Human Resource Policies

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

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 Long Service Reward Appendix 1 Reviewed
Retirement Policy and Procedure Appendix 2 Reviewed
Attendance Policy Appendix 3 Reviewed
Disciplinary Policy & Procedure Appendix 4 Reviewed
Probation Policy & Procedure Appendix 5 Reviewed
Work Life Balance Policy Not attached Reviewed

5.2 The Long Service Award Policy updates and replaces the existing Long Service Award process. These current arrangements have been custom and practice for over twenty years rewarding long service although no
formal procedure / policy has been in place.

At the present time the Council awards £100 at the twenty year anniversary with an extra £5 paid for each additional year of service. This award is made at the end of an employee's service at Wyre but only if an employee retires, retires due to sickness or is made redundant.

The new Policy proposes to award £150 at the twenty year anniversary only and to give this to all employees who reach that anniversary whilst they are in employment with Wyre. The occasion will additionally be marked by a presentation ceremony hosted by the Mayor. There are financial consequences resulting from the introduction of this new policy and they are detailed in the Finance Implications section at the end of this report summary.

5.3 The Retirement Policy and Procedure has been rewritten to take into account the legislative changes that remove the Default Retirement Age (DRA) of 65 from 1 October 2011. This means that we 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.

These include:
- Phased retirement or flexible retirement where an employee can prepare themselves for retirement by gradually reducing their working time and / or their level of responsibilities with or without drawing their Local Government Pension.
- Retirement on the grounds of ill health or redundancy

5.4 The Attendance Policy has been reviewed for readability and useability purposes. There are now sections setting out Manager’s and Employee’s responsibilities under the policy which helps to clarify existing practice.

5.5 The Disciplinary Policy & Procedure brings together the Disciplinary Policy and Disciplinary Handbook into one document. The contents of this new document concentrate on the policy and procedural aspects of the previous documents and omit the more advisory/briefing sections of the previous Handbook. These will however be brought together in the into a Manager’s Handbook that will also cover other areas of management responsibility such as dealing with performance, capability and grievances.
5.6 The Probation Policy has been rewritten to reflect the need to ensure that all new employees of Wyre Council, including those with previous local government service, fixed term and temporary appointments are subject to a formal assessment before there are confirmed in their posts. This will ensure that all new staff are enabled to meet the requirements of the job through induction, training and support and that where performance is not satisfactory, early action is taken to improve performance.

5.7 The Work Life Balance policy has been amended to include a provision for staff to take paid time off normal working duties in order to carry out election duties. The insertion is as follows:

7.9 **Election Duty**

Absence from normal working duties will be granted to employees performing election duties without detriment to normal salary.

The policy has not been attached as it was reviewed in its entirety last year and this is the only amendment to be made at this time.

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<th><strong>IMPLICATIONS</strong></th>
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<td><strong>Finance</strong></td>
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| Ref. 5.6 Long Service Award  
By December 2011, 71 employees will have worked for the council for 20 years or more and would be eligible for the long service award. This would equate to a cost of £10650 and contrary to the previous scheme, this would be payable as soon as the employee has achieved 20 years service and is in the council's employment i.e. those who would have left the council for a reason other than redundancy, ill health or early retirement are now also eligible. The initial cost of £10950 will be met from existing staffing budgets during 2011/12 with any subsequent awards being funded from ongoing budgetary provisions. |
| **Legal**         |
| There are no specific Legal issues associated to this report. However failure to comply with appropriate legislation may expose the Council to litigation. |
| **Community Safety** |
| There are no specific Community Safety issues associated to this report. |
| **Equality and Diversity** |
| The policies have been drafted to ensure the Council’s commitment to Equality and Diversity is reinforced. |
| **Sustainability** |
| Managers and Staff will be trained and made aware of all HR Policies |
| **Health and Safety** |
| There are no specific Health and Safety issues associated to this report other than those already identified within the policies. |
Risk Management

Failure to have modern policies and procedures implemented in a robust manner may leave the council open to potential litigation or claims in relation to breaches of Health and Safety Regulations. As a major employer the Council must demonstrate best practice in relation to all employment matters.

Asset Management
No asset management issues within this report.

Climate Change
No climate change issues within this report.

<table>
<thead>
<tr>
<th>Report Author</th>
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<th>Email</th>
<th>Date</th>
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<tbody>
<tr>
<td>Human Resources Manager</td>
<td>(01253) 887313</td>
<td><a href="mailto:lhadgraft@wyrebc.gov.uk">lhadgraft@wyrebc.gov.uk</a></td>
<td>June 2011</td>
</tr>
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List of Background Papers:

<table>
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<th>Name of Document</th>
<th>Date</th>
<th>Where available for inspection</th>
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<tr>
<td>Not applicable</td>
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LIST OF APPENDICES

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Appendix 2. Retirement Policy and Procedure
Appendix 3. Attendance Policy and Procedure
Appendix 4. Disciplinary Policy and Procedure
Appendix 5. Probation Policy & Procedure

arm/empap/0407jc1
Long Service Award
Long Service Award Policy

1. Introduction

1.1 The council wishes to recognise and reward long serving employees’ loyalty to the council within their employment. Long service will be formally acknowledged in accordance with this policy.

2. Scope

2.1 This applies to all employees employed by the council subject to the eligibility criteria as outlined.

3. Award

3.1 All awards will be in the form of an appropriate gift or redeemable vouchers obtained from a range of retail or other appropriate organisations.

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<tr>
<th>Years Service</th>
<th>Award</th>
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<tr>
<td>20</td>
<td>£150</td>
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4. Eligibility

4.1 To be eligible for an award, an employee must:

- Have completed the required continuous years’ service with the council (service with other council employers does not apply). A break in service of up to eight years for maternity reasons will be disregarded as breaks when determining continuous service, except if other full time employment has been taken.

- Be currently employed by the council

5. Procedure

5.1 The Human Resources section will identify those employees who are eligible for the receipt of an award, verify the employee’s continuous service and inform them of their entitlement to a Long Service Award.

5.2 The employee will be invited to choose their gift/voucher to the value of their award (Note that no tax or National Insurance is payable on the award as long as the award marks at least 20 years of service, there has been no previous award and the award value is not greater than £50 per year of service – HMRC May 2010)

5.3 The employee and a partner / family friend will be invited to their Long Service Award presentation which will be hosted by the Mayor and to mark the occasion a framed certificate will also be presented. These presentations will be arranged at appropriate intervals to allow those
who attain the “milestone” to receive their award as close as reasonably possible to the anniversary.

### 6. Equality Impact Assessment and Monitoring

The operation of this policy will be monitored for its impact on different staff groups, and particularly in relation to race (in line with the Race Relations (Amendment) Act 2000), gender, age and disability. This annual review will enable the Council to assess whether implementation of the policy has had an adverse impact on a particular group, such that further action would be required.

### 7. 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
RETIREMENT POLICY AND PROCEDURE

May 2011
1. Introduction

1.1 The Council will remove the Default Retirement Age (DRA) of 65 from 1 October 2011 in line with the legislative changes commencing 6 April 2011. This means that we 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 Age 65 or over

The Local Government Pension Scheme (LGPS) retirement age is 65 for both men and women. 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 60 or over

Employees who are aged 60 or over can voluntarily retire by giving the appropriate notice period for their post. However the pension benefits may be subject to reductions because you are leaving the scheme before the pension scheme's normal retirement age.

2.3 Before 60

Members of the LGPS who are 55 or over need the Council's permission to retire before age 60. In some cases granting retirement before 60, even if the benefits are reduced will result in an employer cost. The Council will not agree to pay these costs unless there are exceptional circumstances.

Human Resources can provide guidance about pension scheme retirement dates, the impact of early retirement on pension benefits and how to obtain an estimate of retirement benefits.

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.

There is a general misconception that moving into part-time work in the years leading up to retirement may reduce the eventual pension. The pension is made up of two
aspects, service and contributions from salary. Pensions for part-time staff are actually calculated on the whole time equivalent salary, so moving from full-time to part-time work in the same grade rather than retiring, should not reduce the level of pension although it will reduce the extent of service used in the final calculation.

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 to 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 exception circumstances. If there is no cost, applications will be considered on the basis of the operational needs of 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.

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. Retirement procedure

6.1 If an employee has decided that he/she wishes to retire, he/she 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) Regulations 2008 in England and Wales 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
Attendance Policy and Procedures

Promoting Attendance and Controlling Absence
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<td>22. Data Protection Act 1998</td>
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</table>
1. **Policy Statement**

1.1 Wyre Borough Council fully recognises that our singularly most important resource is our employees and that they should not work if they are unfit to do so. It is the Council’s policy to support employees who are genuinely sick and unable to come to work.

1.2 Whilst the Council understands that there will inevitably be absences due to ill health, it must also pay due regard to the effect of absence upon those employees who have to cover for absent colleagues and to the disruption to the work of the Council which we endeavour to keep to a minimum. By implementing this policy the Council aims to strike a reasonable balance between the pursuit of it’s business needs and the genuine needs of employees to take time off work due to sickness.

1.3 It is the Council’s policy to pay employees the rate of pay whilst absent from work as set out in the Contract of Employment and Statement of Particulars. Payment is however conditional upon an employee complying with the Council’s Policy and Procedure, including notifying their manager of the absence, issuing the Council with Doctor’s Certificates, attending return to work interviews, attending Occupational Health appointments and maintaining appropriate contact with the Council.

1.4 It is expected that employees will not engage in any activity, which may incur sickness absence, delay recovery and a return to work.

2. **Notification and Reporting Arrangements**

2.1 These guidelines have been produced to help employees understand the importance of their personal contribution toward improving attendance and controlling absence, by ensuring that they acknowledge the importance of attending work and fully understand what is expected of them.

2.2 All absences and absence information should be logged in the Council’s sickness management system from the initial notification of absence to the employee’s return to work including return to work interview.

3 **Notification of Sickness or injury**

3.1 **On the First Day of Absence**

You must contact your line manager or other nominated person as soon as possible, and no later than 10.00 am, (or in accordance with the instructions issued by your line manager if you work non-standard hours) on your first day of absence.

You will need to let your manager know the following:

- The reasons for your absence
- When you think you will be able to return to work
- How and when you will keep your manager updated of your progress
- Give a contact number so that you can be reached if you do not contact them
- Advise of any work/issues that will need to be dealt with during your absence.
It is not normally acceptable for someone to telephone on your behalf or for you to inform your manager of your absence by text or email. Neither is it acceptable for you to ring a colleague. If your Line Manager is not immediately available you must leave a telephone number where your Line Manager can make contact with you. It is not sufficient to say you are ‘sick’, ‘unwell’ or ‘personal’ as reasons for absence.

3.2 **Contact during the first week of Absence**

You must keep your line manager informed of your progress whilst absent.

On the fourth calendar day of sickness, if you are still unable to return to work, you must inform your Line Manager of your continuing ill-health. If the fourth day is not a working day within your Unit, you must contact your Line Manager on the first normal working day thereafter.

Except in exceptional circumstances or by prior agreement by your line manager contact should not be made by text or email.

3.3 **Doctor’s Certificate/Fit Note**

On the eighth calendar day of sickness, if you are still unable to return to work, a doctor’s fit note will be required. If you have not already done so you must visit your doctor immediately. The fit note must be received by your Line Manager as soon as possible after the eighth day of sickness.

You must submit a fit note to your Line Manager as often as required to continuously cover the period of sickness.

4. **Manager’s Responsibilities**

4.1 Each manager has the general responsibility to:

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

5.1 Employees must:

- Report absence to their line manager in accordance with the notifying and reporting requirements as outlined in section 3.
- Attend Occupational Health appointments as requested.
- Comply with all advice from Occupational Health which will facilitate a return to work.
- Refrain from any activity, domestic, social or sporting, which may be prejudicial to recovery, cause further absence or bring into question the reason for the continued absence.
- On return to work, attend and participate in a return to work interview with their line manager.
- Co-operate with all reasonable attempts to facilitate a safe and full return to work including undertaking alternative duties.
- Advise their line manager if they intend to go on holiday or are living at a different address whilst absent from work due to sickness absence, see section 8.
- Attend case conference meetings when absent long term, in line with the Attendance Review Procedure, or as required.

6. Failure to Comply With Reporting Arrangements

6.1 Should any member of staff fail to comply with the stipulated reporting arrangements, including maintaining contact and provision of fit notes, without an acceptable explanation, pay may be suspended and disciplinary action initiated.

7. Failure to Notify Absence and Unauthorised Absence

7.1 Any employee who fails to follow the procedure for notification of absence will be considered to be absent without permission.

7.2 In the event that a member of staff does not report for work and has not made contact, the line manager should telephone the employee to find out the reason for the absence. Every effort should be made to make contact and ensure the wellbeing of the staff member. This could include contacting next of kin, going to their home address, speaking to friends or neighbours.

7.3 If it is considered that there is a good reason for lack of notification of absence then the employee shall be granted appropriate leave or sickness leave in retrospect. If however, an unsatisfactory reason is given, pay will be deducted and disciplinary action begun.

7.4 If the member of staff continues to be absent without contact the line manager should write requesting urgent contact. This letter, which should be sent by recorded delivery or delivered by hand, should also inform the member of staff that if s/he does not return to work or provide a valid reason for absence disciplinary procedures will be commenced. Additionally, arrangements should be made for the employee’s pay to be stopped (via Human Resources) and this should be specified in the letter.
If the employee fails to respond to the above letter within a week of its issue, then a ‘follow up’ letter must be sent, again by recorded delivery.

If no response is received to this second letter, then the next step is to inform the employee, by a further letter (recorded delivery) that by failing to attend for work it will be deemed that they have resigned from the Council’s service.

8. Absence From Home Address When Absent On Sick Leave

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

9. Illness During Approved Annual Leave

9.1 When an employee is taken ill during a period of annual leave, provided a doctor’s medical certificate is submitted, the appropriate number of days leave will be restored to their entitlement. Self-certification is not acceptable for periods of illness during holidays.

10. Reporting of Accidents, Injuries, Disease and Dangerous Occurrences

10.1 When an absence is due to a work related accident, incident, disease or dangerous occurrence an accident/incident form must be completed in addition to the absence being reported in the normal way. Absences must still be supported by a doctor’s certificate if they persist for longer than seven calendar days.

10.2 Absences due to a work related accident, incident, disease or dangerous occurrence must be treated on a case by case basis. The line manager should seek advice as appropriate from Health and Safety. It is the line manager’s responsibility to ensure that accident/incident reports are completed so that where necessary reports and information can be forwarded to the HSE in line with the RIDDOR Regulations.

11. Absence of Less Than One Day

11.1 If an employee has worked for more than half his/her expected hours and then has to leave work through ill-health, this will be counted as a full day’s attendance.

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

12. Medical and Other Appointments

12.1 Employees should wherever possible arrange appointments outside of normal or working hours (e.g. early morning or late afternoon) or if not possible should seek to
arrange appointments that minimise any disruption to work. Where this cannot be arranged, permission to attend during work hours should be sought and should not be unreasonably refused. Except in cases of emergency, the employee should advise his/her line manager of the proposed time of the appointment as soon as possible and must produce an appointment card or letter if asked. Where there are a series of appointments for regular and ongoing treatment, acceptable arrangements need to be approved by the line manager for handling these.

### 13. Disability Leave

13.1 Disability leave is different from sick leave or annual holiday entitlement. It is most commonly used to allow staff paid time off for rehabilitation, assessment or treatment.

13.2 Examples of situations where disability leave might be appropriate include:
- time off to attend annual check-ups
- medical appointments that occur unavoidably during working hours
- time off for treatment or surgery, such as chemotherapy, etc.
- time off to attend physiotherapy
- time off for counselling and hospital appointments
- time off for specific rehabilitation activities such as assistance dog training or sign language training.

13.3 Time taken for disability leave should always be recorded separately to sickness absence. An appointment card or letter must be produced upon request.

### 14. Return to Work

14.1 On the day of return to work, or as soon as practicable thereafter, employees are expected to attend a return to work interview with their line manager, or other appropriate person. This discussion provides an opportunity for managers to:

- Welcome employees back to work.
- Enquire after the employee’s health and ensure that they are fit to return to work.
- Give the employee the opportunity to draw their Manager’s attention to any particular problems of either a work or domestic nature, which may affect their attendance.
- Offer appropriate help and support, e.g. Occupational Health, workload adjustments etc
- Update the employee on any developments of work during their absence.
- Receive any medical certificates as appropriate.
- Advise the employee where they are within the attendance review procedure.

14.2 During the meeting the Manager should complete the on-line Return to Work notification on the Sickness Management System the content of which should be agreed with the employee.

14.3 If as a result of either the length or the frequency of the employee’s sickness absence they hit a trigger point (see below), the Manager should commence the appropriate procedure.
15. Trigger Points

15.1 Short term Absence Review Trigger Point is defined where an employee’s record shows:
- 10 working days of absence, in any ‘rolling’ six month period;
- 3 periods of absence of 1 day or more in any ‘rolling’ six month period;
- a pattern of absence which is causing concern, for example, regular Friday or Monday absences or absences regularly occurring on a particular day of the week.

15.2 Where an employee works less than a 5-day working week then the trigger points should be pro rata as shown in the table below.

<table>
<thead>
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<th>No of days worked per week</th>
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15.3 Long term Absence Review Trigger Point
- any period of continuous absence of 4 weeks or more.

15. Long Term Absence

15.1 If an employee is absent from work for a period exceeding 10 working days (pro rata for part-time employees) they should receive a home visit from their line manager.

If employees prefer for this visit to take place at a venue other than their own home a suitable alternative will be agreed.

15.2 During an absence from work the line Manager should maintain reasonable contact with employees to enquire after their health, expected period of recovery and to update employees with any changes that may effect them during their absence.

15.3 Prolonged absences will be dealt with in liaison with Occupational health and in accordance with Council’s Attendance Review procedure.

16. Referral to Occupational Health

16.1 There are several circumstances during which employees can expect to be referred to Occupational Health. They are:
- following an accident at work
- where an employee have been off sick for a period of 4 weeks, or where their sickness pay entitlement has been exhausted, whichever is the earlier
- where sickness absence is giving cause for concern e.g. as a result of industrial injury or disease or for repeated spells of sickness
- where there is concern about the particular aspects of an employee’s health in relation to their ability to do their job
• where operationally the matter requires an earlier intervention than 4 weeks
• muscular skeletal or stress/depression related problems which may benefit from an earlier intervention than 4 weeks
• where it is known, prior to an absence, that an employee is going to require time off work for health related issues, e.g. elective surgery.

17. **Phased Return to Work**

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

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

18. **Cases of Suspected Misconduct**

18.1 There occasionally will be circumstances where some form of disciplinary action may be appropriate. This only applies in cases of misconduct. Where there is a sickness or welfare issue the matter will be dealt with under the Attendance Review Procedure.

18.2 The action that needs to be taken, or indeed when to take it, will vary in each case and will be dependent upon the facts. The following situations would normally be those where consideration may be given to instituting the Disciplinary Procedure:-

- Failure to follow the notification rules by not contacting the Designated Officer during the first day of absence and having no good reason for doing so.

- Providing an unsatisfactory reason for being absent from work.

- Frequent short-term sickness absence, and suspicious patterns of absence where there is no satisfactory account at the return to work interview.

- Unauthorised absence.

- Deliberate falsification of a doctor’s certificate.

- Abuse of the Council’s sickness scheme.

The last three examples are potentially gross misconduct.

18.3 On each occasion the responsible line manager should take action in accordance with the normal disciplinary procedure. It is important that minor misdemeanours are not ignored.

If the Disciplinary Procedure is invoked, the first stage will be to investigate the situation by interviewing the employee as soon as possible in order to determine the reason for absence and to consider any other evidence available.
The overall objective is to improve the individual’s attendance record to an acceptable standard. Any warnings given should be accompanied by a timescale for improvement and the situation must be monitored and reviewed throughout this period.

18. Sickness and Performance Appraisal

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

19. Equality Impact Assessment and Monitoring

19.1 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.


20.1 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.
Disciplinary Policy & Procedure
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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 employment 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 discipline procedure provides a formal process for resolving alleged breaches, the Council recognises that in many cases an 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 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 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.

5.2 It is the responsibility of Managers to:

- 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

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

6.3 All disciplinary issues will be dealt with in a fair and timely manner and with clear decisions at all stages.
6.4 The Council reserves the right to implement the disciplinary procedure at any stage, if the employee’s conduct warrants such action.

6.5 No formal disciplinary proceedings will be taken against an employee until a case has been fully investigated.

6.6 Disciplinary investigations will normally be conducted by the employee’s line manager. However, some situations (for example where specialist technical or financial expertise is required, or where the manager may be implicated in proceedings) may require the appointment of an independent investigator. Where there is the potential of fraud or corruption the investigation will need to be referred to Internal Audit (see section 8.4.1)

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 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.

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

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.

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 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.
6.12 In certain circumstances, for example in cases involving gross misconduct, where relationships have broken down or there are risks to Council’s property or responsibilities to other parties, consideration may be given to a brief period of suspension with full pay whilst an unhindered investigation is concluded. It should be noted that suspension is not in itself a disciplinary action. Human Resources must be consulted before any suspension is undertaken.

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

6.14 Where disciplinary action is withdrawn or where the employee is cleared of any alleged misconduct, any written reference to the matter will be expunged from the employee’s personal file.

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

6.16 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

6.17 Solutions to overcome difficulties will be sought and instigated, whilst protecting the shared interests of everyone concerned and to sustain standards and quality of service to the community.

6.18 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, sex or sexual orientation.

7. The Informal Procedure – Informal Discussions

7.1 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.

7.2 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.

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

¹ See also the Wyre Borough Council Capability Procedure
7.4 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.

7.5 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.

7.6 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.

8. The Formal Procedure

8.1 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.

8.2 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. Such a postponement is, however, permitted only once.

8.3 Suspension

Where gross misconduct is alleged the decision to suspend the employee concerned may be taken.

This decision will be based upon factors such as the degree of risk to Council assets, other members of staff, customers or the employee himself/herself, if
he/she were to continue to remain at work. Depending on the circumstances temporary redeployment may be arranged as an alternative.

The decision to suspend must be made in liaison with a member of the Management Team and Human Resources.

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.

8.3.1 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 encouragement 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.

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.

8.3.2 **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.

8.4 **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.

8.4.1 **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 Human Resources Manager in liaison with the relevant 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.

8.4.2 **Right to be Accompanied**

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.

The work colleague/trade union representative would be present to observe
the proceedings and advise the employee but cannot answer questions on the employee’s behalf.

There is no entitlement to external legal representation.

8.4.3 **Police Involvement**

At any stage during the investigatory process the Investigating Officer, having consulted with the HR Manager 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, and any recommendation made as a consequence of the internal investigation may be made without waiting for the results of the police investigation.

8.4.4 **Investigation Process**

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

Internal Audit must be contacted for advice should it be considered necessary to search the 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. A request to extend this time limit by the employee will only be considered on written application from the employee or their representative stating the reasons for the request and must be accompanied by a medical certificate where sickness is the reason for the request. 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. Employees should be made aware in advance of the area(s) to be covered at the interview, and
informed of their right to be accompanied.

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.

Having completed the investigation the investigating officer must give his/her report to the Human Resources Manager who in liaison with the relevant service manager or director will decide whether it is necessary to hold a disciplinary hearing.

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.

### 9. Disciplinary Hearings

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

#### 9.1 Calling an Employee to a Disciplinary hearing

Disciplinary 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.

An employee alleged to have committed a disciplinary offence must be given no less than 5 days’ notice in writing of the disciplinary hearing.
9.2 **Paperwork for the hearing**

Before a disciplinary 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.

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

9.3 **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.

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 for this. This is particularly important in cases where the employee has been suspended. State what support is to be given to the employee.
- In dismissals 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 HR Manager.

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 appropriate.

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.

**10. Formal Stages**

The Disciplinary process can be instigated at any stage dependant on the seriousness of the alleged conduct.
10.1 **Stage 1 - Formal Verbal Warning**

A formal verbal warning may be given when either:

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

A formal verbal 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 verbal warning will normally remain in force for disciplinary purposes for a period of 6 months from the date the warning was given. However, an historical note of the Verbal Warning will remain on an employee’s personal file.

The employee has the right of appeal against a verbal warning. See Section 11 regarding the right of appeal.

10.2 **Stage 2 - 1st Written Warning**

A first written warning may be given where:

- The employee’s conduct has not improved as a result of a verbal warning, 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 considered too serious to be considered at stage 1.

A first 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. See Section 11 regarding the right of appeal.

10.3 **Stage 3 - Final Written Warning**

A final written warning may be given where:

- The employee’s conduct has not improved as a result of the first written warning, 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 service manager.

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. See Section 11 regarding the right of appeal.

10.4 **Stage 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.

10.5 **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.

11. **Appeals**

11.1 **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 chose 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.

It should be noted that the appeal stage is part of the statutory procedure and if the employee pursues an employment tribunal claim, the tribunal may reduce any award of compensation if the employee did not exercise the right of appeal.

The employee should make any appeal in writing to the Human Resources Manager, 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.

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### 12. 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.

### 13 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.
Appendix 1

Examples of Misconduct that may result in Disciplinary Action

The following examples of misconduct are likely to fall into the three categories shown below, but this is not exhaustive.

1. Ordinary/General Misconduct

The following where substantiated would normally warrant the issue of a formal verbal warning or first written warning.

- Poor timekeeping including taking excessive breaks
- Failure to notify absence as required
- Minor abuse of flexible working or home-working arrangements
- Unacceptable conduct that may include the use of inappropriate language or gestures
- Minor breaches of the Council’s policies.

2. Serious Misconduct

The examples shown below are of misconduct which, where substantiated, would normally warrant the issue of a formal final warning for the first offence.

- Negligence which may cause loss, damage or injury
- Refusal to obey reasonable instructions
- Breach of recognised health & safety procedures including failure to wear issued protective clothing or equipment
- Making false, misleading, malicious or inaccurate oral or written statements
- Unauthorised altercation or destruction of records or documents
- Serious breaches of the Council’s policies.

3. Gross Misconduct

It is impossible to provide a comprehensive and exhaustive list of all the offences that, dependent on the seriousness, could result in summary dismissal. Some of the more common are;

- Grossly offensive behaviour
- Gross neglect of health and safety rules
- Harassment and bullying of another employee, client or customer, even if it occurs away from the workplace
- Wilful and deliberate damage to the Council’s assets
- Incitement to or use of physical violence to anyone at all on the Council’s premises or whilst on Council business
- Fraudulent timekeeping
- False and misleading statements e.g. on application forms, on medical questionnaires or at medical examination, at an accident investigation or at a disciplinary investigation
- Serious neglect of duty and responsibility associated with the post
- Theft or incitement to steal
- Bringing firearms or offensive weapons on Council premises
- Accepting gifts or bribes for personal gain
- Allowing one’s private interests to be in conflict with the activity of the Council
- Abuse of flexi system e.g. swiping in or out for someone else
- Criminal offence bringing the Council into disrepute
- Unauthorised disclosure of confidential information
- Misuse or abuse of alcohol, drugs or other substances
LEGISLATION

The main Acts which concern organisations when designing a Discipline Policy are as follows:

Employment Rights Act 1996
Employment Relations Act 1999
Employment Act 2008
Employment Act 2008 (Commencement No.1, Transitional Provisions and Savings)
Order 2008 (SI 2008/3232)

Additional best practice guidance is contained within the Acas code of practice on disciplinary and grievance procedures and Discipline and grievances at work: the Acas guide.

These take into account of the amendments made as a result of the Employment Act 2008, which repealed the Employment Act 2002 (Dispute Resolution) Regulations 2004, and the introduction of the new "Acas code of practice on disciplinary and grievance procedures" from 6 April 2009.

A tribunal that upholds a complaint by an employee in a situation where the code is relevant and finds that either side unreasonably failed to comply with one or more of its requirements can adjust compensation by up to 25%, either upwards or downwards.

Under s.10 of the Employment Relations Act 1999, employees are entitled in law to be accompanied (if they wish) at any formal disciplinary interview by either a fellow employee or a trade union official. The employee may offer a reasonable alternative time within five days of the original date if his or her chosen companion cannot attend.

Although there is no statutory right for an employee to be accompanied at a formal investigatory meeting, para.7 of the code highlights that an employer has the option of allowing such a right under its disciplinary procedure.

Employers must permit workers to take time off during working hours for the purpose of accompanying another of their workers to a disciplinary hearing. If the employer fails, or threatens to fail, to allow the employee to be accompanied, the employee may complain to a tribunal within three months and may receive compensation of up to two weeks' pay.

The existence and proper use of a disciplinary procedure are key components in determining whether or not a dismissal is procedurally fair.
FREQUENTLY ASKED QUESTIONS

Are employees entitled to be accompanied at Investigation meetings?

No, there is no legal requirement for accompaniment at investigation meetings although it is good practice for this to be allowed if requested.

Can action be brought at any stage of the process?

Yes, dependant on the severity of the allegation. Discussion with Human Resources is advised.

What if a grievance is raised during a disciplinary case?

If this happens, consideration should be given to suspending the disciplinary process for a short period while the grievance is being dealt with. Depending on the nature of the grievance, the manager may need to consider bringing in another manager to deal with the disciplinary process and the existing manager should deal with the case as impartially as possible.

What if the employee concerned is a Trade Union Representative?

Disciplinary action against a trade union representative can lead to a serious dispute if it is seen as an attack on the union's functions. Normal standards apply but, if disciplinary action is considered, the case should be discussed, after obtaining the employee's agreement, with a senior trade union representative or permanent union official.

Who can be an Investigating Officer?

The line manager will conduct investigations unless the seriousness of the allegation/s deem it necessary for an independent investigator to be appointed or unless the line manager is implicated in the discipline process.
Probationary Policy and Procedure

June 2011
1. **Introduction**

1.1 Wyre Council is committed to ensuring that it makes clear its expectations and provides the support needed for employees to meet the standards of performance, conduct and attendance required during their probation period and beyond. Managers will monitor, assess and support all new employees so as to assist them in demonstrating their suitability to undertake the full duties of their new post.

The policy aims to ensure that new employees are enabled to meet the requirements of the job through induction, training and support and that where performance is not satisfactory, early action is taken to improve performance. Where an improvement in performance, conduct or attendance does not occur or is not sustained sufficiently, the employee’s contract of employment may be terminated.

2. **Scope**

2.1 This policy applies to all new employees of Wyre Council, including those with previous local government service, fixed term and temporary appointments.

In the case of fixed term staff or temporary employees with a contract shorter than the length of the probationary period the probation process will be followed for the period during which the individual is employed by the Authority. This policy is not applicable to casual workers unless they are transfer to a fixed term, temporary or permanent position.

3. **General Principles**

3.1 The Council is committed to ensuring that all employees are treated fairly and equitably.

The Council will ensure that every new employee has a probation period and an individual induction programme that includes induction to the service area and an induction to the Council.

During the probation period, any conduct, performance, attendance or health issues impacting on performance will be managed under this procedure in conjunction with the principles contained within the Disciplinary, Capability or Attendance policies.

Probationary employees must be made aware that confirmation in the role is subject to them meeting the Wyre Council’s expectations regarding conduct, performance and attendance.

The probation period will last for six months for all new appointments and will involve a continuous period of assessment underpinned by a clear framework for managing and supporting new employees.
If an employee is absent due to any reason for more than one month during probation or before the probation period ends, the probation will be suspended from the date the absence starts and will resume on return from the absence.

Where there is any doubt about an employee’s suitability, the matter must be raised immediately, so that the employee has ample opportunity to improve. Managers should also contact the Human Resources Section where suitability or capability issues arise.

A Human Resources Advisor must be contacted at the earliest opportunity for advice and guidance where a manager believes that an employee may not be able to meet the standards required.

An employee whose performance is unsatisfactory during a probationary period may, following due process, have their employment terminated. This action will only be taken in consultation with a Human Resources Advisor.

The notice period for staff during the probationary period will be one calendar month or one week for each year of continuous local government service (up to a maximum of 12 weeks) whichever is the greater.

### 3.2 Performance

The Probation Objectives form (Appendix 1) should be used to record the initial objectives and the procedure described in section 5 is to be used to manage the performance of probationary employees. During probation, in addition to the monitoring of sickness levels, health and general conduct, employees will be assessed regularly on the extent to which they meet their objectives and the standards described in the competency framework. Any shortfalls and measures to improve performance will be identified and discussed at the First Probation Assessment Report meeting.

### 3.3 Sickness Absence

Satisfactory attendance is essential to the overall suitability of employees as part of the probation process. Employees will be informed of this and what the expected attendance standards are. The management and employee responsibilities, management considerations, sickness reporting and certification arrangements outlined in the Attendance policy will also apply to employees on probation.

Any short term, intermittent or long-term sickness during the probationary period or health issues which give cause for concern should be addressed as soon as they arise with targets and timescales for improvement set as appropriate. These concerns should be formally monitored as part of this procedure during the First and Final Probation Assessment reports.

Sickness absence triggers for probationary employees are: 3 occasions or 5
working days of sickness absence in which case an occupational health referral will be made. Absence levels higher than the triggers or any other pattern of absence that causes concern will be considered under the Final Probation Report meeting for potential dismissal.

At the end of the probation period, any absences that have occurred during probation will be included as part of the sickness absence record over a rolling six month period (i.e. carried forward) for attendance management purposes.

Reasonable adjustments will be considered at all stages for disabled employees, to help them achieve the expected performance levels.

3.4 Minor Misconduct

Relatively minor misconduct issues, e.g. regarding punctuality or timekeeping, will be picked up as part of the probationary feedback from the line manager to the employee.

3.5 Serious Concerns

If at any time during the probationary period, there are serious concerns about the employee’s suitability and capability to undertake the role, e.g. where the employee demonstrates serious incapability or is found to have committed gross misconduct or there are other serious reservations, Human Resources should be contacted immediately and the probationary hearing process may be implemented immediately.

3.6 Continued concerns regarding any of the above and concerns regarding progress on the action plan to improve performance will be followed up at monitoring meetings and finally assessed at the Final Probation Assessment Report meeting.

4. Roles and Responsibility

4.1 The Line Manager is responsible for:

- ensuring that the new employee is aware of this probation policy and procedure and how, when and why their progress will be monitored.

- ensuring the employee understands their role, accountabilities, objectives and performance standards. This will be achieved through a structured induction programme that will include a schedule of regular meetings.

- ensuring that employees have access to the information, instructions and resources necessary to do their job.

- holding regular meetings to support, assess and monitor performance.

- recording progress during probation and taking action to deal with failure to
reach the required standards promptly raising any areas of concern i.e. unsatisfactory performance, conduct or attendance with the employee at the earliest possible opportunity.

- providing appropriate support and assistance, including reasonable adjustments to enable employees to fulfil the duties and responsibilities of the post
- recommend whether the employee can be confirmed into post or not.

4.2 It is the responsibility of employees to:

- ensure that they are familiar with the standards and requirements of their role
- complying with all WBC policies and procedures, including the code of conduct
- maintain the required standards of performance by meeting the objectives and competency requirements of the role
- participating fully in any supervision, induction, training, coaching, mentoring, counselling or occupational health support interventions offered to help them improve performance.

4.3 It is the responsibility of the Human Resource Team to:

- ensure compliance with the policy and its supporting legislation
- provide advice, support and guidance to all parties on the application of the policy
- ensure that the induction courses are available for each new employee as soon as possible after their appointment
- ensure that the corporate training programme contains courses of suitable content and frequency to enable all new employees to access mandatory training within the probationary period
- regularly review and monitor the effectiveness of the policy
- ensure that staff affected have the support they require to deal with their situation
- notify the employee of the outcome of their probationary period
- Monitoring probation cases to identify trends and ensure that disproportionate impact on any particular group is highlighted and addressed.

5. Probation Procedure

5.1 The employee should be told by their manager about the key functions of their job and that their performance and suitability for the post will be measured, by way of regular Probation Review Meetings.

Initial Meeting

The line manager should meet with the new member of staff within their first few
days to:

- work through the induction checklist;
- clarify responsibilities and establish priorities;
- complete the probation performance plan form (Appendix 1) to set performance objectives and targets;
- set out the performance standards that will be used to evaluate performance during the probationary period;
- explain the process that will be followed during the probationary period, including a programme of regular meetings and review dates;
- identify any initial training that the employee will need in order to carry out their duties and to make arrangements for such training to take place.

5.2 Review Meetings

Meetings should continue regularly throughout their probationary period and the frequency will depend on the role and performance of the employee.

The aim of each review meeting is to:

- review the employee’s conduct;
- review the employee’s performance against performance targets, work standards, skills and competency framework;
- review the employee’s attendance record in relation to the triggers for probationary employees and any health concerns impacting on performance;
- identify training or developmental needs;
- provide feedback and discuss any work plans/requirements of the job;
- identify how the manager can assist the probationer to meet their objectives, including any reasonable adjustments;
- discuss any concerns or issues of a personal nature, which could be affecting the employee or impacting on their work (e.g. if the employee is disabled or has personal commitments, etc).

Reviews must take place in private, free from interruptions and treated as confidential.

Line Managers must make sure that they have clearly defined the points which they wish to raise and that these can be substantiated with examples, where appropriate.

If any review is deemed unsatisfactory the Line Manager must discuss with the probationer the aspects of performance that need improvement and should set clear objectives and timescales within which they will be reviewed. The probationer should be asked if they consider that any further assistance and/or training is necessary to enable them to complete tasks to the standards expected of them.

Line Manager should summarise the discussion on the Probation Performance Plan.
Improvement Action Plan (Appendix 2) and the probationer should sign the review form and receive a copy of it to confirm that they have been made aware of the improvements required.

HR advice should be sought immediately if there are serious concerns about the employee’s conduct or capability to do the job.

### 5.3 Typical timetable for Probation Review meetings

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<th>Period</th>
<th>Schedule</th>
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<tr>
<td>1st month</td>
<td>Weekly to fortnightly</td>
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<tr>
<td>2nd and 3rd month</td>
<td>Monthly if the employee is making satisfactory progress, or, Fortnightly/weekly if the line manager has identified difficulties despite the improvement action plan</td>
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<tr>
<td>By the end of 3rd month</td>
<td>Initial Probation Assessment Report</td>
</tr>
<tr>
<td>4th and 5th month</td>
<td>Monthly, if the employee is making satisfactory progress, or, up to the Final Report: Fortnightly/weekly if the line manager has identified difficulties despite the improvement action plan</td>
</tr>
<tr>
<td>By the end of 5th month</td>
<td>Final Probation Assessment Report (this may be brought forward if there are serious concerns)</td>
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### 5.4 Initial Review Meeting

By the end of three months, the manager will meet with the employee to discuss performance and prepare an initial assessment, which will either indicate that the employee is making satisfactory progress or will identify areas of difficulty that need to be addressed with more intensive support. If the report identifies that the employee is experiencing difficulties, they will be given written confirmation of:

- what they need to do to demonstrate their suitability for confirmation of appointment;
- the reasonable measures that will be taken to support them in achieving the required standard of performance; and
- formal notification that if they fail to achieve the required standard by the date of their Final Probation Assessment Report their employment may be terminated.

A summary of the main points of the discussion must be entered on the Initial Probation Assessment Report form (Appendix 3). Any items for action either by the employee or the line manager must be recorded.
Both the line manager and the employee must sign the review form, the employee does not necessarily have to agree with the line manager’s comments, but they should sign their form to say they have read and understood it. New employees are also given the opportunity to enter their own comments on the review form.

At the end of the review meeting a copy of the review form must be sent to the Human Resources Section and a copy given to the new employee.

5.5 Formal Review Meeting

If at any stage during the probationary period an employee appears to be having difficulties in achieving the required standard of performance, attendance or conduct, the line manager must initiate improvement action.

A stage 1 formal review meeting should be arranged with the employee in consultation with Human Resources and the new employee has the right to be accompanied by a trade union representative or work colleague at these meetings, if they so wish.

At this meeting the employee should be advised where their performance is not up to an acceptable standard and be set objectives and targets for improvement. Ideally these should be agreed with the employee, but if this is not possible then the manager may impose them. A time scale, offer of support and if appropriate, training to allow for improvement and to enable the employee to meet the standard required should be arranged.

Formal Review Meetings must be arranged as soon as possible when issues arise, to advise the employee about work which is not meeting the required standards or about unsuitability in any respect. You should not wait until the 3 month or 5 month Probation Review Meetings, even if these would be happening shortly.

The consequences of not meeting the necessary level of work performance must be explained to the employee, and a date arranged for a Further Formal Review meeting to assess the employees performance, giving the employee reasonable time to improve.

5.6 Further Formal Review meeting

The Further Formal Review meeting should be arranged by the manager to feedback on any progress and inform the employee of his/her decision. The outcomes are as follows:

- The standard of performance has been achieved and maintained; therefore, the employee will continue on their probationary period until the 6 month stage and is confirmed in post.
- Where there has been some improvement in the level of performance but it is still not to the required standard, a further period for improvement may be given. Where this is implemented the employee must be informed where the performance is not to the required standard, the improvement...
expected, the consequences of not achieving this and a date arranged for a Further Formal Review Meeting.

5.7 Final Review Meeting

By the end of five months the manager will meet with the employee and make a final assessment on whether the employee has met the standards required. The line manager must record their findings on the Final Probation Assessment Report (Appendix 4) and make their recommendation on whether or not the employee is to be confirmed in post. If the recommendation is to confirm the employee in post then Human Resources will be notified so that they may officially inform the employee.

If the recommendation is to dismiss then this will be communicated to the employee and Human Resources will arrange for the Final Probation Assessment Report to be referred to the Departmental Director so that they can determine whether or not the employee is to be dismissed.

6. Extension of Probation Period

6.1 It may be appropriate to extend the probationary period if:

- Through the probationer’s sickness or other authorised absence, it has not been possible to assess performance.
- The probationer has not performed satisfactorily but the manager has evidence to suggest that performance is likely to improve with a further period of probation.

6.2 Probationary periods should not normally be extended by more than three months. Where the probation is extended, the following should be discussed between the Line Manager and employee and confirmed in writing:

- Reasons for the extension.
- Length of the extension period.
- Assistance/training that will be given during the period of extension.
- Areas for improvement and indication of how these will be monitored and measured.
- Dismissal will be recommended at the end of extension period if the employee fails to meet standards of performance expected for their post.

6.3 If progress and performance are satisfactory at the end of the extended period, the Line Manager will recommend that the appointment should be confirmed and will complete the probation form as appropriate. The employee will be advised in writing of the successful completion of their probation period.

If progress is still considered unsatisfactory, the Line Manager will inform the employee and make a recommendation that the employee be dismissed.
7. Dismissal During Probation

Dismissal during the probationary period is excluded from the Council's Disciplinary Policy and Procedure and Capability Policy and Procedures.

Where a line manager has recommended that an employee should be dismissed Human Resources will invite the employee to attend a hearing with a member of the Management Team to consider the Line Manager’s recommendation.

The employee should be given 5 working days notice of the meeting and be given the right (in writing) to be accompanied by a work colleague or a trade union representative. This action may be taken at any time during the probation period.

A member of the Management Team supported by a representative from HR will determine whether dismissal with notice is appropriate during the probationary period.

The Line Manager will present their evidence to the panel regarding the performance or conduct of the employee. The probationer and their representative will then be given the opportunity to challenge any evidence brought forward or to present any evidence they believe is relevant.

The Director and Hr Representative will adjourn to review the evidence and make a decision on one of the following outcomes:

- Transfer to the permanent establishment
- Extension of the probationary period (subject to maximum extension period)
- Dismissal, with notice, during probation

All employees must receive their contractual notice if dismissed during the probationary period unless the dismissal is on the grounds of misconduct.

8. Right of Appeal

Where a probationary employee is dismissed as result of unsuitability under this procedure, he/she will have a right of appeal against the decision.

Any appeal must be made in writing, to the Human Resources Manager within 10 working days of the date of the letter confirming the decision. Such an appeal will not delay the date of dismissal. Appeal will be arranged in accordance with the Council’s appeals procedure

9. 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.


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.
### Probationary Performance Plan

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## Performance Improvement Action Plan

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**Managers Signature**

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**Additional remarks, notes, questions or suggestions**

**Employee comments**

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17th June 2011

To: Chairman

Employment Appeals Committee 4th July 2011

We would like to express our full support and encouragement for the Long Service Award to be approved. At this particularly unsettling time for staff it will go some way to lift morale amongst those staff that have reached and worked beyond the 20 years of continuous service for Wyre Council.

This achievement should be supported and commended by the Council.

We were disappointed that it was not supported previously by the members at the JCSP meeting in 2010, however after further discussion at the October meeting it was agreed that this matter would be placed before Employment Appeals Committee this year.

It is noted that the payment is currently made at retirement or redundancy upon the member of staff leaving the authority.

We feel this award should be paid on a more positive level while the employee remains within Wyre Council therefore promoting the Corporate Value ‘Proud of our Council’ and Gold Investors in People Award.

Best Regards

Wyre Unison Branch Exec