policy.

11.4 **The Welfare of Staff**

Wyre Council is committed to following the correct process for dealing with any allegation against a member of staff, but it is also mindful of the welfare of that staff member and will provide appropriate help and support to them.

12. **Working with Partners**

- 12.1 There is a need for organisations to work together when it comes to safeguarding. Joined up services, common processes and procedures reduce the risk of vulnerable children 'falling through the net'.

The following are key elements of partnership working around safeguarding:

- 12.2 **The Lancashire Safeguarding Children Board (LSCB)** ensures countywide priorities are achieved whilst at the same time taking account of local issues and priorities. The Children Act 2004 puts this Board on a statutory footing, giving it legal responsibilities. It must ensure that all statutory agencies are working together to effectively safeguard children, providing procedures, guidance and advice and holding agencies to account if they are not meeting their safeguarding responsibilities effectively.

- 12.3 A range of themed sub-groups and Local Safeguarding Groups assist the LSCB in carrying out its work programme and scrutinizing the work of agencies across Lancashire. Local Safeguarding Groups also identify any local issues and develop their own work plans to ensure local differences are addressed alongside countrywide priorities.

<https://www.education.gov.uk/publications/standard/publicationDetail/Page1/DCSF-00305-2010>

- 12.4 **The Lancashire Safeguarding Children Procedures** provide multi-agency guidance for all organisations. This policy has been aligned with the key requirements of these procedures which are an excellent source of additional information, and should be accessed at the link below for further guidance about any safeguarding issue.

http://www.lancashire.gov.uk/education/safe_child_board/safeguarding_children_procedures/index.asp

- 12.5 **Children Partnership Boards (CPBs)** were established in October 2014, replacing District CYP Trust Boards and Locality Safeguarding Children Groups. The purpose of the CPBs is to drive and deliver effective multi agency working that safeguards and promotes the well-being of children and young people and improves outcomes for families.

The Boards provide a means by which local agencies come together to ensure effective collaboration in the development and delivery of services to children and their families. As a sub-group of the county-wide Children and Young People's Trust, the Boards offer a means by which local priorities can be influenced by local people.

The Children's Partnership Boards have been established across the five areas detailed below:

- Burnley and Pendle;
- Chorley, South Ribble and West Lancashire;
- Fylde, Lancaster and Wyre;
- Hyndburn, Ribble Valley and Rossendale;
- Preston.

<http://www.lancashirechildrenstrust.org.uk/boards>

- 12.6 **The Common Assessment Framework.** We have signed the 'declaration of acceptance' agreement to use the Common Assessment Framework (CAF). This is a process of evaluation to identify and record the needs of vulnerable children and young people, and as a result to work alongside families and other professionals to meet those needs before things reach crisis situation. Staff from any organisation in Lancashire can use the CAF process to decide whether action needs to be taken to support a child. Contact the CAF Support Officer for further information at caf@lancashire.gov.uk

13. **Contacts and Communications**

13.1 **Internal – Designated Safeguarding Officer and Contacts**

Lead Designated Officer

Mark Broadhurst, Service Director of Health and Wellbeing

Tel: 01253 887433 Email: mark.broadhurst@wyre.gov.uk

Designated Officers

Shelley Whittaker, Partnerships Co-ordinator

Tel: 01253 887240 Email: shelley.whittaker@wyre.gov.uk

Ian Munro, Head of Culture, Leisure and Tourism

Tel: 01253 887208 Email: ian.munro@wyre.gov.uk

Neil Greenwood, Head of Environmental Health and Community Safety

Tel: 01253 887410 Email: neil.greenwood@wyre.gov.uk

David McArthur, Private Sector Housing and Housing Options Manager

Tel: 01253 887434 Email: david.mcarthur@wyre.gov.uk

Jane Collier, Human Resources Advisor

Tel: 01253 887506 Email: jane.collier@wyre.gov.uk

Human Resources and Staff Issues

Liesl Hadgraft, Head of Business Support

Tel: 01253 887316 Email: liesl.hadgraft@wyre.gov.uk

Safeguarding Contacts

Alison Boden, Coast and Countryside Manager	01253 887505
Graham Clarkson, Area Operations Manager	01253 887565
Phil Gooden, Area Operations Manager	01253 887603
Simon Swindells, Volunteer Co-Ordinator	01253 887504
Pamela Holroyd, Housing Options Team Leader	01253 887263
Michele Scott, Care and Repair Manager	01253 887540
Jane Murray, Community Safety Officer	01253 887292
Maria Leeder, Engineering Technical Support Officer	01253 887241
Andrew Robinson, Fraud and Compliance Manager	01253 887536

Outside of office working hours 5pm – 8.30am Monday to Friday and anytime weekends and bank holidays contact the Council Duty Officer

Tel: 01253 891000

13.2 External

Lancashire County Council Social Care Services

For any child protection queries, the appropriate team can be accessed via the Lancashire Hub

- 08.45 – 17.00 Monday to Friday: 0300 1236720
- Any other times: 0300 1236722

Local Authority Designated Officer (LADO): for allegations against adults working with children

- Tim Booth (tim.booth@lancashire.gov.uk, 01772 536694)

Lancashire Safeguarding Children Board: for info on the countywide approach & resources available

- Victoria Gibson, LSCB/LSAB Business Manager, (Victoria.gibson@lancashire.gov.uk 01772 538352)

NSPCC: For anonymous nationwide advice and support, 24 hours a day

- Helpline: (help@nspcc.org.uk, 0808 800 5000)

Prevent/Channel and Related Contacts

- Police Engagement Officers (South, West and North Lancashire) 01772 209830 / 01772 209733 / 01772 209822 / 01772 209689
- Lancashire's Channel Co-ordinator 01772 413029
- Prevent/Channel Referrals, channelreferrals@lancashire.pnn.police.uk
- Anti-terrorism hotline 0800 789 321

Child Sexual Exploitation contact

- Awaken 01253 477261, awaken@lancashire.pnn.police.uk.

14. Equality Impact Assessment and Monitoring

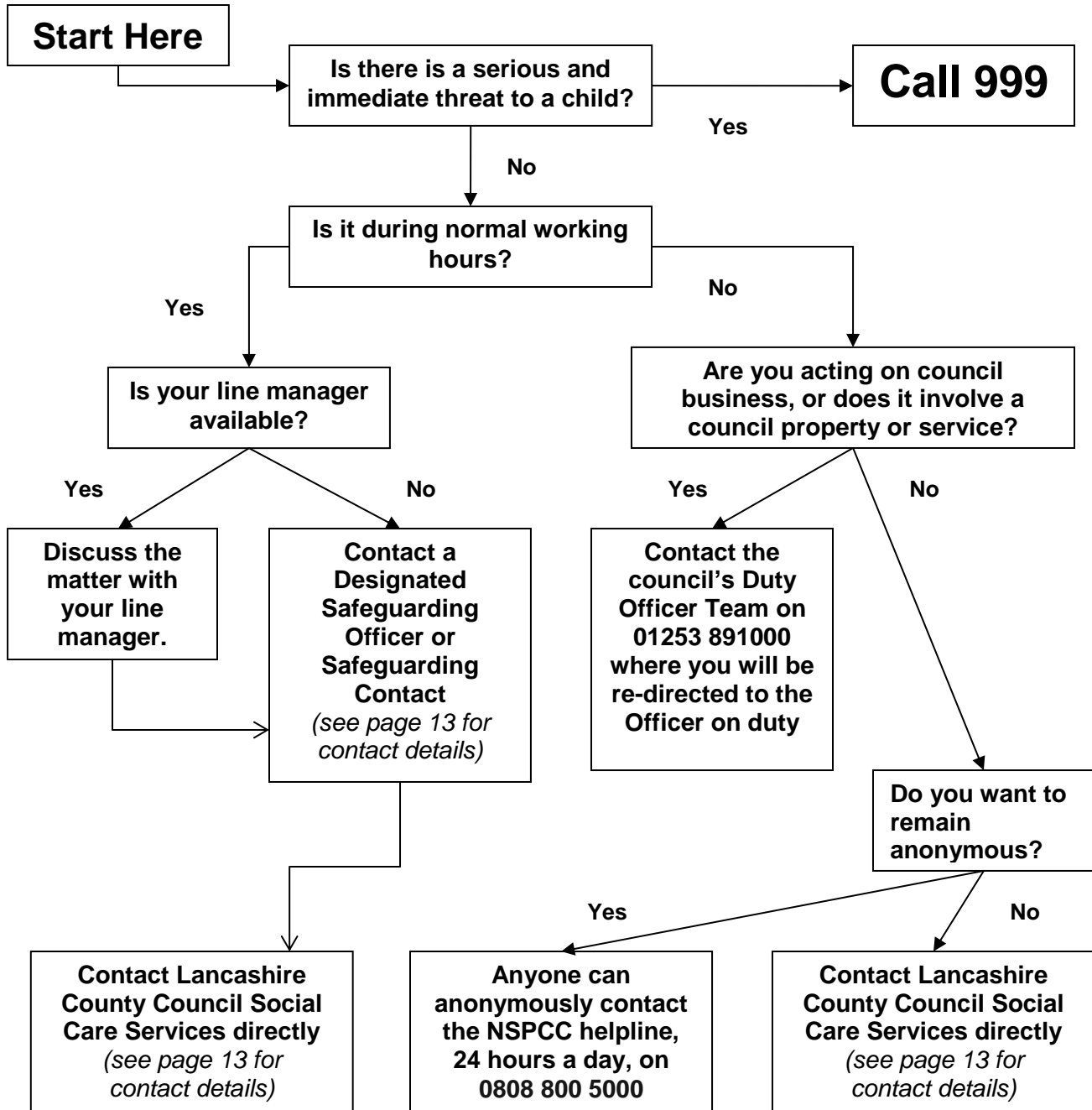
- 14.1 The operation of this policy will be monitored for its impact on different staff groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.

15. Data Protection 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.

Taking Action

If an incident occurs or you have concerns please follow the flowchart below to understand what to do:





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 ~~Corporate Directors~~ 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 [Corporate Director/Service Director / Chief Executive](#).

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.

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 divided 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

4.4 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; ~~except where their salary on 1 April following the change would be less than one spinal column point in excess of the salary they would have received on that day in their old grade, when they shall be entitled to their first increment on 1 April.~~

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

4.6 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.

4.7 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 services becomes satisfactory.

4.8 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 ~~Corporate Director~~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.

4.9 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 ~~Corporate Director~~Service Director / Chief Executive.

4.10 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.

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.

4.11 Equal Pay Audit

~~It is intended that~~ Human Resources will conduct an equal pay audit every two years.

4.12 Equality Impact Assessment

Human Resources will assist Line Managers to conduct an Equality Impact Assessment on ~~all~~ 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. ~~In which case~~ 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; pPlain 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 **Irregular Hours Payment**

~~This is applicable only to those who have variable start and finish times due to tidal conditions. The amount is only payable for the period April to October and is calculated at 16% of scp 6.~~

6.45 **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.

6.56 **Albion and Neptune Standby ~~vere~~ 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 The standby payment which applies to Albion will also be paid for Neptune standby and the expertise level will be rewarded if and when there is a recall to work to deal with an incident. Payment for that work employees will be paid in accordance with work undertaken under the emergency plan as set out in section 5.7 of this policy at the rates shown 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~~

6.67 **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~~ any caretaker 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.

6.78 Duty Officers –Current Position

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~~ ~~It is rare for the~~ Duty Officer ~~is to be~~ called out ~~and~~ monitoring ensures that the provisions of the Working Time Directive are not breached.

~~It is proposed that t~~The current weekly payment for Duty Officer standby ~~of £266.10 is unchanged.~~ ~~will increase to of £257.79 £275.85 W.E.F..... and be increased in line with national pay awards. The increase of pay is to cover instances where the duty officer is called out to attend an incident that forms part of the Duty Officer's role and responsibilities. On such occasions, no additional overtime payment or TOIL will be awarded as a result of any call out.~~ ~~is unchanged and in addition any call out be paid in accordance with the provisions below:~~

~~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.~~

- ~~• Corresponding time off in lieu given~~
 - ~~• Travel time be included in the time worked~~
- ~~Where the emergency plan is activated then the Duty Officers will be paid in accordance with the emergency plan in section 5.7~~

6.89 Food Safety Inspections

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

6.910 Market Supplements

The Council is not proposing to introduce market supplements to any posts as a result of the new pay and grading structure. The Council has, however, already agreed (as part of its recruitment and retention strategy) that market supplements may be used if there is an evidenced recruitment and retention problem.

7. Equality Impact Assessment And Monitoring

- 7.1 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.

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.



Domestic Abuse and the Implications in the Workplace Policy

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1. Policy Statement

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

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

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

The council acknowledges that while it is mainly women who experience domestic abuse this policy applies equally to men who need advice or support.

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

Employees experiencing domestic abuse will be expected to take a responsible attitude towards ensuring their own health and safety and that of their colleagues when the abuse impacts upon the workplace.

2. Aims of the Policy

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

3. Manager's Role

- 3.1 A manager may become aware or suspect that an employee is experiencing domestic abuse although the employee might not feel able to raise the issue with anyone. Managers should be alert to signals such as frequent absence from work, poor performance or a partner frequently making contact.

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

- 3.2 Managers must have a sensitive approach and ensure that employees are offered support if the issue of domestic abuse has been disclosed to them. Managers are advised:
- a) To ensure privacy and confidentiality as far as possible;
 - b) To ensure a non-judgemental approach, taking the employee seriously and above all, listening and believing what they are told;
 - c) That an employee may wish to involve a third party i.e. a friend, rather than their line manager;
 - d) That additional issues such as age, gender, sexuality, ethnicity, race and disability may also face the employee and managers should be aware of this;
 - e) To support the employee in whatever they decide to do by exploring the support and options available to them.
 - f) Ensure the employee has information regarding the Council's Employee Assistance Programme and consider referring to Occupational Health.
- 3.3 Managers must maintain a secure environment for all employees. In cases of domestic abuse the Council's risk assessment procedure should be followed. To ensure a secure environment it may be necessary to consider, with the employee concerned, the possibility of informing colleagues of any potential risk.
- 3.4 Colleagues should always be reminded of the confidentiality of the issue and information should only be disclosed with the express permission of the employee concerned.
- 3.5 Additional courses of action could include:
- a) reminding reception and switchboard staff in particular, but all employees in general, that personal details of employees are not to be divulged;
 - b) changing work times and patterns, along with office layout to ensure the employee is not visible through the windows or front reception points;
 - c) offering changes in specific duties e.g. removal from reception duties, or redeployment to another post if changes cannot be easily made;
 - d) agreeing what to tell colleagues and advising them what response they should give if the abuser telephones or calls at the work place;
 - e) reviewing systems for recording whereabouts of employees during the working day and minimising the risks to lone workers from outside visits/meetings;
 - f) recording all incidents of violence or threatening behaviour via the Council's Incident Reporting Procedure. Incidents can include persistent phone calls, emails or visits by the alleged perpetrator. Details of witnesses to incidents should also be recorded. If legal proceedings follow, the records could be used as evidence;
 - g) considering offering paid or unpaid leave or any other flexible working options

for employees experiencing domestic abuse in accordance with the Council's Flexible Working and Work Life Balance Policy;

- h) changing payment arrangements;
- i) encouraging staff to seek advice of the professionals and providing advice on useful contacts;
- j) referral, with employee's consent, to appropriate counselling services.

3.6 Attendance at court will be necessary if criminal charges are brought. Leave will be granted in accordance with the Council's Leave and Work Life Balance Policy.

3.7 Managers will reassure employees of confidentiality as far as is practicable. There are, however, some circumstances in which confidentiality cannot be assured. These occur when there are concerns about children or vulnerable adults or where the council needs to act to protect the safety of employees.

In such cases specialist advice will be sought and the employee will be advised as to why the breach is required seeking their agreement where possible.

4. The Council's Approach to Employees who are Alleged or Actual Perpetrators of Domestic Abuse

4.1 Employees should be aware that domestic abuse is a serious matter that can lead to criminal convictions.

4.2 **Conduct at Work**

Perpetrators of domestic abuse might use workplace resources such as telephone, fax or email to threaten, harass or abuse their current or former partners, and may involve other colleagues who may or may not be aware of their motives in assisting them.

Such abuse requires an effective employer response because it could be damaging and potentially dangerous for those being abused, as well as possibly bringing the Council into disrepute if the abuse is allowed to continue.

Similarly, proven harassment and intimidation of Council employees by their partner or ex-partner who also works for the Council will be viewed seriously and may lead to disciplinary action being taken.

4.3 **Conduct Outside of Work**

Conduct outside of work (whether or not it leads to police action/a criminal conviction) can also lead to disciplinary action against an employee because of its employment implications and because it undermines the confidence the Council (as an employer) has in the employee.

4.4 **Taking Action**

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

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

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

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

5. Equality Impact Assessment and Monitoring

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

6. Data Protection Act 1998

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

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AGENCY WORKERS

Policy and Guidance

November 2016

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1. Introduction

- 1.1 This document outlines the requirements of the Agency Workers Regulations and Wyre Council's position in engaging agency workers. It sets out guidance for managers on how agency workers should be treated while on assignment with the Council and provides a monitoring process to ensure the Regulations are being adhered to.

2. Definitions

2.1 An agency worker is an individual who:

- (a) *is supplied by a temporary work agency (TWA) to work temporarily for and under the supervision and direction of the hirer; and*
- (b) *has a contract with the temporary work agency which is:*
- (i) *a contract of employment with the agency, or*
 - (ii) *any other contract with the agency to perform work or services personally.*

This may include interims who are supplied by an agency, as well as interims who operate through a Limited Company.

The Council is responsible for paying the TWA for the worker's services and the appropriate agency is responsible for paying the worker.

Agency workers are not employees of the Council - they have a contract with the appropriate agency.

2.2 A temporary work agency ("TWA") is defined as:

"a person engaged in the economic activity, public or private, whether or not operating for profit, and whether or not carrying on such activity in conjunction with others, of:

- (a) *supplying individuals to work temporarily for and under the supervision and direction of hirers; or*
- (b) *paying for, or receiving or forwarding payment for, the services of individuals who are supplied to work temporarily for and under the supervision and direction of hirers."*

2.3 The provisions **do not apply** to the following:

- Those who are genuinely self-employed (e.g. sole traders)
- Those who work through their own service company who are genuinely in business on their own account (e.g. limited companies)
- Those employed under managed-service contracts

- Staff appointed through in-house temporary/casual staffing banks
- Staff directly employed by the Council who were initially introduced by an agency or employment business

3. Agency Worker Rights

3.1 All agency workers have certain statutory protection rights:

- The right not to be discriminated against on the grounds of race, sex, age, disability, sexual orientation, religion or belief.
- Rights under the Working Time Regulations e.g. maximum number of hours and the right to statutory paid holidays.
- Rights under the whistle-blowing provisions to protection from detriment on making a protected disclosure.
- The right to receive Day 1 and 12 week entitlements as required under the Agency Workers Regulations 2010.

3.2 Day 1 Rights

Agency workers have the right to the same access to certain facilities as comparable employees, i.e.:

- A canteen or other similar facilities
- Transport services (but not car allowances)
- Toilets/shower facilities
- Staff rooms (e.g. access to common room or rest room)
- Food and drinks machines
- Car parking

Agency workers also have the right to information relating to vacancies. This excludes situations where posts are ring-fenced for redeployment purposes or the prevention of a redundancy situation.

3.3 Rights after 12 weeks

After 12 weeks service in the same job, agency workers have a right to equal treatment with a comparable worker or employee in terms of:

- Basic pay
- Overtime
- Bonus and commission related to individual productivity
- Paid holiday entitlement
- Hours of work
- Vouchers with a monetary value
- Paid time off to attend ante-natal appointments.

3.4 **Agency workers are not entitled to equal treatment in respect of:**

- Access to the Local Government Pension Scheme
- Occupational Sick Pay (but may be entitled to SSP from the agency)
- Redundancy Pay
- Maternity/paternity rights (but may be entitled to SMP/maternity allowance from the agency)
- Bonus related to Council performance
- Non-cash awards
- Loans or advances of salary prior to payday
- Additional discretionary and non-contractual payments

3.5 **Pregnant Workers**

The Equality Act 2010 provides that less favourable treatment on grounds of pregnancy or maternity is discrimination. This would mean that it would be discrimination if managers refused to accept an agency worker because she was pregnant. Similarly, it would be discrimination if a placement were terminated because of pregnancy or if the worker was subject to a detriment because of her pregnancy.

Wyre Council must carry out risk assessments for pregnant agency workers, and if they can no longer complete the duties of the original assignment for health and safety reasons, they will also need to be found alternative sources of work. Pregnant agency workers will also be entitled to take paid time off work to attend ante-natal appointments after the 12-week qualifying period.

Managers are advised to contact Human Resources for further guidance as soon as it becomes known that an agency worker is pregnant.

3.6 **Permanent comparator**

In determining to what "equal treatment" the agency worker is entitled, an agency worker can compare rights with those of an employee or worker employed directly by Wyre Council. It is not necessary that the "comparable employee" is doing exactly the same job as the agency worker; an employee or worker undertaking a broadly similar role as the agency worker will be deemed to be a sufficient comparator.

4. Hiring Agency Workers

- 4.1 Managers will continue to be responsible for the engagement and management of agency workers at service level. They will be required to monitor their own agency arrangements and will be responsible for adhering to the directive avoiding any penalties that may be placed on the Council.

The Council will use temporary agency workers to provide additional resources for short term assignments of less than 12 weeks duration.

If a vacancy is likely to be for longer than this period a proper recruitment process should be followed. However some specialist posts may be difficult to fill in which case filling the vacancy with an agency worker may be the best option.

Once a vacancy has been identified, all other options for filling must be explored and the appropriateness of using an agency worker considered, before deciding on an agency worker.

The Line Manager should consult with Human Resources prior to any decision to engage an agency worker and complete a request to fill form stating:

- approximate length of the assignment;
- the cost of the assignment and appropriate rate of pay;
- the budget from which the cost will be met;
- job description, person specification and advert and
- the reasons why all other options for filling the vacancy are not appropriate.

4.2 **Suppliers of agency staffing**

The Council's contract for all categories of agency workers is with Matrix.

This sourcing is normally done on line and managers will need to contact Wyre@matrix-scm.com to obtain a system user password in the first instance.

See also the [Matrix User Guidance](#) on BRIAN.

Whilst this is the Council's preferred supplier there may be instances where this is not appropriate and advice must be sought from Human Resources.

4.3 **Information provided to the agency:**

- **a description of the duties** the worker will be undertaking. This could be a job description, a project brief, or a summary of key duties.
- the **qualification, knowledge, experience, skills and abilities** required to do the job. This could be a person specification or summary of key requirements.
- the **working arrangements** – location, beginning and end date of the assignment, hours of work, required days of work, rest breaks, etc.

4.4 **Terms and conditions of business**

Line managers should read the terms and conditions of business carefully before agreeing to engage a temp. Particular provisions to consider include:

- the fee payable for engagement of the temp, which is usually an hourly rate, plus VAT;
- the employment status of the temp;
- notice provisions from either party for termination of the temporary arrangement;
- the transfer fee payable on the switch from temporary to permanent employment;

Wyre Council have formally agreed provisions with Matrix but line managers will need to seek advice from with Human Resources / the Procurement Officer prior to entering into an agreement with any other Temporary Work Agency as the terms and conditions of their contracts will differ.

4.5 **Information to be provided by the agency**

An employment agency cannot supply a temp to a hiring employer unless it has:

- taken all reasonable steps to obtain confirmation as to the identity of the temp and that he or she has the experience, training and qualifications that the hirer considers necessary, or that are required by law or a professional body;
- taken all reasonable steps to obtain confirmation that the temp is willing to work in the position that the hirer seeks to fill;
- This information in respect of the temp must be supplied to the hiring employer;
- The agency must confirm whether the temp is to be employed by it under a contract of employment or engaged under a contract for services as this dictates the rights of the employee.

5. Employment status of agency temps.

5.1 Only individuals working under a contract of employment (employees) have the right to claim unfair dismissal. In addition, only employees have the right to receive other benefits such as a statutory redundancy payment, statutory maternity pay and parental leave. Independent contractors working on a self-employed basis under a contract for services do not have these rights.

It will generally be the responsibility of the hiring employer to ensure that an agency worker does not exceed the weekly working time limits and

receives appropriate rest periods and rest breaks. However, the agency will normally be responsible for payment of the national minimum wage and ensuring that the temp receives paid annual leave.

5.2 It is also important to note that:

- all aspects relating to poor work performance or misconduct on the temp's part must be passed to the agency for appropriate action
- all disciplinary and grievance issues must be dealt with by the agency
- the agency will be responsible for paying the temp and for agreeing any pay increases;
- the hiring employer may request an alternative temp from the agency at any time and it cannot insist on the supply of a particular worker
- although the temp will inform the Council when they take annual leave the arrangements for booking this leave will be made through the agency
- the temp will report all sickness absences through the agency.

6.	Calculating the 12 week qualifying period
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6.1 Any period of work (full or part-time) carried out by the agency worker for Wyre Council in a calendar week will make that week count towards the 12-week qualifying period. A calendar week is any period of seven days starting with the first day of an assignment.

Therefore, even if the agency worker is on assignment for only a couple of hours a week, it will still count as a week and they will still be entitled to equal treatment after 12 calendar weeks calculated in this way.

6.2 There is no need for an agency worker to work for 12 continuous weeks in order to reach the qualifying period. Continuity will normally be broken by a break of more than six weeks between assignments in the same job, or when an agency worker takes up a new role with the hirer where the whole or main part of the duties in the new role are substantially different from the whole or main part of the duties in the old role.

However breaks between assignments due to a number of specified reasons, such as sickness (of up to 28 weeks), jury service or pre-determined closure periods (e.g. school closures during holidays) will not break the qualifying period.

6.3 The situation is different in the case of absence related to pregnancy, childbirth or maternity during the "protected period", and for pregnancy, maternity, paternity or adoption leave. In such cases the worker is for the purposes of calculating the 12-week period deemed to continue working in their role for the original intended length of the assignment, or likely duration of the assignment, whichever is longer. The "protected period" starts at the beginning of the pregnancy and ends at the end of the 26th week from childbirth, or when the worker returns to work, if earlier.

7. Requests for information

7.1 After meeting the 12-week qualifying period, an agency worker can make a request in writing to their agency for relevant information about the basic terms and working conditions in the Council. If the agency fails to provide the information within 30 days of the request the agency worker may make the request direct to the Council, who then has 28 days to respond.

If the request is about access to collective facilities and information about employment vacancies, the worker makes the request direct to the Council. The Council then has 28 days to respond.

Where the agency and/or Council fails without reasonable excuse to respond or the response is late, evasive or equivocal, then any employment tribunal can draw an inference from the failure or delay to respond.

8. Transferring an agency worker to Wyre Council

8.1 If a temporary worker proves successful, the line manager may wish to consider offering him or her a contract of employment with Wyre Council. There are a number of factors that managers must consider before any offer of employment can be made.

The transfer of an agency worker to the Council's employment will be subject to approval on either a Request to Fill Form or Officer Delegation Form depending on the duration of the vacancy.

Such arrangements usually incur a significant charge that will need to be met by the existing budgetary provision.

8.2 Payment of transfer fees

Matrix charge a maximum of 10% of annual salary - this diminishes depending on the number of weeks worked (see below).

Number of weeks worked	Equivalent temp to perm fee
0-5 weeks	10%
6 – 9 weeks	5%
10 – 12 weeks	2%
After 12 weeks	0%

Other Temporary Work Agencies may charge considerably more or may insist on a longer hire period before agreeing to waive the temp to permanent fee.

Line Managers are advised to consult with Human Resources / Procurement Officer before entering into any discussion regarding any temp to permanent appointment.

9. Enforcement of the Agency Worker Regulations

9.1 An agency worker is able to bring a claim at an employment tribunal to enforce their rights under the Regulations, against the agency and/or the hirer. Compensation for a breach will be calculated by tribunals on a "just and equitable" basis, with no upper limit on awards. Liability for the award between the agency and the hirer will be determined by the employment tribunal, according to the extent to which it finds the agency and/or the hirer liable for the breach.

It should also be noted that there are, anti-avoidance provisions within the Regulations to prevent assignments being structured to try and avoid creating a 12 week qualifying period. If an employment tribunal finds that attempts have been made to try and avoid the agency worker gaining rights under the Regulations an additional award of up to £5,000 can be made.

10. Practical steps to avoid breaching the Regulations

10.1 To ensure that the Council is meeting its obligation under the Directive it is essential that a system of reviewing agency arrangements is established. Managers should ensure that they:

- only engage agency staff in accordance with this procedure;
- maintain accurate records of all periods of employment;
- provide human resources with full details of all agency workers
- notify the agency about the terms and conditions of the staff that they engage;
- notify the agency worker of what terms and conditions they should expect to receive via the temporary work agency.
- ensure that agency workers receive the correct access to staff facilities and information on vacancies and other entitlements.

Line managers as hirers will be required to ensure compliance with the Directive but Human Resources will carry out regular checks.

11. Health and Safety

11.1 The health and safety of an agency worker is a shared responsibility but the TWA cannot discharge their legal responsibilities as the employer.

11.2 Wyre Council will ensure that agency workers have the same level of health and safety protection as ordinary employees. Managers will notify the TWA of any risks and identify any special qualifications, skills, training or PPE required to carry out the work safely.

The legal responsibility for providing appropriate PPE lies with the TWA but managers will need to ensure that all the items provided are fit for purpose. Where Departments require agency workers to use specified Wyre Council items, then these must be provided free of charge.

- 11.3 All accidents, incidents / near misses must be reported immediately to both the line manager and TWA. Follow up action will be taken in accordance with Wyre Council's Health and Safety Procedures and in consultation with the Health and Safety Advisor.

12. Equality Impact Assessment and Monitoring

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

13. Data Protection 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.

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Equal Opportunities Policy

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1. Our Commitment

- 1.1 The Council is committed to providing equal opportunities in employment and to eliminating unlawful discrimination in employment or to customers.
- 1.2 This policy is intended to assist the Council to put this commitment into practice. Compliance with this policy should also ensure that employees do not commit acts of unlawful discrimination.
- 1.3 Striving to ensure that the work environment is free from harassment and bullying and that everyone is treated with dignity and respect is an important aspect of ensuring equal opportunities in employment. The Council has a separate Dignity at Work Policy, which deals with those issues.

2. The Law

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

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

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

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

3. Types of Unlawful Discrimination

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

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

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

This means that:

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

Perceptive and associative discrimination are both forms of direct discrimination.

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

3.3 **Associative discrimination** is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

3.4 **Indirect discrimination** is where a provision, criterion or practice is applied which is such that it would be to the detriment of a considerably larger proportion of the relevant group to which the individual belongs than to others, which is not objectively justifiable and which is to the individual's detriment.

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

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

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

3.7 **Harassment by a Third Party** - employers are liable for harassment if they fail to

protect employees from persistent harassment by third parties, for example contractors, members of the public, service users.

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

4. Equal Opportunities in Employment

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

5. Dignity at Work

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

6. Customers, suppliers and other people not employed by the Council

- 6.1 The Council will not unlawfully discriminate against customers using or seeking to use facilities or services provided by the Council.
- 6.2 Employees should report any bullying or harassment by customers, suppliers, visitors or others to their manager who will take appropriate action.

7. Training

- 7.1 The Council will provide training in equal opportunities to managers and others likely to be involved in recruitment or other decisions concerning staff.

8. Employees' Responsibilities

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

9. Grievances

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

10. Equality Impact Assessment and Monitoring

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

11. Data Protection Act 1998

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

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