Policy Review

1. Purpose of Report

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

2. Outcomes

2.1 The amendment to existing policies and procedures.

3. Recommendation/s

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

4. Background

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

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

5. Key Issues and Proposals

5.1 Pay and Grading Policy Appendix 1 Reviewed
    Retirement Policy and Procedure Appendix 2 Reviewed
    Employer Discretions Appendix 3 Reviewed
    Compassionate Leave Appendix 4 Reviewed
    Disciplinary Policy Appendix 5 Reviewed
    Grievance Policy Appendix 6 Reviewed
    Volunteer Policy Appendix 7 Reviewed
    Work Experience Policy Appendix 8 New
5.2 The Pay and Grading Policy has been amended to provide clarification of the entitlements of part time staff that are called out as part of the Council’s Emergency Procedures.

5.3 The Retirement Policy and Procedure has been amended to reflect the changes in the Local Government Pension Scheme from April 2014. These include the alignment of the Notional Retirement Age (NRA) to the employee’s individual State pension age at the time the employment is terminated (with a minimum of age 65) and the fact that members of the scheme can elect to receive their pension benefits on leaving employment from the age of 55.

5.4 The Employer Discretions Policy has been rewritten to include all of the mandatory discretions that must be considered following the changes in the Local Government Pension Scheme Regulations.

5.5 The Compassionate Leave element of the Work Life Balance Policy has been amended to provide more guidance on the number of day’s leave that staff are entitled to following the bereavement of close family members.

5.6 The Disciplinary Policy has been rearranged for readability and useability purposes and as such a lot of the changes have involved moving from one place to another in the policy. There are however a couple of new sections - Section 7 Definitions and Section 8 Procedure which although do not change the policy at all hopefully help with the flow and readability. Section 12 – Sanctions sets out the potential sanctions that can be imposed following a Disciplinary Hearing and the verbal warning is no longer included. This is because even though it was called verbal as it is a formal warning it would always have to be confirmed in writing. There is now also more information in the Appendix including Frequently Asked Questions regarding Suspension and the Disciplinary Procedure.

5.7 Changes have been made to the Grievance policy to clarify that the stage 3 of the Grievance Procedure is also used for any appeals against dismissal.

5.8 The Volunteer Policy has been updated so that references to CRB have been changed to DBS and a new section has been added to this policy regarding the consideration of new volunteering roles.

5.9 The Work Experience Policy is new and provides guidance on what is work experience and when it is paid or unpaid in addition to our responsibilities towards those carrying out work experience with the Council.
FINANCIAL AND LEGAL IMPLICATIONS

Finance
There are no specific Finance issues associated to this report.

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

OTHER RISKS/IMPLICATIONS: CHECKLIST

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

<table>
<thead>
<tr>
<th>Implications</th>
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<tr>
<td>Community Safety</td>
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<td>Climate Change</td>
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<td>Data Protection</td>
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Report Author | Telephone No. | Email | Date
Head of Business Support | (01253) 887316 | Liesl.hadgraft@wyre.gov.uk | June 2014

List of Background Papers:

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<thead>
<tr>
<th>Name of Document</th>
<th>Date</th>
<th>Where available for inspection</th>
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<tbody>
<tr>
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LIST OF APPENDICES

Appendix 1. Pay and Grading Policy
Appendix 2. Retirement Policy and Procedure
Appendix 3. Employer Discretions
Appendix 4. Compassionate Leave
Appendix 5. Disciplinary Policy
Appendix 6. Grievance Policy
Appendix 7. Volunteer Policy
Appendix 8. Work Experience Policy

arm/empap/cr/14/0707lh1
Pay and Grading Policy

Revised July 2014
1. Statement of Intent

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

2. Scope

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

3. Roles and Responsibilities

3.1 The Council is responsible for:

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

3.2 The Corporate Directors and Heads of Service will be responsible for:

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

3.3 The Head of Business Support is responsible for:

- advising the Council on wage rates, salary levels, job evaluation, wage and salary review procedures;
- maintaining an up to date establishment list which will contain each post on the Council’s establishment, with information relating to the remuneration and other payments relative to each employee;
- for advising all employees of changes to their wage and salary levels, and making appropriate variations to their written particulars of employment as required by the Trade Union Reform and Employment Rights Act 1993, and Employment Rights Act 1996;
- administering the appeals procedures relating to grading matters;
- the payment of wages and salaries to the Council’s employees in accordance with the terms of their contract with the Council;
• making lawful deductions from the wages and salaries of the Council’s employees in accordance with legislation summarised in the Employment Rights Act 1996;
• issuing an itemised pay statement to each employee of the Council at or before the time at which any payment of wages or salary is made in accordance with the Employment Rights Act 1996.

4. **Pay Procedures**

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

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

4.2 The appropriate grade for any particular post will be determined by Human Resources in accordance with the Council’s Job Evaluation Process.

4.3 **New Appointments**

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

4.4 **Incremental Progression**

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

However Officers with less than six months service by 1 April will be granted their first increment six months after their appointment, promotion or re-grading; except where their salary on 1 April following the change would be less than one spinal column point in excess of the salary they would have received on that day in their old grade, when they shall be entitled to their first increment on 1 April.

4.5 Increments may be accelerated within an employee’s scale on the grounds of special merit or ability subject to approval of the Corporate Director.

4.6 Employees will be accelerated two increments (within the grade) subject to the successful completion of a final examination of an approved course of study.

4.7 Increments may be withheld from any employee following an adverse report on an officer (subject to the normal rights of appeal). Any increment withheld may be paid subsequently when the employee’s services become satisfactory.
4.8 **Recompense for Undertaking Temporary Additional Duties**

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

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

Such payments are to be determined by the Head of Business Support after consultation with the Corporate Director.

4.10 **Grading, Re-grading and Appeals**

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

4.11 **Equal Pay Audit**

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

4.12 **Equality Impact Assessment**

Line Managers should conduct an Equality Impact Assessment on all restructuring proposals.

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5 **Additional Payments and Allowances**

5.1 **Additional Hours**

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

- Monday to Saturday – time and a half
- Sundays and Public and Extra Statutory holidays – double time (min 2 hours)

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

Those who are paid above scp 28 will receive enhanced payments as outlined above but calculated at scp 28 for any planned overtime.
Planned overtime is predetermined and the need for the overtime will have come about either from special one off project work or to carry out essential IT work.

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

Time off in lieu entitlements will be calculated in accordance with the TOIL policy.

5.2 Saturday and Sunday Working

Plain time rates apply to the first 37 hours of any working week (excluding Public Holidays), irrespective of which days are worked and, thereafter, the appropriate additional hours provisions apply.

5.3 Night Work

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

5.4 Evening Work

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

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

5.5 Irregular Hours Payment

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

5.6 Public and Statutory Holiday.

It is proposed that there will be no change to the current arrangements regarding enhancements for work undertaken on Public and Statutory Holidays. i.e. payments will continue to be made in accordance with National Agreement on Pay and Conditions of Service.

5.7 Albion Standby

It is proposed that the standby payment currently £85.93 per week (pro rata) is retained and that the recall to work is paid in accordance with provisions below:

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

NB – Any other staff subject to a formal standby arrangement will receive the standby payment of £85.93 per week (pro rata)

5.8 Neptune Standby

The standby payment which applies to Albion (currently £85.93 per week pro rata) will be paid for Neptune standby and the expertise level will be rewarded if and when there is a recall to work to deal with an incident. Payment for that work will be at the rates shown below:

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

5.9 Recall to Work / Informal Standby

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

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

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

5.10 Duty Officers - Current Position

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

It is proposed that the current weekly payment for Duty Officer standby of £257.79 is unchanged and in addition any call out be paid in accordance with the provisions below:

• Corresponding time off in lieu given
• Travel time be included in the time worked
5.11 **Food Safety Inspections**

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

5.13 **Market Supplements**

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

### 6. Equality Impact Assessment And Monitoring

6.1 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.

### 7. Data Protection Act 1998

7.1 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.
1. Introduction

1.1 Wyre Council no longer operate a compulsory retirement age and employees should, wherever possible, be permitted to continue working for as long as they wish to do so. The purpose of this policy is to help managers and employees to understand the options which are available in relation to retirement.

2. Retirement Options and the Local Government Pension Scheme.

2.1 Notional Retirement Age (NRA)

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

2.2 Early Retirement Age 55 or over

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

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

3. Phased Retirement

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

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

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

4. Flexible Retirement

4.1 Employees who are members of the LGPS and are aged over 55 may apply for either or both of two flexible retirement options. These allow accrued pension benefits to be paid before the normal age of retirement, while the employee continues to work for the Council and draw a salary. In most cases the pension benefits payable will be reduced to reflect the fact that they are being paid early, and therefore, potentially for a longer period.
4.2 Flexible retirement will not be granted until the Council has confirmed whether the arrangement will result in an employer cost. If there is a cost this will usually make it unlikely that the Council will agree to the proposal. However, flexible retirement may still be granted in exceptional circumstances. Flexible retirement is a voluntary option and employees cannot be compelled to enter into a flexible retirement arrangement by the Council.

4.3 **Option 1: Flexible retirement with a reduced number of working hours**

Applications should be made by the employee to their Director using the ‘Flexible Working Request Application Form’ and should include a formal request for flexible retirement as part of the reduced work package. Human Resources will obtain an estimate of the cost to the Council and the Line Manager and representative from Human Resources will hold a meeting with the applicant within 28 calendar days of receiving the estimate to discuss the application.

4.4 **Option 2: Flexible retirement with a reduction in grade**

Applications should be made by the employee initially with their Head of Service and Human Resources. If the application is supported in principle, access to lower graded posts may be secured through either the redeployment or recruitment procedures. If a post is available a formal request for flexible retirement should be received. Human Resources will need to obtain an estimate of cost to the Council prior to any decision being made on the flexible retirement application.

All requests will be subject to operational considerations and the reduction of grade/hours should be of substance.

5. **Monitoring Performance**

5.1 **Workplace discussions**

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

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

6. **Giving Notice of Retirement**

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

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

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

7. Succession planning

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

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

8. Redundancy

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

9. Retirement on the grounds of ill health

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

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

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

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

they are entitled to receive immediate payment of pension benefits regardless of age, provided they have at least 3 months membership or have transferred pension rights from a previous scheme.

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


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

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

12. Disputes

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

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

13. Equality Impact Assessment and Monitoring

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


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

arm/empap/cr/14/0707lh1 appendix 2
Employer Discretions
1. **Statement of Intent.**

Wyre Council intends to manage early termination of employment to ensure that the interests of the Council, the Pension Scheme and the employees are given appropriate consideration.

2. **Introduction.**

2.1 The Council has certain discretionary functions available under the Local Government Pension Scheme (LGPS) Regulations and the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011. This document is a written statement of policy in relation to the exercise of certain discretionary functions available under the following legislation.

2.2 **The Local Government Pension Scheme Regulations 2013 [prefix R]**
- the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [prefix TP]
- the Local Government Pension Scheme (Administration) Regulations 2008 [prefix A]
- the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) [prefix B]
- the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [prefix T]
- the Local Government Pension Scheme Regulations 1997 (as amended) [prefix L]

This policy relates to all employees employed by the Council who are members of the Local Government Pension Scheme administered by the Lancashire County Council.

2.3 **Normal Retirement Age (NRA)**

The normal retirement age for Local Government Pension Scheme members has been aligned to the employee’s individual State pension age at the time the employment is terminated (with a minimum of age 65). When a member reaches NRA an immediate pension becomes payable once the employee has left employment. An employee may retire before age NRA but may be subject to a reduction in their pension benefits.

Employees have a right to ask to continue to work beyond their normal retirement date and remain in the LGPS until 2 days before their 75th birthday. If they continue in employment beyond NRA their benefits are increased to reflect the fact that they will be paid for less time.

2.4 **Early retirement at age 55**

Under LGPS Regulations, employees who have at least 3 months membership of the LGPS can elect to receive their annual pension and lump sum on leaving employment from age 55, without the Council's consent and at no capital cost to the Council. If the employee elects to receive their benefits before their normal retirement date the benefits will be reduced to reflect the costs of the pension
coming into payment early, subject to transitional protection arrangements.

2.5 Redundancy / Early retirement in the interests of the business

Employees aged 18 and over who have at least two years continuous service will receive a redundancy compensation payment.

In addition those who are aged 55 who have at least 3 months membership of the LGPS will receive immediate payment of an unreduced pension and lump sum based on their accrued contributory service at the date their employment is terminated.

2.6 Ill Health Retirement

If an employee’s employment is ended due to ill health they are entitled to receive immediate payment of pension benefits regardless of age, provided that they have at least 3 months membership or have transferred pension rights from a previous scheme. A certificate must be obtained from an independent registered medical practitioner qualified in occupational health medicine before a decision can be made regarding ill health benefits. The cost of the early release of benefits in ill health retirement cases is met by the employer through the valuation process.

3. Discretions Exercised by the Council.

3.1 PART A 1 - Discretions from 1 April 2014 in relation to post 31 March 2014 active members and post 31.3.14. leavers in accordance with:

- the Local Government Pension Scheme Regulations 2013 [prefix R]
- the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [prefix TP]
- the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) [prefix B]

Regulation 60 of the Local Government Pension Scheme (LGPS) Regulations 2013
Paragraph 2 (2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014
Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008
Regulation 106 of the Local Government Pension Scheme Regulations 1997

3.1.1 Discretion: Regulation R31. Power to grant additional pension.

An employer can grant additional pension of up to a maximum £6,500 a year to an active scheme member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or interest of the business. This maximum figure that can be awarded from 1 April 2014 but it will be index linked and the level increased on the 1st April each year.

Exercise of Discretion:

The Council has determined not to award additional pension.

3.1.2 Discretion: Regulation R16(2)(e) and R 16(4)(d). Whether, how much,
and in what circumstances to contribute to a shared cost APC scheme.

Where an active Scheme member wishes to purchase extra annual pension of up to £6,500 (figure at 1 April 2014) by making Additional Pension Contributions (APCs) an employer can voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC)

**Exercise of Discretion:**

The Council has determined not to make any shared cost contribution to an additional pension.

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<th>Discretion: Regulation R30(6) - Flexible retirement.</th>
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<td>To determine whether all or some benefits can be paid if an employee applies for flexible retirement at or after age 55. Employees opting for flexible retirement by reducing hours or moving to a lower grade can draw their pension benefits whilst continuing in employment and building up further benefits in the scheme.</td>
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<td>Specifically where the employer consents to flexible retirement then, in addition to the benefits the member has accrued prior to 1 April 2008 (which the member must draw), the employer can also allow the member to choose to draw:</td>
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<td>• all, part or none of the pension benefits they accrued after 31 March 2008 and before 1 April 2014, and / or</td>
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<td>• all, part or none of the pension benefits they accrued after 31 March 2014.</td>
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<td><strong>Exercise of Discretion:</strong></td>
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<td>The Council will not automatically operate this discretion but each case is to be considered on its merits.</td>
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<th>3.1.4</th>
<th>Discretion: Regulation R30(8) - Power to pay unreduced benefits on flexible retirement.</th>
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<td>Determine whether or not to waive all or part of the actuarial reduction that may apply if the officer retires before age NRA.</td>
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<td>Benefits taken on flexible retirement will be subject to a potential actuarial reduction if they are being drawn earlier than the member’s normal retiring age (flexible retirement provisions may be operated for members potentially up to a member’s 75th birthday). The reductions applied will be in accordance with guidance issued by the government actuary. Employers can if they choose waive, in whole or in part, any reductions that might apply.</td>
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of the actuarial reductions with each case being considered on its merits. The cost of the pension strain should normally be mitigated by the salary saving over 12 months in order for consent to be given in any particular case.

| 3.1.5 | **Discretion: Regulation R30(8) and B30A(5) – Early retirement and waiving actuarial reductions.**  
Determine whether or not to waive all or part of the actuarial reduction on benefits which a member voluntarily draws before normal pension age for both active, deferred members & suspended tier 3 ill health pensions.  
If a member leaves a local government employment before he is entitled to the immediate payment of retirement benefits, then if he is age 55 or more (or having attained age 55 and have previously been awarded deferred benefits after 01 April 2014) he may choose to receive payment of them immediately.  
Any benefits payable may be reduced as appropriate in accordance with guidance issued by the Government Actuary. Appendix 1 lists the options available to the Council in terms of the level of reductions that can be waived.  
**Exercise of Discretion:**  
The Council will not automatically operate this discretion to waive the actuarial reductions with each case being considered on its merits. |

| 3.1.6 | **Discretion: Regulation TPSch 2, 2(2) - Whether to allow the ‘rule of 85’ to be “switched on” for members who would normally meet the rule but who will not if they draw the benefits age 55-59.**  
The LGPS 2014 permits current employees and deferred members to choose to take their retirement pensions from age 55. This election is without employers consent and therefore is subject to an actuarial reduction. In such cases of voluntary retirement between the ages of 55 to 60, the Rule of 85 protections do not apply. However, the Council has discretion to waive the actuarial reduction applied to benefits paid early.  
**Exercise of Discretion:**  
The Council will not automatically operate this discretion to waive the actuarial reductions with each case being considered on its merits. |

| 3.2 | **PART A2 - Discretions in relation to scheme members who ceased active membership on or after 1 April 2008 and before 1 April 2014, being discretions under:**  
- the Local Government Pension Scheme (Administration) Regulations 2008 [prefix A]  
- the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) [prefix B]  
- the Local Government Pension Scheme (Transitional Provisions) |
<table>
<thead>
<tr>
<th>Regulations 2008 [prefix T]</th>
</tr>
</thead>
<tbody>
<tr>
<td>the Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014 [prefix TP]</td>
</tr>
<tr>
<td>the Local Government Pension Scheme Regulations 2013 [prefix R]</td>
</tr>
<tr>
<td>the Local Government Pension Scheme Regulations 1997 (as amended) [prefix L]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.2.1 Discretion: Regulation B12 - Whether, for a member leaving on the grounds of redundancy or business efficiency on or before 31st March 2014, to augment membership (by up to 10 years). The resolution to do so would have to be made within 6 months of the date of leaving. Hence this discretion is spent entirely after 30th September 2014.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Exercise of Discretion:</strong></td>
</tr>
<tr>
<td>The Council has determined not to award additional pension.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.2.2 Discretion: Regulation B30(2) B30A(3) - Early retirement with employer consent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Determine whether to grant application for early payment of deferred benefits on or after age 55 and before age 60 to members who have left the scheme between 1 April 2008 and 31 March 2014 with deferred benefits (or suspended tier 3 benefits).</td>
</tr>
<tr>
<td>(NB If a person is a member of the Local Government Pension Scheme on 31 March 2008 and applies for retirement benefits and subsequently retires before 31 March 2010, substitute age &quot;50&quot; for age &quot;55&quot;).</td>
</tr>
<tr>
<td><strong>Exercise of Discretion:</strong></td>
</tr>
<tr>
<td>The Council will not automatically operate this discretion to waive the actuarial reductions with each case being considered on its merits.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.2.3 Discretion: Regulation B30(5)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30 and B30A</td>
</tr>
<tr>
<td><strong>Exercise of Discretion:</strong></td>
</tr>
<tr>
<td>The Council will not operate automatically the discretion to waive actuarial reduction on compassionate grounds and will consent to such requests where there are exceptional reasons for doing so.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.3 PART A3: - Discretions under the Local Government Pension Scheme Regulations 1997 (as amended) in relation to members who ceased active membership on or after 1 April 1998 and before 1 April 2008.</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.3.1 Discretion: Regulation 31(2) - Grant application from a post 31.3.98 / pre 1.4.08 leaver for early payment of benefits on or after age 50/55 and before age 60.</td>
</tr>
</tbody>
</table>
Determine whether to grant application for early payment of deferred benefits on or after age 50 and before age 60 to members who have left the scheme between 1 April 1998 and 31 March 2008 with deferred benefits.

*It should be noted that benefits paid on or after age 50 and before age 55 would be subject to an unauthorised payments charge under the Finance Act 2004 and, where applicable, an unauthorised payments surcharge under that Act, and a Scheme sanction charge on any benefits built up after 5 April 2006.

**Exercise of Discretion:**

The Council will not automatically operate this discretion with each case being considered on its merits.

### 3.3.2 Discretion: Regulation 31(5)

Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31.3.98 / pre 1.4.08 leaver

**Exercise of Discretion:**

The Council will not automatically operate this discretion to waive the actuarial reductions with each case being considered on its merits.

### 3.3.3 Discretion: Regulation 31(7A)

Employees who opt out pre 1.4.08 will only to get benefits paid from NRD unless the employer agrees otherwise.

**Exercise of Discretion:**

The Council will not automatically operate this discretion with each case being considered on its merits.

### 3.4 PART A4 :- Discretions in relation to scheme members who ceased active membership before 1 April 1998.

#### 3.4.1 Discretion:- Regulation D11(2)(c)

Grant application from a pre.1.4.98 leaver for early payment of deferred benefits on or after age 50 and before age 60 on compassionate grounds. Under these rules the sole discretion is that the Council may determine on compassionate grounds that benefits are to become payable on an unreduced basis.

*It should be noted that benefits paid on or after age 50 and before age 55 would be subject to an unauthorised payments charge under the Finance Act 2004 and, where applicable, an unauthorised payments surcharge under that Act, a Scheme sanction charge will not be payable.
### Exercise of Discretion:

The Council will not automatically operate this discretion with each case being considered on its merits.

### PART B – Formulation of policy in accordance with further discretions under the Local Government Pension Scheme Regulations 2013

<table>
<thead>
<tr>
<th>3.5</th>
<th><strong>Discretion:</strong> Regulation R100(6) - Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The LGPS Regulations enable members to transfer pension rights accrued prior to joining the scheme into the LGPS, and thereby count additional pension. This election should be made within 12 months of first joining the LGPS in the employment.</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Whether, with the agreement of the Pension Fund administering authority, to permit a Scheme member to elect to transfer other pension rights into the LGPS if he/she has not made such an election within 12 months of joining the LGPS</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Exercise of Discretion:</strong></td>
<td></td>
</tr>
<tr>
<td>The Council will not automatically operate this discretion with each case being considered on its merits.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.5.1</th>
<th><strong>Discretion:</strong> Regulation <strong>R22 (7)(8)</strong> - Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with a new employment.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Previous LGPS rights are automatically aggregated unless an election to keep those accrued benefits separate is received. Regulations 22 (7) and (8) allow an employer to extend the 12 month time limit within which a Scheme member who has a deferred LGPS benefit following the cessation of employment (or cessation of a concurrent employment) to elect not to have the deferred benefits aggregated with their new LGPS employment (or ongoing concurrent LGPS employment) if the member has not made an election to retain separate benefits within 12 months of commencing membership of the LGPS in the new employment (or within 12 months of ceasing the concurrent membership).</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Exercise of Discretion:</strong></td>
<td></td>
</tr>
<tr>
<td>The Council will not automatically operate this discretion with each case being considered on its merits.</td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.5.2</th>
<th><strong>Discretion:</strong> Regulation <strong>R9</strong> - Determine rate of employees’ contributions.</th>
</tr>
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<tbody>
<tr>
<td><strong>An active member shall make contributions to the Scheme at the relevant contribution rate, from his pensionable pay, in each employment in which he is an active member. The contribution rate to be applied to his pensionable</strong></td>
<td></td>
</tr>
</tbody>
</table>
pay in any financial year is the rate determined by the employer with reference to the tiered contribution pay bands stated in the regulations.

Where there is a material change to a member's pensionable pay in the course of a financial year, the employer may re-determine the contribution rate to be applied.

**Exercise of Discretion:**

The Council will re-determine the % contribution rate applied from the date of the material change.

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<th>3.5.4</th>
<th>Discretion: Regulation R21(4) and(5)</th>
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<td></td>
<td>Whether or not, when calculating assumed pensionable pay when a member</td>
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<tr>
<td></td>
<td>- is on reduced contractual pay or no pay on due to sickness or injury, or</td>
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<tr>
<td></td>
<td>- is absent during ordinary maternity, paternity or adoption leave or during paid additional maternity, paternity or adoption leave, or</td>
</tr>
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<td></td>
<td>- is absent on reserve forces service leave, or</td>
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<td></td>
<td>- retires with a Tier 1 or Tier 2 ill health pension, or</td>
</tr>
<tr>
<td></td>
<td>- dies in service</td>
</tr>
<tr>
<td></td>
<td>to include in the calculation the amount of any ‘regular lump sum payment’ received by the member in the 12 months preceding the date the absence began or the ill health retirement or death occurred. A ‘regular lump sum payment’ is a payment for which the member’s employer determines there is a reasonable expectation that such a payment would be paid on a regular basis.</td>
</tr>
<tr>
<td></td>
<td><strong>Exercise of Discretion:</strong></td>
</tr>
<tr>
<td></td>
<td>The Council will not automatically operate this discretion with each case being considered on its merits.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.5.5</th>
<th>Discretion: Regulation B11(2) – Power of employing authority to determine a policy for averaging pensionable pay by way of fees.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>To allow a member to select a final pay period for fees to be any 3 consecutive years ending 31(^{st}) March in the 10 years prior to leaving.</td>
</tr>
<tr>
<td></td>
<td><strong>Exercise of Discretion:</strong></td>
</tr>
<tr>
<td></td>
<td>Provided that the financial implications are not material the Council will allow a member to select the final pay period for fees to be any 3 consecutive years ending 31(^{st}) March in the 10 years prior to leaving.</td>
</tr>
</tbody>
</table>

| 3.6 | PART C1: Exercise of discretions in accordance with Local Government (Early Termination of Employment ) (Discretionary Compensation Amendment) Regulations 2006 (as amended.) |
### 3.6.1 Discretion: Regulation 5 - Redundancy and Compensation Payments

The Council has the discretion to base redundancy payments on an actual week’s pay where this exceeds the statutory limit.

**Exercise of Discretion:**

The Council has adopted the power to use the actual week’s pay for this calculation.

### 3.6.2 Discretion: Regulation 6 - Redundancy and Compensation Payments

These regulations provide a discretionary power to award a one-off lump sum payment of up to 2 years pay (104 weeks), inclusive of any redundancy payment made. This applies to any member whose employment is terminated on the grounds of redundancy, efficiency of service.

**Exercise of Discretion:**

The Council has decided not to award any compensation/enhanced payments and will use the statutory formula to calculate redundancy payments giving a maximum of 30 weeks pay.

### 3.7 Part C2: Exercise of discretions in accordance with Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended)

**Discretion: Regulation 11(2) - Compensatory Added Years**

Prior to 2006 employers could award compensatory added years to a person aged 50 or over with 5 or more years membership (or notional membership) of the LGPS in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment which occurred after 30th September 2006 and before 1st April 2007 (but only if employment had commenced pre 1st October 2006)

Although this facility is now revoked discretionary decisions may still apply to employees who are already in receipt of Compensatory Added Years previously awarded by a Scheme employer before 1 April 2007.

### 3.7.1 Discretion: Regulation 17

Whether and to what extent to reduce or suspend the member’s annual compensatory added years payment during a period of re-employment in local government.

**Exercise of Discretion:**

A reduction or suspension of pension would take place where the amount of new earnings together with the pension payment exceeded the annual rate of pay on leaving the first employment, with appropriate adjustments made for the effects of index linking to salary and pension benefits.
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<th>3.7.2</th>
<th><strong>Discretion: Regulation 19</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>How to reduce the member’s annual compensatory added years payment following the cessation of a period of re-employment in local government.</td>
</tr>
<tr>
<td></td>
<td><strong>Exercise of Discretion:</strong></td>
</tr>
<tr>
<td></td>
<td>The member’s annual compensatory added years payment following cessation of a period of re-employment in local government will be adjusted to ensure that the member has not exceeded the membership that would have been accrued in their first employment had they continued in employment until age 65.</td>
</tr>
</tbody>
</table>

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<tr>
<th>3.7.3</th>
<th><strong>Discretion: Regulation 21 (4)</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>How to apportion any surviving spouse’s or civil partner’s annual compensatory added years payment where the deceased person is survived by more than one spouse or civil partner.</td>
</tr>
<tr>
<td></td>
<td><strong>Exercise of Discretion:</strong></td>
</tr>
<tr>
<td></td>
<td>Any surviving spouse’s annual compensatory added years payment will be divided equally where the deceased person is survived by more than one spouse or civil partner.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.7.4</th>
<th><strong>Discretion: Regulation 21 (7)</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Whether, in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal pension suspension rules should be dis-applied i.e. whether the spouse’s or civil partner’s annual compensatory added years payments should continue to be paid</td>
</tr>
<tr>
<td></td>
<td><strong>Exercise of Discretion:</strong></td>
</tr>
<tr>
<td></td>
<td>The spouse’s or civil partner’s annual compensatory added years payments should continue to be paid in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries, enters into a new civil partnership or cohabits after 1 April 1998.</td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th>3.7.5</th>
<th><strong>Discretion: Regulation 21 (7)</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partners annual CAY payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or cohabitation lasts, should be dis-applied i.e. whether the spouses’ or civil partners’ annual CAY payments should continue to be paid to both of them</td>
</tr>
</tbody>
</table>
**Exercise of Discretion:**

The spouse's or civil partner’s annual compensatory added years payments should continue to be paid to both parties and where the spouse or civil partner remarries, enters into a new civil partnership or cohabits after 1 April 1998 with another person who is also entitled to a spouse’s or civil partners annual CAY payment.

**3.7.6 Discretion: Regulation 25 (2)**

How it will decide to whom any children’s annual compensatory added years payments are to be paid where children’s pensions are not payable under the LGPS (because the employee had not joined the LGPS) and, in such a case how the annual added years will be apportioned amongst any eligible children.

**Exercise of Discretion:**

Any annual added years will be divided equally amongst any eligible children.

### 4. Consideration of Requests for Early Retirement (excluding Ill Health Retirements).

#### 4.1 Making a request

Formal requests for early termination of employment or flexible retirement should be made in the first instance to the employee’s Director, who will make their recommendation.

#### 4.2 Obtaining Information

Advice on early retirement / flexible retirement / voluntary redundancy etc can be obtained from the Human Resources section. All requests for estimates of benefits and pension forecasts should also be made via Human Resources.

#### 4.3 Determination of Applications

Determination of applications for early release from any employee, except members of the Management Team, is delegated to the Chief Executive in association with the S151 Officer. In determining the application, they must be satisfied that the proposals are cost-neutral to the Council over a specified period of time in accordance with the Council’s policy and Audit Commission requirements. Any proposal for the early release of a member of the Management Team must be considered by the full Council.

#### 4.4 This policy does not override the provision of the Local Government Pension Scheme Regulations (as amended), the Local Government (Discretionary Payments) as amended, and the Employment Rights Act.
5.1 These regulations replace and revoke Part 5 (injury allowances etc.) and regulation 45 (decisions and appeals) of the Local Government (Discretionary Payments) Regulations 1996 with a new discretionary injury allowance scheme for persons employed by a relevant local Government Pension Scheme employer and became effective on 16 January 2012.

Exercise of discretions in accordance with Regulation 14 of the Injury Allowances in respect of leavers, deaths and reduction in pay.

| 5.1.1 | Discretion: Regulation 3(1) | Whether to grant an injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job. |
| 5.1.2 | Discretion: Regulation 3(4) & 8 | Amount of injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job. |
| 5.1.3 | Discretion: Regulation 3(2) | Determine whether a member continues to be entitled to an Injury Allowance awarded under regulation 3 (1). |
| 5.1.4 | Discretion: Regulation 4 (1) | Whether to grant an injury allowance and determine the amount following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out the duties of the job. |
| 5.1.5 | Discretion: Regulation 4 (3) & 8, | Amount of injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out the duties of the job. |
| 5.1.6 | Discretion: Regulation 4(2) | Determine whether a member continues to be entitled to an Injury Allowance awarded under regulation 4 (1). |
| 5.1.7 | Discretion: Regulation 4 (5) Whether to Suspend or Discontinue an Injury Allowance | Whether to suspend or discontinue the injury allowance awarded under regulation 4 (1) if the member secures paid employment for not less than 30 hours per week for a period of not less than 12 months. |
| 5.1.8 | Discretion: Regulation 6(1) | Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a regulation 3 payment was being made at date of cessation of employment but regulation 4 does not apply. |
5.1.9  **Discretion: Regulation 6(1)**
Determine the amount of any injury allowance to be paid under regulation 6(1).

5.1.10 **Discretion: Regulation 6(2)**
Whether to cease payment of an injury allowance awarded under regulation 6(1).

5.1.11 **Discretion: Regulation 7(1)**
Whether to grant an injury allowance to the spouse, civil partner, nominated co-habiting partner or dependent of an employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.

5.1.12 **Discretion: Regulation 7(2) & 8**
Determine the amount of any injury allowance to be paid under regulation 7(1).

5.1.13 **Discretion: Regulation 7(3)**
Determine whether and when to cease payment of an injury allowance awarded under regulation 7(1).

**Exercise of Discretions**
The Council has determined not to adopt its discretionary powers in respect of the injury allowance regulations described above as it cannot be satisfied that such a policy would be workable, affordable and reasonable having regard to the foreseeable cost.

arm/empap/cr/14/0707lh1 appendix 3
Appendix 1 – if voluntarily retiring
If there is an actuarial reduction regarding the particular tranche of membership, the employer has the right to –

<table>
<thead>
<tr>
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<th>Group 1</th>
<th>Group 2</th>
<th>Group 3</th>
<th>Group 4</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Waive all or none on compassionate grounds.</td>
<td>Waive all or none on compassionate grounds.</td>
<td>Waive all or none on compassionate grounds.</td>
<td>Waive all or none on compassionate grounds.</td>
</tr>
<tr>
<td>Part B1</td>
<td>Waive all or none on compassionate grounds.</td>
<td>Waive all or none on compassionate grounds.</td>
<td>Waive all or none on compassionate grounds.</td>
<td>Waive all or none on compassionate grounds.</td>
</tr>
<tr>
<td>Part B2</td>
<td>Waive all or none on compassionate grounds.</td>
<td>Waive all or none on compassionate grounds.</td>
<td>Waive all, some or none on any grounds.</td>
<td>Waive all, some or none on any grounds.</td>
</tr>
<tr>
<td>Part C</td>
<td>Waive all, some or none on any grounds.</td>
<td>Waive all or none on compassionate grounds.</td>
<td>Waive all, some or none on any grounds.</td>
<td>Waive all, some or none on any grounds.</td>
</tr>
<tr>
<td>Part D1</td>
<td>Waive all, some or none on any grounds.</td>
<td>Waive all, some or none on any grounds.</td>
<td>Waive all, some or none on any grounds.</td>
<td>Waive all, some or none on any grounds.</td>
</tr>
</tbody>
</table>

Part A = membership to 31 March 2008
Part B1 = membership 1 April 2008 to 31 March 2014
Part B2 = membership 1 April 2014 to 31 March 2016
Part C = membership 1 April 2016 to 31 March 2020
Part D1 = membership 1 April 2020 onwards

Group 1 member = a member who was an active member prior to 1 October 2006 and who was born on 31 March 1956 or earlier
Group 2 member = a member who was an active member prior to 1 October 2006, was born between 1 April 1956 and 31 March 1960 inclusive, and who would reach their CRA by 31 March 2020
Group 3 member = a member who was an active member prior to 1 October 2006 and who is not a Group 1 or Group 2 member
Group 4 member = a member who was not a member prior to 1 October 2006.

If member retires on flexible retirement, the employer may waive all, some or none of any reduction on any grounds.
7.5 **Compassionate Leave**

The Council recognises that when faced with the death of a dependant, partner or family member employees may need to take time away from work and may require additional support.

Paid leave of up to 5 days can be granted to staff for a bereavement of a family member depending on their relationship to them.

As a guideline 5 days would be appropriate for:

- Father, mother, adoptive parent or guardian (legally appointed or otherwise)
- Step Mother or Father
- Wife, Husband or Partner
- Son or Daughter

For siblings 2 days would be granted and any other relationship would be 1 day’s leave.

Individual circumstances, the nature of relationships and the required observances of different religions may vary. Therefore, on occasions at the discretion of the Head of Business Support (or in their absence a member of the HR Team) some deviation from the above guidelines may be approved and in exceptional circumstances up to an additional 5 days may be granted.

It may also be appropriate to consider other flexible working/leave options covered within this policy either instead of or in addition to compassionate leave, particularly if staff need to travel abroad, are suffering from the loss of a close family member or where they are caring for a terminally ill dependant or family member. In such circumstances an extended period of unpaid leave may be considered and with the deduction from salary spread over an agreed number of months.

Support from Occupational Health and the Council’s Employee Support Programme will also be available.
Disciplinary Policy & Procedure
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<td>Appendix 4</td>
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1. **Introduction**

1.1 The Council and the trade unions attach great importance to establishing and maintaining good working relationships at all levels within the council by encouraging all employees to achieve and maintain acceptable standards of conduct and behaviour.

1.2 It is the Council’s belief that employees should be motivated by their sense of responsibility and involvement rather than by fear of disciplinary action. Disciplinary rules and procedures are nevertheless necessary to promote positive employee relations and fair, consistent treatment of employees, to help ensure that standards are upheld and to provide a fair method of dealing with alleged failures to observe the standards.

1.3 It is also recognised that discipline is necessary for the efficient and effective operation of the Council and for the health and safety at work of all employees.

1.4 Whilst the disciplinary procedure provides a formal process for resolving alleged breaches, the Council recognises that in many cases early intervention with the right word at the right time and in the right way may be all that is needed and will often be a more effective and satisfactory method of dealing with such situations.

2. **Aims**

2.1 The aims of this policy are:

- To encourage corrective rather than punitive action
- To ensure the consistent and fair treatment of employees
- To support standards of conduct and behaviour which ensure the efficient and effective operation of the council

3. **Scope**

3.1 This procedure applies to all employees of the council excluding officers employed under J.N.C. Conditions of Service for Chief Officers and for Chief Executives.

3.2 This procedure does **not** apply to agency staff, external contractors or external consultants.
4. Training

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

5. Roles and Responsibilities

5.1 It is the responsibility of individual Employees to:

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

5.2 It is the responsibility of Managers to:

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

5.3 It is the responsibility of Human Resources to:

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

6.1 This policy and procedure is designed to encourage all employees to achieve and maintain satisfactory standards of conduct, and not purely as a means of imposing sanctions.

6.2 Standards of work and conduct required will be reiterated to ensure that employees are clear as to what is expected of them (this should also have been done at the outset of taking up employment). \(^1\)

6.3 All disciplinary proceedings will be dealt with confidentially and treated as an allegation subject to the outcome of any disciplinary hearing.

6.4 All disciplinary issues will be dealt with in a fair and timely manner and with clear decisions at all stages.

6.5 The Council reserves the right to implement the disciplinary procedure at any stage, if the employee’s conduct warrants such action.

6.6 The Council’s safeguarding policies must be referred to in circumstances where an allegation or incident is in relation to a child, young person or vulnerable adult.

6.7 Managers should consult Human Resources before a disciplinary investigation takes place. A representative from Human Resources will normally attend disciplinary hearings and where requested, disciplinary meetings. However, for avoidance of doubt, a disciplinary hearing held without a representative from Human Resources, shall not be regarded as being improperly conducted for the purposes of this procedure.

6.8 At all stages of the disciplinary procedure, except for the informal stage, an employee will have the right to be accompanied by an approved trade union representative or work colleague of their choice.

6.9 Electronic recordings should not be made of any meetings or hearings involved in the disciplinary process without the consent of those present.

6.10 An employee will not be dismissed for a first breach of discipline except in a case of gross misconduct, where the penalty will be summary dismissal without notice or pay in lieu of notice.

6.11 No disciplinary action will be taken against a trade union representative until circumstances have been discussed with a full time official of the trade union concerned.

\(^1\) See also the Wyre Borough Council Capability Procedure
6.12 Where disciplinary action is withdrawn or where the employee is cleared of any alleged misconduct, any written reference to the matter will be removed from the employee’s personal file.

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

6.14 The application of this policy and procedure will be non-discriminatory irrespective of an employee’s age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender or sexual orientation.

7. Definitions

7.1 Misconduct

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

7.2 Gross Misconduct

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

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

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

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

7.3 Conduct Outside of Work

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

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

8. **Procedure**

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

- **Informal Stage (where appropriate)**
  - Informal Resolution

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

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

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

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

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

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

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

8.5 **Criminal Conviction/Imprisonment**

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

9. **The Informal Procedure – Informal Discussions**

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

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

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

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

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

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

10. **The Formal Procedure**

10.1 **Advice from Human Resources**

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

10.2 **Right to be accompanied**

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

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

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

and,

- Meetings held as part of the investigation process

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

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

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

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

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

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

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

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

If a financial irregularity is alleged, or the allegation involves the loss or suspected loss of assets, the theft or malicious alteration of data or the investigation requires observation of the employee, the investigation will be carried out by Internal Audit.

10.3.2 **Police Involvement**

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

The involvement of the police should not be viewed as a reason to suspend the internal process of the investigation unless the internal investigation would prejudice the police investigation. Usually, the police investigation will run parallel to the internal investigation but by definition, the results of any police investigation may take some considerable time to be made known. In view of this, the internal investigation should continue in the normal manner with the emphasis on fairness and equality\(^2\), and any recommendation made as a consequence of the internal investigation may be made without waiting for the results of the police investigation.

10.3.3 **Investigation Process**

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

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

Internal Audit must be contacted for advice should it be considered

\(^2\) Equal treatment of staff regardless of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender or sexual orientation
necessary to search the personal property of an employee. Searches of personal property such as coats, bags, briefcases etc may only be undertaken by Internal Audit and only in the employee’s presence. Desks, cupboards, filing cabinets and work vehicles are not considered to be personal property.

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

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

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

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

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

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

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

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

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

10.4 Suspension

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

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

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

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

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

10.4.1 Suspending an Employee

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

- What is being alleged.
- Why it is necessary for the employee to be suspended or temporarily redeployed. That the employee will be on full contractual pay for the duration of the suspension.
- That there is no presumption of guilt.
- That an investigation will take place and the employee will have the full opportunity to put his/her case forward.
- That the employee must be available for contact by the manager or investigating officer and to attend meetings as part of the investigation process.
- That whilst suspended the employee should not return to the work premises or have any contact with colleagues.
• The employee’s right to be accompanied at any further meetings.
• Details of the Council’s Employee Support Programme and encourage the employee to make use of it.

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

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

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

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

10.4.2 Contact During Suspension

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

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

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

11. Disciplinary Hearings

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

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

11.2 The intention of the Hearing is to give the employee every opportunity of stating their case and to allow management to consider all relevant information before making a final decision. Guidance on the conduct of a disciplinary hearing has been attached as Appendix 3.
11.3 The employee will be notified in writing at least 5 days working days before the Hearing takes place, this notice may be extended to allow an employee to be represented provided that the extended period is for no longer than 5 working days. The notification will include:

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

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

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

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

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

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

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

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

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

11.9 The outcome of the Hearing will be conveyed as soon as possible. If it is not possible to confirm the outcome on the same day, the employee will be given an anticipated time scale for confirmation of the outcome and a subsequent meeting will be arranged to convey the decision. The decision will then be confirmed in writing within 5 working days of the hearing decision and be copied to the employee’s representative if requested.
11.10 A copy of the letter must be placed on the employee’s personal file. It forms part of the employee’s employment record and must not be removed from the file once the warning is spent.

12. Sanctions

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

12.2 Written Warning

A written warning may be given where:

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

A written warning may be issued by a line manager.

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

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

12.3 Final Written Warning

A final written warning may be given where:

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

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

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

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

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

12.5 Spent Warning

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

13. Appeals

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

An employee may choose to appeal because;

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

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

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

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

The decision at the appeal is final.

14. Equality Impact Assessment And Monitoring

The operation of this policy will be monitored for its impact on different staff groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.
15. Data Protection Act 1998

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

arm/empap/cr/14/0707lh1 appendix 5
Appendix 1

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

Misconduct

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

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

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

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

- Theft or incitement to steal, attempted theft, fraud or fraudulent falsification of accounts, or other official records including abuse of the flexi time system, ie. swiping in or out for someone else.
- Providing false and misleading information, eg. on application forms, medical questionnaires or examination, at an accident investigation or at a disciplinary investigation.
- Wilful and deliberate damage to the authority’s assets or to another employee’s property.
- Incitement to or use of physical violence to anyone at all on the authority’s premises or whilst on authority business, sufficiently serious to affect an employee’s position at work.
- Bringing firearms or offensive weapons on authority premises.
- Accepting gifts or bribes for personal gain and hospitality, outside Wyre Borough Council policy.
- Disclosure of confidential information.
- Grossly offensive behaviour, harassment and bullying.
- Being incapable of work, or of working safely due to the influence of alcohol, or drugs*.
- Negligent or wilful failure to comply with legal requirements of the Council’s various policies and procedures such as Health and Safety rules, Equal Opportunities, Safeguarding or the Data Protection Act, or any other legal or statutory requirement.
- Serious neglect of duty and responsibility associated with the post.
- Criminal offence bringing the Council into disrepute.
- Gross insubordination.
- Gross neglect of health and safety rules.
- Accessing material on the Internet of an ‘inappropriate nature such as sites containing pornographic, sexist, racist, indecent , rude, obscene, political or violent material
- Bringing the Council into serious disrepute.
- Deliberate falsification of Council documents
- Serious breach of safety regulations endangering oneself and/or others
- Criminal offences which are related to, or impact on an employee’s ability to fulfil the terms of their contract, or are incompatible with an employee’s role, or have the potential to damage the reputation of the Council
- Discrimination against Council employees or members of the public in breach of the Council’s equality and diversity policies
• Corrupt or improper practice involving children or vulnerable adults
• Using social network sites to make derogatory comments about other organisations or individuals in relation to their employment/work activity
• The posting of photographs on social networking sites, or the distribution of photographs, that could bring the Council and/or its officers into disrepute and/or harm
• Serious breach of the Councils ICT or Data Protection policy
• Significant loss of public money or property for which the employee is responsible
• Negligence whilst carrying out duties on behalf of the Council
• Wilful neglect to obtain/retain the professional qualifications or membership as required by the job description.
• Failure to disclose any caution or conviction as required under the Rehabilitation of Offenders Act.
• Supplying and/or trafficking or drugs, money laundering activities, or the sale or distribution of illegal substances or products.
• Serious negligence which causes unacceptable loss, damage or injury, or acting in a manner dangerous to others
• Unauthorised entry to computer records and deliberate misuse of the Council’s computer resources and telephone services
• Serious breach of any of the Council policies and procedures such as Financial Regulations or Financial Procedure Rules.
• Fraudulent claims made within job applications particularly in relation to qualifications, experience or job history.

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

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

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

Q. How should I be notified of my suspension?
A. Normally you will be notified by your Head of Service (or nominated manager):
   • Verbally - if it is practical or possible for you to be informed in this way;
   • By telephone - if it is not possible to meet with you in person;
   • By letter - if it is not possible to meet with you or contact you by telephone.
Regardless of how you are informed of your suspension you will be issued with a suspension letter outlining the reasons for your suspension and any terms you must abide by during the period of the suspension.

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

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

Q. Do I have to stay at home during my normal working hours in case I am called back to work?
A. You are required to make yourself available to your employer at reasonable notice (e.g. for a meeting or interview). Normally this would mean you should be prepared to report to work on the day following the request for you to report to work. However, you could be asked to return on the same day as the request is made, which would not be unreasonable if the request was made early in the day for an afternoon meeting and a representative was also available.

Q. What happens if I wish to make a trip away from home during the period of suspension?
A. Annual leave arrangements still apply during suspension, therefore if you wish to make a trip away from home, which would make you unavailable to attend work as described above, you will need to seek authorisation for annual leave from your line manager in the normal way.
Given that suspension is not a disciplinary penalty, annual leave which has been arranged prior to suspension will be honoured other than in exceptional circumstances, where the matter will be discussed with you. You will need to clear any request in advance, including confirming pre-arranged leave, with your line manager. They will need to consider the likelihood of your being required to attend work during the time requested.

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

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

Q. What assistance is there for employees on paid suspension?
A. If you are a member of a trade union you are advised to seek advice from your trade union representative. Your manager, or another nominated person if this is not appropriate, will keep in contact with you to both advise you of progress regarding the investigation and keep you updated with any development in connection with your job.

Q. How long can the suspension last?
A. There are no specified time limits. However, suspension will be for as short a period as possible.

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

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

Q. How will I know when the suspension has ended?
A. Normally, suspension ends when, following the completion of the investigation, a decision is taken.

This decision may be:
- to take no action and end the suspension;
- to proceed with formal disciplinary action;
- to take some other form of action.
In any event you will be notified in writing of the decision.
Where disciplinary action is taken, the suspension will normally continue until the hearing takes place, and it will be decided at the hearing when the suspension will end.

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

Q. How can I return to work after being suspended?
A. Paid suspension is not a disciplinary penalty. Employees can return to work successfully after being suspended and will receive support from both their manager and HR advisor in this event.
Guidance on the conduct of a Disciplinary Hearing
The following guidance is to be used by all officers involved in the planning and/or Hearing of a disciplinary case and is designed to assist in ensuring a fair and consistent approach to the administration of all disciplinary hearings.

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

Disciplinary Hearing – Order of Proceedings
The manager chairing the hearing must be authorised to give the potential sanction proportionate to the alleged misconduct.

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

The Management Case
The chair must outline the allegations against the employee.

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

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

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

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

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

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

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

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

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

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

**Adjournment**

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

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

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

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

The chair may decide to:

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

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

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

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

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

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

Frequently Asked Questions

Q. What is the difference between an investigatory meeting and a disciplinary hearing?
A. Essentially, the purpose of an investigatory meeting is to establish what happened, while the purpose of a disciplinary hearing is to decide what to do about it.

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

Q. What happens if the union representative/work colleague is not available at the proposed time of the meeting?
A. If the companion is not available at the proposed hearing time and the employee suggests another time that is reasonable and falls within five working days of the original time, the hearing will, wherever possible, be postponed until the new time proposed by the employee.

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

Q. Is an employee allowed paid time away from their job to accompany a colleague to a disciplinary or grievance meeting?
A. Yes. An employee is permitted to take a reasonable amount of paid time off during their working hours to accompany a colleague to a disciplinary or grievance hearing. The accompanying employee should advise their line manager when they are due to be absent.
Q. Can the Council dismiss an employee on the grounds of a criminal act that happened outside of the workplace?
A. It is permissible to dismiss an employee on the grounds of a criminal act that happened outside of the workplace if it thought likely to affect the continued employment relationship, the ability of the employee to do their job, brings the reputation of the Council into disrepute or frustrates the contract.

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

1.1 The Council and the trade unions attach great importance to establishing and maintaining good working relationships at all levels within the council by encouraging all employees to achieve and maintain acceptable standards of conduct and behaviour.

1.2 It is however recognised that, from time to time, working relationships may be affected by dissatisfaction due to a variety of reasons and any such issues should be resolved promptly in the interest of good employee relations. This policy and procedure ensure that staff are treated reasonably and consistently by providing a fair and equitable method of dealing with grievances before they develop into major problems.

1.3 The Council encourages free communication between employees and their managers to ensure that questions and problems arising during the course of employment can be expressed and where possible resolved quickly and to the satisfaction of all concerned.

1.4 Both parties should be able to clearly demonstrate all reasonable efforts have been made to resolve the issues informally before the formal process is commenced.

1.5 Whilst a grievance is being considered the “status quo” will prevail whenever possible. “Status quo” means that any change causing the grievance will not be implemented.

2. Principles

2.1 This policy is designed to help managers, employees and their representatives deal with grievance situations in the workplace. It is clearly in everyone’s interests to resolve problems before they can develop into major difficulties for all concerned.

2.2 During the grievance procedure the following principles will be applied in order to ensure that employees receive consistent and fair treatment.

2.2.1 Confidentiality – Confidentiality should be maintained by all those involved, including the employee and their representative, at all stages throughout the procedure by ensuring that only those people who need to know have access to details. While respecting confidentiality, it is important that the employee is free to discuss issues with their trade union representative or work colleague who may be able to assist or support them through what is acknowledged to be difficult circumstances. Written records will be treated as confidential.

2.2.2 Fairness – Whenever a grievance process is being followed it is important to deal with issues fairly. There are a number of elements to this:

- Managers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
- Managers and employees should act consistently.
- The council will carry out any necessary investigations to establish the facts of the case.
The council will inform employees of the basis of the hearing and give them the opportunity to put their case before any decisions are made.

Employees have the right to be accompanied by an approved trade union representative or work colleague at any formal grievance meeting or interviews that are conducted as part of the investigation process.

Employees are entitled to the right of appeal against any formal decision made with the exception of stage 3 where the decision made by the Employment Appeals Panel is final.

3. Scope

3.1 This procedure applies to all employees of the council excluding officers employed under J.N.C. Conditions of Service for Chief Officers and for Chief Executives.

3.2 This procedure does not apply to agency staff, external contractors or external consultants.

4. Training

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

5. Roles and Responsibilities

5.1 It is the responsibility of individual Employees to:

- Be aware of the Council’s policy and procedure
- Maintain acceptable standards of performance and conduct.

5.2 It is the responsibility of Managers to:

- Seek advice from Human Resources in a timely manner
- Comply with the Council’s policy and procedure
- Ensure employees understand the policy and procedure
- Ensure the policy and procedure is fairly and consistently applied
- Recognise where circumstances make it difficult from time to time for staff to comply fully with the Council’s policy and procedure
- Assist, wherever possible, the employee to correct unacceptable behaviour

5.3 It is the responsibility of Human Resources to:

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

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

6.1 Where the disciplinary, capability or managing attendance procedures are invoked and the matter would be better be dealt with by way of an appeal in line with the relevant procedure.

6.2 When a grievance is raised about a matter over which the council has no control, or where management is acting in accordance with council policy and procedures.

6.3 Where the grievance is the subject of collective negotiation or consultation with trade unions and staff.

6.4 Where an employee has serious concerns about an aspect of the council’s work or those who work for the council. In such circumstances the Whistleblowing Policy is available to enable employees to raise concerns about workplace malpractices, suspicions of criminal acts, miscarriage of justice and dangers to health and safety.

6.5 Separate procedures are in place to deal with complaints of bullying and harassment (Dignity at Work Policy) and grading issues (Re-grading Policy) and therefore such matters are excluded from this policy.

7. Areas of Possible Grievance

7.1 The definition of a grievance is where an employee has a problem or concern about their work, working conditions or working relationships with colleagues that they wish to raise or have resolved.

7.2 This policy and procedure covers the following circumstances:

- A grievance by an employee relating to his/her employment
- A collective grievance held by more than one employee about a particular issue concerning their employment.

8. Multiple Grievances

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

9. Informal Stage

9.1 If an employee has a grievance or concern they should, in the first instance, raise this issue with their line manager. If they feel unable to discuss the matter with their direct line manager they should raise it with the next manager up in the structure or contact a member of the Human Resources team. The employee and the manager to whom the grievance is raised should make every effort to resolve the issue.

9.2 The manager and employee should meet to discuss the issue that is causing the employee concern. During this meeting the manager should ascertain what the employee’s concern is and how the employee believes the matter should be
resolved. It may be necessary for the manager to investigate the issue further and they should keep the employee informed of their progress in doing so. Once the manager has concluded their investigation they should meet with the employee to inform them of the outcome of their findings.

9.3 Although this is an informal part of the process the manager should make note of:

- The nature of the grievance
- Their response
- And action taken
- The reason for the action

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

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

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

10. Formal Grievance Procedure

10.1 Where the employee feels that a satisfactory resolution has not been reached informally, the employee should raise this issue formally by completing the Grievance Pro-forma (see Appendix 1). It should be noted that no new issues can be considered once the pro-forma has been submitted and the formal stage of the grievance procedure has commenced. Where new issues are to be considered, a separate grievance would need to be submitted.

10.2 The Grievance proforma should be submitted to the employee’s Head of Service unless the grievance is about that Head of Service in which case it should be submitted to the Head of Business Support.

10.3 Advice from Human Resources

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

10.4 Right to be Accompanied

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

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

The chosen representative is able to contribute to and ask questions at the hearing however the chairperson is entitled to expect the employee and not the representative to answer any questions asked.
If the chosen representative is not available at the proposed time of the meeting, the employee may request an alternative time and date so long as it is reasonable and falls within five working days of the original date. This alternative date must have regard to the availability of the other employees involved in the hearing and may be extended by mutual agreement.

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

10.5 **Investigation**

10.5.1 The Head of Service in liaison with Human Resources will appoint an investigating officer and inform the employee who will be investigating their grievance.

10.5.2 If the grievance is against a specific individual, the individual’s line manager will be informed that the grievance has been raised and that an investigation will be undertaken. That manager must then inform that employee that a grievance has been raised which involves them, outlining what the grievance is regarding and advising them of the investigating officer as well as providing suitable support for the individual.

10.5.3 The investigator will meet with the employee who has raised the grievance to establish the basis of the grievance and the desired outcome.

10.5.4 Where relevant the investigator will meet with the employee against whom the allegations have been raised.

10.5.5 During the investigation, other employees may be approached by the investigator and asked to provide a witness statement. An employee should act as a witness if asked to do so, as this is usually a reasonable managerial request. Witnesses should be aware that it will not be possible to withdraw their information once given to the investigating officer although they will be given the opportunity to see the notes of the meeting and suggest any changes they feel are needed.

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

10.5.7 Investigatory interviews should be carried out as soon as reasonably practicable but in any event normally within 10 working days of the investigation commencing. Agreement from both parties may be sought to extend this time limit, however if the extension is due to the aggrieved employee’s ability to attend the investigatory interview the investigation will be suspended and clarification may be sought as to whether the employee wishes to continue with the grievance.

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

10.5.9 Internal Audit must be contacted for advice should it be considered necessary to search the personal property of an employee. Searches of personal property such as coats, bags, briefcases etc may only be undertaken by Internal Audit and only in the employee’s presence. Desks, cupboards, filing cabinets and work vehicles are not considered to be personal property.

10.5.10 Internet and email monitoring and control software has been installed and the investigating officer may, in the course of the investigation, monitor usage and inspect the contents of emails and files.
10.6 Any employee who is interviewed as part of the investigatory process, will have the opportunity to be accompanied either by a work colleague of their choice, or a trade union representative.

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

10.8 The investigator will complete the investigation as quickly as possible and write an investigation report for submission to the Head of Service and a copy to the Head of Business Support.

11. Formal Stages

There are 3 potential stages to the formal grievance procedure which are as follows:

11.1 Stage 1

The Head of Service will normally hear the grievance at this stage of the procedure.

On receipt of the decision, following the grievance hearing, the employee has the right to appeal to the next stage of the procedure.

11.2 Stage 2

If the employee continues to be aggrieved then they can refer the matter to the relevant Corporate Director using the original proforma and the management response. This should normally be done within 10 working days of receiving the Stage 1 decision. A meeting will normally be convened within 10 working days, with the Director supported by a representative from the Human Resources team who may attend in an advisory role. The decision of that meeting will be communicated to the employee in writing within 5 working days of the hearing. The letter will also set out the right to appeal.

11.3 Stage 3

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

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

An appeal under stage 3 will be submitted in writing to the Head of Business Support within 10 working days of receiving the Stage 2 decision or letter confirming dismissal. The Head of Business Support will then liaise with Democratic Services to arrange a meeting.
12. The Grievance Hearing (applicable to stage 1 & stage 2)

12.1 Grievance hearings will normally be held no more than 10 working days after completion of the investigation. Where the employee’s chosen representative is unable to attend on the date initially set for the hearing s/he may request a postponement of the hearing date provided this is for no longer than 5 working days.

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

12.2 Paperwork for the hearing

Before a grievance hearing is held all the papers and documents, including the investigating officer’s report must be sent to the employee no later than 5 working days before the hearing. This should be sent with the letter calling the employee to the hearing.

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

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

12.4 Inability to Attend the Grievance Hearing

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

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

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

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

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

12.8 Where the grievance was raised against another employee, the chair of the hearing will also communicate the outcome and any recommendations to the Head of Service of that employee. They will then communicate it to the employee concerned and act on any recommendations as required.

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

### 13. Procedure at Formal Stage 3 Hearings

13.1 On receipt of the appeal Democratic Services will make arrangements with the Chair of the Employment Appeals Committee (or his/her deputy) to convene an Employment Appeals Panel which will normally be within 20 working days. The case will be presented to the Panel (the procedure used can be seen in Appendix 3) and the outcome conveyed to the employee within 5 working days. The decision of the Employment Appeals Panel shall be final and as such the appeals procedure is exhausted.

13.2 The Hearing will be convened as follows:

Democratic Services will convene an Appeals Hearing
- The date, time and venue for the hearing shall be notified to all parties
- Democratic Services will ensure that all parties have the relevant documentation which will include:
  - Original Grievance Submission/letter of dismissal
  - Any relevant papers supporting the stage 2 grievance/dismissal
  - Letter of Appeal
  - Specific detail of what the employee wishes to appeal against.
- The agreed paperwork will be circulated to the parties 5 working days in advance of the hearing.
- The employee submitting the appeal will be responsible for informing the Democratic Services manager of the names of any witnesses they may wish to call in support of their appeal. It will be the responsibility of the employee to notify the witnesses of the date time and location of the hearing.
- Any witnesses who are employees of Wyre Council that the employee submitting the appeal wishes to be available at the hearing will be responsible for informing their line manager of any request to attend an appeal hearing.

### 14. Overlapping Grievance and Disciplinary Cases

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

### 15. Appeals

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

### 16. Effect of Resignation on Outstanding Grievance

16.1 Wherever possible a grievance should be dealt with before an employee leaves employment. If however, this is not possible, agreement with the employee will be
sought on whether and how the grievance should be progressed.

16.2 In the case of a collective grievance the grievance will continue in accordance with this procedure for those employees who remain in the employment of the council.

17. Equality Impact Assessment And Monitoring

17.1 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.

18. Data Protection Act 1998

18.1 In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with the requirements of the Data Protection Act 1998.
# Appendix 1

## Grievance Pro-Forma

Name(s):

Service Area:

Section:

Post Title:

<table>
<thead>
<tr>
<th>Background – What has happened? Please give details of time(s) and date(s) if appropriate</th>
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<th>Why are you aggrieved?</th>
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<th>What remedy do you want?</th>
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Management Response to the Grievance  
(To be given within 5 working days of the hearing)

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<th>Date:</th>
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The response(s) to the grievance and any proposed remedies are acceptable/not acceptable

If not acceptable why do you remain aggrieved?  
(To be submitted to your Director, within 10 working days of receipt of management’s response if you wish to register an appeal)

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<th>Signed:</th>
<th>Date:</th>
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NB: If you wish to provide further information, please continue on a separate sheet
Appendix 2

Procedure for the Grievance Hearing

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

Employee’s Statement of Grievance
The employee will state their grievance and desired outcomes. As part of this witnesses may be called.

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

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

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

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

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

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

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

Note: References to employee include the representative acting on the employee’s behalf.
Appendix 3

Procedure for the Employment Appeals Hearing

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

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

Employee’s Statement of Appeal
The employee will state their grievance and desired outcomes. As part of this witnesses may be called.

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

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

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

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

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

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

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

Note: References to employee include the representative acting on the employee's behalf.
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1. Introduction and Scope

1.1 Wyre Council recognises the important and valuable work that volunteers’ provide to the community and although this policy presents the Council with a framework for effective and consistent engagement of volunteers within our services Wyre Council will support any employees wishing to carry out volunteering activities within the community (see section 7 of the Council’s Work Life Balance Policy).

1.2 Wyre Council recognises the significant and valuable role that volunteers have in creating and implementing our services.

1.3 Volunteering should also be a worthwhile and rewarding experience for volunteers, who are an important community resource. Volunteers’ experience of working with us will shape their overall view of the Council.

1.4 This document defines the term ‘volunteer’ and sets out our principles and objectives with regard to the use of volunteers. It provides a framework of best practice and procedures, which we will follow when appointing, managing and supporting our volunteers.

1.5 A copy of this policy will be made available to volunteers during the induction process and they will be advised where they can obtain a copy if required. Where possible a copy will be at premises where volunteers are based.

1.6 There may be occasions when individual departments will need to exercise discretion in the application of this policy.

2. Definition

2.1 Volunteers are individuals or groups who offer us their time, experience, knowledge and skills without financial gain beyond reimbursement of expenses, helping us to achieve our service objectives, or with the aim of providing a benefit to the local community.

2.2 The role of volunteers is very different from that of councillors, employees, consultants or students on work placements.

2.3 There is no contract of employment or services between the Council and its volunteers.

2.4 Volunteers do not have to commit to a given number of hours. If we ask volunteers to work a given number of hours [this will be at their discretion] we will not penalise them if they are unable to do so.

3. Principles

3.1 We will apply our Equal Opportunity Policy to the recruitment and management of volunteers.

3.2 We will take particular care in relation to children, young people and vulnerable adults.
3.3 We will provide a volunteer agreement to all volunteers.
3.4 We will make information available for volunteers to enable them to claim expenses.
3.5 We will advise all volunteers of their rights under the Data Protection legislation and expect volunteers to respect the confidential nature of Council business.
3.6 We will provide appropriate public liability insurance cover for all volunteers whilst they are engaged in a volunteer activity with us (see paragraph 14).
3.7 We do not regard volunteers as unpaid employees and will not expect volunteers to undertake inappropriate responsibilities or be used in a situation where a paid member of staff or a person who provides services under contract to the Council should be used.
3.8 We will consult and involve volunteers on issues concerning their volunteering activity.
3.9 We will offer suitable training and support for volunteers.
3.10 We will provide suitable training and support for staff who manage volunteers.
3.11 We expect all volunteers to behave reasonably and not bring the Council into disrepute.
3.12 All of the information that we give to volunteers and all of the forms that we ask them to fill in will be clear and easy to understand.
3.13 We will provide all volunteers with a copy of the Council’s leaflet on how to make a complaint.
3.14 We will review the Volunteer Policy every three years and update guidance in line with any changes in the law.

4. New Volunteering Roles

4.1 It is recognised that volunteers can enhance and support the work of the Council. Where new volunteering roles are identified these should be reviewed by the Volunteer Co-ordinator in liaison with the Human Resources Department to ensure that the arrangements are in line with legal interpretation of a volunteer.
4.2 If the development of new volunteering opportunities is part of a wider restructure involving paid members of staff this would be considered as part of the consultation process.

5. Volunteer Agreement

5.1 We will record the arrangements for individual volunteer activities in a volunteer agreement. This agreement is intended to be flexible enough to take account of individual service issues but the example document should not, under any circumstances, be amended without the prior authority of the Head of Business
Support.

6. Recruitment

6.1 We will accept volunteers by applying the following process:

(a) We will provide descriptions for all volunteering activities outlining specific tasks, responsibilities and who the volunteer reports to.

(b) All volunteers will be asked to complete and sign a Volunteer Application and Emergency Contact Details Form.

(c) We will invite all prospective volunteers to meet their intended supervisor for a two-way discussion of the proposed role, its requirements and each other’s expectations. This meeting is for both the supervisor and prospective volunteer to see if the volunteering opportunity is suitable.

(d) We will let the prospective volunteer know whether we are happy for the volunteering to go ahead within 5 working days of the meeting. We would ask prospective volunteers to let the Council know if they would like to go ahead within a reasonable period of time.

(e) We have the right to refuse the offer of service of any volunteer.

(f) We may need two satisfactory references. If a volunteer will be in contact with children, young people or vulnerable adults, we may also need a satisfactory disclosure from the Disclosure Barring Service (DBS) before a successful volunteer can start their duties.

(g) Satisfactory medical clearance will also be required before a successful volunteer can start their duties.

7. Disclosure of Convictions and Safeguarding Children and Vulnerable Adults

7.1 Having a criminal record will not be a bar to volunteering with Wyre Council unless the Director of Service considers that a conviction means that the applicant is unsuitable. Under the requirements of the Rehabilitation of Offenders Act 1974 and any other relevant legislation there may be a need to ask all volunteers to disclose any ‘unspent’ convictions.

7.2 The Council has a legal obligation to protect children or young people under 18 and vulnerable adults. Volunteers who, in the course of their volunteering activity, are likely to come into contact with the following groups of people will be asked to disclose all convictions including any that are ‘spent’ and a Disclosure Application will be made to the DBS:

- people aged under 18;
- people over the age of 65;
- people suffering from serious illness or mental disorder of any description;
- people addicted to alcohol or drugs;
- people who are blind, deaf or have a speech impairment;
• other people who are substantially and permanently disabled by illness, injury or congenital disability.

7.3 The Council aims to comply with the DBS Code of Practice on fair use and handling of disclosure information.

7.4 The Council’s Child Protection Policy applies to all volunteers who work with or are likely to come into contact with Children and Young People in the course of their volunteering activity. All volunteers will be issued with a copy of the policy and receive appropriate training.

8. Volunteer Management

8.1 All volunteers will have a named supervisor who shall be responsible for:

(a) Providing the volunteer with a written description of the volunteering role outlining specific and general tasks, responsibilities and who they will report to.

(b) Organising a planned induction to the organisation, including explaining relevant policies and procedures (including in relation to dealings with other people) and the duties and tasks agreed.

(c) Ensuring that volunteers are aware of the need for confidentiality and not to enter into any relations with the media referring any media enquiries to their Supervisor or Corporate Communications.

(d) Ensuring that volunteers have adequate work space, equipment and services necessary to perform their tasks effectively and safely including personal identification where appropriate.

(e) Arranging a short, timetabled trial period during which new volunteers will receive close support and mutual feedback, including the chance for them to feed back their views.

(f) Providing regular support.

(g) Making sure that the role and activities are reviewed.

9. Training

9.1 We will provide training to make sure that volunteers can carry out their activities on behalf of the Council effectively. This training will directly relate to the activity for which they volunteer.

9.2 If there is any doubt as to whether the training is related to the volunteer’s task, the relevant Head of Service should seek further advice from the Head of Business Support.

10. Conduct and Complaints

10.1 Volunteers will be given an opportunity to discuss any concerns that they may have about their volunteering and consult with us generally.
10.2 Volunteers should raise any complaints or concerns with their supervisor. If this is not appropriate or they are not happy with how this is dealt with, volunteers should take their complaint to the Director of the Service or the Head of Business Support or follow the Council’s standard published complaints procedure.

10.3 If there are concerns about the conduct or performance of a volunteer, their supervisor should investigate to find out what is happening. This should include talking with the volunteer concerned.

10.4 If conduct or performance is unsatisfactory, the volunteer should be informed that s/he will be offered ‘special guidance’ for a period. The object of the ‘special guidance’ will be to encourage improvement.

10.5 If a volunteer does not meet our standards of performance, and the steps we have taken to encourage them to improve do not work, the volunteer should be offered more suitable alternative voluntary activities or leave with one week’s notice.

10.6 If behaviour, which in our view is, equivalent to gross misconduct has occurred the volunteer activity will be terminated immediately.

10.7 In the event of conduct concerns and doubt as to the procedures to follow please contact Human Resources.

10.8 All volunteers have a fundamental right to be treated with Dignity and Respect and any volunteers who feel that they are being treated unacceptably should speak to their supervisor or Human Resources.

11. Ending Involvement

11.1 Either the Council or the volunteer can end the volunteering at any time and without any notice. However, unless there is an emergency or misconduct, we will usually try to give volunteers at least 2 weeks’ notice and hope that they will offer the same to us.

11.2 In all cases we will provide the volunteer with details of the reasons why their involvement is no longer needed.

11.3 If asked, we will provide volunteers with a certificate giving details of all the activities that they have successfully undertaken for us.

12. References

12.1 If asked, either during a volunteer’s time with us or when it ends, we will supply a reference, based on a volunteer’s service with the Council, indicating the skills and knowledge acquired as well as personal qualities observed.

13. Health & Safety

13.1 We have a duty to look after the safety and well being of our volunteers. We will make volunteers aware of our Health & Safety Policy and any special safety arrangements relating to their individual role during their induction and any updates
as necessary.

13.2 Volunteers as well as employees must take reasonable care for the health and safety of themselves and others who may be affected by what they do, or omit to do, at work. Volunteers must also co-operate with the Council in performing any duty or complying with any requirement imposed by any relevant health and safety laws.

14. Repaying People their Expenses

14.1 In some circumstances we can reimburse expenses. Individual arrangements will be explained to volunteers before they start their volunteering activity.

14.2 If a volunteer wishes to claim expenses they should complete an Expenses Claim Form and attach corresponding receipts and/or travel ticket or other evidence of expenditure.

15. Insurance

15.1 The Council maintains insurance against risks including loss and damage to or destruction of its property, the injury or death of members of the public affected by its activities and its employees and volunteers undertaking authorised work for it.

15.2 The insurance does not, however, extend to unauthorised work or to authorised work carried on by people not authorised by the Council. It is therefore most important that volunteers comply with the conditions of the Council’s insurance and do not do anything, which might result in the Council not being covered.

15.3 All volunteer activities carried out for us will be covered by public liability insurance as long as:

- Volunteers were acting within their authority at the time of the incident giving rise to the claim.
- The Council would have been covered for the claim had the claim been made against the Council.
- The Council has full control of any claim.

16. Copyright

16.1 All records in any medium (whether written, computer readable or otherwise) including accounts, documents, drawings and private notes about the Council and its activities and all copies and extracts of them made or acquired by the volunteer in the course of their volunteering activity shall be:

(a) the Council’s property;

(b) used for the Council’s purpose only;

(c) returned to the Council on demand at any time; and
(d) returned to the Council without demand if the volunteer ceases for more than one month to be actively involved with the Council’s work.

16.2 Volunteers should be made aware that information produced by them in the course of their volunteering may be made available to the public under the Freedom of Information Act 2000.

17. **Asylum Seekers**

17.1 Since April 2000, asylum seekers (people in the process of applying for refugee status) and family members are allowed to volunteer. This includes whilst they are appealing against a decision to refuse them asylum. However, it must be borne in mind that they may not be given the right to remain here. They should not be led to believe that voluntary activity is regarded as a step towards refugee status being granted.

18. **Equality Impact Assessment and Monitoring**

18.1 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.

19. **Data Protection Act 1998**

19.1 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.

20. **Monitoring and Review**

20.1 It will be the responsibility of the Head of Business Support to regularly review the operation of this Volunteer Policy and to make sure that it is always in accordance with our Equal Opportunity Policy and best practice in relation to managing volunteers.

arm/empap/cr/14/0707lh1 appendix 7
Work Experience and Placement Policy
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1. Work experience placements

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

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

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

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

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

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

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

2.3 Exceptions to payment of the NMW

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

- Students working as a required part of a UK-based further or higher education course don’t qualify for the NMW if their placement does not exceed one year. The exemption does not apply to students performing work that is not related to their course, eg to help finance their studies or during a gap year.

- People undertaking work experience who are of compulsory school age are not entitled to the NMW. If someone is above compulsory school age but has stayed on in full or part-time education, they are entitled to the NMW unless they are undertaking a work placement as a required part of their studies.

- Someone who is carrying out a placement that does not involve any work being performed, such as work shadowing, so long as they are only observing and not performing work.

- Participants in government schemes or programmes to provide training, work experience or temporary work, or to help in seeking or obtaining work.
Participants in EU Lifelong Learning Programmes.

Volunteers – are individuals or groups who offer us their time, experience, knowledge and skills without financial gain beyond reimbursement of expenses, helping us to achieve our service objectives, or with the aim of providing a benefit to the local community. They are not in a contractual position (written or implied) with the Council. Volunteers should be reimbursed for any expenses they incur in volunteering, for example travel expenses. (See volunteer policy for further information).

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

3. Principles

3.1 Work experience is often undertaken by students as part of a further or higher education course to learn about the working environment within the Council.

3.2 Everyone on work experience should have the chance to try various tasks and develop skills that will make them more attractive to prospective employers. However they should not be relied on to fulfil roles that would otherwise be undertaken by a member of staff.

3.3 Work experience can be unpaid if the individual isn’t a ‘worker’ or the placement is part of a further or higher education course.

3.4 If the terms of the placement are such that the individual is performing as a ‘worker’ the National Minimum Wage should be adopted throughout the duration of the placement.

3.5 Whether paid or not, the person on work experience may be entitled to the reimbursement of reasonable and pre-agreed expenses.

3.6 Before the start date, written confirmation of the work experience should be provided, clearly outlining the terms of the engagement. Where the National Minimum Wage applies, a standard, short-term contract is required.

4. Types of Placement

4.1 Placements can be either:

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

4.2 School Placements

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

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

4.3 **Work Shadowing/Internship**

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

4.4 **Government Work Experience**

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

5. **Method of placement**

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

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

5.3 Once the arrangements are confirmed the individual will be sent a work experience application form and agreement to sign, which will include a confidentiality statement. This form will also ensure the Council gains all the information it needs e.g. about the interests and skills of the potential placement. A letter of confirmation of the placement will be sent by the HR Department once it is agreed. This will give reporting instructions such as contact name, start time, length of placement and location.

5.4 Any work experience placement, regardless of their age or from which organisation they have been placed, has the same responsibilities as any employee in so much as they must take reasonable care of their own health and safety and that of other people who may be affected by their actions. They must also co-operate with the Council in complying with our legal duties. Prior to the commencement of the placement, the department that the placement is due to work in will undertake an appropriate risk assessment.
5.5 A copy of the Council's liability insurance document will be issued to the work experience placement if requested. If the placement includes travel in a council owned vehicle a copy of the council's vehicle insurance can also be issued on request.

5.6 Human Resources will keep a central record of all work experience placements and will be responsible for ensuring records are up to date and destroyed after 12 months of the placement ending. Details kept will include:

- Name of the individual
- Age, gender, ethnic group and disability of the individual
- Organisation/school the individual is from if applicable
- Dates of the placement
- Section/Division and name of responsible manager for placement

6. Induction and Supervision

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

6.2 Individuals should dress smartly and appropriately for the area of work they are taking part in.

7. Tasks

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

8. Disciplinary and Capability Issues

8.1 The Council's disciplinary, grievance and capability procedures do not apply to work-experience personnel. Line managers and other personnel should observe basic principles of fairness in dealing with any issues of capability or conduct that may arise. In cases of capability, individuals should be informed of any shortcomings in their performance and given the chance to improve. In cases of misconduct, the line manager must have reasonable grounds for believing that the individual has been guilty of misconduct and should give him or her the opportunity to give any explanation/mitigation.

8.2 Where, in the opinion of the relevant line manager, the capability or conduct issues are serious, the matter should be brought to the attention of the HR department who may contact the school or college involved with the placement.

8.3 The Council reserves the right to terminate a placement immediately, should the work-
experience person be guilty of serious misconduct or any negligence resulting in loss or damage to the Council.

9. Health and Safety

9.1 The Council must ensure that all those who are on work-experience or work-shadowing placements have the same basic training on matters of health and safety as other worker.

9.2 To ensure the Health and Safety requirements are met, it is essential that:

I. All individuals on placement are properly prepared and briefed on hazards within the work place and control measures to reduce or eliminate risk of injury before they start their placement.

II. Workplace supervisors/managers know exactly what is expected of them and are aware of their legal responsibilities.

III. If a placement is arranged for a person with special needs e.g. particularly a Disability or Learning Difficulties then the risk assessment must take account of this. In accordance with Health and Safety legislation, the Council must ensure that risk assessments of work areas are carried out prior to a school work experience student commencing a placement on Council premises. Before the placement begins the parent/guardian of the student should be advised of the risks, and how they will be reduced or eliminated. Students must also be fully prepared and briefed on hazards, and the measures in place to reduce or remove the risks.

IV. The tailored risk assessment should then be outlined to the applicant at induction.

V. Where it is appropriate for placements to wear appropriate Personal Protective Equipment this will be supplied and must be worn at all times.

9.3 A young person at work is an individual who has not reached the age of 18, and a child at work is an individual that has not reached the minimum school leaving age usually 15 years old.

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

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

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

10. Safeguarding

10.1 All staff involved in the work placement of young people should be aware of the protocol for working with children set out in the Safeguarding Children’s Policy.

10.2 For those who would benefit from site visits or other work out of the office a letter of permission may be required from the young person’s parent or carer.
11. **Equality Impact Assessment and Monitoring**

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

12. **Data Protection Act 1998**

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

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

1. A request is received from a graduate who would like to work voluntarily to gain some work experience to improve their C.V. as they are having problems getting paid work. As the manager of the section you see this as an excellent opportunity not only for the individual to get valuable work experience but also for a project or area or work to be undertaken that is required within the service that you are struggling to find the resource to tackle. It is agreed orally that the workplace will attend work Monday – Friday 9.00 – 15.00 and and will undertake the activities as directed. The successful completion of the area of work to be undertaken is important to the service area therefore the workplace would need to achieve certain objectives and targets.

2. A request is received from an individual requiring work experience and offering to do this without pay. There are tasks within the section that need doing that are normally or currently carried out by an existing paid member of staff. It is agreed with the individual seeking work experience that they will carry out these tasks. It is agreed that they will work on a regular basis and because these tasks are important to the service certain standards of performance are set.

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

1. A request is received from a student where completion of their course/degree is dependant on the completion of a relevant work placement. Such placements can be for up to a period of one year.

2. A request is received from a graduate who would like to gain work experience to enable them to work within a certain profession. They will be shadowing a member of staff and will not be responsible for the completion of any specific tasks themselves.

3. A similar request is received, this time they will be carrying out some work projects but the arrangement is very casual with no requirement for the individual to attend specifically at any particular time or a specified number of hours and there is no obligation to work. The sort of work they will be carrying out would be that which is for their own experience or training purposes only and if carrying out a project they would not be held responsible if it wasn’t completed or it failed. The danger would be with this sort of arrangement that if the individual concerned was competent the arrangement would become more regular and with this regularity and obligation to work then the obligation to pay the NMW would apply.
INDUCTION PROCESS FOR WORK EXPERIENCE PLACEMENTS

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

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

<table>
<thead>
<tr>
<th>Name</th>
<th>........................................................</th>
<th>Start Date</th>
<th>...............................................</th>
</tr>
</thead>
<tbody>
<tr>
<td>Job Title</td>
<td>................................................................</td>
<td>Service</td>
<td>...............................................</td>
</tr>
<tr>
<td>Human Resources</td>
<td></td>
<td>Unit</td>
<td>........................................</td>
</tr>
</tbody>
</table>

The following are guidelines for the Human Resources Induction Meeting:

<table>
<thead>
<tr>
<th>1.0 Temporary Staff Badge</th>
<th>Issue of Temporary staff badge. Make sure student understands to return the badge to reception at the end of placement.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Importance of wearing the badge in the building.</td>
</tr>
<tr>
<td></td>
<td>Office opening hours.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1.1 Work Experience placement form</th>
<th>Ensure student has completed prior to placement. If they have not, ask them to complete one at induction.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>1.2 No smoking policy</th>
<th>Explain WBC Policy.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>1.3 Internet and E-Mail Acceptable Use Policy (if appropriate).</th>
<th>Issue and explain.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Induction Process undertaken by:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name: ........................................................</td>
</tr>
</tbody>
</table>

I confirm that the above points have been explained to me

| Name: ........................................................ | Date: .................................................. |
The following are guidelines for the Directorate Induction meeting:

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

#### Health & Safety

<table>
<thead>
<tr>
<th>3.0 Rules &amp; Regulations</th>
<th>Explain any prohibited machinery, equipment, substances, areas etc.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Explain that the student will be working to existing policies and procedures and the location of these.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.1 Hazards</th>
<th>Explain how to keep safe any loose clothing/long hair/jewellery</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>3.2 Fire Safety</th>
<th>Explain who the fire warden within the section is, what to do if the fire alarm sounds and the nearest fire exits.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>3.3 First Aid</th>
<th>Explain the use of the accident book and procedure, where the first aid box is located and who is qualified to give first aid.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>3.4 General Behaviour</th>
<th>Explain security doors and building security in general. Explain that any unacceptable behaviour or health and safety breaches will result in the placement being terminated with immediate effect.</th>
</tr>
</thead>
</table>

#### Induction Process undertaken by:

**Name:** .................................................. **Date:** ............................................

I confirm that the above points have been explained to me

**Name:** .................................................. **Date:** ............................................

**PLEASE RETURN TO HUMAN RESOURCES WHEN COMPLETED**

arm/empap/cr/14/0707lh1 appendix 8