

| Report of:      | Meeting                          | Date        | Item No. |
|-----------------|----------------------------------|-------------|----------|
| Human Resources | Employment and Appeals Committee | 6 July 2015 | 5        |

|                      |
|----------------------|
| <b>Policy Review</b> |
|----------------------|

## 1. Purpose of Report

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

## 2. Outcomes

2.1 The amendment to existing policies and procedures.

## 3. Recommendation

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

## 4. Background

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

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

## 5. Key Issues and Proposals

|   |            |              |
|---|------------|--------------|
| 5.1 Promoting Attendance Controlling      | Appendix 1 | Reviewed     |
| Absence Policy                            |            |              |
| Flexitime Working Policy                  | Appendix 2 | New Document |
| Capability Procedure                      | Appendix 3 | Reviewed     |
| Redundancy Policy and Selection Procedure | Appendix 4 | Reviewed     |
| Driving at Work policy                    | Appendix 5 | Reviewed     |

- 5.2** The Promoting Attendance and Controlling Absence Policy has just had a few minor amendments/additions.
- 5.3** The Flexi-time Working policy is new and includes principles, responsibilities and operation of the scheme.
- 5.4** The Capability Procedure has been partly rewritten to provide more guidance on preparing for, and conducting performance management meetings.
- 5.5** Redundancy Policy and Selection Procedure has been updated in line with current legislation and includes further guidelines on who and when to consult, selection pools and selection criteria.
- 5.6** The Driving at Work Policy para 5.5 and 5.11 now provides clarification on what 'road' generally includes and how and when it is permitted to use a mobile phone.

| <b>FINANCIAL AND LEGAL IMPLICATIONS</b> |  |
|---|--|
| Finance                                 | There are no specific Finance issues associated to this report.  |
| Legal                                   | There are no specific Legal issues associated to this report. However failure to comply with appropriate legislation may expose the Council to litigation. |

### **OTHER RISKS/IMPLICATIONS: CHECKLIST**

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

| <b>Implications</b>    | <b>✓ / x</b> |
|------------------------|--------------|
| Community Safety       | x            |
| Equality and Diversity | x            |
| Sustainability         | x            |
| Health and Safety      | x            |

| <b>Risks/Implications</b> | <b>✓ / x</b> |
|---------------------------|--------------|
| Asset Management          | x            |
| Climate Change            | x            |
| Data Protection           | x            |

| <b>Report Author</b>     | <b>Telephone No.</b> | <b>Email</b>               | <b>Date</b> |
|--------------------------|----------------------|----------------------------|-------------|
| Head of Business Support | (01253) 887316       | Liesl.hadgraft@wyre.gov.uk | July 2015   |

| <b>List of Background Papers:</b> |             |                                       |
|-----------------------------------|-------------|---------------------------------------|
| <b>Name of Document</b>           | <b>Date</b> | <b>Where available for inspection</b> |
| None                              |             |                                       |

**LIST OF APPENDICES**

- Appendix 1. Promoting Attendance Controlling Absence Policy
- Appendix 2. Flexitime Working Policy
- Appendix 3. Capability Procedure
- Appendix 4. Redundancy Policy and Selection Procedure
- Appendix 5. Driving at Work Policy

arm/empap/cr/15/0607lh1



# **Promoting Attendance and Controlling Absence Policy and Procedure**

# TABLE OF CONTENTS

## Contents

|     |  | Page |
|-----|--|------|
| 1.  | Policy Statement   | 1    |
| 2.  | Aims of the Policy                                       | 1    |
| 3.  | Scope  | 1    |
| 4.  | Notification and Reporting Arrangements                  | 2    |
| 5.  | Notification of Sickness or injury                       | 2    |
| 6.  | Responsibilities   | 4    |
| 7.  | Occupational Sick Pay                                    | 5    |
| 8.  | Return to Work Interviews                                | 6    |
| 9.  | Referral to Occupational Health                          | 7    |
| 10. | Absence Management                                       | 8    |
| 11. | Absence Management Meetings (Formal Process)             | 8    |
| 12. | Phased Return to Work                                    | 10   |
| 13. | Reasonable Adjustments                                   | 10   |
| 14. | Redeployment   | 10   |
| 15. | Ill Health Retirement                                    | 11   |
| 16. | Appeals  | 11   |
| 17. | Sickness During the Working Day                          | 12   |
| 18. | Accident or Injury at Work                               | 13   |
| 19. | Medical/Hospital Appointments                            | 13   |
| 20. | Disability Leave   | 13   |
| 21. | Annual Leave Entitlement in Relation to Sickness Absence | 14   |
| 22. | Absence From Home Address When Absent On Sick Leave      | 14   |
| 23. | Abuse of Sickness Scheme                                 | 14   |
| 24. | Cases of Suspected Misconduct                            | 15   |

|     |   |    |
|-----|---|----|
| 25. | Sickness and Performance Appraisal        | 15 |
| 26. | Equality Impact Assessment and Monitoring | 15 |
| 27. | Data Protection Act 1998                  | 15 |
|     | APPENDIX 1 – ABSENCE MANAGEMENT PROCEDURE | 16 |

## 1. Policy Statement

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

## 2. Aims of the Policy

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

## 3. Scope

- 3.1 This policy applies to all employees with the exception of those individuals who are under probation for whom the full procedural arrangements do not apply and should be managed in line with the Probationary Policy and Procedure.
- 3.2 This policy and the payment of sick pay exist to support our employees when they are sick.

Arrangements under the Work Life Balance Policy apply, where employees require time away from work due to personal matters.

## 4. Notification and Reporting Arrangements

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

## 5. Notification of Sickness or injury

### 5.1 On the First Day of Absence

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

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

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

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

### 5.2 Contact during your first week of absence

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

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

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

### 5.3 Eighth Day

5.3.1 On the eighth day of absence (or first available working day after this) the employee must contact the manager and further discuss the reason for their continued absence, likely

duration of sickness, any treatment they are receiving and any other relevant matters.

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

#### 5.4 **Contact during longer periods of absence**

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

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

#### 5.5 **Informal Welfare Meeting**

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

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

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

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

5.5.5 A brief follow up letter, incorporating what has been discussed, should be sent to the employee by the manager, following the welfare meeting.

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

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

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

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

5.6.4 Employees are expected to return to work promptly at the end of their medical certificate.

## 6. Responsibilities

### 6.1 Managers

6.1.1 Each manager has the general responsibility to:

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

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

6.1.3 Line managers should be aware of and acknowledge those individuals who have good attendance e.g. appraisals.

### 6.2 Employees

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

- Ensure that medical advice and treatment is received as quickly as possible and follow all recommended medical advice or treatment in order to facilitate a prompt return to work.
- Attend any appointments made with Occupational Health and comply with all advice they give which will facilitate a return to work.
- Respond in a timely manner to any communications from the Council and attend management meetings as required.
- Raise with their manager any concerns with their job which they feel are making them

ill or contributing to their illness/absence.

- Refrain from any activity, domestic, social or sporting, which may be prejudicial to recovery, cause further absence or bring into question the reason for the continued absence.
- On return to work, attend and participate in a return to work interview with their line manager.
- Co-operate with all reasonable attempts to facilitate a safe and full return to work including undertaking alternative duties.
- Advise their line manager if they intend to go on holiday or are living at a different address whilst absent from work due to sickness absence.
- Ensure that they fully inform their GP or consultant of any options and adjustments that the Council is prepared to put in place to support their early return to work.
- Request annual leave for holidays that they take during a period of sickness absence in accordance with the Council's procedure for requesting annual leave and do not take such annual leave unless that request is granted.

## 7. Occupational Sick Pay

### 7.1 Entitlement to Occupational Sick Pay

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

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

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

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

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

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

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

## 7.2 **Withdrawal of occupational sick pay**

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

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

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

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

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

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

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

## **8. Return to Work Interviews**

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

8.2 Return to work interviews are informal discussions and employees have no statutory right to be accompanied.

- 8.3 The manager should express their concern for the employee's welfare, balanced with their concerns about service delivery and the impact on other team members. The manager should also discuss with the employee options for further assistance to improve their attendance, if required.
- 8.4 It is important that the employee's absence record is discussed and that they are made aware of where they are in respect of the triggers.
- 8.5 If the employee has reached the triggers they should be advised that they will need to attend an Absence Management Meeting.
- 8.6 The return to work form must be completed on the sickness absence system to record the points discussed at the meeting.

## 9. Referral to Occupational Health

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

should consider the content of the report and discuss with the employee.

- 9.8 All Council employees are required to attend medical appointments or examinations with the Council's nominated OH provider where applicable.
- 9.9 If an employee refuses to be referred to OH or refuses to permit medical information to be shared with the Council, management will be required to base any judgements, including the employee's suitability to continue to work for the Council, on the information available to them at the time.
- 9.10 The provision of an Occupational Health service is of benefit both to the Council and to employees. Wasted appointments are costly to the Council and could have been used for another employee's benefit. Where an employee confirms that they will attend an OH appointment and then subsequently fails to attend, consideration will be given to withdrawing sick pay for the period up to the next available OH appointment.

## 10. Absence Management

- 10.1 **Short term Absence** is normally identified as absence that has no underlying long term medical condition and is attributable to minor ailments. Often the employee will only be absent for a few days.
- 10.2 The trigger points for managing short term absence are as follows:
- 10 working days of absence, in any 'rolling' twelve month period;
  - 3 periods of absence of 1 day or more in any 'rolling' twelve month period;
  - a pattern of absence which is causing concern whereby at the Manager's discretion the formal procedure may be initiated. This may include, but is not limited to, a pattern of absences occurring at the beginning or end of a week; during school holidays; coinciding with sporting or other events; or when an employee reports sick on the same day that a leave request had been declined.
  - the manager has concerns regarding the employee's welfare or ability to undertake their normal duties
- 10.3 Where an employee works less than a 5-day working week then the trigger points should be pro rata according to the number of days a week they work.
- 10.4 Please be aware that in some cases a short term absence pattern could be related to a disability, a long term condition or become a disability in the long term. However, absences that are medically certified or attributable to a disability or long-term medical condition can still be regarded as short term absences and managed under this part of the policy.
- 10.5 **Long term absence** is normally identified as an absence from work for 4 weeks or more normally due to an underlying medical condition and/or where there is no prospect of a return to work in the near future. The trigger point for managing long term absence is 4 weeks.
- 10.6 When an employee's absence reaches the trigger points for either short term or long term sickness as defined above, the manager will review the attendance record with the employee using an absence management meeting, where review periods and targets for improvement will be set.
- 10.7 There may be occasions where holding an Absence Management Meeting is not appropriate but this must be decided in liaison with Human Resources.
- 10.8 Where procedures are followed it is legitimate to dismiss on the grounds of 'some other substantial reason' (where no underlying medical condition is identified) or 'capability' where an underlying medical condition is identified.

## 11. Absence Management Meetings (Formal Process)

11.1 The purpose of the absence management meeting is to provide assistance and support to the employee to improve his/her attendance to a satisfactory level.

11.2 Absence management meetings are not disciplinary meetings. The aims of these meetings are to:

- Establish the reasons for the absence; is it medical or non-medical.
- Explain to the employee the impact the absence is having on the organisation.
- Discuss possible ways of reducing absence in the future.
- Investigate any reasonable adjustments.
- Discuss the possibility of requiring additional information from Occupational Health and what this entails.
- Inform of possible actions if level of absence is not improved.
- Set a review period and targets for improvement to reduce absences.

### 11.3 **Right to be accompanied**

At all formal stages of the Absence Management Procedure (i.e. formal absence management meetings) **employees may, if they wish, be accompanied by a recognised trade union representative or work colleague.** Although it would not normally be acceptable for this to be a close relative consideration will be given to this in exceptional circumstances.

### 11.4 **Notice**

Employees will be given at least 5 working days' notice of the meeting. Where a trade union representative or work colleague is not available this should not unduly delay the meeting. However the Council will seek to accommodate the request to rearrange the meeting but it is not expected that this would need to happen on more than one occasion.

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

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

### 11.7 **Review Periods**

One of the outcomes of the Absence Management meetings will be to set a relevant period of time for the manager to review the employee's attendance. The review periods should normally be set for a 2 – 4 month period. These can however vary depending on the level of the meeting, previous attendance record and nature of the absence/absences.

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

### 11.8 **Target setting**

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

absences”.

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

#### 11.9 **Sustaining the employees Return to Work**

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

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

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

#### 11.12 **Repeated long term absences**

Where an employee has had 2 or more periods of absence in any 24 month period, they will automatically be referred to a Stage 2 Attendance Management Meeting. At this meeting the absences will be reviewed in detail and consideration will be given to how the employee can improve their attendance.

## 12. **Phased Return to Work**

12.1 Following a period of long-term absence Occupational Health may recommend that a phased return to work would be beneficial. The phased return period will normally be for four weeks or less and involves a gradual build-up of hours and/or duties employees will receive their normal pay from day one of the phased return.

12.2 If the employee wishes to request to increase the phased return beyond four weeks, they will be asked to cover non-working time during the extended period with annual leave. A phased return to work may include modification to days or hours of work or adjustment to duties.

## 13. **Reasonable Adjustments**

13.1 The Council is required to consider making reasonable adjustments to assist employees’ who have a disability as defined under the Equality Act 2010.

13.2 Adjustments may take a number of forms and may be temporary or permanent, including:

- the provision of practical aids or adaptations to premises or equipment;
- reduction in working hours or changed working pattern;
- amendment to duties.

13.3 The Council will give consideration to adjustments both from the perspective of the employee and also with due regard to the reasonableness of those adjustments from an operational point of view.

- 13.4 In many cases it will be possible to accommodate adjustments to some degree or other; however in some cases it may not be considered reasonable to accommodate all or some of those adjustments. Where this is the case the manager should be able to clearly explain their reasons for being unable to accommodate the adjustments.

## 14. Redeployment

- 14.1 Redeployment will only be considered when other options to return the employee back to their substantive role have been unsuccessful and where medical advice indicates that an employee is unable to perform the duties of their current role, with reasonable adjustments.
- 14.2 In some cases, Occupational Health will not be able to recommend redeployment, despite the employee being unable to return to their substantive post.
- 14.3 The aim of redeployment will be to find a position that the employee can fulfil and where reasonable adjustments can be accommodated, if required.
- 14.4 Opportunities for redeployment are limited and these are dependent upon vacancies that exist in the organisation at the time that redeployment is being considered. This will include both permanent and fixed term vacancies. If an employee is offered and accepts redeployment into a fixed term vacancy, as an alternative to the termination of employment, they will transfer from permanent contract of employment to a fixed term contract of employment.
- 14.5 Where an employee is redeployed for health reasons, into a fixed term appointment, the normal arrangements for notice, redeployment and redundancy will apply to the employee at the end of the contract.
- Where an employee is re-deployed due to health reasons to a lower graded post, pay protection does not apply.
- 14.6 If no suitable redeployment opportunities are available and the employee is unable to return to their existing role, consideration will be given to progressing the formal absence management procedure through to stage 3 of the procedure.

## 15. Ill Health Retirement

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

- 15.7 There are occasions where an employee with a serious long term or terminal condition may wish to be dismissed and/or may be eligible for early release of pension benefits and therefore there may be some discretion on the application of the procedure.

## 16. Appeals

- 16.1 At all stages of the formal Absence Management Procedure employees have the right of appeal to the next level of management or to the Employment and Appeals Panel in the case of dismissal.
- 16.2 Appeals must be submitted in writing within 10 working days of receipt of the written outcome of the meeting clearly stating the grounds for appeal to the Head of Business Support.
- 16.3 Appeals against any formal level within the Absence Management Procedure except dismissal will only be considered for the following reasons:
- To appeal against the level of target or duration of review period set.
  - The employee believes that the original hearing officer reached an unfair decision.
- 16.4 Where possible the appeal will be heard within 10 working days of an appeal being received.
- 16.5 The decision of the hearing officer will be communicated to the employee in writing within 5 working days of the hearing.
- 16.6 The decision of the hearing officer will be final.
- 16.7 **Appeals against dismissal**
- Appeals against dismissal will be heard by the Employment Appeals Panel.
- 16.8 An appeal hearing shall be arranged not less than 5 working days and not more than 20 working days after receipt of the appeal letter, unless otherwise agreed by both parties.
- 16.9 The employee will have the right to be accompanied by a colleague, or, if they are a member of a trade union, a trade union representative.
- All information relating to the appeal will be available at least 5 working days before the hearing.
- 16.10 The appeal format will be:
- The staff member will be given an opportunity to state their case. The manager will be entitled to ask questions of the staff member. The staff member may also ask questions of the manager.
  - 
  - The manager or management representative will provide a statement including the reason for the decision to dismiss.
  - The Members of the Panel and HR representative advising the panel may seek clarification of any matter raised. The Chair has the right to adjourn the hearing to allow further investigation of any allegations or facts.
  - Once the Panel is satisfied it has all the information needed to make a decision, the Chair will invite the staff member, and then the manager, to summarise their case.
  - The hearing will then be adjourned, and all the available evidence reviewed by the Panel before a decision is reached.
- The decision of the Panel at this stage will be final and will be communicated in writing as soon as possible (normally within 5 working days of an appeal hearing).

16.11 The options available to the Panel are:

- Disallow the appeal, and uphold the original decision;
- Uphold the appeal, and reinstate the staff member to their former position;
- Reinstatement of the staff member to their former position with a recommendation for a further period of target setting, monitoring and review;
- Consider the possibility of a suitable alternative post if available.

## 17. Sickness During the Working Day

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

## 18. Accident or Injury at Work

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

## 19. Medical/Hospital Appointments

- 19.1 Attendance at doctors, dentists and hospital appointments are not classed as sick leave and they should not be recorded as such.
- 19.2 Wherever possible, employees should make medical/dental appointments outside of their normal working hours. However, where this is not practical, they must be made to cause minimal disruption to the working day, i.e. lunchtime, early, late appointments and may be required to make up the time, either by the employee staying late or by using flexi time where this scheme is operated.

- 19.3 If it is not possible to arrange appointments out of work hours permission to attend during work hours should be sought and should not be unreasonably refused. Except in cases of emergency, the employee should advise their line manager of the proposed time of the appointment as soon as possible and must produce an appointment card or letter if asked. Where there are a series of appointments for regular and on-going treatment, acceptable arrangements need to be approved by the line manager for handling these.

## 20. Disability Leave

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

## 21. Annual Leave Entitlement in Relation to Sickness Absence

- 21.1 Any employee who falls sick immediately prior to commencing pre-booked annual leave or who returns from leave wishing to reclaim a proportion of that leave due to having been sick during their annual leave period will be required to comply with sickness reporting procedures (where practical) and provide a Fit Note to cover the period they wish to reclaim. In such situations the reason for the employee remaining unfit for work must not conflict with likely activities undertaken whilst on holiday or activities required to undertake the holiday itself. If the employee becomes fit for work whilst still on leave, they should also confirm the date on which they would have been fit to work on their return from leave.
- 21.2 Employees who are absent due to long term sickness accrue their annual leave entitlement and may request to take annual leave during a period of long term absence. Any employee wishing to take leave during long term absence should request this in writing via their line manager.
- 21.3 Where an employee returns to work in the current leave year, every effort should be made to encourage them to take their remaining contractual annual leave entitlement to assist with their rehabilitation back to work. Should they be unable to take all of the leave, they are allowed to carry it forward into the new leave year.
- 21.4 Where an employee returns to work in a new leave year, they still have the right to the contractual annual leave they accrued whilst off sick during the previous leave year, which they should be allowed to carry forward into the new leave year. However, it is recommended that the employee be encouraged to take most or all of this leave in a block in the first month after their official return to work date or to assist with extending a phased return to work.

## 22. Absence From Home Address When Absent On Sick Leave

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

## 23. Abuse of Sickness Scheme

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

## 24. Cases of Suspected Misconduct

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

The last three examples are potentially gross misconduct.

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

## **25. Sickness and Performance Appraisal**

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

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

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

## **27. Data Protection Act 1998**

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

## APPENDIX 1 – ABSENCE MANAGEMENT PROCEDURE

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

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

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

### Informal Actions

#### Short term absences

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

#### Long term absences

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

### Stage 1

#### Absence Management Meeting

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

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

#### Preparation before the meeting:

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

The letter from the manager must:

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

circumstances.

### **During the Meeting:**

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

#### **Short term absence**

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

#### **Long term absence**

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

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

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

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

### **Outcomes of meeting:**

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

### **Follow Up Action:**

#### **Short term absence**

- A follow up review meeting must be arranged for the end of the review period. If the employee's attendance has improved the manager should commend them on the improvement shown and advise that they are no longer subject to formal review.

#### **Long term absence**

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

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

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

**Preparation before the meeting:**

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

The letter from the manager must:

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

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

**During the Meeting:**

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

**Short term absence**

- Review and reaffirm issues previously discussed with regard to the employee's attendance;
- Review the number of and/or pattern of absences;
- Explore the reasons for the high level of absences;
- Discuss any recent OH advice;
- Identify any further areas for support;
- Review the efficacy of any support already provided to the employee and amend if appropriate;
- Set an improvement target and review period;

**Long term absence**

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

- Explain the consequences of failing to achieve the target.
- Discuss the next steps and inform the employee of the potential outcomes if their absences continue.

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

### **Outcomes of meeting:**

#### **Short term absence**

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

#### **Long term absence**

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

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

### **Follow Up Action:**

#### **Short term absence**

- A follow up review meeting must be arranged for the end of the review period. If the employee's attendance has improved the manager should commend them on the improvement shown and advise that they are no longer subject to formal review.
- The manager should advise that if the employee's attendance deteriorates again, so that they exceed the trigger point in the 12 months following the successful completion of the review period they will automatically re-enter the formal process at Stage 2.
- The manager will write to the employee following the review meeting to confirm the outcome and what was discussed.
- If the level of attendance has not reached the

#### **Long term absence**

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

required level and the employee will be subject to Stage 3.

**Stage 3  
Absence Management  
Meeting**

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

**Preparation before the meeting:**

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

The letter from the manager must:

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

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

**During the Meeting:**

**Short term absence**

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

**Long term absence**

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

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

**Short term absence**

- Operational needs of the service and the need for the work to be undertaken;
- The impact of the employee's absence and ill health on other employees and service delivery;
- The employee's absence record;

**Long term absence**

- How long the employee has been absent;
- The nature of the incapacity;
- The likelihood of a return to work in the near future;
- The operational needs of the service and the need for the work to be undertaken;

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

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

### **Outcomes of meeting:**

#### **Short term absence**

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

#### **Long term absence**

- Following due consideration of the information provided at the Stage 3 Attendance Meeting the Director may consider any of the following actions:
- A further period of review whilst the employee's absence continues to be supported/managed, before the convening of another meeting at stage 3 of the procedure;
  - Retirement on the grounds of ill-health (this can only be considered if supported/recommended by Occupational Health Physician);
  - Dismissal on the grounds of capability due to ill health

### **Follow Up Action:**

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

### **Right of Appeal ( see section 14)**

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

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

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

arm/empap/cr/15/0607lh1 appendix 1



## **Flexitime Working Policy**

# TABLE OF CONTENTS

## Contents

|     |  | Page |
|-----|--|------|
| 1.  | Policy Statement                             |      |
| 2.  | Principles                                   |      |
| 3.  | Scope  |      |
| 4.  | Supporting Policies                          |      |
| 5.  | Responsibilities                             |      |
| 6.  | Operation of the Scheme                      |      |
| 7.  | Credit/Debit Flexitime Hours                 |      |
| 8.  | Flexi Leave                                  |      |
| 9.  | Recording Flexitime in Special Circumstances |      |
| 10. | Suspension of Flexitime Arrangements         |      |
| 11. | Cards  |      |
| 12. | Abuse of the Scheme                          |      |
| 13. | Equality Impact Assessment and Monitoring    |      |
| 14. | Data Protection Act 1998                     |      |
|     |  |      |

## 1. Policy Statement

- 1.1 The Council is committed to the promotion of a healthy work-life balance for all staff and welcomes the contribution that a degree of flexibility in working arrangements can make. The operation of a flexitime scheme can also enable employees to work in a more effective way and assist in more efficiently meeting the needs of a service, which can be significantly beneficial to their service area and to the Council as a whole.
- 1.2 The aim of this policy is to ensure a fair and consistent application of the scheme across the Council subject to service requirements and that the flexibilities allowed by the Scheme will be of mutual benefit to both the Council and its employees.

## 2. Principles

- 2.1 Flexible working hours is a concept designed to replace arrangements where staff start and finish work at fixed times, with a system which allows each individual a degree of freedom in choosing his or her time of arrival or departure.
- 2.2 Under this scheme, it allows employees some discretion in arranging their working time. However sufficient cover within a section must be maintained as agreed with their Manager and provided the needs of the service are met as determined by management.

## 3. Scope

- 3.1 Flexitime arrangements will apply as far as practicable to all council staff however it is acknowledged that some may be excluded owing to the nature of their duties and the requirements of the service are that they work in.
- 3.2 It is easier to be more flexible with some staff than others due to the differing nature of duties across the Council and Managers will need to be mindful of the needs of the service when managing the times staff work and when considering any flexi-leave requests under the scheme.
- 3.3 The services provided by each service area must not be compromised to accommodate the flexitime scheme. Service areas participating in the flexitime scheme shall be responsible for adapting it to fit their operational needs with the approval of the relevant Head of Service.

## 4. Supporting Policies

- 4.1 This policy should be read in conjunction with the policies listed below:
- Leave and Work Life Balance Policy
  - Flexible Working and Work Life Balance Policy
  - Training Policy
  - Disciplinary Policy

## 5. Responsibilities

---

## 5.1 **Employees**

- 5.1.1 It is the responsibility of Employees to manage their flexitime credits and debits within the prescribed limits and also manage their time effectively so that they only accrue flexitime in consideration of the needs of the service.
- 5.1.2 Employees are expected to co-operate with their service area and to be flexible in ensuring that any minimum staffing levels required are maintained during the normal working day, including lunch times and other breaks.

## 5.2 **Managers**

- 5.2.1 It is the responsibility of Managers to ensure that flexitime is only being accrued in order to meet the needs of the service.
- 5.2.2 Managers are responsible for ensuring the correct operation of the flexitime scheme in their section and for resolving any related issues as detailed in the policy.

## 6. **Operation of the Scheme**

- 6.1 All working time will be recorded by the use of equipment operated by a swipe/proximity card or by logging on at the desk top.
- 6.2 All staff will be expected to use the clocking system for time recording and fire/roll call purposes although not all employees will be on a flexi-time contract and may work fixed hours instead.
- 6.3 Each employee should 'swipe in' on arrival, and 'swipe out' on departure each day including lunchtime. This is important as the system is used for fire evacuation procedures. In the event of evacuating the building the information recorded on the flexi system will be passed to the caretaker's mobile and to the Duty Fire Officer who will instigate a roll call.

For the Fire Evacuation Procedures to work effectively all employees need to get into the habit of swiping in and out of the building every time they leave and enter.

- 6.4 Employees must also be mindful of the limits of the working time directive and not work over 48 hours per week.
- 6.5 The length of a lunch break is variable but must be a minimum of 30 minutes if working hours are over 6 per day.
- 6.6 Employees who do not swipe during lunchtime will automatically be deducted 30 minutes by the system, but should more than 30 minutes be taken without swiping they will need to submit an adjustment to show the extra time taken.
- 6.7 Employees who have swiped in but forget to swipe out will not receive any credit for that day. An adjustment will need to be completed for any time worked.

## 6.8 **Civic Centre**

6.8.1 Normal Office hours are 08.30 – 17.00

- 6.8.2
- Earliest start 07.15
  - Latest finish 19.00
  - Lunch break to be taken between 11.00 – 15.00
  - At the end of the day the system will allow you to swipe out after 19.00 until 19.15 to enable the system to register your swipe out-(but will record you out at 19.00)

## 6.9 Cops Road

6.9.1 Normal working hours vary depending on the role undertaken.

- 6.9.2
- Earliest start 05.00
  - Latest finish 19.00
  - Lunch break to be taken between 10.00 – 14.30

## 6.10 Marine Hall/Thornton Little Theatre

6.10.1 Working hours vary considerably depending on events/shows taking place.

6.10.2 Start and finish times are very much dependent on the events taking place at each venue.

# 7. Credit/Debit Flexitime Hours

7.1 Eligible employees who work hours in excess of their contracted hours accrue “credit” flexitime hours. Any hours where employees fall short of their contracted hours are referred to as “debit” flexitime hours. Employees can use accrued credit hours to request time off work in the same way that they would request annual leave.

7.2 The settlement period over which working hours are calculated is four weeks i.e. 148 hours for full time, pro rata for part time. You must work your contracted hours during the settlement period.

7.3 These periods are pre-determined and listed next to the recording equipment are available on the Intranet. Each employee must account for his or her contracted hours within the 4 weeks period, subject to the carry-over allowance.

7.4 Hours built up during a settlement period may be carried over into the next settlement period, up to a maximum of 14 hours 48 minutes (pro rata for part-time employees). Any credit in excess of 14 hours 48 minutes will be forfeited (pro rata for part-time employees). It is therefore imperative you manage your flexi accordingly. Similarly hours in debit may be carried forward but they must not exceed 7 hours 24 minutes at any time during the settlement period, (pro rata for part-time employees). Part Time staff who are unsure what their carry-over allowance should be can contact Human Resources.

7.5 Credit hours should only be accrued where there is a genuine need for tasks to be completed at work.

7.6 Staff with debit flexitime hours on termination of employment will have these hours charged against outstanding annual leave or, if there is no leave outstanding, will have

their final pay adjusted to cover the deficit. Staff with an excess of flexitime hours on termination will be required to take these hours as flexitime prior to termination of employment. In exceptional circumstances where it is not possible to take the time owed it will be paid at single time rate with their final pay.

- 7.7 Managers are responsible for monitoring the amount of credit and debit hours for the staff in their section. Where employees look likely to exceed the maximum amount of credit/debit hours allowable under the scheme, managers should ensure that this is discussed with the employee concerned to establish why this is the case, with the aim of assisting them to manage their working pattern.

## 8. Flexi Leave

- 8.1 In addition to the flexibility with start and finish times flexitime may allow for additional flexi leave days to be taken from credit hours.
- 8.2 The maximum number of flexi days that can be taken each settlement period is 2 days (pro rata for part-time employees) subject to Manager's approval.
- 8.3 However, in exceptional circumstances due to the demands of the service this can be increased to 3 days at the discretion of the Head of Service. It is not anticipated that the need to increase to 3 days would occur on a regular basis.

## 9. Recording Flexitime in Special Circumstances

- 9.1 Where an employee starts or finishes their working day at a location which is not their usual base of work, they should ensure that their actual start/finish times are added to the flexi system at the first available opportunity excluding the time it normally takes to travel home to office or office to home.
- 9.2 Adjustments for the time spent outside the office on official business, should include travelling time between the office and the other place of business, subject to a maximum adjustment of 11 hours 15 minutes per day. If travelling from home and back to place of business or event, deduct the time that it normally takes to travel from home to office and back.
- Adjustments for attending agreed seminars, conferences and externally organised training events should be dealt with in the same way.
- 9.3 When attending approved 'College' day release (including day/evening class) the maximum adjustment is your standard hours for that day. Employees who leave the office for 'college' during the course of the day and are absent for the remainder of the day should swipe in/out as normal and submit an adjustment for the difference up to a maximum of their normal standard hours for that day.
- 9.4 Staff who assist with election duties for Wyre during their normal working day will be able to claim back time up to their normal working hours for that day. Credit will not be given for duties outside of the normal working day such as the Poll Officer/Presiding Officer training and the count. Nor will time be given for any election duties carried out on a normal day off.

- 9.5 Credit will not be given for staff carrying out election duties for another Council.
- 9.6 Any employee working overtime (which has been agreed by their Manager) must have already completed their normal standard hours on the current day, or they must not commence overtime before 17.00. Employees must not swipe out to commence overtime (due to Fire Evacuation Procedures) but should submit a negative adjustment for the hours worked so that they can be deducted off the flexi system.
- 9.7 Under normal circumstances staff will not be credited for time away from work for doctor or dentist appointments.
- 9.8 Where a hospital appointment is necessary (ie. where the employee has no control over the timing of the appointment), this will be treated as an authorised absence and the time allowed. Time credited will be from leaving the office to:
- Returning to the office; or
  - Leaving hospital if not returning to the office, less lunch break if appropriate
  - It should be noted that except in exceptional circumstances time should not exceed 7 hours 24 minutes for the day (or equivalent if part-time).

## 10 Suspension of Flexitime Arrangements

- 10.1 In the event that a manager becomes concerned about any aspect of an employee's work performance or health, they may require that the employee works to a standard work pattern or standard contractual hours rather than participating in the flexitime scheme.
- 10.2 This will only apply where the manager has reason to believe that the flexitime pattern of work is contributing to the problem. Some examples of this could be where an employee will not have appropriate support contacts in place at the times they are choosing to work, or where Occupational Health or an employee's GP has advised that longer working days are not appropriate due to an ongoing health condition. Another example could be where the employee is not managing their time effectively and has exceeded the agreed limit of credit or debit hours.
- 10.3 The employee's manager should arrange to discuss any difficulties with the employee at the earliest available opportunity and an appropriate pattern of work will be agreed between them. This may be applied on either a temporary or permanent basis, dependent on the circumstances.

## 11. Cards

- 11.1 Each card is unique and will only access the record of the individual concerned. In no circumstances should an employee attempt to swipe in or out with another employee's card or allow anyone else to use their card. This could result in disciplinary action being taken against those involved.
- 11.2 The swipe card will be the property of Wyre Council and its safety will be the responsibility of the employee to whom it is issued.
- 11.3 In addition to operation of the flexi system the card will also act as an Identification Card. It provides access to the security doors in the Civic Centre and is used to

activate the printers/photocopiers.

- 11.4 Lost cards are a security risk and should be reported immediately to IT who will cancel the card and issue a replacement. (Please see information on the Intranet regarding staff passes).
- 11.5 Charges may be imposed on staff who repeatedly lose cards and require replacements.

## 12. Abuse of the Scheme

- 12.1 Abuse of the scheme may result in disciplinary action being taken against the individual concerned and any employee who has knowingly sanctioned such abuse. Also deduction of pay, where appropriate and removal from the scheme may be considered.
- 12.2 The use of a card issued to another officer is not permissible under any circumstances. Any such abuse will be considered as Gross Misconduct under the Council's Disciplinary Procedures, and could lead to the Employee's dismissal.
- 12.3 Under no circumstances should an Employee upon arriving at work during the course of the day leave his/her vehicle or bicycle in an unauthorised area merely to 'swipe in', and then return to the vehicle to park or store their bike before commencing work.
- 12.4 It is expected that when staff swipe in or log themselves at work through their desk top that they are ready to start work.

## 13. Equality Impact Assessment and Monitoring

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

## 14. Data Protection Act 1998

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



# Capability Procedure

# TABLE OF CONTENTS

## Contents

|     |   | Page |
|-----|---|------|
| 1.  | Introduction                              | 1    |
| 2.  | Standard of Performance                   | 1    |
| 3.  | Capability Process – Informal Stage       | 1    |
| 4.  | Capability Process – Formal Stages        | 4    |
| 5.  | Stage 3 – Capability Hearing              | 6    |
| 6.  | Employees on a Probationary Period        | 7    |
| 7.  | Payment of Increments                     | 7    |
| 8.  | Review Periods of Improvement             | 8    |
| 9.  | Redeployment                              | 8    |
| 10. | Action in Serious Cases                   | 9    |
| 11. | Right to Appeal                           | 9    |
| 12. | Equality Impact Assessment and Monitoring | 9    |
| 13  | Data Protection Act 1998                  | 9    |

|     |  |
|-----|--|
| 1.  | <b>Introduction.</b>   |
| 1.1 | <p>This procedure is designed to support staff and managers in dealing with problems regarding performance which may arise from time to time.</p> <p>It aims to:</p> <ul style="list-style-type: none"> <li>• ensure that any concerns about an employee’s ability to achieve acceptable standards of work are addressed effectively through a clear and supportive procedure;</li> <li>• ensure that supervision, training, counselling and support measures are deployed appropriately to help employees to achieve acceptable standards of work</li> <li>• provide a clear procedure for the termination of employment in cases where it does not prove possible to secure a satisfactory and acceptable level of performance.</li> </ul> <p>Capability is defined for the purposes of this procedure as an individual employee's ability to perform the work expected of him/her to the required standards. This may be assessed by reference to skill, aptitude, health or any other physical or mental quality, but lack of qualifications may also be factor in certain circumstances.</p> <p>This procedure applies to all employees of the Council, other than the Chief Executive and Corporate Directors.</p> |
| 1.2 | <p><b>Situations Outside this Procedure</b></p> <p>Where poor performance is due to a failure to maintain adequate standards of behaviour or an employee’s performance is <b>wilfully</b> inadequate, careless or negligent it should be dealt with under the Disciplinary Procedure as one of <b>conduct</b> rather than capability</p> <p>Where an employee’s performance is affected by ill-health, this should be dealt with under the Promoting Attendance and Controlling Absence Procedure.</p>   |
| 2.  | <b>Standards of Performance</b>  |
| 2.1 | <p>All employees must achieve an acceptable level of performance at work and will be supported and encouraged to reach that level. Managers should set realistic and achievable standards and ensure that employees understand what those standards imply in terms of the quality and quantity of work.</p> <p>Initial identification of an employee’s failure to meet the required levels of performance, often arises, through normal performance management meetings i.e. one-to-ones, supervisions, appraisals. Any shortfalls in performance should be discussed promptly with the employee concerned and managers will need to establish whether an apparent problem is due to unreasonable expectations, a lack of skills / aptitude or insufficient supervision / training.</p>  |
| 3.  | <b>Capability Process – Informal Stage</b>   |
| 3.1 | Where there are concerns about an employee's performance, his/her manager will   |



|     |  |
|-----|--|
|     | <p>The discussion should be helpful and constructive, with the aim of achieving full and effective performance in the job. All possible solutions should be explored, whilst remaining realistic about the situation and the support which can be offered.</p> <p>The manager will present the evidence of the performance issue(s) to the employee and:</p> <ul style="list-style-type: none"> <li>• explain in precise terms how he/she is failing to achieve the required targets;</li> <li>• ask for an explanation and explore the reasons for the failure to reach satisfactory performance levels. If any underlying medical issues are suggested, it may be appropriate to refer the employee to Occupational Health;</li> <li>• give thorough consideration to all the responses made by the employee.</li> </ul>   |
| 3.5 | <p><b>If it is necessary to take further action under the Capability Procedure, the manager should:</b></p> <ul style="list-style-type: none"> <li>• remind the employee that they are entitled to be accompanied by a trade union representative or work colleague;</li> <li>• confirm with the employee that their work performance will continue be monitored under the Informal Stage of the Capability Policy and Procedure;</li> <li>• gain a commitment to improve;</li> <li>• prepare a Performance Improvement Plan;</li> <li>• agree clear, realistic targets to help him/her achieve the overall standard required;</li> <li>• advise how they will assist the employee to meet the required standards, identify if appropriate what support, guidance, counselling and/or training should be provided;</li> <li>• agree a reasonable period following which the situation will be reviewed.</li> </ul> <p>The time period (as a general rule) will be between 1 and 3 months with at least two review meetings during that period. However, each case will need to be considered on its own merits and as such it maybe that a shorter or longer monitoring period is required. (See section 8 below).</p> |
| 3.6 | <p>The manager should make detailed notes of all meetings, as they may be required at further stages of the process, these notes should include</p> <ul style="list-style-type: none"> <li>• the areas of concern</li> <li>• the standard expected and the target agreed</li> <li>• any support to be provided</li> <li>• the review period determined</li> </ul> <p><b>The manager must also write to the individual to confirm the outcomes of the discussions.</b></p>  |
| 3.7 | <p>Line Managers must ensure that the employee's performance is closely monitored in accordance with the Performance Improvement Plan.</p> <p>Review meetings should take place as agreed and progress should be documented in the 'Progress' column of the Performance Improvement Plan. Any targets that need amending should also be made on the Performance Improvement Plan. Furthermore, regular feedback may also be given to the employee during the review period, this may be done verbally (ad hoc meetings, one to ones, supervisions etc.) but a written record</p>   |

|     |   |
|-----|---|
|     | should be kept.   |
| 3.8 | <p>At the end of the agreed monitoring period the manager will meet with the employee to discuss the progress and inform them of the outcome of the review period. The manager should then confirm the outcome to the employee in writing:</p> <p>If no or insufficient improvement is achieved, the manager will first of all discuss the matter with human resources and the employee should be informed that the Formal Capability Procedure will be applied.</p>  |
| 4.  | <b>Capability Procedure – Formal Stages</b>   |
| 4.1 | <p><b><u>Formal Procedure Stage 1</u></b></p> <p>The Stage 1 – Formal Capability Meeting should be held with the Head of Service and a member of the Human Resources Section.</p> <p>The employee will be advised in writing of the requirement to attend a formal meeting to discuss the situation. Notice of at least five working days will normally be given. The notification will include:</p> <ul style="list-style-type: none"> <li>• the date and time of the meeting;</li> <li>• the place of the meeting;</li> <li>• precise details of the areas in which the employee is failing to achieve the standard(s) required;</li> <li>• confirmation that the meeting is being held under the Council’s Capability Procedure (enclosing a copy), and the stage reached;</li> <li>• a statement that the employee will be asked for an explanation and that possible solutions will be jointly explored;</li> <li>• a statement of the employee’s right to be accompanied by a trade union representative or work colleague.</li> </ul>  |
| 4.2 | <p><b>Conducting the meeting:</b></p> <p>The discussion should include the following:</p> <ul style="list-style-type: none"> <li>• a review of the monitoring period and support given the shortfall in performance</li> <li>• agreement (where practicable) of the Performance Improvement Plan and further targets</li> <li>• any further training and support that is required and can be provided</li> <li>• consideration of any extenuating circumstances that may be affecting the employee’s performance</li> <li>• consideration of withholding an increment until level of performance has reached the required standards</li> <li>• establishment of a further monitoring period (between 1 and 3 months).</li> <li>• timings for review meetings</li> <li>• the employee should be forewarned that the level of performance is not acceptable and that failure to improve by the end of the review period may result in progressing to Stage 2 – Formal Capability Hearing of the procedure, which could lead to dismissal on the grounds of capability</li> <li>• consideration of alternative employment. Where a suitable vacancy exists the normal recruitment and selection process will apply.</li> </ul> |

|     |   |
|-----|---|
|     |   |
| 4.3 | There should normally be a brief adjournment before the manager makes a decision about the next step. All possible solutions should be explored.  |
| 4.4 | <p><b>Follow up action</b></p> <p>The outcome of the Stage 1 – Formal Capability Meeting will be confirmed in writing to the employee, this will include the next procedural steps, a new Performance Improvement Plan, details of the next review meeting etc.</p> <p>The letter must also serve as a Formal Written Warning that failure to achieve the standard of performance required may lead to the second stage of the Formal Procedure and ultimately may put his/her employment at risk.</p>  |
| 4.5 | <p>An accurate but concise record of the interview should be kept, and the situation confirmed in writing to the employee, specifying:</p> <ul style="list-style-type: none"> <li>• the precise aspect of his/her performance discussed as giving cause for concern;</li> <li>• details of what was agreed, including the standard(s) required and performance targets set, any support and/or training to be given;</li> <li>• the next procedural steps, monitoring arrangements and a review date;</li> <li>• that a failure to achieve a satisfactory performance standard may result in the next stage of the Formal Procedure being invoked and may put the employees employment at risk.</li> </ul>  |
| 4.6 | The situation should continue to be monitored. Informal progress discussions with the immediate supervisor/manager are encouraged.  |
| 4.7 | <p><b>Possible outcomes of the Review Period</b></p> <p>If the employee has now reached, or is shortly expected to reach, the specified levels of performance, no further formal action may be necessary. However, the decision will remain 'live' for 12 months and therefore if satisfactory improvement proves to be short lived then the manager has the option of returning immediately to this stage of the Formal Procedure.</p> <p>If the employee has made substantial improvements, but his/her performance is still below acceptable standards. A further review period of between 1 to 3 months may be required.</p> <p>If no, or insufficient improvement is achieved by the end of the review period the employee will be required to attend a further interview under Stage 2 of the Formal Procedure.</p> |
| 4.8 | <p><b><u>Formal Procedure Stage 2</u></b></p> <p>The Stage 2 – Formal Capability Meeting should be held with the Head of Service and a member of the Human Resources Section.</p> <p>The purpose of this stage is to ensure that all options have been pursued and explored.</p> <p>The procedure outlined in Formal Procedure Stage 1 should be followed and the employee's must be informed of his/her right to be accompanied by a trade union</p>   |

|           |  |
|-----------|--|
|           | representative or work colleague.  |
| 4.8       | The employee should be informed verbally and in writing that failure to achieve the required performance standard during the extended review period may result in the termination of their employment. The letter will therefore constitute a Final Written Warning.   |
| 4.9       | <p><b>Possible outcomes of the Review Period</b></p> <p>If no, or insufficient improvement is achieved by the end of the review period, the employee should be required to attend a Hearing under Stage 3 of the Formal Procedure.</p>   |
| 4.10      | <p><b><u>Formal Procedure Stage 3</u></b></p> <p>The Stage 3 – Formal Capability Hearing must be conducted by a manager at Corporate Director level or above. A member of the Human Resources Section will also be in attendance at this stage.</p>  |
| <b>5.</b> | <b>Stage 3 - Capability Hearing</b>  |
| 5.1       | <p>The employee must receive at least five working days notice of the hearing, the arrangements for which should be confirmed in writing. The notification will include:</p> <ul style="list-style-type: none"> <li>• the date and time of the interview;</li> <li>• the place of the hearing;</li> <li>• precise details of the areas in which the employee is failing to achieve the standard(s) required;</li> <li>• all relevant evidence that will be discussed at the hearing;</li> <li>• confirmation that the hearing is being held under the Council’s Capability Procedure (enclosing a copy) and the stage reached;</li> <li>• a statement that at the end of the hearing, a decision will be made about his/her future in the job and this may include a decision to terminate his/her employment;</li> <li>• a statement of the employee’s right to be accompanied by a recognised trade union representative or work colleague.</li> </ul> |
| 5.2       | <p><b>Conducting the Hearing</b></p> <p>The line Manager / Head of Service will present the management position, explain in precise terms how the employee is still failing to achieve a satisfactory standard, outline the process followed and to demonstrate what action, support, training, and discussions have taken place.</p> <p>The employee/employee representative will be required to give an explanation as to why they have not met the required standards of performance.</p> <p>Once all of the evidence has been provided and each party has had their say the hearing should be adjourned whilst a decision is reached.</p> <p>The Corporate Director will consider all the points raised, ensure that all avenues for achieving a solution have been explored and that all reasonable training, support and</p>   |

|           |   |
|-----------|---|
|           | counselling (if appropriate) has been given.  |
| 5.3       | <p><b>Outcome of the Hearing</b></p> <p>The Corporate Director will arrive at a decision about the employee's future, this may be a decision to abandon the procedure, to dismiss the employee; or consider other options such as redeployment.</p> <p>The outcome of the Hearing will be conveyed as soon as possible. If it is not possible to confirm the outcome on the same day, the employee will be given an anticipated time scale for confirmation of the outcome and a subsequent meeting will be arranged to convey the decision.</p> <p>An accurate but concise record of the interview should be kept. This is the responsibility of the manager conducting the hearing.</p> |
| 5.4       | <p>Where the decision is dismissal Human Resources will write to the employee <b>within 5 working days</b> confirming the decision made and specifying;</p> <ul style="list-style-type: none"> <li>• how he/she failed to achieve the standard of performance required;</li> <li>• the decision reached;</li> <li>• the effective date of termination of employment and arrangements for any notice period;</li> <li>• the right of appeal against dismissal and how the right may be exercised.</li> </ul>   |
| 5.5       | Where the decision is other than dismissal Human Resources will write to the employee, advising him/her of the corrective course of action. Failure to accept the decision will lead to dismissal.  |
| 5.6       | Detailed notes of all meetings will be retained by Human Resources.   |
| <b>6.</b> | <b>Employees on a Probationary Period</b>   |
| 6.1       | Employees on a probationary period will not normally be entitled to the provision of the full Capability Procedure but must have a minimum of the Informal Discussion and Stage 2 of the Formal Procedure before the dismissal stage.   |
| 6.2       | An option available will be to extend the probationary period by one month for employees on a three month probationary period and three months for employees on a six month probationary period.  |
| 6.3       | Seasonal employees will be entitled to the Informal Discussion only before dismissal. Human Resources must be consulted prior to dismissal.   |
| <b>7.</b> | <b>Payment of Increments</b>  |
| 7.1       | <p>To pay an increment where an employee's capability is in question may send a conflicting message about the level of satisfaction with his/her performance and the seriousness of the situation.</p> <p>The payment of an increment may therefore be withheld where the Informal or Formal Stage or beyond of the Capability Procedure has been invoked and is failing to bring</p>   |

|           |   |
|-----------|---|
|           | <p>about an improvement. Any decision to withhold an increment will be made by the Corporate Director in consultation with Human Resources.</p> <p>Any increment withheld will be paid from the date the performance is deemed to be satisfactory.</p>  |
| <b>8.</b> | <b>Review Periods for Improvement</b>   |
| 8.1       | <p>What is a 'reasonable' period for improvement? It is impossible to be specific and each case must be considered on its circumstances and, as far as possible, agreed with the employee. Consideration should be given to such factors as:</p> <ul style="list-style-type: none"> <li>• length of employment;</li> <li>• the seriousness of the problem (what are the consequences of continuing mistakes, is it a 'key post'?);</li> <li>• the nature of the work (realistically, how long will it take to demonstrate an improvement?);</li> <li>• what support/training/counselling needs to be provided?</li> <li>• the employee's personal circumstances;</li> <li>• any other relevant issues not covered above.</li> </ul> |
| 8.2       | <p>Once a Review Period is determined, it should be adhered to. The employee may not demonstrate signs of improvement during this period, but this would not be regarded as sufficient reason to 'cut short' the period. It would be appropriate for the manager/supervisor to informally remind the employee of the requirements to meet the standard(s).</p>  |
| <b>9.</b> | <b>Redeployment</b>   |
| 9.1       | <p>Redeployment will depend on suitable alternative work being available for the employee. There is no requirement for the Authority to create a post where none is available. Consideration should be given to whether he/she would be suitable for a post if a reasonable and realistic amount of training was provided.</p>  |
| 9.2       | <p>A reasonable trial period should be agreed before any permanent redeployment. The situation should be closely monitored and the employee given as much support, guidance and training as possible. On completion of the trial period, if the arrangement is confirmed as permanent, no salary protection will apply, i.e. the employee will receive the rate of pay for the post irrespective of whether it is higher or lower than the rate for the original job. It is essential that it is made clear to the employee that acceptance of employment on a lower grade may affect pension benefits.</p>   |
| 9.3       | <p>The terms of any trial period should be clearly explained both verbally and in writing and the potential consequences of dismissal if it is unsuccessful. The employee's substantive post must be kept available to maintain the contractual link between the employee and the job until the situation is resolved. Temporary cover of the substantive post will be permitted subject to the normal approvals.</p>   |

|            |   |
|------------|---|
| <b>10.</b> | <b>Action in Serious Cases</b>  |
| 10.1       | <p>In the rare event that the perceived incapability is considered serious enough to have a substantial adverse effect of the delivery of services, the Council reserves the right to suspend an employee on full pay whilst investigations take place. This would be a precautionary act and does not in itself constitute formal action.</p> <p>Where an employee commits a single error and the actual or potential consequences of that error are extremely serious, such a case should be investigated and dealt with under the Disciplinary Procedure.</p>  |
| <b>11.</b> | <b>Right of Appeal</b>  |
| 11.1       | <p>An employee who feels aggrieved at any stage of the Capability Procedure may pursue the matter through the Grievance Procedure.</p> <p><b>Appeal against dismissal</b></p> <p>The appeal against dismissal shall be heard by Employment and Appeals Panel<br/>The employee should make any appeal in writing to the Head of Business Support, within <b>10</b> working days of receipt of the penalty. The employee must state the specific reasons for their appeal. An appeal hearing will be convened within <b>20</b> working days of receipt with all information relating to the appeal being available at least <b>5 working</b> days before the hearing is held.</p> |
| <b>12.</b> | <b>Equality Impact Assessment and Monitoring</b>  |
|            | <p>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.</p>  |
| <b>13.</b> | <b>Data Protection Act 1998</b>   |
|            | <p>In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with the requirements of the Data Protection Act 1998.</p>  |



# **Redundancy Policy and Selection Procedure**

# TABLE OF CONTENTS

## Contents

|     |   | Page |
|-----|---|------|
| 1.  | Policy statement  | 1    |
| 2.  | Consultation  | 1    |
| 3.  | Avoiding or reducing the need for compulsory redundancies | 2    |
| 4.  | Selection pool  | 2    |
| 5.  | Selection criteria  | 2    |
| 6.  | Alternative work  | 3    |
| 7.  | Support for redundant employees                           | 4    |
| 8.  | Redundancy payments                                       | 3    |
| 9.  | Appeals   | 4    |
| 10. | Equality and diversity                                    | 4    |
| 11. | Data protection   | 4    |

## 1. Policy Statement

- 1.1 Wyre Council is committed to protecting the employment security of employees. However, there may be occasions when legislative changes, the demand for services, or budgetary constraints impact on staffing requirements.

Where staff cuts are inevitable the Council will manage redundancies in line with statutory requirements and good practice, and aims to minimise the adverse impact on both those employees who lose their jobs and on those remaining in employment.

This procedure outlines the approach to be adopted and shall be applied with due regard to legislative provisions relating to redundancy. It should be read in conjunction with the associated policies on Redeployment and Managing Restructures and Changes to Terms and Conditions.

- 1.2 All reasonable steps will be taken to avoid compulsory redundancies and there will be full and meaningful consultation with employees and recognised trade unions regarding any proposal for organisational change.

## 2. Consultation

### 2.1 Responsibilities

Directors and Heads of Service have the overall responsibility for ensuring the fair and consistent application of the Redundancy Policy. Responsibility for individual consultation lies with the relevant Heads of Service but Human Resources will take the lead in any formal consultation process.

### Who to consult

- 2.2 Consultation will take place with the relevant recognised trade union(s) appropriate to the employees affected, whether or not any of the employees are trade union members. 'Employees affected' means employees who are at risk of redundancy and those affected by measures associated with the redundancies e.g. employees taking on re-allocated work.

The Head of Service will also make appropriate arrangements to consult with those who are absent from work on maternity/adoption/paternity leave, long term sickness absence, secondment, extended authorised absence etc.

Human Resources will consult with the full time official of the relevant trade unions in accordance with Section 188 of the TULRA, they will also inform the Secretary of State of its proposals under Section 193 as appropriate.

### When to consult

- 2.3 The Council will normally apply the 30 days consultation period as a minimum where employees are at risk of redundancy. However statutory requirements will apply if the Council is proposing to dismiss on redundancy 20 or more employees within a period of 90 days. This means that consultation must commence

- At least 30 days before the first dismissal takes effect if 20 to 99 employees are to be made redundant over a period of 90 days or less;

- At least 45 days before the first dismissal takes effect if 100 or more employees are to be made redundant over a period of 90 days or less;

And

The Council must disclose the following information in accordance with procedures set down in s.188(1A) of the Trade Union and Labour Relations (Consolidation) Act 1992, otherwise they may have to pay a protective award to each employee who was not properly consulted.

1. The reasons for the proposals
2. The numbers and descriptions of employees involved
3. The selection criteria to be used
4. Procedures to be used in carrying out the dismissals including the period over which dismissals are to take effect
5. The measures for minimising or avoiding compulsory redundancies.

### 3. Avoiding or reducing the need for compulsory redundancies

3.1 When the Council believes it has, or is likely to have a need to reduce staffing levels, every effort will be made by the Council to reduce the number of possible redundancies. The Council will consider the following: -

- a) restrictions on recruitment;
- b) natural wastage;
- c) the termination of employees on agency contracts, casual and short term contracts;
- d) seeking applicants for part time working;
- e) the reduction or elimination of overtime;
- f) the retraining and redeployment to other parts of the Council;
- g) seeking applicants for early / flexible retirement or voluntary redundancy.

**However it is important that the Council retains the balance of skills and experience within service areas and teams. Consideration will only be given to volunteers for redundancy if this is not detrimental to the Council.**

### 4. Selection Pool

4.1 This will be considered as part of the formal consultation process, however where there is a reduction in the need for employees to carry out work of a particular kind, and a number of employees are employed undertaking that work, these employees will form a pool of staff at risk of redundancy.

A formal selection process will be undertaken to determine which employees are to be made redundant. The process will seek to identify the employees from that pool with the knowledge, skills and qualities that best meet the present and anticipated needs of the Council.

### 5. Selection Criteria

5.1 If having taken any of the above steps, the number of employees still exceeds the requirements, selection criteria may have to be applied. This would come into effect where two or more employees who hold similar jobs are at risk of redundancy.

The Council must maintain a balanced workforce, able to meet ongoing and future

service and client needs. The criteria to be considered will be based on objective assessment of: -

1. Work Performance/Capability record;
2. Specific skills, essential qualifications or experience relevant to the future needs of the service;
3. Attendance record;
4. Disciplinary record;
5. Aptitude for work (additional transferable skills and experience to be considered as evidence of flexibility and approach to work that may be a relevant service need.
6. Length of service

**This criteria will be applied without discrimination.**

- 5.2 Under the Employment Equality (Age) Regulations 2006, redundancy selection processes must be free of age discrimination. For example, selecting employees for redundancy on a “last in first out” (LIFO) basis is likely to be indirectly discriminatory as this practice puts younger employees at a particular disadvantage.
- 5.3 However, selecting employees for redundancy on a LIFO basis may be justifiable in some cases if it constitutes a proportionate means of achieving a legitimate aim. It is therefore possible to consider length of service and reward loyalty and therefore, **used as one of several** criteria or a deciding factor when other factors are not decisive, LIFO may be a proportionate means of achieving this aim. The use of LIFO as the sole criterion is not advisable, if there are other factors that can be taken into account.

## 6. Alternative Work

- 6.1 The Council has a statutory duty in redundancy situations to consider whether suitable alternative employment exists. A range of factors must be taken into account when determining the suitability of an alternative position including; grade, status, working environment, terms and conditions of employment, working pattern, location etc. The employee should be given sufficient details to enable them to decide whether to accept the new role or not. Employees who unreasonably refuse an offer of suitable alternative employment may lose their entitlement to redundancy pay.
- 6.2 An employee who accepts employment on terms and conditions which differ in any material respect from their previous terms and conditions has a statutory entitlement to a four week trial period. The purpose of the trial period is to give the employee a chance to decide whether the new job is suitable without necessarily losing the right to a redundancy payment. If there is agreement that the role is not a suitable alternative, the employment ends by reason of redundancy.

Further information is to be found in the Redeployment Policy.

## 7. Support for Redundant Employees

- 7.1 During the period of notice of redundancy, employees will be entitled to reasonable time off with pay during working hours to look for new employment. The Council’s permission must be obtained in advance of the absence from work. This provision is

also available to employees wishing to take time off to make arrangements for training for future employment.

- 7.2 The Council will take any other steps as are practical to assist redundant employees to find alternative employment. Further information can be found in the Redundancy Support Procedure.

## 8. Redundancy Payments

- 8.1 The Employment Rights Act 1996 provides a basic entitlement for employees dismissed as redundant who have been continuously employed for at least two years as follows:-

- For each year of service from age 18-21 inclusive – half a weeks pay
- For each year of service from age 22-40 inclusive – one weeks pay
- For each year of service from age 41-64 inclusive – one and a half weeks pay

Reckonable service is limited to the last 20 years before redundancy.

- 8.2 To qualify for redundancy pay, employees must normally work up to the date on which the notice of redundancy expires. Employees wishing to leave before that notice expires may do so, but only with the Council's prior agreement. If the agreement is given the employee will still be entitled to redundancy pay. The Council's consent will not be unreasonably withheld, but employees leaving early without the consent may lose their right to a redundancy payment.

## 9. Appeals

- 9.1 Where an employee believes that the selection criteria has been unfairly applied in their case, they will have the right to appeal to the Appeals Panel. The appeal must be made in writing within ten working days of being notified that they have been selected for redundancy. The Appeal must be addressed to the Head of Business Support.

## 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.



# Driving at Work Policy

# Contents

|     |   | Page |
|-----|---|------|
| 1.  | Policy Statement  | 1    |
| 2.  | Introduction  | 1    |
| 3.  | The Legal Position  | 2    |
| 4.  | Responsibilities  | 3    |
| 5   | Part A: Responsibilities of Drivers of Vehicles Used in the Course of Council Business                    | 3    |
| 6   | Reimbursement of Travel Expenses  | 6    |
| 7.  | Part B: Responsibilities of Drivers of Council Owned Vehicles or Vehicles Hired or Leased by the Council  | 7    |
| 8.  | Part C: Management Responsibilities in Relation to Drivers  | 10   |
| 9.  | Part D: Management Responsibilities for Council Owned Vehicles or Vehicles Hired or Leased by the Council | 15   |
| 10. | Equality Impact Assessment and Monitoring   | 16   |
| 11. | Data Protection Act 1998  | 16   |

## 1. Policy Statement

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

## 2. Introduction

### 2.1 Policy Aims

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

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

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

### 2.2 Scope of the Policy

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

### 2.3 Definition of work related driving

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

**'Business Use'** – for the purposes of this policy business use shall mean:

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

- Any travel for the purposes of the council from a location other than your usual place of employment to home or some other place on non-council business.

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

#### 2.4 **Authorisation to use a motor vehicle on council business**

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

### 3. The Legal Position

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

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

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

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

#### 3.2 **Management of Health and Safety at Work Regulations 1999**

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

#### 3.3 **Corporate Manslaughter and Corporate Homicide Act 2007**

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

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

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

#### 3.5 **Other relevant legislation includes:**

- The Road Traffic Act 1991.
- Road Safety Act 2006.

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

## 4. Responsibilities.

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

- A** Responsibilities of drivers on council business.
- B** Responsibilities of drivers of council-owned vehicles, or vehicles hired or leased by the council i.e. The Green Fleet.
- C** Management responsibilities in relation to drivers.
- D** Management responsibilities for council-owned vehicles or vehicles hired or leased by the Council.

## 5. Part A: Responsibilities of Drivers of Vehicles Used in the Course of Council Business

### 5.1 Licence Requirements

All drivers must:

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

### 5.2 Insurance

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

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

#### **Note:**

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

Council property such as computer equipment is insured under the council's policy,

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

### 5.3 **Maintenance of Vehicles**

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

### 5.4 **Legislative Requirements**

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

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

### 5.5 **The road user and the law**

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

### 5.6 **Fitness to Drive**

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

It is also the driver's responsibility to:

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

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

### 5.7 **Substance Misuse**

The problems of driving while under the influence of alcohol or drugs are well known,

employees must not consume alcohol or illegal drugs before driving to work.

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

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

Any manager who suspects an employee is unfit to drive because they show evidence of being under the influence of alcohol or drugs must stop them from doing so. The Council also reserves the right to call the police if a person is suspected of driving whilst under the influence of alcohol or drugs.

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

#### **5.9 Smoking**

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

The use of e-cigarettes is also prohibited in both Council Vehicles or private cars whilst on council business.

#### **5.10 Road Traffic Offences**

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

Wyre Council will not accept responsibility for payment of any motoring-related penalties or fines and, if using a hire car, for the payment of any administration charges related to traffic offences imposed by the hire company.

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

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

## 5.11 Use of Mobile Phone

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

However any driver seen not to be in control of a vehicle whilst using a hands free phone etc. can be prosecuted for that offence.

Wyre Council therefore also prohibits the use of hands-free phones and 2-way radios whilst driving on council business.

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

## 5.12 Business Travel

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

Staff are required to:

- Consider alternatives to travelling and make optimum use of diary planning to minimise the number of journeys to be made.
- Use the most economic and efficient method of travel, taking into account the cost of travel, environmental impact and timing factors.
- Use a council vehicle whenever possible.
- Share transport whenever possible.

# 6. Reimbursement of Travel Expenses

## 6.1 Car Mileage Claims

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

## 6.2 Use of log book

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

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

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

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

### 6.3

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

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

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

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

### 6.4

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

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

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

### 6.5

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

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

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

### 6.6 **Expenses Claims and Tax**

All payments in excess of the HMRC rate for tax allowances (45 pence per mile at April 2013 or 25 pence on mileage exceeding 10,000) will be classed as a taxable income and will be taken into consideration when calculating tax and national

insurance liability at the end of each pay period.

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

## **7. Part B: Responsibilities of Drivers of Council Owned Vehicles or Vehicles Hired or Leased by the Council**

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

### **7.1 Use of Council Vehicles**

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

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

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

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

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

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

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

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

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

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

Economic or operational reasons include instances where the:

- Home to work base distance is less than the distance between the nearest Council approved parking area and the work base.
- Council vehicle is required to provide a service outside normal working hours.

- Risk assessment concludes that the council vehicle is best parked at officer's home address.

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

### 7.3 Drivers' Checks

To ensure council vehicles are used safely and kept in a roadworthy condition in compliance with current legislation it is the responsibility of all drivers to ensure that there are no obvious deficiencies in the vehicle. The minimum checks that should be carried out are as follows:

#### Daily Checks

- Check that the vehicle defect book is in the vehicle.
- Check that the vehicle coolant level is correct.
- Check that the oil levels are correct.
- Check that the windscreen washer reservoir is topped up.
- Check that there is sufficient fuel in the tank.
- Check tyres for wear or damage.
- Check for loose or missing wheel nuts, studs or bolts (where visible).
- Check that lights, reflectors and horns are working.
- Check that all fitted mirrors are correctly adjusted.
- Check that number plates are fitted.
- Check for obvious damage to the vehicle.

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

### 7.4 Vehicle Security

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

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

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

The following actions must always be taken on such occasions:

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

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

agreed by the line manager.

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

## 7.5 **Accidents, Damage or Theft**

The driver should:

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

Wherever possible photographs and a detailed sketch (showing road markings) may also assist if liability is subsequently disputed.

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

## 7.6 **Defect Reporting Repairs and Breakdowns**

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

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

## 7.7 **Training**

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

## 7.8 **The Masternaut Tracking System**

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

### **How is it managed?**

- All managers responsible for vehicles are able to scrutinise the system to identify vehicle location etc. They also receive regular performance reports that enable them to monitor driver journeys, speed, idling time (with or without

engine running), times at home address, vehicles stationary for more than one day etc.

- A manager is only able to monitor the operation of the vehicles that he or she has responsibility for.
- The Transport Manager and certain nominated officers have access to the complete system so as to monitor the overall performance of the fleet.

Wyre Council accept that staff are entitled to a degree of privacy in the work environment. It is therefore not intended to enter into intrusive monitoring, however the council reserves the right to introduce direct monitoring if the performance reports indicate that a driver is in serious breach of the council's Policies and Procedures.

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

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

## 8. Part C: Management Responsibilities in Relation to Drivers

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

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

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

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

### **Human Resources**

Inspection of documents for use of private vehicles.  
Occupational Health Assessments

### **Health & Safety**

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

## **Risk & Insurance**

Provision of insurance cover  
Claim management  
Risk management information

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

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

### **8.2 Who advises on Driving at Work?**

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

### **8.3 Document Checks**

Managers must ensure that each driver:

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

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

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

### **8.4 Assessment of Risk**

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

See arrangements for Risk Assessment OH&S No 0003 which are available on the council's intranet (Health and Safety – Corporate Health and Safety Documents). Copies can also be obtained from the Human Resources team.

A post may require the employee to:

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

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

In addition the manager will:

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

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

The Manager must:

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

## 8.5 Deterioration in driving performance

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

Get advice from Human Resources if you are considering any of the

redeployment options below, as this could have a significant effect on the individual's employment.

Options available to the manager are:

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

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

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

## 8.6 **Monitoring Business Travel**

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

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

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

## 8.7 **Authorisation of Mileage Claims**

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

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

All unreasonable looking claims should be challenged and refused if they cannot be justified.

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

## 8.8 **Monitoring Use of Council Vehicles**

Data from the Masternaut system should be scrutinised to ensure that drivers use the most direct routes and that the operational efficiency of the fleet is maximised through

planning work schedules that make more efficient use of council vehicles.

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

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

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

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

## 8.9 Dealing with Infringements

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

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

Breaches of this nature may be dealt with under the Disciplinary Procedure. Vehicle accidents are one of the most common and serious causes of industrial injuries for office-based staff. Managers should:

- Include provisions related to safe driving in their Health and Safety Action Plans.
- Consider assisting staff to undertake refresher driving courses.
- Not place employees under pressure which results in unsafe driving.

## 9. Part D: Management Responsibilities for Council Owned Vehicles or Vehicles Hired or Leased by the Council

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

9.1 The Transport Manager has responsibility for ensuring that council operated vehicles are:

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

## 9.2 **Vehicle Documentation**

The Transport Manager will:

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

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

- vehicle defect book;
- a next inspection and service sticker;
- the service schedule and record;
- daily inspection checklist.

## 9.3 **Management of the Masternaut Tracking System**

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

## 9.4 **Vehicle Safety Inspections and Repairs**

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

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

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

## 9.5 **Fuel**

The Transport Manager will ensure that there are effective procedures in place for monitoring fuel consumption and will use information provided by the Masternaut System to:

- Set fuel economy benchmarks for each vehicle type.
- Create reports for all vehicles that do not meet their benchmark.
- Identify underperforming vehicles and drivers and advise on corrective action.

## 9.6 **'O' Licence and special licence requirements**

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

## 10. Equality Impact Assessment and Monitoring

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

## 11 Data Protection 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.

arm/empap/cr/15/0607lh1 appendix 5