

Notice of Meeting

Employment Committee

Councillor Leake (Chair),
Councillor Allen (Vice-Chairman),
Councillors Angell, Bhandari, Dudley, Mrs L Gibson, Neil, Porter and
Wade
Councillor Heydon (Non-Voting Co-Optee)

Tuesday 12 July 2022, 7.30 pm

**Council Chamber - Time Square, Market Street, Bracknell, RG12
1JD**



Agenda

Item	Description	Page
1.	Apologies	
	To receive apologies for absence and to note the attendance of any substitute members.	
2.	Declarations of Interest	
	<p>Members are asked to declare any disclosable pecuniary or affected interests in respect of any matter to be considered at this meeting.</p> <p>Any Member with a Disclosable Pecuniary Interest in a matter should withdraw from the meeting when the matter is under consideration and should notify the Democratic Services Officer in attendance that they are withdrawing as they have such an interest. If the Disclosable Pecuniary Interest is not entered on the register of Members interests the Monitoring Officer must be notified of the interest within 28 days.</p> <p>Any Member with an affected Interest in a matter must disclose the interest to the meeting. There is no requirement to withdraw from the meeting when the interest is only an affected interest, but the Monitoring Officer should be notified of the interest, if not previously notified of it, within 28 days of the meeting.</p>	
3.	Minutes from previous meeting	3 - 8
	To approve as a correct record the minutes of the meeting of the Committee held on 2 March 2022 and the minutes of the Annual meeting of the Committee held on 18 May 2022.	
4.	Urgent Items of Business	
	Any other items which, pursuant to Section 100B(4)(b) of the Local Government Act 1972, the Chairman decides are urgent.	
5.	Update from the Chairman of the Local Joint Committee	
	Update from the Chairman of the Local Joint Committee	

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6.	Minutes of Sub Groups	9 - 12
	The Committee is asked to note the minutes of the Local Joint Committee held on 2 March 2022.	
7.	Annual Update of The Council's Pay Statement Reporting: Paul Young	13 - 44
8.	HR Policy Review - Disciplinary, Grievance and Performance Improvement Reporting: Paul Young	45 - 126

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EMERGENCY EVACUATION INSTRUCTIONS

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**EMPLOYMENT COMMITTEE – ADVISORY
MEETING
2 MARCH 2022
7.30 - 8.20 PM**



Present:

Councillors Leake (Chair), Allen (Vice-Chairman), Bhandari, Dudley, Mrs L Gibson, Porter and Wade

Apologies for absence were received from:

Councillor Heydon

17. Declarations of Interest

There were no declarations of interest.

18. Minutes from previous meeting

The minutes of the meeting held on the 8 December 2021 were approved as a correct record.

19. Urgent Items of Business

There were no urgent items of business.

20. Update from the Chairman of the Local Joint Committee

The Chairman update the Committee that Local Joint Committee had been held earlier in the afternoon and had covered the items that were on the Employment Committee agenda. There were no particular issues raised.

21. Minutes of Sub Groups

The minutes of the Local Joint Committee held on the 8 December 2021 were approved as a correct record.

22. Workforce Monitoring Report 2021

Paul Young, Head of HR and Contracted Services presented the Workforce Monitoring Report 2021.

The Council had a legal duty to advance equality of opportunity, eliminate unlawful discrimination and promote good relations between people. Part of this legal duty was to report annually on workforce composition.

The report had to be published on the Councils website by the end of March 2022, and Paul raised concerns about the timescales of the report as it didn't give much time for the report to be discussed before publishing. Through conversations with a number of groups, it had been agreed that the paper would be brought forward for the next year, and it was hoped that it would be brought to the July 2022 meeting of the committee, so the data wasn't out of date.

Paul highlighted the summary annex and the actions that the Council had agreed to undertake such as ensuring all new starters completed the E-Learning packages in the first four weeks of employment.

It was noted that a high number of the work force had not specified their sexual orientation and religion, therefore this affected the calculations. Staff may be asked to self-declare or an exercise be undertaken to ensure this data could be included. However, this could not be enforced.

Members wanted to make sure that staff members were not under pressure to include this data should they not want too.

Names were removed from application forms when the job closed, therefore the long listing and short listing was undertaken on the application alone. The wording of this would be amended within the report.

Ages were also removed from the application form, however It could be roughly worked out due to dates of qualifications.

The Employment Committee noted the summary data included with Annex A and the resulting actions at 3.5 of the report.

23. Annual Update of The Council's Pay Statement

Paul Young, Head of HR and Contracted Services presented the Annual update of The Council's Pay Statement.

It was note that due to the timescale of the reporting, this had already been agreed and signed off by Council. Paul would be looking to bring this to an earlier meeting in 2022.

The Council had a legal requirement to publish an annual Pay Statement. The Statement was also aligned with the requirements of the Transparency Regulations.

The Employment Committee reviewed and agreed the Pay Policy Statement for 2021/22.

24. Recruitment of Chief Executive Officer

The Committee received a report is to advise and confirm the arrangements to recruit a permanent Chief Executive to provide management direction in the delivery of the Council's strategy and fulfil the statutory position of Head of Paid Service.

It was noted that the Members who would be on the Appointment Committee was set out within the report, and the appointment of the recruitment agency was also underway.

The Council hadn't been in a position to have to appoint a new Chief Executive for a number of years, so it was expected that this would be a learning opportunity for all.

The timetable within the report had fallen back slightly but it was hoped that some of this time would be gained back once the recruitment agency had been appointed.

RECOMMENDED that

- i. the process by which a new Chief Executive is to be recruited, as set out in paragraphs of this report is noted.
- ii. the proposals made to Council about establishing the Advisory Appointment Committee be appointed to support the Council in this appointment process as set out in paragraphs 5.2 to 5.4 be noted.

25. **Exclusion of Public and Press**

RESOLVED that pursuant to Section 100A of the Local Government Act 1972, as amended, and having regard to the public interest, members of the public and press be excluded from the meeting for the consideration of the following items which involves the likely disclosure of exempt information under the following category of Schedule 12A of that Act:

- (1) Information relating to any individual (Item 11 & 12).

26. **2021 Pay Award**

The Committee noted the update on the 2021 Pay Award.

27. **Values and Behaviours**

The Committee received and noted a presentation on the Councils Values and Behaviours.

CHAIRMAN

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**EMPLOYMENT COMMITTEE
18 MAY 2022
8.24 - 8.25 PM**



Present:

Councillors Leake (Chair), Allen (Vice-Chair), Angell, Bhandari, Dudley, Mrs L Gibson, Neil, Porter and Wade

1. Election of Chair

RESOLVED that Councillor Leake be elected Chair of the Employment Committee for the Municipal Year 2022 –2023.

2. Appointment of Vice-Chair

RESOLVED that Councillor Allen be appointed Vice-Chair of the Employment Committee for the Municipal Year 2022 –2023.

3. Appointment of Sub Committee and Advisory Groups

RESOLVED that the establishment of sub and consultative committees be agreed and the membership be appointed:

Education Employment		Local Joint Committee	Personnel Appeals Panel
Sub Committee of Employment Committee		Consultative Committee of Employment Committee	Sub Committee of Employment Committee
(7 Councillors)		(4 Councillors)	(5 Councillors)
Conservative (6) Allen* Bhandari L Gibson Leake Porter Wade**	Labour (1) Neil	Conservative (4) Allen Angell Leake* Wade	Five Councillors drawn from the Employment Committee in the first instance as follows: At least one Executive Member and one opposition Member Three other Members
Non-voting Members of the Teachers Associations: David Allais (UNISON) Vacancy (NASUWT) Tom Wheaton (NUT) Asia Allison (GMB)		Staff side representatives: David Allais (Unison) Keith Roberts (GMB) Neil Duncan-Jordan (Unison)	Members must not have had any previous involvement in the matter being considered. Chief Executive to agree the appointments in accordance with the wishes of the political group(s)

Substitute Members		Substitute Members	Substitute Members
Conservative (3) Angell Brossard Mrs Hamilton	Labour (3) Bidwell Brown Temperton	Conservative (3) Bhandari Dudley Porter	Up to three substitutes per political group(s)

* Chair Elect

** Vice-Chair Elect

CHAIRMAN



**LOCAL JOINT COMMITTEE
2 MARCH 2022
4.00 - 4.30 PM**

Present:

Councillors Leake (Chair), Allen and Wade
David Allais, Unison

Apologies for absence were received from:

Lesley Sherwood, Unison

11. Declarations of Interests

There were no declarations of interest.

12. Minutes from Previous Meeting

The minutes of the meeting held on the 8 December 2022, were approved as a correct record.

It was noted that Councillor Allen had been Chair at the previous meeting.

13. Urgent Items of Business

There were no urgent items of business.

14. Employment Committee: Agenda and Related Matters

i. Monitoring the Council's Workforce – 2020/21

Paul Young, Head of HR and Contracted Services provided an overview of the Council's workforce data for Bracknell Forest Council as of 31 March 2021.

The Council had a legal duty to advance equality of opportunity, eliminate unlawful discrimination and promote good relations between people. Part of the legal duty was to report annually on workforce composition.

A summary of the data for Bracknell Forest Council as of 31 March 2021 was included in Annex A to the report.

Paul stated that it was hoped that the report would be brought earlier point next year.

ii. Annual Update of The Council's Pay Statement

Paul Young, Head of HR and Contracted Services presented the annual update of the Council's Pay Statement. Since 2012, and in accordance with the 2011 Localism Act, the Council was required to publish an annual Pay Statement, this also aligned with the requirements of the Transparency Regulations.

Paul explained that the report should be considered at Employment Committee prior to going through to Council. However, given the delay in the Employment Committee to 2 March 2022 this resulted in the need to take the report to Council for approval first to meet the 31 March deadline. The timeline for the report would be brought forward in line with the Monitoring the Council's Workforce for future years.

iii. Evolved Values

Paul Young, Head of HR and Contracted Services gave the group a presentation on Evolved Values.

The previous values and behaviours had not been fully engaged with, the evolved values were detailed on page 61 and were an evolution of values.

The Values defined who the Council was and outlined what was important to the council. They influenced the way the council worked with each other through focus on service delivery, the way the council worked with residents, and engaged with communities and partners.

Unison commented that the values were much better for usability especially for appraisal.

iv. Recruitment of Chief Executive Officer

The group were advised of the arrangements to recruit a permanent Chief Executive to provide management direction in the delivery of the Council's strategy and fulfil the statutory position of Head of Paid Service.

The Chief Executive had announced his intention to retire from the Council in September after 19 years in the position. Discussions had taken place with Councillors for the options available for fulfilling the role and the decision was made to seek recruit for a direct replacement for Chief Executive.

The timeline for the recruitment process was included within the report, the recruitment agent had been approved, and it was hoped the advert would be advertised nationally this week or next week.

Unison raised concerns that they had received feedback from staff that they were apprehensive regarding the change in CEO and praised Tim's work and approach over the pandemic.

v. 2021 Pay Award

It was confirmed that at the start of the week the pay award 2021 had been agreed and would be paid in this financial year. The Unions were aware of the award and supported the proposals.

15. **Matters to be Raised by Trade Unions**

No issues were raised by the Trade Unions.

CHAIRMAN

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To: **Employment Committee**
12 July 2022

Annual Update of The Council's Pay Statement **Executive Director: Resources**

1 Purpose of Report

- 1.1 Since 2012, and in accordance with the 2011 Localism Act, the Council has been required to publish an annual Pay Statement. The Statement is also aligned with the requirements of the Transparency Regulations. The report has been brought forward for 2022/34 to enable greater transparency and to ensure the Council reporting requirements are met.

2 Recommendation

- 2.1 **That Employment Committee review and agree the Pay Policy Statement for 2022/23.**

3 Reasons for Recommendation

- 3.1 To comply with the Department of Communities and Local Government (DCLG) guidance and 2014 Transparency Code requirements.
- 3.2 To Highlight the Councils commitment to transparency and equity in pay.

4 Alternative Options Considered

- 4.1 None. It is a legal requirement to produce and publish the statement.

5 Supporting Information

- 5.1 The Pay Policy Statement is attached.
- 5.2 Once agreed through Employment through Employment Committee, the statement will be taken to Full Council.

6 Consultation and Other Considerations

Legal Advice

- 6.1 Legal Advice 6.1 Section 38 (1) of the Localism Act 2011 requires local authorities to produce a pay statement to be agreed by Members before the beginning of each financial year. The Act does not apply to local authority schools. This document meets the requirements of the Act for the Bracknell Forest Council. This Pay Policy Statement presents the expected position at 1 April 2022. The provisions of the Localism Act require that local authorities are more open about their own local policies and how their local decisions are made. The Code of Recommended Practice for Local Authorities on Data Transparency enshrines the principles of transparency and asks Authorities to follow three principles when publishing data they hold: responding to public demand, releasing data in open 31 Agenda Item 8 formats available for re-use, and, releasing data in a timely way. This includes data on senior salaries and the structure of the workforce.

Financial Advice

- 6.2 There are no financial implications arising from the report.

Other Consultation Responses

- 6.3 None, though the statement will be discussed at the Local Joint Committee and Employment Committee.

Equalities Impact Assessment

- 6.4 Discussed across the document.

Strategic Risk Management Issues

- 6.5 Failure to explicitly respond to guidance on the content of published information will run the risk of challenge from the DCLG.

Climate Change Implications

- 6.6 The recommendations in Section 2 above are expected to have no impact on emissions of CO₂.

The reasons the Council believes that this will have no impact on emissions are the fact that this is a statement of pay policy and remuneration of staff.

Health & Wellbeing Considerations

- 6.7 Ensuring a transparent pay system is in place should ensure staff feel valued and recognise the mechanism for staff remuneration.

Background Papers

None

Contact for further information

Paul Young, Assistant Director HR and Organisational Development, Resources
Paul.young@bracknell-forest.gov.uk

Bracknell Forest Council

PAY STATEMENT FOR THE FINANCIAL YEAR 2022/23

INTRODUCTION

Source and scope of pay statement

This Pay Statement has been produced in accordance with Sections 38 to 43 of the Localism Act 2011 (the Act), which, from 2012 onwards, require local authorities to publish an annual statement of their approach to pay for the relevant financial year in relation to:

- The remuneration of their most senior employees (which the Act defines as the head of paid service (Chief Executive), the Monitoring Officer, the Assistant Directors (or Directors), and the Deputy Assistant Directors (i.e. managers who report directly to a Director));
- The remuneration of their lowest-paid employees; and
- The relationship between the remuneration of the most senior employees and that of other employees.

The statement is for the financial year 2022/23. Data on existing salaries, job roles and statistics contained within the statement are based as at 1 April 2022. It is noted that a pay award due from April 2022 has yet to be agreed.

The Secretary of State has produced guidance on the Act's provisions relating to openness and accountability in local pay, which local authorities must have regard to in preparing and approving their annual pay policy statements and the Council's statement takes full account of this guidance to date as well as the provisions of the Act.

It also takes account of:

- Local Government Transparency Code 2014
- Guidance issued by the Joint National Council (JNC) for Local Authority Chief Executives on pay policy statements, published in November 2011
- Guidance under section 40 of Localism Act 2011, published by DCLG
- Employment and equalities legislation affecting local authority employers, where relevant.

To aid transparency, this statement also contains or refers to information which the Council is already required to publish under other legislation, i.e.

- Information on the actual level of remuneration paid to senior managers, as required by The Accounts and Audit (Amendment No. 2) (England) Regulations 2009
- Policies on the exercise of its discretions over payments upon termination of employment under the Local Government Pension Scheme, as required by Local Government Pension Scheme Regulations
- Policies on the exercise of its discretions over payments upon termination of employment under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, as required by Regulation 7 of those regulations.

The Government's guidance on the Localism Act's pay provisions states that it is open to Councils to include in this Statement their policies on the remuneration of employees who

are neither the most senior officers nor the lowest paid. Accordingly, this Policy Statement also gives details of:

- The policies applied to employees earning in excess of £50,000, as required by Local Government Transparency Code 2014
- Elements of remuneration which apply to all employees, regardless of their pay level, status or grading within the Council.

As such, this Statement draws together all the relevant existing policies and can therefore be seen as a comprehensive document covering all relevant aspects of pay and remuneration within the Council.

Status of pay statement

In line with the requirements of the Localism Act, the Pay Statement will be reviewed on an annual basis, with a new version approved at the start of each subsequent financial year, which will need to be complied with during that year.

The Pay Statement can also be amended during any financial year, but only by a resolution of the full Council. If it is amended during the year to which it relates, the revised version of the statement will be published as soon as reasonably possible after the amendment is approved by the Council.

Transparency and autonomy

It is important to recognise that, whilst producing national legislation relating to their pay policies, the Government also explicitly recognises that each local authority remains an individual employer, and, as such, has the autonomy to make decisions on pay that are appropriate to local circumstances and deliver value for money for local taxpayers.

SECTION 1: REMUNERATION OF STATUTORY AND NON-STATUTORY DIRECTORS, ASSISTANT DIRECTORS, MONITORING OFFICER AND OTHER SENIOR POSTS

1.1 REMUNERATION COVERED IN THIS SECTION OF THE POLICY

This section covers the Council's policies in relation to the remuneration of its senior employees, including:

- Its Chief Executive;
- Its Executive Directors and Directors who report to and are directly accountable to the Chief Executive – this includes both statutory and non-statutory Directors;
- Its Assistant Directors, who report to and are directly accountable to Directors;
- Its Section 151 Officer (the Director of Resources), who is also a Director and remunerated as such;
- Its Monitoring Officer (the Borough Solicitor, who is the officer responsible for ensuring the Council's compliance with the law in all its activities) is also an Assistant Director and is remunerated as such.

1.2 CONTEXT

These senior employees are responsible for working with elected politicians to determine the overall strategic direction of the Council, to develop the scale, nature, efficiency and effectiveness of all the services provided by the Council, and to provide day-to-day leadership and management of those services.

In relation to other organisations in all sectors across the UK, the Council is a large, complex organisation providing a very diverse range of services. Many of those services are vital to the wellbeing of individuals and groups of residents in the local community and are delivered in very challenging circumstances, taking account of levels of need and the availability of resources to meet them.

The Council's senior employees are responsible for:

- 3090 employees (equivalent to 2415.88 full-time equivalent (FTE) employees). These numbers are as at 1 April 2022 and include schools
- Services to an estimated 122,549 residents within the local community (source: ONS 2018 via <https://bracknell-forest.berkshireobservatory.co.uk/population/>)
- Total Gross Expenditure of £263.9 million, which was the Council's Total Gross Outturn Expenditure in 2019/20
- The following services to the local community:
 - Adult social services
 - Children and families social services
 - Countryside and open space management and maintenance
 - Education and schools
 - Elections and local democracy
 - Environmental including pest control
 - Environmental Services, including refuse collection, recycling, street cleaning and waste disposal
 - Housing and welfare
 - Housing and Council tax benefits
 - Leisure and Arts provision
 - Libraries
 - Planning
 - Roads, transport, street lighting and car parking
 - Youth and Community Services
 - Public Health
 - Regeneration and economic development
 - Community Safety
- The following facilities:
 - 34 schools (including one Pupil Referral Unit and one special school)
 - two respite services (overnight and daytime)
 - 4 Children's Centres
 - 9 libraries
 - Over 80 park sites totalling over 1,000 acres of land
 - 24 play areas, plus wheeled sports areas, tennis courts, soccer pitches, a baseball diamond and a sports pavilion
 - 14 community centres
 - One town centre office and the commercial centre
- The Council:

- Is responsible for the education of around 17,000 children
- Deals with around 1,200 planning applications per year
- Manages and maintains around 456 kilometres of roads, 700+ kilometres of paths and cycleways, 200+ bridges, underpasses and other structures
- Manages and maintains cutting almost 2.5 million square metres of grass and manages and maintains approximately 625,000 square metres of woodland
- Is responsible for around 142 looked-after children
- Licences 255 premises and clubs and 296 taxis
- Currently has over 1,640 open cases on adults and provided long term services to over 1,263 people.

The Council must compete with other employers in the area (and, in many cases, in the country) to recruit and retain managers and staff who are capable of meeting the challenges of delivering this diverse range of services to the required standards. This has an important bearing on the levels of remuneration it offers which has been kept under review on a regular basis by the Employment Committee. At the same time, the Council is under an obligation to secure the best value for money for its residents and tax-payers in taking decisions on pay levels. In recent years the Employment Committee has sought to strike a fair balance between these competing pressures.

1.3 RESPONSIBILITIES OF SENIOR ROLES

To give further contextual information for remuneration levels, the main accountabilities of the Chief Executive and Directors are set out below.

- **Chief Executive**

The Chief Executive is the Council's most senior employee who leads and takes responsibility for the work of the Council. It is a full time appointment and post holders are selected on merit, against objective criteria, following public advertisement.

The role of Chief Executive is complex with ultimate responsibility for managing expenditure of 263.9 million of public funds, serving around 122,549 people in the Council's area.

As head of the paid service of the Council's employed staff, the Chief Executive is a non-political post. Whilst the elected councillors provide the policies, Council paid employees put them into practice. The Chief Executive is responsible to and accountable to, the Leader of the Council, the Executive and the whole Council in delivering their political and policy objectives.

The Chief Executive works closely with elected councillors to deliver:

Leadership: to ensure strong and visible leadership and direction, encouraging and enabling managers to motivate and inspire their teams;

Strategic direction: ensuring all staff understand and adhere to the strategic aims of the organisation and follow the direction set by elected councillors;

Policy advice: acting as the principal policy adviser to the elected councillors to lead the development of workable strategies which will deliver the political objectives set;

Partnerships: leading and developing strong partnerships across the local community to achieve improved outcomes and better public services for local people;

Operational Management: overseeing financial and performance management, risk management, people management and change management within the Council.

Staff under indirect management responsibility: 3089

- ***Executive Director – People***

This post has a statutory role in relation to both adult and children's social care, and is responsible and accountable for assessing local needs and ensuring the availability and delivery of a full range of services, and ensure that children and young people achieve the best possible outcomes for their lives through education

The directorate provides advice and information about the range of services that may be available to support individuals or families. Practitioners will work with individuals and their carers to identify needs for care and support and/or housing and how those needs can be met. If people are not eligible, the department can give them information about other ways of accessing support and organisations where they could go to get help. There is joint work with Children's Services to ensure support is in place when the young person reaches 18 years of age.

The focus of support is to enable people to maximise their ability and retain their independence, which will mean people can stay in their own homes for as long as possible. Support may be needed for a crisis or a longer period, and the directorate will generally commission this. Depending on assessed needs, a range of services could be provided in partnership with other organisations to meet the social care needs of adults and older people. Services include home support, day opportunities, the provision of equipment for daily living and residential and nursing care. The Directorate also has a responsibility to ensure that the needs of "informal" carers (usually family or friends) are identified, and appropriate support is offered to enable them to continue in their caring role, should this be what they wish.

The post is also responsible for ensuring the provision of Housing Advice and Homelessness Prevention as well as the provision of Housing and Council Tax Benefits.

The Welfare and Housing Service aims to maximise customers' income and independence. The Welfare Service provides national and local welfare payments to households in the Borough and provides advice to households so that they can maximise their income including budgeting advice and employment opportunities. The Housing service provides advice to households so that they can resolve their housing need, provides advice and if necessary, accommodation for homeless households and overall helps customers secure a home that meets their needs. The Forest care service provides an emergency and re-assurance service to its customers so that they can maintain their independence in their home and feel safe and secure in the knowledge that if an emergency occurs there is help to call upon.

Its duties include specific support for the following:

Children's Social Care

- Child Protection / Safeguarding
- Looked After Children
- Specialist Support
- Youth Offending Service

Adult Social Care

- Adult Community Team (ACT)
- Learning Disabilities
- Safeguarding

Mental Health and Out of Hours

- Mental Health
- Emergency Duty Team
- Forestcare
- Drug and Alcohol Services (DAAT)

Early Help and Communities

- Housing
- Strategy, Resources and Early Help

Education and Learning

- School Advisory team
- School Sufficiency and Commissioning
- Community Learning
- Governor Services
- Targeted Services
- Education Centre and Education Library Service
- Education Psychology & SEN
- Education Capital & Property

Commissioning

- Financial Assessments (Support Hub)
- Financial Assessments (Income)
- Joint Commissioning
- Performance Management & Governance

Budget responsibility: £55.9 million per annum

Staff under direct or indirect line management responsibility: 654 (excluding schools)

- ***Executive Director – Delivery***

The directorate is responsible for the strategic planning and operational delivery of services covering a wide range of functions and activities. It targets its services to meet the high standards residents, local businesses and visitors expect. Some of these services are delivered directly, others in partnership with the voluntary and charitable sectors and some through contracts with private companies. The directorate operates with 5 service divisions as follows:

- Customer Experience
 - Digital Services
 - Libraries, Arts & Heritage
 - Transport and Support
- Legal Services

- Democratic Services
 - Elections
 - Registrars
- ICT
- Contract Services
 - Environmental services
 - Leisure Services
 - Operational Support
 - Cemetery and crematorium
- Property

The Director also acts as Statutory Overview & Scrutiny Officer

Budget responsibility: £15.6 million per annum

Staff under direct or indirect line management responsibility: 185 (excludes casual workforce)

- ***Director – Place, Planning and Regeneration***

This post is responsible and accountable for the effective planning and delivery of the regeneration, development and future infrastructure of the Borough, within the statutory policy guidelines and planning framework agreed by the Council. The directorate targets its services to meet the high standards residents, local businesses and visitors expect.

The directorate operates with 6 service divisions including:

- Town and country planning
- Building Control and land charges
- Transport Development
- The Look Out Discovery Centre
- Highway Asset Management
- Parks and countryside management
- Regeneration and economy
- Public Health – Local Team
- Public Health – Shared Team

Budget responsibility: £7.2 million per annum

Staff under direct or indirect line management responsibility: 186.

The Directorate includes the Bracknell Forest Public Health Team. Public Health work aims to improve the health and wellbeing of the population, tackle health inequalities and reduce premature mortality. The team commissions a range of services including health visiting and school nurses, stop smoking support, weight management, health checks, sexual health, falls prevention, mental health and substance misuse treatment. The team also provides support and advice on health matters direct to the community via campaigns, events and social media, as well as providing support to other professional agencies on issues such as infectious disease control or patterns of health and healthcare outcomes within the local population. Collaboration is central to work of the Public Health team, particularly with colleagues in social care, the NHS and the voluntary sector. In addition to the Bracknell Forest

Public Health team, the Directorate also hosts the Berkshire-wide 'Shared' Public Health team which provides strategic, contracting and data support to the six unitary authority Public Health teams across the county. This team is led by the Strategic Director of Public Health.

- ***Director – Resources***

This role fulfils the statutory obligations of the Chief Financial Officer, as set out in Section 151 of the Local Government Act 1972, Sections 112, 113 and 114 of the Local Government Finance Act 1988 and the Accounts and Audit Regulations 2015, in order to ensure that the financial affairs of the Authority are properly administered. This role is the prime adviser to the Council on financial matters including the development and monitoring of financial strategies, policies, programmes and procedures. This role is also responsible for the strategic implementation of Organisational Development and Human Resources to support the Council Plan, Service Plans and associated budgets.

Areas of responsibility include:

- Accountancy
- Audit
- Finance & Business Services
- Procurement
- Revenue Services
- Human Resources
- Organisational Development

Budget responsibility: £5.9 million per annum

Staff under direct or indirect line management responsibility: 91

1.4 OVERALL POLICY ON REMUNERATION FOR SENIOR ROLES

The Council's overall approach to remuneration for its senior employees is based on:

Compliance with equal pay, discrimination and other relevant employment legislation, plus recognition of the demanding nature of the challenges which the Council faces, and the requirement to offer competitive remuneration in relation to the rest of the local government and public sectors, in order to secure the most talented managers. This means that, on the advice of the Employment Committee, the Council has always taken account of:

- pay levels in the local area, including neighbouring public sector employers
- the relative cost of living in the local area, particularly housing costs
- the responsibilities and accountabilities of posts which may be exceptionally demanding.

The Council seeks to maintain this overall approach by carefully monitoring pay data provided by the Joint National Councils (JNCs) for Chief Officers and Chief Executives, the Local Government Association/Employers, and other relevant pay surveys.

In terms of pay differentials, the Council recognises that the role of Chief Executive leads the organisation's workforce and has the greatest level of accountability, and so warrants the highest pay level in the organisation.

At Executive Director level:

- The Council recognises that all its Executive Directors have a collective and corporate responsibility for contributing to and delivering the overall strategy of the organisation, however the size and scope of their responsibilities differ and therefore an appropriate grade from the senior salaries structure is determined through a job evaluation conducted by Korn Ferry.

At Assistant Director level:

- The Council recognises that certain roles are more demanding than others and has identified those with a greater level of accountability through job evaluation, (which provides a careful analysis of job demands) and offers them higher remuneration than other Assistant Director posts. Evaluation is based upon the Hay system and evaluations are carried out independently by the Korn Ferry Group including the Director of Public Health.

Below Assistant Director level, the Council recognises that the demands on and accountabilities of different management roles vary considerably and seeks to align pay levels with the relative importance and responsibilities of jobs, using a process of job evaluation, and including Market Premia where applicable to match certain posts with the market rate for similar jobs. There are, additionally, some posts which are on other national payscales such as the teaching payscales, NHS payscales or Soulbury conditions. Some of the posts below Assistant Director level are specifically listed later in this report as earning more than £50,000 pa because they either receive a Market Premia payment or are subject to other national payscales.

1.5 SPECIFIC REMUNERATION OFFERED TO SENIOR EMPLOYEES

At Chief Executive, Executive Director and Assistant Director level, the Council offers only an annual salary and access to the Local Government Pension Scheme. No other cash

benefits or benefits in kind are offered - except any benefits purchased by the employee under the Council's Flexible Benefits scheme under which all employees may purchase benefits from a range offered to all staff. The only one of these benefits which gives an opportunity to increase income is the selling of annual leave, which is available to most employees but not to those at Assistant Director level and above (see section 4). Other than the five Executive Director posts, the Council does not offer performance related payments or bonuses to its senior employees.

Geographical/location allowance (local weighting) is not payable to the Chief Executive, Executive Directors or Assistant Directors.

The Chief Executive, Executive Directors and Assistant Directors are not eligible to participate in the Council's flexible leave scheme whereby employees are able to "buy and sell" annual leave within certain parameters (See section 4, below).

Annual salaries

Annual salary levels for senior employees are fixed in accordance with the overall principles set out in section 1.4. At Chief Executive, Executive Director and Assistant Director level and for other senior managers, they consist of a grade range which is determined locally by the Council. This grade range consists of several incremental salary points. Progression through to the top of the grade is dependent on annual performance ratings, until the top of the grade is reached.

Remuneration of senior employees on recruitment

The Council's policy is that any newly appointed senior employee will normally commence employment at the lowest pay point in the pay range for their job, other than when taking account of the successful applicant's current salary and the market requirements. Any decision to appoint a senior employee on a higher pay point within the relevant pay range would be made by the Appointments Committee.

Pay progression

Pay progression within a specific grade is normally by annual increment, payable from 1 April, until the employee reaches the top pay point of their grade. However, for employees at Executive Director grade and above progression is dependent on annual performance ratings.

- Pay progression is based on the period the employee has served in that grade, subject to performance as evidenced by annual performance ratings.
- Senior employees who are considered to have demonstrated exceptional performance may receive accelerated incremental progression within the grade at the discretion of the Chief Executive or relevant Executive Director or, in the case of the Chief Executive, at the discretion of the Leader of the Council.

Pay awards

The salaries of senior employees are reviewed annually in line with any pay award agreed in the Joint National Councils (JNCs) for Chief Executives/Chief Officers, the National Joint Council (NJC) for Local Government Services, NHS or Soulbury conditions, as appropriate for the contracts of the senior managers. Periodic reassessments will benchmark the grades against market rates for similar roles in the region.

Bonuses

The Council does not pay bonuses to any of its employees.

Local Government Pension Scheme (LGPS)

The Council offers all its senior employees' access to the Local Government Pension Scheme, in accordance with the statutory provisions of the scheme, on the same basis as all its employees. Any pension payments made to its senior employees on termination of employment either on grounds of redundancy, in the interests of the efficiency of the service or on grounds of ill health are made within the statutory terms of the LGPS.

- The employer's contribution rate for senior employees who join the scheme is the same as for all other employees, as set out in Section 4 "**POLICIES COMMON TO ALL EMPLOYEES**"
- The discretions which the Council can apply under the scheme upon termination of employment are the same for senior employees as for all other employees who are LGPS members and are set out in Section 4 "**POLICIES COMMON TO ALL EMPLOYEES**".

Payments on Termination of Employment

Other than payments made under the LGPS, the Council's payments to managers whose employment is terminated on grounds of redundancy or in the interests of the efficiency of the service will be in accordance with the policy the Council has adopted for all its employees in relation to the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, as set out in Section 4 "**POLICIES COMMON TO ALL EMPLOYEES**".

Other than payments pursuant to the LGPS (including the exercise of the Council's discretions) or payments in accordance with the Council's policies under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, the Council's policy is not to make any other termination payments to its senior employees. The only exception to this, which is very rarely used, is where it has received specific legal advice to the effect that a payment is appropriate to settle proceedings in an Employment Tribunal or court of law or may be required to eliminate risk of claims against the Council. Any severance payment of £100,000 or more which falls outside the agreed policy parameters will be referred to full Council for approval.

Election fees

Election fees are paid separately. Returning Officer fees for national elections are set by central government. Local election fees are paid in accordance with a scale of fees which is based on national election rates and agreed locally.

1.6 RE-ENGAGEMENT OF SENIOR MANAGERS

Re-engagement of Chief Executives, Executive Directors and Assistant Directors who have left Bracknell Forest Council with a severance or termination payment

Re-engagement as employees

(1) Subject to any relevant provisions in employment and equalities legislation, the Council's policy is not to re-employ *in any capacity* any former Chief Executive, Executive Director or Assistant Director who was in receipt of a severance or termination payment for any reason other than compulsory redundancy, for a period of three years from the date of termination of employment.

(2) Where a Chief Executive, Executive Director or Assistant Director's employment has been terminated compulsorily on grounds of redundancy, they will not be re-employed *in the same or a similar post* for a period of three years following the date of termination of employment. If they are re-employed in another post within four weeks after the effective

date of redundancy, they will lose their right to a redundancy payment, including any enhancements under the provisions of the LGPS or the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006. Any re-employment will be subject to the Council following the strict application of the normal process of competitive selection for employment. New legislation has been introduced regarding a cap on Local Government exit payments. The cap includes introducing a limit on the salary used for redundancy calculations (£80,000) and ensuring the exit package does not exceed £95,000 (including pension strain costs).

(3) Any former Chief Executive, Executive Director or Assistant Director who is employed by the Council who has previously received a severance, termination or redundancy payment from this or any other Council or related body will not have previous service counted when determining any further entitlements to notice periods, sickness payments, annual leave or other benefits/entitlements based on continuous service.

Re-engagement under a contract for services

The Council's policy is not to re-engage under a contract for services any former Chief Executive, Executive Director or Assistant Director who left the Council for any reason and was in receipt of a redundancy, severance or termination payment, for a period of three years from the cessation of employment.

Policy variation

This re-engagement policy may be varied only in exceptional circumstances and then subject to the agreement of the Employment Committee.

Employment of those in receipt of an LGPS pension

General:

Policy is set out in Section 4 **POLICIES COMMON TO ALL EMPLOYEES.**

Flexible retirement:

The LGPS regulations permit the Council to offer flexible retirement to employees (including Chief Executive, Executive Directors, Directors and Assistant Directors) aged 55 or over, so that they can reduce their hours of work, and receive a pension in respect of the proportion of full-time hours they are no longer required to work. This policy is set out in Section 4 **POLICIES COMMON TO ALL EMPLOYEES.**

1.7 PUBLICATION OF DETAILS OF EMPLOYEE REMUNERATION

In accordance with 39 (5) of the Localism Act, this policy will be published on the Council's website.

The Council is also required to publish information about the remuneration of senior officers under The Accounts and Audit (Amendment No. 2) (England) Regulations 2009, and the Local Government Transparency Code 2015.

For ease of reference, remuneration data for posts identified under these Regulations is set out below, individual annual salaries for staff in post can be found on the Council's website.

The table below indicates the grades at 1 April 2022.

Chief Executive	£172,331 - £187,889
Executive Director - People	£143,609 - £167,012
Executive Director - Delivery	£120,206 - £139,354
Executive Director- Resources	£120,206 - £139,354
Executive Director: Place, Planning and Regeneration	£120,206 - £139,354
Director of Public Health	£93,611 - £109,568
Asst Director: Adult Social Care	£93,611 - £109,568
Asst Director: Children's Social Care	£93,611 - £109,568
Asst Director: Early Help & Communities	£93,611 - £109,568
Asst Director: Education and Learning	£93,611 - £109,568
Asst Director: Commissioning	£93,611 - £109,568
Borough Solicitor	£93,611 - £109,568
Assistant Director: Mental Health & Out of Hours	£93,611 - £109,568
Asst Director: Contract Services	£93,611 - £109,568
Asst Director: Customer Experience, ICT & Digital Services	£93,611 - £109,568
Asst Director: Property	£87,691 - £93,013
Consultant in Public Health	£87,691 - £93,018
Assistant Director: HR and OD	£81,048 - £87,691
Assistant Director: Chief Executives Office	£81,048 - £87,691
Assistant Director: Special Projects	£81,048 - £87,691
Assistant Director: Highways and Transport	£81,048 - £87,691
Assistant Director: Planning	£81,048 - £87,691
Chief Accountant	£81,048 - £87,691
Head of Finance and Business Services	£81,048 - £87,691

Figures as at 1 April 2022 and are inclusive of supplements and/or market premia where payable. Teaching staff not included.

SECTION 2: REMUNERATION OF LOWEST PAID EMPLOYEES

This section sets out the Council's policies in relation to the remuneration of its lowest-paid employees, as defined in this Pay Policy Statement.

2.1 ORGANISATIONAL CONTEXT

The Council considers it is important that its policy with regard to the remuneration of its lowest paid employees is seen within the broader organisational context, in particular the range and diversity of services for which it is responsible, either directly or indirectly, the number of residents within the local community, the level of its financial responsibilities and the numbers of staff directly employed.

2.2 OVERALL REMUNERATION POLICY: LOWEST PAID EMPLOYEES

Aims, Objectives and Key Principles

The Council aims to develop, implement and maintain fair and equitable remuneration arrangements which enable it to recruit, retain, motivate and develop staff with the skills and

capabilities necessary to ensure the continued provision of high-quality services and which are cost effective and provide value for money.

The Council's remuneration policy complies with all equal pay, discrimination and other relevant employment legislation.

When setting pay levels for specific posts the Council takes account of both internal differentials, as measured by job evaluation, and external relativities, as measured against the relevant employment market. The Council aims to ensure its pay rates for specific posts are set at a level which enables it to recruit and retain staff with the appropriate knowledge, skills and capabilities necessary for the role.

2.3 DEFINITION OF LOWEST PAID EMPLOYEES

The definition of the "lowest-paid employees" adopted by the Council for the purposes of this statement is as follows:

The lowest paid employees within the Council paid on the Council's lowest hourly pay rate.

The current annual full-time equivalent value of this pay level, based on a 37-hour standard working week and including local weighting, is £18,970.

2.4 REMUNERATION OF LOWEST PAID EMPLOYEES

Pay structure

The Council's lowest paid employees are on a grade range derived from the national pay spine, as set out in the National Joint Council for Local Government Services National Agreement on Pay and Conditions of Service. This grade range consists of a number of incremental salary points through which employees may progress until the top of the grade is reached.

Pay Progression

Pay progression is normally by annual increment, payable from 1 April.

Pay progression is based on the period the employee has served in that grade, subject to satisfactory performance. Directors may accelerate incremental progression within the grade for employees who are considered to have demonstrated exceptional performance.

Annual Pay Review

The basic pay of the Council's lowest paid employees is reviewed annually at a national level, with any cost-of-living, or other, increase normally applied on 1 April in each year.

Any increase will normally be applied in accordance with that agreed by the National Joint Council for Local Government Services.

Pension Provision

The Council's lowest paid employees may participate in the Local Government Pension Scheme in accordance with the statutory terms of that scheme.

Contributions are made to this scheme in respect of each participating employee as set out in Section 4, **Policies Common to all Employees**.

Any increases in or enhancements to the pension entitlement of the Council's lowest paid employees would be made in accordance with the discretions available to it under the

statutory provisions of the Local Government Pension Scheme, as exercised by the Council and set out in the relevant policy statement (see Section 4 of this Pay Policy Statement, **Policies Common to all Employees**).

Termination or Severance Payments

Any termination or severance payments made by the Council to its lowest paid employees, either on grounds of redundancy, in the interests of the efficiency of the service or on grounds of permanent ill-health, will be made in accordance with the statutory terms of the Local Government Pension Scheme, as applicable, and/or in accordance with the discretions available to it under that Scheme or under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, as set out in the relevant policy statement (see Section 4 of this Pay Policy Statement, **Policies Common to all Employees**).

Other than payments pursuant to the LGPS (including the exercise of the Council's discretions) or payments in accordance with the Council's policies under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, the Council's policy is not to make any other termination or severance payments to its lowest paid employees, other than where it has received specific legal advice to the effect that a payment may be necessary to eliminate risk of claims against the Council.

Other elements of remuneration

The other elements of remuneration which it is the Council's policy to offer to its lowest paid employees (where applicable) are listed below and are as set out in section 4, "Policies common to all employees":

Recruitment/retention payments

Reimbursement of removal/relocation costs/mortgage subsidy on appointment

Geographical/location allowance (local weighting)

Car allowances/mileage rates

Payment of professional subscriptions or membership fees

Subsistence or other expenses allowance

Provision of mobile telephones/personal devices

Honorarium/acting up/additional responsibility payments

Payment for reduced leave entitlement

In addition, the Council's lowest paid employees may have access to the following payments where patterns of work make them appropriate:

Working arrangements

Employees on national conditions, who are required to work beyond the Council's normal full-time equivalent working week of 37 hours and/or work other non-standard working patterns, as listed below, will receive payment in accordance with the provisions of the National Joint Council for Local Government Services National Agreement on Pay and Conditions of Service for:

- Additional hours
- Saturday and Sunday working
- Night work
- Public and Extra Statutory holidays
- Sleeping-in duty

Standby and/or call-out payments

Employees who are required to be on standby at times which are outside their normal working week and/or who may be called-out to attend to an issue at the Council's premises or other location may receive an additional payment in accordance with the provisions of the relevant Council policy.

2.5 OTHER TERMS AND CONDITIONS

The other terms and conditions which apply to the Council's lowest paid employees are as set out in the National Joint Council for Local Government Services National Agreement on Pay and Conditions of Service, as amended and/or supplemented by any local agreements which may apply.

2.6 REMUNERATION OF EMPLOYEES WHO ARE PAID MORE THAN THE LOWEST PAID EMPLOYEES BUT WHO ARE NOT ASSISTANT DIRECTORS

The Council's policy and practice with regard to the remuneration of employees who are paid more than its lowest paid employees but who are not Assistant Directors is the same as that which applies to its lowest paid employees, other than where any differences are indicated in this policy statement. Some specific groups of employees are paid on nationally determined Soulbury Conditions or Youth and Community Conditions.

2.7 EMPLOYEES WHO ARE PAID LESS THAN THE COUNCIL'S LOWEST PAID EMPLOYEES, AS DEFINED IN THIS PAY POLICY STATEMENT

The following categories of employees *may* be paid less than the Council's lowest paid employees, as defined in this Pay Policy Statement:

- Apprentices
- Some casual workers

The Council may apply a lower pay rate and/or different remuneration arrangements to these categories of employees, which reflects the nature and/or duration/frequency of their employment.

SECTION 3: PAY RELATIONSHIPS

This section sets out the Council's overall approach to ensuring pay levels are fairly and appropriately dispersed across the organisation, including the current pay multiples which apply, and its policy toward maintaining acceptable pay multiples in the future.

The Council believes that the principle of fair pay is important to the provision of high quality and well-managed services and is committed to ensuring fairness and equity in its remuneration practices. The Council's pay policies, processes and procedures are designed to ensure that pay levels are appropriately aligned with and properly reflect the relative demands and responsibilities of each post and the knowledge, skills and capabilities necessary to ensure they are undertaken to the required standard, as well as taking account of relevant market considerations. This includes ensuring that there is an appropriate relationship between the pay levels of its senior officers, as defined in this Pay Policy Statement, and of all other employees.

The Council has adopted several policies and practices to ensure fairness in the overall pay relativities within the Authority. These include:

- Using an analytical job evaluation scheme to determine the grading of all posts below Assistant Director level
- Jobs at Assistant Director level and above are also subject to measurement using a separate job evaluation scheme – evaluated externally
- Applying a clear and objective methodology for evaluating all new and changed jobs to ensure they are properly graded and that pay levels properly reflect their level of responsibility
- Establishing a defined procedure for employees who wish to request a review of their job grade or who wish to appeal against their grading outcome
- Providing for additional payments and allowances, with clearly defined eligibility criteria, to recognise and reward any working arrangements or requirements not reflected in basic pay levels
- Undertaking corporate monitoring of the application of pay progression arrangements to ensure these are applied and operated on a fair and consistent basis across the organisation
- Reviewing the roles and responsibilities of individual posts on a regular basis, for example, as part of the annual appraisal process, when a vacancy arises, as part of any organisational restructuring
- Undertaking an equal pay audit at intervals, investigating and addressing the outcomes, as appropriate

Under the provisions of the Code of Recommended Practice for Local Authorities on Data Transparency, issued by the Department for Communities and Local Government under Section 2 of the Local Government Planning and Land Act 1980, the Council is required to publish its "pay multiple", i.e. the ratio between the highest paid salary and median full time equivalent salary of the whole of the local authority's workforce. The current pay multiple, based on full time equivalent earnings in the financial year ending 31 March 2022 including base salary, overtime pay, and any lump sum car allowances is 6.5 (Last year's multiple was 6.3).

The figures are not a direct comparison because of the number of hours actually worked; for example, senior officers do not have a specific number of required work hours/week in their contract of employment and will often work more than the standard 37 hours used in non-senior contracts.

The median salary is the salary value at which 50% of the full-time equivalent salaries which apply to the whole of the Council's workforce are below that salary value and 50% are above it. The lowest pay point in the overall salary range which has been used by the Council in calculating the median salary is that which applies to its lowest paid employees, as defined in section 2 of this Pay Policy Statement.

If the mean salary is used in the above calculations instead of the median, the pay multiple is 5.8. (Last year's multiple based on mean was 5.5).

The Council considers that the current pay multiple, as identified above, represents an appropriate, fair and equitable internal pay relationship between the highest salary and that which applies to the rest of the workforce and has adopted the following actions to ensure an acceptable level is maintained:

Periodic benchmarking against the market rate for the Chief Executive will continue to take place and changes such as job evaluation outcomes or outsourcing of functions may impact on the median payment levels; both may affect the pay multiple. However, the multiple will be reviewed annually by means of this document to ensure it remains acceptable.

SECTION 4: POLICIES COMMON TO ALL EMPLOYEES

The following elements of remuneration are determined by corporate policies or arrangements which apply to all permanent employees of the Council (including its Chief Executive, Executive Directors, Directors and Assistant Directors), regardless of their pay level, status or grading within the Council:

Contracts of Employment

It is the Council's policy to engage all of its permanent employees on standard contracts of employment and to apply Pay As You Earn taxation arrangements to all remuneration under those contracts in accordance with HMRC rules.

Access to Local Government Pension Scheme

The Council offers all its employees' access to the Local Government Pension Scheme in accordance with the statutory provisions of the scheme (except where the Teachers' Pension Scheme applies). The employers' contribution rate for employees who join the scheme is currently 15.5% of salary for all employees. The employee contribution rate ranges from 5.5% to 12.5% dependent on salary. All employees, including casuals and those on very short-term contracts, have a right to be in the scheme.

Local Government Pension Scheme (LGPS) - discretions on termination of employment

Any termination or severance payments made by the Council to all its employees, either on grounds of redundancy, in the interests of the efficiency of the service or on grounds of permanent ill-health, will be made in accordance with the statutory terms of the Local Government Pension Scheme, as applicable, and/or in accordance with the discretions available to it under that Scheme.

The Council's policies on the exercise of these discretions under the LGPS are set out in the policies it has published under the requirements of the Local Government Pension Scheme Regulations. These are shown in Appendix A1.

Payments on Termination of Employment

Other than payments made under the LGPS, the Council's payments to any employee whose employment is terminated on grounds of redundancy or in the interests of the efficiency of the service will be in accordance with the policy the Council has adopted for all

its employees in relation to the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006. This policy has been published in accordance with the requirements of Regulation 7 of these regulations and, in summary, is:

- Actual weekly pay is used in all redundancy calculations
- Those with immediate access to pension are paid in accordance with the statutory number of weeks' pay
- Those with no immediate access to pension are paid 1.75 times the statutory number of weeks' pay

New regulations were expected to be announced on a proposed cap on severance payments which would limit any severance payment. The decision to proceed on this basis was revoked and any further movement on this area will be subject of a separate report to Employment Committee.

Employment of those in receipt of an LGPS pension

Subject to the administering authority's policy, pension benefits built up under regulations in force prior to 1 April 2014 (i.e., final salary benefits) may be subject to abatement where an individual in receipt of such a pension is re-employed. However, the policy of the administering authority to the Berkshire Pension Fund is not to abate pensions in these circumstances.

The only occasion where a re-employed pensioner may suffer some abatement to their pension is where they have previously been awarded compensatory added years in accordance with regulations 16 or 19 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England & Wales) Regulations 2000.

Flexible retirement

The LGPS regulations permit the Council to offer flexible retirement to employees aged 55 or over, so that they can reduce their hours of work, and draw a pension in respect of the proportion of full-time hours they are no longer required to work. The Council uses this discretion in the same way for all employees. The Council will consider requests for flexible retirement on a case-by-case basis. Approval will be sought through the Employment Committee for any flexible retirement where there is a cost to the Council, and all costs and business benefits will be made explicit before any decision is taken on whether to grant flexible retirement. Where the flexible retirement is at no cost to the Council, it may be granted by an Executive Director, considering the business benefits.

Market Premia

The job evaluation scheme does not recognise market pay rates when determining the grade for a job. If Directors identify market scarcity through difficulty with recruitment and/or a lack of success with advertising, they may discuss the need for a market premium with the Assistant Director: HR and Organisational Development who will seek approval through CMT or Employment Committee as appropriate.

Recruitment/retention payments

Recruitment payments are a recruitment incentive which can be used for positions where there is a nation/regional/local shortage of qualified persons. They are used to induce an individual to take up employment within the Council and are in the form of a one-off lump sum. These are infrequently used and are repayable on a sliding scale if the individual leaves within 3 years of appointment.

Key staff retention payments may be given where it is important to retain the services of an employee to the end of a specific project. The period of tie in will not normally exceed three years and any lump sum payment will not be made if the employee leaves before the relevant date. Employees in some children's social work teams and Approved Mental Health Practitioners are currently in receipt of retention payments as part of strategies to retain these key staff in a recruitment shortage area.

Geographical/location allowance (local weighting)

The Council applies London and Fringe Area Allowances in accordance with the provisions of and rates agreed by the National Joint Council for Local Government Services National Agreement on Pay and Conditions of Service, or Soulbury or Youth and Community Conditions as appropriate. There are certain employees whose pay is determined locally who do not receive this type of allowance, and it is not payable to the Chief Executive, Executive Directors or Assistant Directors.

Reimbursement of removal/relocation costs on appointment

The Relocation Scheme provides assistance to people moving house in order to take up an appointment with the Council. The scheme will not necessarily cover the full expenses of moving and is not intended to do so. The maximum amount payable under the relocation scheme is £8,000, plus mortgage subsidy where appropriate. The scheme does not apply to all advertised roles, only to those where there is less likelihood of recruiting suitable staff locally.

Honorarium or ex gratia payments/acting up/additional responsibility allowances

The Council pays honoraria or *ex gratia* payments to employees only in accordance with its corporate scheme for such payments, and all such payments are made only with the express approval of the relevant Executive Director. Where employees are required to "act-up" into a higher-graded post or take on additional responsibilities beyond those of their substantive post for a temporary/time-limited period, they may receive an additional payment. Merit payments are like honoraria payments but are generally paid as a "one off" sum. They can be for a variety of reasons including examination success or for a particularly demanding or meritorious piece of work.

Car provision – employees using their own cars on Council business

The Council compensates:

- Employees who are required to use their own car on Council business paying an Essential Car User payment of £963pa plus mileage at below the HMRC rate; and
- Employees who are otherwise authorised to use their own car on Council business by paying a casual user mileage rate based on the HMRC rate.

Payment of professional subscriptions or membership fees

The Council will pay one professional subscription or membership fee on behalf of any employee where the subscription or membership is appropriate to the duties of the post.

Subsistence or other expenses allowance

The Council reimburses expenditure on meals and overnight accommodation and any other expenses necessarily incurred by employees on Council business, in line with the Council's Expenses policy.

Flexible benefits

The Council offers a range of flexible benefits which enable employees to elect to buy certain benefits from their salary. The only part of the range which enables employees to

increase their pay is a flexible leave scheme whereby employees can “buy and sell” annual leave within certain parameters. Under this scheme, employees may be able to receive a day’s additional pay for each day of leave they “sell” to the Council and agree to work. Assistant Directors and above may not participate in this scheme, although they may elect to buy other flexible benefits in the range. The maximum number of days that can be sold is 5 (pro rata for those working less than 5 days per week.)

Provision of mobile telephones and personal devices

Chief Executive, Directors and Assistant Directors are issued with mobile phones and are required to be on an emergency duty list, other staff are issued phones in accordance with their workstyle in order to be more effective. Usually this means that Free workers will be issued with a mobile phone. The council funds the phone.

All employees working flexibly are issued with a softphone and a business case needs to be made if a mobile phone/device is required in addition to this.

SECTION 5: CONTRACTORS AND OTHER ORGANISATIONS WORKING FOR THE COUNCIL

There may be occasions where the Council procures, commissions or contracts-out one or more of the services for which it is responsible. This section sets out the Council’s approach to and policies on the pay policies of contractors, partners and other organisations who may undertake work for, or on behalf of, the Council.

The terms and conditions of employment by contractors of their workers are non-commercial matters, so we are required to procure without reference to them (S17 (1) and (5) LGA 1988).

Where any of the Council’s services are contracted-out or re-tendered or where a previously outsourced service returns to the Council, any matters relating to the remuneration of the transferred employees will be managed, as appropriate, in accordance with the relevant provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014.

Any payments to agency workers who may undertake work for the Council will be made in accordance with the terms and conditions of the contract between the Council and the relevant agency provider, having due regard to the relevant provisions of the Agency Workers Regulations 2010 and any other relevant employment legislation.

SECTION 6: DECISION MAKING ON PAY

The Council recognises the importance of ensuring openness, transparency and high standards of corporate governance, with clear lines of accountability, in its pay decision-making processes and procedures. Any pay-related decisions must be capable of public scrutiny, be able to demonstrate proper and appropriate use of public funds and ensure value for money. The arrangements adopted by the Council are designed to reflect these requirements, as well as ensuring compliance with all relevant legislation and other statutory regulation.

The Council has agreed that the following roles and responsibilities about decision-making in remuneration matters will apply within the Authority as follows:

Full Council: consideration and approval of the annual Pay Policy Statement, as required under the Localism Act 2011. Approval of both the senior salary pay structure, within which

senior appointments are made, and the severance policy, within which severance payments are made. Approval of any salary or severance payment over £100,000 which is not consistent with these policies.

Employment Committee: responsible for decisions relating to changes to terms and conditions of employment other than those dictated by employment law/statute, including scrutiny of this statement.

The provisions of this Pay Policy Statement will apply to any determination made by the Council in the relevant financial year in relation to the remuneration or other terms and conditions of senior officers of the Authority and of its lowest paid employees, as defined in this statement, and other employees who are paid more than the lowest paid employees but who are not senior officers.

The Council will ensure that the provisions of this Pay Policy Statement are properly applied and fully complied with in making any such determination.

This Pay Policy Statement has been approved by full Council.

The full Council will approve the appointment or dismissal of the Chief Executive (Head of Paid Service) following the recommendation of such an appointment by a Committee or Sub-Committee of the Council, which will include at least one Member of the Executive. Council will resolve that the post is remunerated in accordance with the Senior Salary Pay Structure.

For Executive Director posts, unless otherwise directed by the Council, a Committee or Sub-Committee of the Council, the Council will appoint. The Committee or Sub-Committee will include at least one Member of the Executive. Council will resolve that the post is remunerated in accordance with the Senior Salary Pay Structure.

For Assistant Director posts, the Chief Executive or his nominated representative, with the relevant Executive Member or members and the Leader of the Council, may determine whether any appointment to an Assistant Director post is to be made exclusively from the Council's existing officers. Where the Chief Executive or his or her nominated representative, determines that it is to be made from existing Officers, the appointment may be made by the Chief Executive or his/her representative. Where a recruitment process is undertaken involving external candidates, a Committee or Sub-Committee will be appointed to interview the shortlisted candidates and make the final appointment. That Committee or Sub Committee will include at least one member of the Executive.

The above arrangements ensure that the Council meets the requirement of the Localism Act that any proposal to offer a new appointment on terms and conditions which include a total remuneration package of £100,000 or more, including salary, bonuses, fees or allowances which would routinely be payable to the appointee and any benefits in kind to which the officer would be entitled as a result of their employment (but excluding employer's pension contributions), will be referred to the full Council for approval before any confirmed offer is made to a particular candidate, if they fall outside the scope of the agreed senior salary pay scales.

SECTION 7: AMENDMENTS TO THIS PAY POLICY STATEMENT

This Pay Policy Statement relates to policy for the financial year 2022/23.

The Council may agree any amendments to this Pay Policy Statement during the financial year to which it relates in accordance with the decision-making arrangements set out in the introduction to this document.

SECTION 8: PUBLICATION OF AND ACCESS TO INFORMATION

The Council will publish this Pay Policy Statement on its website as soon as is reasonably practicable after it has been approved by the Council. Any subsequent amendments to this Pay Policy Statement made during the financial year to which it relates will also be similarly published.

The information advised to be published by the Council in accordance with the requirements of the Local Government Transparency Code 2014 and in accordance with the requirements of the Accounts and Audit (Amendment No. 2) (England) Regulations 2009, as referred to in this Pay Policy Statement, is also available on its website.

The Council's policies in relation to the exercise of discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 and under the Local Government Pension Scheme Regulations 2013, are set out in this policy statement.

For further information about this Pay Policy Statement, please contact the Council as follows:

Paul Young
Assistant Director: HR and Organisational Development
paul.young@Bracknell-forest.gov.uk

EMPLOYER DISCRETIONS**PART A – Formulation of COMPULSORY policy in accordance with Regulation 60 of the
Local Government Pension Scheme Regulations 2013****Regulation 16 – Additional Pension Contributions**

The Scheme employer may resolve to fund in whole or in part any arrangement entered into by an active scheme member to pay additional pension contributions by way of regular contributions in accordance with **Regulation 16(2)(e)**, or by way of a lump sum in accordance with **Regulation 16(4)(d)**.

The Scheme employer may enter into an APC contract with a Scheme member who is contributing to the MAIN section of the Scheme in order to purchase additional pension of not more than the additional pension limit (£6,500 from 1st April 2014 subject to annual increase in line with the Pensions (Increase) Act 1971).

The amount of additional contribution to be paid is determined by reference to actuarial guidance issued by the Secretary of State.

Consideration needs to be given to the circumstances under which the Scheme employer may wish to use their discretion to fund in whole or in part an employee's Additional Pension Contributions.

Scheme Employer's policy concerning the whole or part funding of an active member's additional pension contributions

The Employing Authority has resolved not to adopt this discretion

Regulation 30(6) – Flexible Retirement

An active member who has attained the age of 55 or over and who with the agreement of their employer reduces their working hours or grade of employment may, with the further consent of their employer, elect to receive immediate payment of all or part of the retirement pension to which they would be entitled in respect of that employment as if that member were no longer an employee in local government service on the date of the reduction in hours or grade (*adjusted by the amount shown as appropriate in actuarial guidance issued by the Secretary of State – separate policy required under Regulation 30(8)*).

As part of the policy making decision the Scheme employer must consider whether, in addition to the benefits the member may have accrued prior to 1 April 2008 (which the member must draw), to permit the member to choose to draw all, part or none of the pension benefits they built up after 31 March 2008 and before 1 April 2014 and all, part or none of the pension benefits they built up after 1 April 2014.

Due consideration must be given to the financial implications of allowing an employee to draw all or part of their pension benefits earlier than their normal retirement age.

Scheme Employer's policy concerning flexible retirement

The Employing Authority will consider requests for flexible retirement on a case by case basis. Approval will be sought through the Employment Committee where all costs and benefits will be explicit; requests which carry no costs to the Employing Authority will be dealt with by officers and reported back to the Committee.

Regulation 30(8) – Waiving of Actuarial Reduction

Where a Scheme employer's policy under regulation 30(6) (flexible retirement) is to consent to the immediate release of benefits in respect of an active member who is aged 55 or over, those benefits must be adjusted by an amount shown as appropriate in actuarial guidance issued by the Secretary of State (commonly referred to as actuarial reduction or early payment reduction).

A Scheme employer (or former employer as the case may be) may agree to waive in whole or in part and at their own cost, any actuarial reduction that may be required by the Scheme Regulations.

Due consideration must be given to the financial implications of agreeing to waive in whole or in part any actuarial reduction.

Scheme Employer's policy concerning the waiving of actuarial reduction

The Employing Authority has resolved to examine such issues on a case by case basis.

Regulation 31 – Award of Additional Pension

A Scheme employer may resolve to award

- (a) an active member, or
- (b) a member who was an active member but dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency,

additional annual pension of, in total (including any additional pension purchased by the Scheme employer under Regulation 16), not more than the additional pension limit (£6,500 from 1st April 2014 subject to annual increase in line with the Pensions (Increase) Act 1971).

Any additional pension awarded is payable from the same date as any pension payable under other provisions of the Scheme Regulations from the account to which the additional pension is attached.

In the case of a member falling within sub-paragraph (b) above, the resolution to award additional pension must be made within 6 months of the date that the member's employment ended.

Scheme Employer's policy concerning the award of additional pension

The Employing Authority resolves to use the scheme for awarding additional pension in cases of redundancy, efficiency of the service and severance, only in exceptional circumstances.

Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014

Schedule 2 – paragraphs 2 and 3

Where a scheme member retires or leaves employment and elects to draw their benefits at or after the age of 55 and before the age of 60 those benefits will be actuarially reduced unless their Scheme employer agrees to meet the full or part cost of those reductions as a result of the member otherwise being protected under the 85 year rule as set out in previous Regulations.

So as to avoid the member suffering the full reduction to their benefits the Scheme employer can 'switch on' the 85 year rule protections thereby allowing the member to receive fully or partly unreduced benefits but subject to the Scheme employer paying a strain (capital) cost to the Pension Fund

Scheme Employer's policy concerning the 'switching on of the 85 year rule

The Employing Authority resolves not to adopt this discretion.

PART B – Formulation of RECOMMENDED policy in accordance with the

Local Government Pension Scheme Regulations 2013

Regulation 9(1) & (3) – Contributions

Where an active member changes employment or there is a material change which affects the member's pensionable pay during the course of a financial year, the Scheme employer may determine that a contribution rate from a different band (as set out in Regulation 9(2)) should be applied.

Where the Scheme employer makes such a determination it shall inform the member of the revised contribution rate and the date from which it is to be applied.

Scheme Employer's policy concerning the re-determination of active members' contribution bandings at any date other than 1st April

The Employing Authority has resolved to make changes to employee contribution rates throughout the year from the effective date of any change in employment or material change to the rate of pensionable pay received.

Regulation 17(1) – Additional Voluntary Contributions

An active member may enter into arrangements to pay additional voluntary contributions (AVCs) or to contribute to a shared cost additional voluntary contribution arrangement (SCAVCs) in respect of an employment. The arrangement must be a scheme established between the appropriate administering authority and a body approved for the purposes of the Finance Act 2004, registered in accordance with that Act and administered in accordance with the Pensions Act 2004.

The Scheme employer needs to determine whether or not it will make contributions to such an arrangement on behalf of its active members.

Scheme Employer’s policy concerning payment of Shared Cost Additional Voluntary Contributions

The Employing Authority has resolved not to adopt this discretion

Regulation 22 – Merging of Deferred Member Pension Accounts with Active Member Pension Accounts

A deferred member’s pension account is automatically aggregated with their active member’s pension account unless the member elects within the first 12 months of the new active member’s pension account being opened to retain their deferred member’s pension account.

A Scheme employer can, at their discretion, extend the 12 month election period.

Scheme Employer’s policy concerning merging of Deferred Member Pension Accounts with Active Member Pension Accounts

The Employing Authority has resolved not to extend the 12 month election period

Regulation 100(6) – Inward Transfers of Pension Rights

A request from an active member to transfer former pension rights from a previous arrangement into the Local Government Pension Scheme as a result of their employment with a Scheme employer must be made in writing to the administering authority and the Scheme employer before the expiry of the period of 12 months beginning with the date on which the employee first became an active member in an employment (or such longer period as the Scheme employer and administering authority may allow).

Scheme Employer’s policy concerning the extension of the 12 month transfer application period

The Employing Authority has resolved to examine such issues on a case by case basis

Regulation 21(5) – Assumed Pensionable Pay

A Scheme employer needs to determine whether or not to include in the calculation of assumed pensionable pay, any 'regular lump sum payment' received by a Scheme member in the 12 months preceding the date that gave rise to the need for an assumed pensionable pay figure to be calculated.

Scheme Employer's policy concerning inclusion of 'regular lump sum payments' in assumed pensionable pay calculations

The Employing Authority has resolved that "Regular lump sum payments" will always be included in the calculation of assumed pensionable pay

Regulation 74 – Applications for Adjudication of Disagreements *(see guidance note 9 in employer's guide)*

Each Scheme employer must appoint a person ("the adjudicator") to consider applications from any person whose rights or liabilities under the Scheme are affected by:

- (a) a decision under regulation 72 (first instance decisions); or
- (b) any other act or omission by a Scheme employer or administering authority,

and to make a decision on such applications.

Responsibility for determinations under this first stage of the Internal Disputes Resolution Procedure (IDRP) rests with "the adjudicator" as named below by the Scheme employer:

Name: Tim Wheadon
Job Title: Chief Executive
Full Address: Time Square, Market Street, Bracknell
Post Code: RG12 1JD
Tel No: 01344 355609

Adjudicator's Signature: _____

Date: _____

Or alternatively:

Name: Stuart McKellar
Job Title: Director of Resources
Full Address: Time Square, Market Street, Bracknell
Post Code: RG12 1JD
Tel No: 01344 355605

Adjudicator's Signature: _____

Date: _____

APPENDIX B1 – EMPLOYER DISCRETIONS: INJURY ALLOWANCE

Formulation of COMPULSORY policy in accordance with Regulation 14 of the

Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011

Regulation 3 - Reduction in remuneration

Whilst an employee is receiving reduced pay as a direct result of an injury or disease contracted in the course of carrying out their employment, a relevant employer may consider paying the employee an allowance while the reduction in pay continues.

The relevant employer shall from time to time determine whether the employee should be entitled to continue to receive the allowance.

Any allowance payable must be paid directly by the relevant employer and, when added to the value of the reduced pay being received by the employee, must not be of a value that means the employee receives total pay in excess of the pay that they would normally expect to have received but for their injury or disease.

Employer's policy concerning the award of an allowance due to reduction in remuneration

The Employing Authority has resolved to examine such issues on a case by case basis in line with its existing Standing Orders.

Regulation 4 – Loss of employment through permanent incapacity

Where an employee ceases employment due to permanent incapacity as a direct result of injury or disease contracted in the course of carrying out their employment, a relevant employer may consider paying the employee an allowance not exceeding 85 per cent of the employee's annual rate of remuneration at the point the employment ceased.

The relevant employer shall from time to time determine whether the employee should be entitled to continue to receive the allowance.

Any allowance payable must be paid directly by the relevant employer and, where the employee was receiving no pay or reduced pay at the time the employment ended because of absence, the employer must assess the remuneration on the basis of the pay the employee would have received but for being absent.

The relevant employer may suspend or discontinue the allowance if the (former) employee secures gainful employment (paid employment for not less than 30 hours in each week for a period of not less than 12 months).

Employer's policy concerning the award of an allowance due to loss of employment

The Employing Authority resolves not to adopt this discretion.

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To: **EMPLOYMENT COMMITTEE**
12 July 2022

**HR POLICY REVIEW – DISCIPLINARY, GRIEVANCE AND PERFORMANCE
IMPROVEMENT**
Executive Director of Resources

1 Purpose of Report

- 1.1 The programme of review for HR policies continues with updates to Disciplinary, Grievance and Performance Improvement (Capability) procedures. These procedures come for approval for CMT before they can be considered for adoption at Employment Committee.

2 Recommendation(s)

- 2.1 **That CMT review and agree the updated procedures for Disciplinary, Performance Improvement and Grievance.**

3 Reasons for Recommendation(S)

- 3.1 To provide revised policies which can be used to manage cases of misconduct, underperformance and at times where grievances have been submitted. It is a statutory duty to have policies in place to deal with disciplinary and grievance.

4 Alternative Options Considered

- 4.1 To maintain the existing policies which cover the statutory employment responsibilities. Although these remain compliant, they do not enable updates to be provided, addressing learning from previous cases or to streamline operational procedures.

5 Supporting Information

- 5.1 It is recognised that the HR policies require review to ensure they remain up to date, follow best practice, effectively support managers in dealing with often complex cases and cover the Council's legal duties. As a result, a schedule has been established to review the current HR policies.
- 5.2 In preparing these updated procedures, there has been engagement of a working group across the workforce to enable comments to be considered. This, together with learning within HR, has provided valuable input where the procedures have required adaption. The consultation arrangements with the trade union have been completed with useful input provided.
- 5.3 The Disciplinary and Performance Improvement (Capability) procedures have seen modest updates with changes made to improve the timeliness and clarity of roles and responsibilities. The flow charts have also been introduced/updated. For Performance Improvement, a stronger focus has been included to cover responsibilities of the manager to deal with issues of performance at an early stage informally before recourse to the formal procedures. There is also reference to

medical conditions and menopause that has been included for managers to consider when there are concerns over performance.

- 5.4 The Grievance Procedure has been updated taking account of learning from previous cases. In particular, the responsibility for managers to communicate with all parties throughout the process and the recognition that staff who are subject to a complaint need to be supported.
- 5.5 There have been a number of occasions where the performance of these procedures has been slow and drawn out. The HR team are looking to introduce a case management system which should assist managers with having the appropriate resources and reminders to improve efficiency. Updated training will also be provided for managers and designated officers.

6 Consultation and Other Considerations

Legal Advice

- 6.1 As a responsible employer it is incumbent upon the Council to ensure that it has in place policies and procedures which provide a framework for enabling it to discharge its legal responsibilities in the field of employment law. These responsibilities are framed around a need to ensure employees have access to fair and transparent processes HR processes. The updated policies provide a framework for decision making which (when followed) will mitigate the risk of successful legal challenges.

Financial Advice

- 6.2 No financial impact to include regarding the updated procedures.

Other Consultation Responses

- 6.3 The policies have been through a consultation exercise with trade unions. Any comments or suggestions received have either been incorporated into the policy or an explanation provided as to why it was felt inappropriate to do so.

Equalities Impact Assessment

- 6.4 The performance of these policies is monitored and included with the annual workforce monitoring report.

Strategic Risk Management Issues

- 6.5 Both policies being presented can have a significant impact on the Council where either poor people management or failure to follow due process could present legal challenges. This is aside the personal impact this can have on either individuals or wider teams where these important areas are not addressed well.

Climate Change Implications

- 6.6 The recommendations in Section 2 above are expected to have no impact on emissions of CO₂.

The reasons the Council believes that this will have no impact on emissions are the fact that these are employment procedures in place to ensure discipline, performance improvement and grievances are effectively managed.

Health & Wellbeing Considerations

- 6.7 It is recognised that implementation of these procedures can create significant challenges for all staff involved. It is essential that consideration for the health and wellbeing for staff is always considered and the appropriate support is provided including involvement with occupational health. A critical element to this is the timely completion of the procedures, managers will be encouraged to treat these cases seriously for the performance to be effective.

Background Papers

None

Contact for further information

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Disciplinary Procedure

Document Control

Current Version:	1.2	Date Modified:	February 2022
Revision due	The service aims to review policies and procedures every two years to ensure documents are up to date		
Owning Service	Human Resources		

Approvals (if required)

Date Employment Committee gave authorisation for changes (where necessary)

Change History

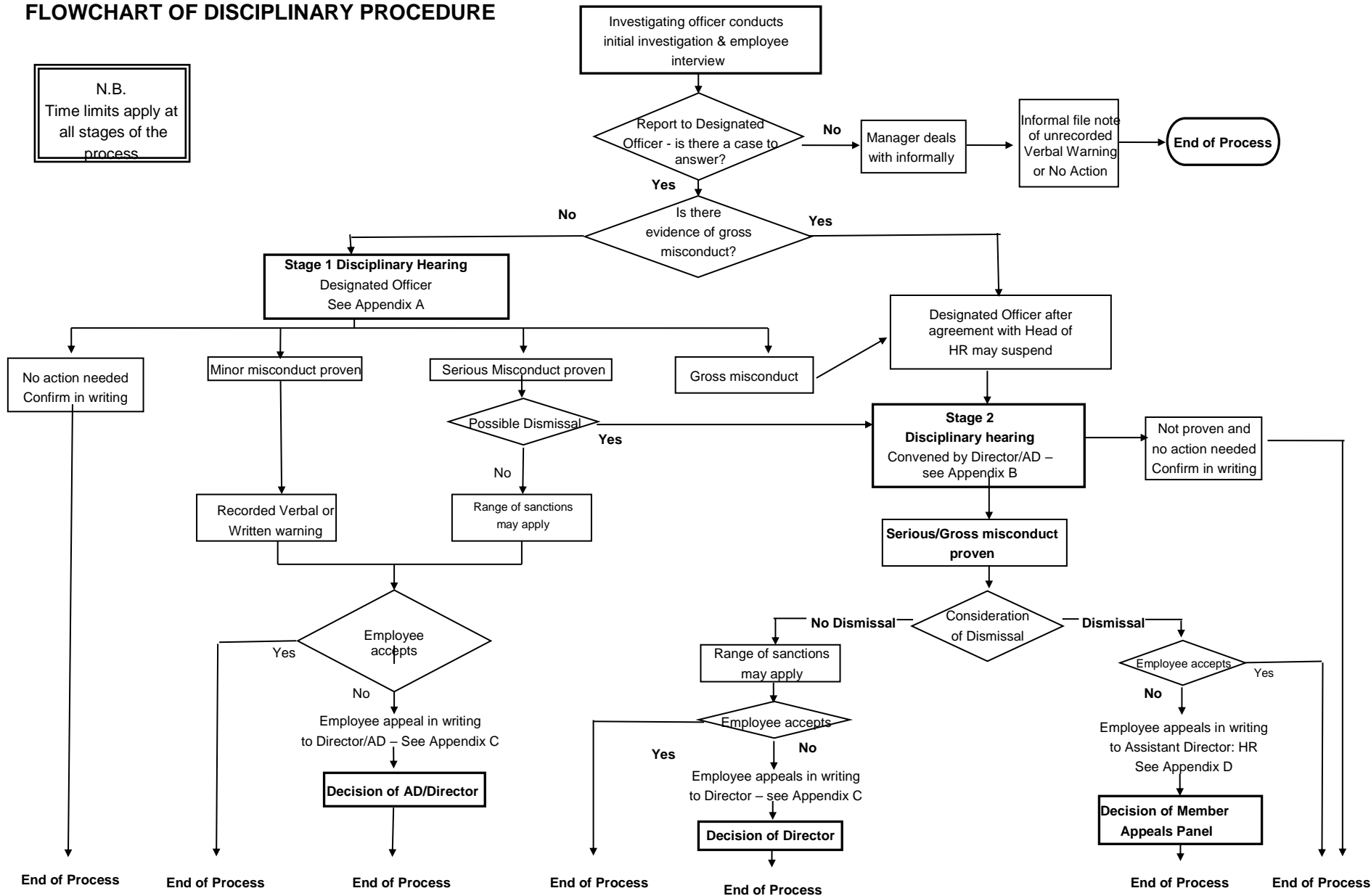
Version	Date	Description	Changes made by
1.1	Feb 2019	Amended to remove reference to departmental HR and BORIS – now reads intranet	Melissa Berry
1.2	June 2022	General update, addition of Equality statement, addition of information about holding hearings remotely and employee support, scope changed to include Assistant Director, Director or Executive Director and clarification of procedure for a case against them	Sarah Darby

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FLOWCHART OF DISCIPLINARY PROCEDURE

N.B.
Time limits apply at all stages of the process



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BRACKNELL FOREST COUNCIL'S DISCIPLINARY PROCEDURE

1 INTRODUCTION

Bracknell Forest Council's aims to treat all staff fairly and equitably. As part of that approach, it is important to have disciplinary procedures that ensure fair and proportionate treatment of employees and the Council's conduct of employment relations. This policy sets out the expected standards of conduct in the workplace and the procedures to follow to ensure these standards are adhered to, provide a fair method of dealing with alleged failures to observe them and ensure corrective action is taken.

2 EQUALITY

At Bracknell Forest Council we are committed to encouraging equality, diversity and inclusion among our workforce, and eliminating unlawful discrimination. We want everyone that works for us to feel that their individuality is respected, and their unique contributions are valued.

The aim is for our workforce to be truly representative of all sections of society and our customers, and for each employee to feel respected and able to give their best.

The organisation - in providing goods and/or services and/or facilities - is also committed against unlawful discrimination of customers or the public.

3 PURPOSE

It is in everyone's interest to ensure that any disciplinary matter is dealt with quickly, effectively and above all fairly. Minor faults must be dealt with through normal management practice and may possibly involve counselling, coaching and supervision. Where this has failed to correct a situation, more formal measures may be necessary.

As a formal approach, the main purpose of the Disciplinary Procedure is to encourage an improvement in an employee whose standard of work or conduct is unsatisfactory. The Council's policy is to ensure that effective arrangements exist for dealing with disciplinary matters and that, as far as possible, common standards are observed for all employees. It must be seen as an attempt to secure improvement in conduct; to treat staff in a fair and consistent manner; and to provide a procedure so all parties know what to expect.

The Disciplinary Procedure does not cover the initial stages of dealing with poor conduct or poor performance through factors such as ill health or lack of ability to cope with changing demands; this is dealt with initially by separate procedures, such as [Managing Attendance](#), [Performance Improvement/Capability](#), [Stress at Work](#) and [Substance Misuse](#).

4 PRINCIPLES

In accordance with the ACAS Disciplinary and Grievance Procedures, the Council's disciplinary procedure is based on the following principles:

- All references in the procedure to “Director” can also mean Executive Director or Assistant Director or other 2nd tier officer who may act in place of the Director.
- The aim is always to assist the employee to improve their standard of conduct or behaviour, and normal management practices such as conversations, support and monitoring should take place where possible before a formal process is invoked.
- No management decisions/disciplinary action will be made until there has been a full investigation of the facts.
- An employee will receive a fair hearing and will always be given a chance to state their case fully.
- Notes should be taken during the hearing either by the Designated Officer or an independent note taker. The employee may request a copy of the notes after the hearing.
- Any employee who is required to answer a charge under the Disciplinary Procedure will be entitled to be accompanied at the formal hearing by a trade union representative or work colleague of their choice but by no one else. The employee is responsible for organising their own arrangements.
- When an employee is required to attend a disciplinary hearing there will be advance written notice to them of the grounds for the hearing. Witnesses may be called by either party. Any documentary evidence and names of witnesses to be called will, as far as practically possible, be produced with that written notice. The employee will be expected to disclose the names of their witnesses and provide their own documentary evidence.
- The Council will dismiss without notice for acts of gross misconduct - dismissal will only be decided upon at Director level.
- Criminal activities (either inside work or outside if it is likely to affect an employee’s work and/or the Council) will be investigated under the Disciplinary Procedure. Awaiting the outcome of any criminal investigation may delay the Council’s hearing (guidance may be required from the relevant authority).
- Cases can be taken to internal appeal for a complete review of all the circumstances of the case and the penalty decided upon. Appeals against the decision of dismissal by a Director will be heard by another Director not previously involved in the process or by a Member Appeals Panel.
- In line with ACAS guidance, the Disciplinary Procedure will apply to a recognised trade union representative however no disciplinary action beyond an unrecorded verbal warning will take place with an employee who is a recognised trade union official until the circumstances of the case have been discussed by the Designated Officer and Head of HR or Assistant Director: HR with a full-time official or other appointed official of the employee’s Trade Union following agreement with the employee.
- Every effort will be made to proceed in a timely manner. Designated Officers should ensure investigations are completed as soon as possible. It is recognised that there may be extenuating circumstances which could create delays but this

should be kept under regular review and attempts to conclude investigations promptly should be prioritised. The timescales are constructed to allow sufficient time for the preparation of case. A formal request for a deferment of a hearing where further time is needed to prepare, or a Trade Union representative is unable to attend, will not be unreasonably refused provided enough notice is given and the reasons explained. The deferment will be rearranged in a timely manner and, in line with ACAS guidance, will not normally exceed five working days and will not exceed one instance.

- If an employee refuses to attend a disciplinary hearing the Designated Officer will write to the employee concerned explaining that a disciplinary decision may have to be taken in their absence, based on information to hand. If a reasonable reason for non-attendance is forthcoming, the hearing may be deferred (see paragraph above).
- Where an employee raises a grievance about a manager who is involved in a disciplinary case against them, the disciplinary process may have to be suspended for a short while until the grievance is considered. However, this does not mean that the disciplinary process must be halted for the full time it takes to go through the normal grievance procedure. If this should happen, then the matter should be referred to the Assistant Director: HR who will examine the circumstances surrounding the grievance, and if warranted, may substitute another Designated Officer to take over the disciplinary case.
- All Designated Officers will have a copy of the Disciplinary Procedure and will have received training and guidance on how to apply it. [E-learning](#) guidance is available for all those involved with the process from Investigating Officers to chairing a disciplinary meeting. Additional guidance for Investigating Officers is available on the intranet.
- HR staff will be available to Designated Officers for advice and support at every stage of the Procedure and will advise on its consistent application. The Designated Officer should monitor the progress of the case and ensure the investigation is completed in a timely manner with no unreasonable delays, as well as keeping all parties updated on the status of the case on a regular basis.
- Should any allegation or concern arise involving suspected misconduct or inappropriate behaviour towards a child, young person or vulnerable adult additional safeguarding procedures apply. The safeguarding procedures apply to all those who work with children, young people or vulnerable adults irrespective of their employment status or position in the organisation. It is therefore essential that professional advice is sought immediately from the appropriate [safeguarding team](#) or LADO before any investigation commences or any decision is made about suspension. Any allegation or suspicion must be reported and investigated – under no circumstances should it be ignored. This does not presuppose the guilt or innocence of the employee, but all such concerns should be treated very seriously and sensitively and may require the involvement of other agencies (e.g. social services, police) or notification of regulatory bodies, as well as particular care in how witnesses are approached. In situations where the police are undertaking their own investigations it may be necessary to place an investigation under these procedures on hold. The line manager is responsible for ensuring regular communications are maintained during this period.
- Some cases may also need to be referred to the Disclosure and Barring Service and/or Local Authority Designated Officer.

- The performance of all policies will be reviewed annually as part of the Workforce Monitoring Report.

5 EMPLOYEE SUPPORT

The Council acknowledges that going through a disciplinary process can be a stressful and unsettling time for all parties, and encourages anyone who feels they need support to seek this through any of these methods:

- trade union representative (if they are a member of a trade union)
- the [Employee Assistance Programme](#) which provides 24/7 telephone counselling
- speaking to their manager for support, or to arrange a confidential buddy
- speaking to an [Equality Ally](#) if there is an equality issue

In addition, the Designated Officer should regularly keep the employee updated with the status of the investigation.

6 SCOPE - EMPLOYEES COVERED BY THE PROCEDURE

This procedure applies to all employees of Bracknell Forest Council, with the exception of:

- School based staff (see separate School policy)
- Employees serving a probationary period (see separate procedure below)
- For individuals undertaking casual work (see separate procedure below)

7 ROLES/RESPONSIBILITIES

It is important that everyone who comes into contact with this Procedure understands their different roles, responsibilities and authority.

7.1 INVESTIGATING OFFICER

- a) The Investigating Officer is sourced and appointed by the Designated Officer and investigates any alleged cases of misconduct. They will normally be the manager directly responsible for the employee who is to be investigated. There may be exceptional occasions when it would be more appropriate to appoint an Investigating Officer from outside the section/department. Please note that where a concern about behaviour towards children, young people or vulnerable adults arises, the Investigating Officer should not be appointed without reporting the allegation to the Safeguarding teams and getting their advice on how to proceed. See Principles, (above).
- b) The Investigating Officer presents the circumstances of the alleged offence, and findings of their investigation, including any documentary evidence, to the Stage 1 Disciplinary Hearing convened by the Designated Officer.
- c) It is strongly advised that an Investigating Officer should not start an investigation before completing the E-learning guidance module for Investigating officers and reading the [additional FAQs](#) on the intranet.

- d) The Investigating Officer will act as a witness for management during any subsequent hearings and appeals.
- e) The appointed Investigation Officer should have the capacity to prioritise the investigation to enable completion at the earliest opportunity. It is recognised there may be extenuating circumstances which could create delays but this should be kept under regular review and attempts to conclude investigations promptly should be prioritised.

7.2 MANAGER

- a) In the event of a breach of conduct being minor enough not to warrant a disciplinary hearing, the manager has the jurisdiction to act following an initial fact-finding investigation. It would not be necessary to proceed to a full hearing to give an unrecorded verbal warning. In these situations, the manager may also be the Investigating Officer.

7.3 DESIGNATED OFFICER

- a) A list of Designated Officers can be found on the intranet. In the absence of the particular Designated Officer or, if the circumstances dictate, after consulting with HR, another Designated Officer will have the power to act.
- b) The Designated Officer has overall responsibility of the case and can take advice from HR at any step of the process. The Designated Officer must ensure the process is carried out in a timely manner and should keep the employee regularly updated with the status of the case and informed of any delays and the reasons for them.
- c) The Designated Officer will generally be the manager responsible for a section of work and the group of employees which that embraces. No disciplinary action beyond that of a verbal warning may be taken below the level of Designated Officer.
- d) The Designated Officer will source and appoint an Investigating Officer who is immediately available to carry out a full investigation of the case in a timely manner. Once the Designated Officer has received the Management Investigation Report they will decide whether there is potentially a case to answer and if a hearing is required
- e) If, at any stage, suspension is considered due to the allegations, the Designated Officer must seek guidance from the Head of HR or Assistant Director of HR.
- f) It is the role of the Designated Officer to hear any evidence of misconduct, consider the case from the employee and decide whether the alleged breach of discipline is of minor, serious or gross misconduct.
- g) If serious misconduct is evident which is potentially a dismissible offence or there is a possible case of gross misconduct, it must be referred directly to a Stage 2 Hearing by the Designated Officer. (The role of the Director at a Stage 2 Hearing is to convene, hear and decide upon the action to be taken to deal with serious misconduct which is potentially dismissible, or gross misconduct. These will be

either referred from the Designated Officer's Stage 1 Disciplinary Hearing or initiated by the Director themselves).

- h) In the case of a minor or serious breach of discipline falling short of dismissal, the Designated Officer may apply a range of sanctions from a verbal warning to a final written warning.
- i) If the Designated Officer refers the case to Stage 2 it is their role to present the circumstances of the alleged gross misconduct or serious misconduct which is a potentially dismissible offence at a disciplinary hearing convened by the Director. A Designated Officer will act as a witness for the Director at an appeal to an Appeals Panel.
- j) It is strongly advised that a Designated Officer should complete the E-learning guidance on Chairing a Disciplinary Hearing.

7.4 DIRECTOR

- a) The role of the Director is to convene, hear and decide upon the action to be taken in respect of Stage 2 Disciplinary Hearings, to deal with serious misconduct which is potentially dismissible, or gross misconduct. These will be either referred from the Designated Officer's Stage 1 Disciplinary Hearing or initiated by the Director themselves.
- b) Any appeal against the actions of a Designated Officer will be heard by the Director.
- c) In the event of an appeal against dismissal before a Member Appeals Panel, the Director, as the decision maker, will present the case on behalf of management. This will also apply to an appeal against a decision by a Director to impose a lesser penalty, or may be heard by another Director.
- d) There may be occasions where a Director from another Department will be designated to act.

7.5 ASSISTANT DIRECTOR: HR (OR NOMINATED REPRESENTATIVE)

- a) The role of the Assistant Director: HR or their or nominated representative is to provide overall guidance and advice for the Disciplinary Procedure.
- b) The Assistant Director: HR or their nominated representative is the officer appointed as Secretary to the Member Appeals Panel.

7.6 HR REPRESENTATIVE

- a) The role of the HR Representative is to assist Designated Officers and Directors with cases of misconduct in fulfilling the requirements in this procedure. In no circumstances will the HR representative be deciding the outcome of any disciplinary sanction.
- b) The Head of HR or Assistant Director: HR will be consulted by the Designated Officer before a decision is taken that an offence is either one of prima-facie gross

misconduct warranting suspension on full pay or serious misconduct which is potentially dismissible.

7.7 COUNCILLORS

- a) Councillors appointed to the Appeal Panel will be responsible for hearing appeals against the decision of a Director to dismiss.
- b) A member panel will hear any case against an Executive Director, Director or Assistant Director, and a separate member panel will hear any subsequent appeals.

8 THE CONDUCT OF A DISCIPLINARY CASE

8.1 CARRYING OUT MEETINGS AND HEARINGS REMOTELY

All hearings should be carried out face to face unless there is a specific reason why this is not feasible. Before deciding whether to carry out a meeting or hearing remotely or using a hybrid method it is important to consider if:

- Everyone involved has access to the technology needed for video meetings, for example the necessary equipment and internet connection, and that all parties agree to have their cameras switched on.
- Anyone involved has any disability or other accessibility issues that might affect their ability to use video technology, and whether any **reasonable adjustments** might be needed.
- It's possible to obtain all the evidence needed for the investigation or hearing, for example records or files that are kept in the office or workplace.
- Any witness statements or other evidence can be seen clearly by everyone involved during an interview or hearing and provided in advance where appropriate.
- It will be possible to fairly assess, and question evidence given by people interviewed during a video meeting.
- It's possible for the person under a disciplinary investigation to be fairly accompanied during the hearing.

If there is a need to digitally record a meeting, this must be done in line with data protection law and follow local policy.

8.2 INVESTIGATORY STAGE

Before any disciplinary action is taken, the Designated Officer should appoint an Investigating Officer to conduct a thorough investigation and/or management interview. This Investigating Officer will be either the direct manager of the employee concerned or another manager. The Designated Officer should inform the employee of the nature of the alleged misconduct and indicate that the matter is being formally investigated.

This stage is to be regarded as a meeting convened by management and not a Disciplinary Hearing. Therefore, the employee does not have the right to be accompanied at these discussions/interviews, but specific requests can be considered by the Investigating Officer.

8.3 INFORMAL STAGE

Following the investigation, the Designated Officer may decide that the faults of conduct are minor and are more appropriately dealt with informally by the manager (see Roles/Responsibilities section above). In these instances there may be no need for a formal procedure to be entered into; providing advice and guidance may be a more satisfactory method of resolving problems. The aim is to encourage and help the employee to improve their conduct.

A meeting should be set up by the Designated Officer to discuss the result of the investigation, which will involve the employee and may involve their immediate manager. At this meeting the employee does not have the right of representation. Shortcomings should be pointed out and ways of improving should be explored. The employee must be clear about what needs to be done in order to improve and an indication should be given of when the situation will be reviewed. It must also be made clear that if there is no improvement, it will be necessary to invoke formal Disciplinary Procedures. If it appears that the meeting is revealing information which warrants a formal disciplinary hearing, the meeting should be adjourned and referred to the formal stage of the process.

8.4 FORMAL STAGE

If it is not possible to resolve the case at the informal stage then it should move to a formal stage. If the Designated Officer believes that serious misconduct (which is potentially dismissible) or gross misconduct has occurred, they will, after consultation with HR, refer the matter for a hearing by the Director of the department concerned to be considered for Stage 2.

- a) Stage 1 Disciplinary Hearing - this is designed to give the employee an opportunity to respond to the allegation, enable the Designated Officer to check the evidence to ascertain its seriousness and, if necessary, take disciplinary action. The process in Appendix A should be followed.
- b) Stage 2 Disciplinary Hearing by a Director – the process in Appendix B should be followed. The Designated Officer from the Informal Stage/Formal Stage 1 will present the case. An employee can only be dismissed following a Stage 2 hearing.
- c) Where a case has been brought against an Assistant Director, Director or Executive Director, all hearings will be carried out by a Member Panel.

9 LEVELS OF DISCIPLINARY ACTION

It is not possible to give a definitive list of penalties which may be awarded for particular offences. Each case has to be considered in the light of its own facts, the nature of the misconduct, the circumstances of the case, previous disciplinary record, post held etc. General guidance notes are given in Appendix E. In all cases however, a belief needs to be established by the Designated Officer that the employee is guilty of the alleged misconduct, based on the balance of probabilities and taking into account all relevant facts.

10 SUSPENSION

Suspension is a neutral act and is not in itself a disciplinary measure but a way of proceeding pending possible disciplinary hearings. It would be used in only the most serious circumstances, see below, and is never as an automatic approach. Notification of suspension is to be regarded as a meeting convened by management and not a

disciplinary hearing, therefore the right of the employee to be accompanied at these discussions/interviews is not available. Suspension will be confirmed in writing, is on full pay and may be for as long as is necessary to allow a proper investigation to take place. Consideration should be given to temporary redeployment, working from home or alternative location as an alternative to suspension.

A Designated Officer may suspend only after consultation with the Head of HR or Assistant Director: HR and where the reasons are clear:

- a) If it is inappropriate for the employee to remain at their place of work whilst investigation into a disciplinary matter is carried out, e.g:
 - because of access to records or contact with other employees which is likely to influence the outcome of the investigation
 - to allow investigations to be made which are likely to be inhibited by the presence of the employee
 - working relationships have severely broken down to the point that there is a genuine risk to other employees, property, customers or other business interests if the employee remains in the workplace
 - it is considered that there is a reasonable chance that the employee could tamper with evidence, influence witnesses and/or sway the investigation
 - the employee is the subject of criminal proceedings which may affect whether the employee can do their job

- b) Where the nature of the alleged misconduct is such that its future occurrence or re-occurrence could have serious consequences for other employees of the Council or the public, e.g:
 - dangerous practices
 - drunkenness
 - irregularities in cash handling
 - safeguarding concerns

- c) Where there is a real concern that the employee's continued presence at their place of work could result in serious disruption whether deliberate or otherwise, e.g:
 - where the pressure of the proceedings is preventing the postholder from working effectively
 - where an employee is in a position to commit deliberate acts of sabotage and there is a likelihood that they will do so
 - where the likely actions or behaviour of the employee could bring the Council into serious disrepute

If an incident occurs outside normal office hours and a Designated Officer is not available, the most senior manager available will have the authority to suspend. At the earliest opportunity the appropriate Designated Officer will be informed of the suspension and will discuss with the HR Management Team.

11 COACHING/COUNSELLING

There may be occasions when there is no need for a formal procedure to be entered into; coaching or counselling from the manager or other relevant parties may be a more satisfactory method of resolving issues than a disciplinary hearing as its aim is to encourage and help the employee to improve their conduct or performance.

A meeting should be set up by the Designated Officer which will involve the employee and may involve their immediate manager. It is, however, not necessary to afford the employee the right of representation. Shortcomings in conduct or performance should be pointed out and ways of improving should be explored. The employee must be clear about what needs to be done in order to improve and an indication should be given of when the situation will be reviewed. It must also be made clear that if there is no improvement, it will be necessary to invoke the formal Disciplinary Procedure.

12 DISCIPLINARY RECORDS

Official records will be kept securely and confidentially. Where departmental copies are kept they will be stored securely and confidentially.

Warnings will be active for the designated period and will normally be disregarded at the end of that specified time if satisfactory conduct or performance has been achieved.

13 RESIGNATIONS

If an employee under investigation resigns before disciplinary action can be taken, the Designated Officer or Director will make an assessment whether to continue or cease the disciplinary process, taking into account the length of notice to be served. This decision may depend on the nature of the allegation. However, if there is an issue which must be investigated and resolved e.g. fraud; or misconduct or inappropriate behaviour towards a child, young person or vulnerable adult, then the Director will agree for the investigation to continue.

Where it has continued, the individual who has resigned should be informed of the outcome of any investigation and given the right to make any necessary comments. If requested, the outcome of the continued investigation might affect references and may be reported to appropriate regulatory bodies.

14 EMPLOYEES WITH LESS THAN SIX MONTHS SERVICE OR IN PROBATIONARY PERIOD OR INDIVIDUALS UNDERTAKING CASUAL WORK

Employees on a probationary period (or extended probationary period) or individuals undertaking casual work are explicitly excluded from the Disciplinary Procedure. In the event of a disciplinary issue arising with someone in these categories, the following three step procedure can be used:

Step One: Following consultation with HR, depending on the nature of the alleged offence, the individual may be invited to attend a meeting with the manager, where the issue will be addressed. There will be the right to be accompanied by a trade union representative or a work colleague.

Step Two: The outcome of the meeting, which could be any action up to and including dismissal with the appropriate period of notice or pay in lieu of notice, will be confirmed in writing.

APPENDIX A – PROCEDURE FOR STAGE 1 DISCIPLINARY HEARING BY DESIGNATED OFFICER

Prior to the Hearing

Prior to the hearing it is advisable that the Designated Officer contacts the employee to discuss details such as how the hearing will be run (i.e. face to face or whether there is any reason why the hearing should be held remotely), and suggested date of the hearing.

A letter giving at least five working days' notice of the hearing will be sent to the employee by the Designated Officer outlining the matters to be dealt with and reminding the employee of their right to representation and to call witnesses. The employee will also receive copies of any papers which are to be produced at the hearing.

The employee should supply to the Designated Officer, at least three working days prior to the meeting, copies of any documents which they intend to produce and indicate which, if any, witnesses are to be called. The employee is responsible for arranging attendance of their own witnesses and representative.

At the Hearing

- a) The Designated Officer should introduce those present and explain that the meeting is being held to consider whether disciplinary action should be taken in accordance with the Organisation's procedure. They should also explain the role of the accompanying person if present and outline how the meeting will be conducted.
- b) The circumstances of the alleged offence as supported by any documentary evidence and witnesses, will be put by the Investigating Officer to the Designated Officer and the employee and/or their representative. The Investigating Officer may call witnesses if appropriate.
- c) The employee and/or their representative will be entitled to ask questions of the Investigating Officer and witnesses relating to that evidence.
- d) The employee and/or the representative will put their case and be able to call such witnesses as they wish.
- e) The Designated Officer will have the opportunity to ask questions of the employee, their witnesses and the Investigating Officer.
- f) The parties will have the opportunity to sum up their cases if they so wish.
- g) The parties and their witnesses will withdraw.
- h) The Designated Officer (with the HR Advisor), will deliberate in private, recalling the parties only to clear any points of uncertainty on evidence already given. If recall is necessary both parties should return, notwithstanding only one may be concerned with the point in question.
- i) The Designated Officer will announce their findings, and the action they intend to take, to the parties preferably immediately or within a reasonable time after the

hearing. This will then be confirmed in writing within five working days of the hearing.

The letter will specify the action taken, together with any review arrangements and right of Appeal (see Appendix C).

Copies of records should be made available to the employee if requested. In certain circumstances (for example to protect a witness) the employer might withhold some information.

APPENDIX B – PROCEDURE FOR STAGE 2 DISCIPLINARY HEARING BY DIRECTOR

Prior to the Hearing

Prior to the hearing it is advisable that the Designated Officer contacts the employee to discuss details such as how the hearing will be run (i.e. face to face or whether there is any reason why the hearing should be held remotely), and suggested date of the hearing.

A letter giving at least five working days' notice of the hearing will be sent to the employee by the Designated Officer outlining the matters to be investigated and reminding the employee of their rights to representation and to call witnesses. The employee will also receive copies of any papers which are to be produced at the hearing.

The employee should supply to the Director, at least three working days prior to the meeting, copies of any documents which they intend to produce and indicate which, if any, witnesses are to be called. The employee is responsible for arranging attendance of their own witnesses and representative.

At the Hearing

- a) The Designated Officer should introduce those present and explain why that the meeting is being held to consider whether disciplinary action should be taken in accordance with the Organisation's procedure. They should also explain the role of the accompanying person if present and outline how the meeting will be conducted.
- b) The circumstances of the alleged offence as supported by any documentary evidence and witnesses, will be put by the Designated Officer to the employee and/or their representative.
- c) The employee and/or their representative will be entitled to ask questions of the Designated Officer and witnesses relating to that evidence.
- d) The employee and/or the representative will put their case and be able to call such witnesses as they wish.
- e) The employee and/or witnesses may be questioned by the Designated Officer.
- f) The Director will have the opportunity to ask questions of the employee and their witnesses and of the Designated Officer and/or their witnesses.
- g) The parties will have the opportunity to sum up their cases if they so wish.
- h) The parties and their witnesses will withdraw.
- i) The Director (with the HR Advisor) will deliberate in private, recalling the parties only to clear any points of uncertainty on evidence already given. If recall is necessary both parties should return, notwithstanding only one may be concerned with the point of issue.

- j) The Director will announce their findings and the action they intend to take to the parties preferably immediately or within a reasonable time after the hearing. This will then be confirmed in writing within five working days of the hearing.

The letter will specify the action taken, together with any review arrangements (including the timescale of any warning) and right of Appeal (see Appendix D).

Copies of records should be made available to the employee if requested. In certain circumstances (for example to protect a witness) the employer might withhold some information.

APPENDIX C – PROCEDURE FOR APPEAL TO DIRECTOR

An employee has a right of appeal to a Director against action taken by a Designated Officer. The right of appeal may be for one of the following reasons and will be a complete review of the case:

- a) where the employee considers that the Designated Officer has unjustly found against them;
- b) where the employee contends that a matter of fact referred to at the disciplinary hearing has not been properly taken into account by the Designated Officer in reaching their decision;
- c) where the employee feels that the disciplinary action taken by the Designated Officer has been too severe.

The employee must exercise the right of appeal within five working days of receiving written confirmation of action taken against them. The letter indicating the employee's intention to appeal should be addressed to the Director.

Where possible the Appeal should be held within ten working days of the written notification of intention to appeal, but certainly without unreasonable delay. An HR Advisor will act as adviser to the Director.

Prior to the Hearing

The Director will give notice in writing to the employee at least five working days in advance of the time and place of hearing. All documents relevant to the disciplinary hearing will be attached to this letter.

The employee should supply to the Director, at least three working days prior to the appeal, copies of any documents which they intend to produce and indicate which, if any, witnesses are to be called. The employee is responsible for arranging attendance of their own witnesses and representative

At the Hearing

- a) The Designated Officer will put the case to the Director in the presence of the employee and their representative (if any) and may call witnesses.
- b) The employee (or their representative) will have the opportunity to ask questions of the Designated Officer and witnesses on the evidence given by them.
- c) The Director may ask questions of the Designated Officer and witnesses.
- d) The employee (or their representative) will put their case in the presence of the Designated Officer and call such witnesses as he/she may wish.
- e) The Designated Officer will have the opportunity to ask questions of the employee and witnesses on the evidence given by them.

- f) The Director may ask questions of the employee and witnesses.
- g) The Designated Officer and then the employee (or their representative) will have the opportunity to sum up their case if they so wish.
- h) The Designated Officer and the employee and their representative and the witnesses will withdraw.
- i) The Director (with the HR Advisor) will deliberate in private only recalling the Designated Officer and the employee to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return, notwithstanding only one may be concerned with the point in question.
- j) The Director will, if possible, announce the decision to the parties immediately and confirm in writing within five working days.

Copies of records should be made available to the employee if requested. In certain circumstances (for example to protect a witness) the employer might withhold some information.

The decision of the Director will be final.

APPENDIX D – PROCEDURE FOR APPEAL TO A MEMBER APPEALS PANEL

An employee has a right of appeal to a Member Appeals Panel against a dismissal decision taken by a Director. (For decisions short of dismissal taken by a Director the appeals panel will be a different Director and an HR Advisor – see Appendix C). The right of appeal may be for one of the following reasons and will be a complete review of the case:

- a) Where the employee considers that the Director has unjustly found against them.
- b) Where the employee contends that a matter of fact referred to at the disciplinary hearing has not been properly taken into account by the Director in reaching their decision.
- c) Where the employee feels that the disciplinary action taken by the Director has been too severe.

The employee must exercise the right of appeal within five working days of receiving confirmation of action taken against them. The letter indicating the employee's intention to appeal should be addressed to the Assistant Director: HR.

Where possible the Appeal should be held within 20 working days of the written notification of intention to appeal, but certainly without unreasonable delay. The Assistant Director: HR or their nominated representative will be the officer appointed as Secretary to the Appeals Panel.

Prior to the hearing

The Assistant Director: HR or nominated representative will give the employee at least five working days' notice of the time and place of hearing. All documents relevant to the disciplinary hearing will be attached to this letter.

The employee should supply to the Assistant Director: HR, at least three working days prior to the appeal, copies of any documents which they intend to produce and indicate which, if any, witnesses are to be called. The employee is responsible for arranging attendance of their own witnesses and representative.

At the Hearing

- (a) The Director will put the case to the Appeals Panel in the presence of the employee and their representative (if any) and may call witnesses. The Designated Officer and/or Investigating Officer will be available to assist the Director as necessary.
- (b) The employee (or their representative) will have the opportunity to ask questions of the Director and witnesses on the evidence given by them.
- (c) The Appeals Panel may ask questions of the Director and witnesses.
- (d) The employee (or their representative) will put their case in the presence of the Director and call such witnesses as he/she may wish.
- (e) The Director will have the opportunity to ask questions of the employee and witnesses on the evidence given by them.

- (f) The Appeals Panel may ask questions of the employee and witnesses.
- (g) The Director and then the employee (or their representative) will have the opportunity to sum up their case if they so wish.
- (h) The Director and the employee and their representative and the witnesses will withdraw.
- (i) The Appeals Panel (together with the Assistant Director: HR or nominated representative who is Secretary to the Panel) will deliberate in private only recalling the Director and the employee to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return, notwithstanding only one is concerned with the point in question.
- (j) The Chairman, on behalf of the Appeals Panel will, if possible, announce the decision to the parties immediately and confirm in writing within five working days.

The decision of the Appeals Panel will be final.

Copies of records should be made available to the employee if requested. In certain circumstances (for example to protect a witness) the employer might withhold some information.

APPENDIX E - TYPES OF MISCONDUCT AND LEVELS OF ACTION

Whilst it is possible to give examples of types of misconduct (Minor, Serious, Gross) it is important that each case is looked at in relation to the type of offence, circumstances, previous record and type of job. What would be a relatively minor breach of discipline in one job may be viewed more seriously in a different job because of the nature of the work, for example contact with the public, children, elderly or vulnerable people or responsibility for cash.

It is not possible to give a definitive list of penalties which may be awarded for particular offences but there are general guidelines which should be followed. HR can give advice in complex cases, taking account of previous similar cases in the Council as consistency is an important element in the disciplinary process.

Except in cases of summary dismissal for gross misconduct, employees who are dismissed will receive a period of notice or pay in lieu of notice in accordance with their contract of employment.

Employees would not normally be dismissed for a first breach of disciplinary rules except in the case of Gross Misconduct or specific and/or repeated cases of Serious Misconduct.

LEVELS OF MISCONDUCT

Minor Misconduct

Minor misconduct is that which does not impact significantly upon the work of the Council, employees or the public provided that it is not a repetition of an earlier similar offence.

(If the impact of the behaviour on the Council is significant on the facts of the case, it may be regarded as serious.)

Some examples would be:

- Poor timekeeping or non-attendance without reason
- Failure to follow instructions/carry out simple tasks
- Minor abuse of flexitime
- Incomplete timesheets
- Smoking in a no smoking area

Penalties

A recorded verbal or written warning is the generally accepted penalty for minor misconduct but the Designated Officer will need to make it clear to the employee that repetition may lead to more serious action. The warning will generally be for up to 12 months.

Serious Misconduct

Serious Misconduct is that which impacts to a significant degree upon the work of the Council, other employees or the public and/or is a recurrence or continuation of

conduct which is unacceptable and has been dealt with previously as minor misconduct.

(If the impact of the behaviour is not very significant on the facts of the case, it may be treated as minor misconduct; if the impact is so serious in the particular case as to make the behaviour intolerable, it may be treated as gross misconduct.)

Some examples would be:

- Improper, disorderly or unacceptable conduct at, during, or when arriving for work, including offensive language in front of the public.
- A breach of a rule which endangers the safety of another person.
- A breach of confidential information which might have serious repercussions for the Council.
- Neglect of responsibilities.
- Dishonest behaviour (depending on the degree and extent).
- A breach of Standing Orders, contract or financial regulations which falls short of theft/fraud.
- Behaviour (including bullying/harassment/victimisation) which is sexist, racist or offensive to those of a particular ethnic origin, religion or belief, nationality or sexual orientation, or relates to a disability.
- Malicious or reckless damage to Council property (depending on the degree or extent).
- Repeated and/or significant misuse of the Council's facilities, e.g. telephones, fax machines, internet, e-mail, including unauthorised entry into the Council's computer systems, the running of computer games and other unauthorised software, sharing of passwords and using proxy access to send emails purporting to be from someone else (depending on the degree and extent).
- Viewing or distributing offensive material whether on the internet, by email or in written form (dependent on the degree and extent this may be treated as Gross Misconduct).
- Participating without the knowledge or consent of the Council in other employment, business or profession which has an adverse impact on work or on the Council
- Working or indulging in other activities while absent from work on sickness leave which breaches the Managing Attendance Policy.
- Failure to adhere to National Codes of Practice.
- A failure to adhere to or breach of Council policies and procedures.
- Failure to disclose any charge, caution or conviction (not including fixed penalty notices) which affects or is likely to affect the employee's suitability for the position in which they are employed.

Penalties

There are a range of penalties available to the Designated Officer including:

- Written warning.
- Final Written warning - used for continued minor offences or failure to achieve the improvements required by a written warning. The warning will generally be for up to 24 months but may, in certain circumstances be left on file for an unlimited period of time.
- Other examples of appropriate action are: Transfer to alternative duties or demotion for a specified period of time or permanently; withholding of increments; suspension

without pay for a specified period of time - normally not exceeding three months duration.

Where a judgement is made that an offence may be dismissible (e.g. this may result from failure to heed a final written warning), a referral will need to be made to the Director for a further Hearing.

Gross Misconduct

Gross misconduct is that which is so serious in relation to its impact upon the work of the Council, other employees or the public that it cannot be tolerated under any circumstances and thus is likely to result in the termination of employment.

Some examples would be:

- Theft, fraud.
- Serious incapability through alcohol or non-prescription drugs.
- Fighting/physical assault.
- Inappropriate behaviour of a sexual nature towards another employee, Council service user, pupil or member of the public.
- Serious insubordination, for example, refusing to take lawful and reasonable orders from a supervisor.
- Any act which may result in an action against the Council for negligence or serious lack of care to their duties or for breach of the duty of care.

Penalty

Dismissal without notice is given in cases of gross misconduct.

APPENDIX F - SAMPLE LETTERS

PRIVATE AND CONFIDENTIAL

Date

Dear

Management Investigation under the Council's Disciplinary procedure

I am writing to you in the capacity of Designated Officer. There are a number of allegations regarding your conduct which have been brought to my attention. Because of the nature of the allegations a full investigation of the facts needs to be undertaken.

- [Summarise details of each issue being investigated in bullet points]

The Investigating Officer who will be carrying out the investigation will be [name of investigator].

The aim of the investigation is to establish the facts of the matter by gathering as much of the relevant facts and information as possible. As Investigating Officer, xxxxxxx will be in contact with you shortly to ask you to attend an interview as part of the investigation process where you can explain your version of events.

You will be informed of the time and date of the meeting in advance. There is no right to be accompanied at the investigation meeting as this is a management meeting to gather facts and information.

Once completed, the findings will be reported to me and I will then decide whether any further action is required through the Council's Disciplinary Procedure.

To ensure that the investigation can be conducted as fairly as possible we request that you keep the matter confidential. Any breach of confidentiality may be considered to be a disciplinary matter. Therefore prior to and during the investigation, you should not discuss this matter with any members of staff directly involved with the allegations. You may, of course, wish to discuss this further with your trade union representative or a nominated colleague (whose name should be passed to me) who is supporting you during this process.

You will appreciate it is important that the management investigation is finalised as soon as is reasonably possible and therefore your co-operation would be appreciated.

If it is found that there is a case to answer, you will be invited to attend a formal disciplinary hearing.

Please note that you should continue to attend work while the investigation takes place [amend if suspension of the employee was necessary].

I enclose a copy of the Council's Disciplinary Procedure. If the matter proceeds to a Hearing under the Disciplinary Procedure, you will be given prior notice of the date, time and place of the Hearing.

I do recognise that this process can be difficult for you and I would therefore also like to take the opportunity to remind you of the counselling service available to you through the Employee Assistance Programme. The details are available on the intranet or can be obtained from HR. Additional means of support can be found in the policy.

In the meantime should you have any queries please contact me.

Yours sincerely

NAME
Designated Officer

PRIVATE AND CONFIDENTIAL

Date

Dear

Invite to Stage 1 Disciplinary Hearing

As you are aware an investigation has been undertaken into your conduct following allegations that xxxxxxxxxxxxxxxxxxxxxxxx

As a result of this investigation a Stage 1 Disciplinary Hearing has been arranged to hear the allegations. This will be held at XXXXX (LOCATION) on XXXXXXXX (DATE) at XXXX (TIME), in Room xx on the xx Floor. On arrival please wait in reception/OTHER AREA and xxxxxxxxxxxx will collect you. *(amend as appropriate)*

If the hearing needs to take place as a hybrid or Teams meeting please contact HR for the appropriate wording

I will be hearing the case and xxxxxx – HR Advisor, will be providing advice on HR matters. xxxxxxxxxxxx as Investigating Officer will be presenting the management case. The Investigating Officer, xxxxx, has indicated that they will not be calling witnesses/that the witnesses they will be calling are: XXXX *(amend as appropriate)*. (A support officer, xxxxxxxxxxxxxxxxxx, will be attending to take notes *(Take out if not happening and DO is taking notes)*)

You have the right to be represented or accompanied by a representative of your Trade Union or work colleague of your choice, and you may call witnesses at the Hearing as necessary.

The procedure to be followed is in accordance with Appendix A of the Council's Disciplinary Procedure, which can be found on the intranet, and a copy of which is attached. Your attention is drawn to Paragraph 3 of the Appendix, which requires you to supply me with any documents you intend to produce at the Hearing and also the names of any witnesses you intend to call by xxxxxx *(within three days of the hearing)*.

In accordance with Paragraph 2 of that Appendix, copies of the papers to be produced during the course of the Hearing are attached for your information. They are as follows:

- Management Investigation Report and Appendices.
- *(amend as appropriate)*

I would also like to draw your attention to Appendix E of the Council's Disciplinary policy, which provides guidance notes on the types of misconduct, levels of disciplinary sanctions available to me and the possible outcomes.

Yours sincerely

Designated Officer
cc: HR Advisor

PRIVATE & CONFIDENTIAL

Date

Dear

Outcome of Stage 1 Disciplinary Hearing

I refer to the Disciplinary hearing held on That hearing was as the result of my letter to you on the matter of At the hearing you were accompanied by your Trade Union representative (**amend as appropriate**).

Following the hearing, I have decided on the following action: (**choose the appropriate response**)

- To take no further action based on the satisfactory explanation you gave for your absence.
- To issue you with a written warning/final written warning/to demote you for a specific period/to withhold your next annual increment.
- The warning will remain on your file for months.

OR:

- To treat the matter as one of Minor Misconduct and take the following action
- To treat the matter as one of Serious Misconduct and take the following action

The reason for this disciplinary action is as follows:

.....

I would warn you that any future breaches of discipline may result in further action against you.

OR (If the hearing warrants referral to Stage 2 therefore the first three options above are not applicable)

As you are currently on a Final Written Warning I view this matter as one which is a potentially dismissible offence. I have therefore decided to refer the matter to the Director for a Stage 2 Hearing. They will contact you within the next 10 working days giving you the time and date for the hearing.

You have the right of appeal against this action on the following grounds:

- (a) where you consider that I have unjustly found against you;
- (b) where you contend that I have not properly taken into account any matters of fact referred to at the Disciplinary Hearing in reaching my decision;

(c) where you feel that the action taken by me has been too severe.

If you wish to appeal you must notify the [xxxxxx] within five days of the date of this letter, stating the grounds for your appeal.

Yours sincerely

Designated Officer

cc: HR Advisor

PRIVATE & CONFIDENTIAL

Date

Dear

Invite to Stage 2 Disciplinary Hearing

As you are aware an investigation has been undertaken into your conduct following allegations of..... .

As a result of this investigation a Stage 2 Disciplinary Hearing has been arranged to hear the allegations. This will be held at Time Square, Bracknell on at On arrival please report to reception and ask for..... who will collect you.

If the hearing needs to take place as a hybrid or Teams meeting please contact HR for the appropriate wording

I will be hearing the case and ,..... will be providing advice on HR matters. as Designated Officer will be presenting the management case. A support officer will be attending to take notes.Will also be in attendance as a witness. (amend as appropriate)

You have the right to be represented or accompanied by a representative of your Trade Union or a work colleague of your choice. You may also call witnesses at the Hearing as necessary.

The procedure to be followed is in accordance with Appendix B of the Council's Disciplinary Procedure (copy attached). Your attention is drawn to paragraph 3 of the Appendix, which requires you to supply me with any documents you intend to produce at the Hearing and also the names of any witnesses you intend to call by DATE.

In accordance with paragraph 2 of that Appendix, copies of the papers to be produced during the course of the hearing are attached for your information. They are as follows:

- Management Investigation Report and Appendices.
- Add as appropriate.

I would also like to draw your attention to Appendix E of the Council's Disciplinary policy, which provides guidance notes on the types of misconduct, levels of disciplinary sanctions available to me and the possible outcomes.

Please telephone me to confirm your attendance at this hearing by

Yours sincerely

Director

cc: Trade Union Representative
Human Resources
Designated Officer

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Grievance Procedure

Document Control

Current Version:	1.2	Date Modified:	March 2022
Revision due	The service aims to review policies and procedures every two years to ensure documents are up to date		
Owning Service	Human Resources		

Approvals (if required)

Date Employment Committee gave authorisation for changes (where necessary)

Change History

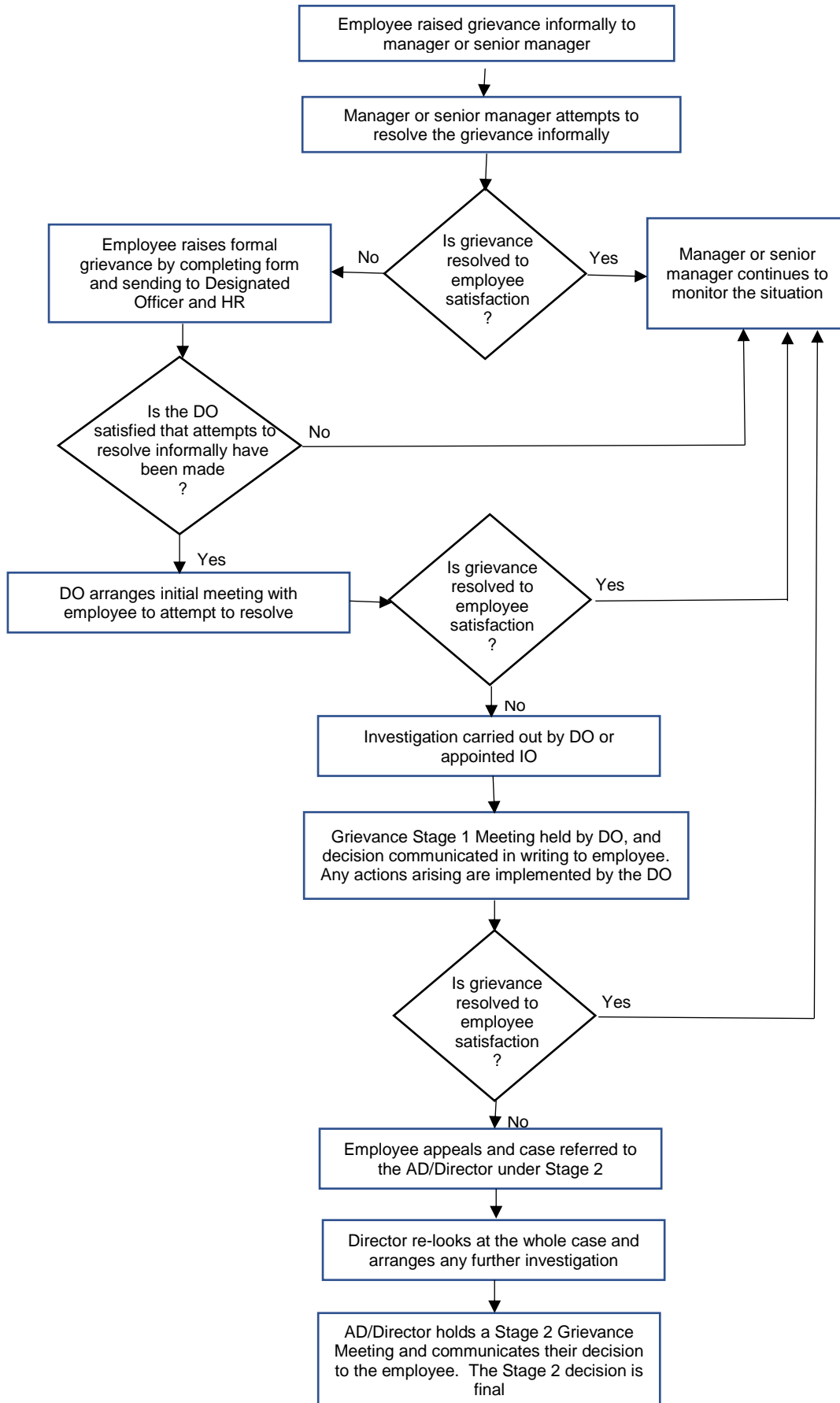
Version	Date	Description	Changes made by
1.1	Feb 2019	Amended to remove reference to departmental HR and BORIS – now reads intranet	Melissa Berry
1.2	June 2022	General revision and update, addition of Equality statement, addition of information about holding meetings remotely, updated grievance form, changed 'hearing' to 'meeting', addition of information about supporting the employee, scope changed to include Assistant Director, Director or Executive Director and clarification of procedure for a case against them	Sarah Darby

**BRACKNELL FOREST COUNCIL'S
GRIEVANCE PROCEDURE**

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GRIEVANCE PROCESS FLOWCHART



BRACKNELL FOREST BOROUGH COUNCIL GRIEVANCE PROCEDURE

1 INTRODUCTION

A Grievance is defined as a concern, problem or complaint which has been raised or discussed by the employee with their immediate manager or other line manager, but has not, in the opinion of the employee, been satisfactorily settled in a reasonable timescale. If it is not possible to resolve a grievance informally employees should raise the matter formally and without unreasonable delay. It is Bracknell Forest Council's philosophy to treat all staff fairly and equitably. As part of that approach, this procedure provides a means for hearing and settling all grievances promptly, fairly and as simply as possible.

2 EQUALITY

At Bracknell Forest Council we are committed to encouraging equality, diversity and inclusion among our workforce, and eliminating unlawful discrimination. We want everyone that works for us to feel that their individuality is respected, and their unique contributions are valued.

The aim is for our workforce to be truly representative of all sections of society and our customers, and for each employee to feel respected and able to give their best.

The organisation - in providing goods and/or services and/or facilities - is also committed against unlawful discrimination of customers or the public.

3 PURPOSE

The procedure has been designed to enable employees to exercise their right to raise grievances relative to their employment and have them heard and settled. It is recognised that managers may handle complaints, requests and queries from staff on an informal basis as part of their routine duties, but in some cases, formal procedures may be necessary where all informal options have been exhausted. The procedure provides a consistent method of dealing with complaints and allows issues to be addressed within the principles of natural justice.

Any potential disciplinary action arising from investigation of a grievance would be taken through a disciplinary process; the outcome of a grievance procedure is the resolution of a complaint, not a disciplinary action against another party. The Council will not be in a position to disclose details of any subsequent outcome or action resulting from the grievance, involving a third party, due to confidentiality.

4 PRINCIPLES

In accordance with the ACAS Disciplinary and Grievance Procedures, the Council's grievance procedure is based on the following principles:

- All references in the procedure to "the Director" can also refer to the Executive Director or Assistant Director or other 2nd tier officer who may act in place of the Director.
- The procedure is intended to cover matters relating to an employee's own employment. A separate [Whistleblowing](#) procedure exists for employees to have concerns addressed regarding issues at work which may not involve them directly but which cause them concern.
- Grievances will be treated seriously and resolved as fairly, equitably and quickly as possible.

- It is a requirement that every effort has been made to deal with matters informally before recourse to the formal procedure. Confirmation of the informal measures must be outlined on the initial grievance form.
- If a collective grievance arises through a group of employees within the same or different departments relating to the same issue, they may nominate a spokesperson (who may be a trade union representative) to act on their behalf. Each person must sign the grievance form to show they are part of the collective group.
- The employee who raises the grievance has the right to be accompanied at the grievance meeting by a Council recognised Trade Union representative or work colleague of their choice but by no one else. A work colleague will be allowed reasonable paid time off for preparation and case presentation. The right to representation is at the formal grievance meeting or initial meeting with the Designated Officer. There is no formal right to representation at the interview with the Investigating Officer.
- No employee will be made to feel disadvantaged in any way because they have raised or pursued a grievance in good faith. Similarly, witnesses should not feel disadvantaged for providing evidence. Neither should an employee who has had a grievance raised about their work or conduct, be made to feel guilty during the investigation or disadvantaged where the outcome of the grievance is that there was no wrongdoing.
- Every effort will be made to operate within prescribed time limits; although these may be altered by mutual consent. Where possible, if an investigation is necessary, it should be completed within two months of the Investigating Officer being appointed. Any grievance meeting should be arranged within four weeks of completion of the investigation (or where an investigation is not necessary, of the grievance form being received). In exceptional circumstances these timescales may be extended but every effort should be made to deal with matters promptly. Communication should be maintained by the Designated Officer with the employee raising the grievance at all times, and they should notify the employee if these timescales cannot be met.
- An employee raising a grievance may not refuse to attend a grievance meeting repeatedly or for a long period; if the attempt to resolve the issues is unduly delayed by the employee, the Designated Officer will retain the ability to investigate and draw conclusions on the available evidence in order to bring the matters raised to a close. One short postponement, normally up to five working days, will normally be allowed.
- All parties in the procedure must conform with the principle of mutual confidentiality.
- Where an employee raises a grievance about a manager who is involved in a disciplinary case against them or the subject of performance management issues then either the disciplinary or the performance management may have to be suspended for a short while until the grievance is considered. However, this does not mean that all proceedings must be halted for the full time it takes to go through the normal grievance procedure. If this should happen, then the matter should be referred to the Assistant Director: HR who will examine the circumstances surrounding the grievance, and if warranted, may substitute another Designated Officer to take over the disciplinary/performance management case.
- The status quo will remain until the final outcome of any grievance is settled, i.e. the situation will be kept in its current state as at the date the grievance was raised until the outcome of the grievance is known. However, in exceptional circumstances and to maintain business

continuity, the Departmental Director may recommend that some changes need to be made as an interim measure.

- It is the responsibility of the employee raising the grievance and the Designated Officer responding, to each obtain the agreement of any witnesses to attend on their behalf and to arrange for their attendance at the grievance meeting. The employee approaching colleagues to ask if they will be witnesses at the grievance hearing does not constitute a breach of confidentiality.
- Reference in the procedure to a manager/Designated Officer/Assistant Director/Director/Executive Director will be taken to mean those officers responsible for the employee in that Department. However, if the Grievance is specifically related to or directed at any of those officers, another equivalent level officer can be nominated to act in their place. Reference can be made to the Assistant Director: HR to advise on this.
- Wherever possible, a grievance should be dealt with before an employee leaves employment. Where an employee has left employment and raises a grievance, this should be referred to the Assistant Director: HR who will decide upon the appropriate action to be taken.
- Copies of personal data held will be made available to the employee raising the grievance if requested and any request will be furnished in line with data protection rules. In certain circumstances (for example to protect a witness or a third party) the employer might be legally permitted to withhold some information. Grievance records will include the nature of the grievance, what is decided, the actions taken, and the reason for the actions; whether appeals are lodged, and the outcome of appeals.
- There is no need for any formal notes taken during the course of an investigation or the grievance meeting to be signed off by the employee. Any notes taken for, or by, the Designated Officer at a meeting are intended for the purposes of decision making and are not formal records, but the employee may request a copy of the notes after the meeting. The employee, or representative may take their own notes if required.
- If the outcome of the grievance is that a disciplinary investigation is initiated against an employee named in the grievance, the person who raised the grievance may be informed that a further investigation will be carried out and managed through the relevant process but will not be informed of the outcome of the disciplinary for confidentiality reasons.
- The performance of all policies will be reviewed annually as part of the Workforce Monitoring Report.

5 EMPLOYEE SUPPORT

The Council acknowledges that going through the grievance process can be a stressful and unsettling time for all parties, and encourages anyone, including an employee who may be subject to a grievance, who feels they need support to seek this through any of these methods:

- trade union representative (if they are a member of a trade union)
- the [Employee Assistance Programme](#) which provides 24/7 telephone counselling
- speaking to their manager for support, or to arrange a confidential buddy
- speaking to an [Equality Ally](#) if there is an equality issue

In addition, the Designated Officer should regularly keep all parties updated with the status of the case.

The line manager has a critical role in providing support and ensuring effective communications are maintained during the process of a grievance process. Where further support is needed through occupational health, the manager should liaise with Human Resources.

6 SCOPE

This procedure applies to all employees of Bracknell Forest Council, with the exception of:

- School based staff (see separate School policy).
- Employees serving a probationary period (see separate procedure below).
- For individuals undertaking casual work (see separate procedure below).

The procedure does not cover the following cases:

- ◆ Employees appealing against a dismissal/disciplinary/performance improvement capability decision (separate procedures exist for this).
- ◆ Retirement on ill-health grounds (a separate procedure exists for this).
- ◆ Rules governing the pension scheme.
- ◆ Job evaluation gradings/appeals against salary gradings (a separate procedure exists for this).
- ◆ Collective disputes between trade unions and the Council.
- ◆ Raising general health and safety concerns (these should be raised via managers, Health and Safety Reps and Health and Safety Team).

7 THE CONDUCT OF A GRIEVANCE CASE

7.1 Carrying out Meetings remotely

All grievance meetings should be carried out face to face unless there is a specific reason why this is not feasible. Before deciding whether to carry out a meeting remotely or using a hybrid method it is important to consider if:

- Everyone involved has access to the technology needed for video meetings, for example the necessary equipment and internet connection.
- Anyone involved has any disability or other accessibility issues that might affect their ability to use video technology, and whether any [reasonable adjustments](#) might be needed.
- It's possible to get hold of all the evidence needed for the investigation or grievance meeting, for example records or files that are kept in the office.
- Any witness statements or other evidence can be seen clearly by everyone involved during an interview or meeting and provided in advance where appropriate.
- It will be possible to fairly assess, and question evidence given by people interviewed during a video meeting.
- It's possible for the person raising the grievance to be fairly accompanied during the grievance meeting.

If there is a need to digitally record a meeting, this must be done in line with data protection law and follow local policy.

8 PROCEDURE - SUMMARY OF STAGES

8.1 Informal Stage

Most cases can be resolved informally by the immediate manager as part of their day to day management responsibilities. Any specific matter which an employee wishes to be considered must, where appropriate, be raised with the manager who will attempt to resolve the issue before it is progressed to the formal stage.

The formal procedure is to deal with cases where the informal approach fails to resolve the matter.

[An e-learning package for those leading a grievance is available online.](#)

8.2 Formal Stages

Please note that a member panel may hear any case against an Executive Director, Director or Assistant Director where there is not an appropriate person available through Corporate Management Team to hear the case. A separate member panel will hear any subsequent appeals.

8.2.1 Stage 1 - referral to Designated Officer

- a) Any employee with a formal grievance should raise the matter by completing a 'Grievance Form' available on the Intranet or at the end of this document, and sending it to their Head of Service (the Designated Officer in this process) and to HR. (A list of Designated Officers can be found here.)

The grievance must refer to specific issues rather than general statements, such as 'I'm unhappy about conditions of service', and also state the outcome they are seeking.

The form clarifies;

- the nature of the Grievance
- what steps were taken to informally resolve the grievance, and the reason for dissatisfaction with the informal solution
- the remedy/outcome the employee is seeking

If the grievance is submitted in any other format, for example as a letter, the Designated Officer should require the employee to complete the form in order to summarise the grievance and indicate what the employee feels the solution might be.

If the Designated Officer is not satisfied that the individual concerned has made a reasonable attempt to resolve this informally, they may direct the employee to re-attempt to seek an informal resolution before a formal procedure begins.

If the Designated Officer, due to a conflict of interests, is unable to deal with the grievance, the case will be allocated to another Designated Officer. All parties will be informed by the existing Designated Officer.

- b) The grievance procedure is carried out differently to the disciplinary procedure in that the Designated Officer should arrange an initial meeting with the employee to attempt to resolve the grievance at this stage.

- c) An investigation of the circumstances of the grievance is not always necessary but if it is necessary, it will normally take place before a formal grievance meeting. The Designated Officer should consider the nature of the grievance and may either conduct an investigation or appoint an Investigating Officer to carry out an investigation on their behalf in more complex grievances and/or where there is a need to clarify or elaborate on the nature of the grievance before the grievance meeting.
- d) A member of HR will be available to act in an advisory capacity to the Designated Officer and may be present at the meeting and, where appropriate the Designated Officer may arrange for a note taker to be available. Where an Investigating Officer has been appointed, they will attend to present the case.

PROCEDURE FOR GRIEVANCE MEETING (STAGE 1)

- a) The employee will be given at least five working days written notice of any formal grievance meeting. A template letter is available at the end of the policy. As well as a copy of the original Grievance Form, the letter should include:
 - the date, time and place of the meeting
 - the employee's right to be accompanied
 - name of the Designated Officer who will respond to the grievance
 - names of any witnesses to be called by management
 - any relevant paperwork, including a copy of the grievance procedure and the Investigating Officers report if necessary.
 - a requirement for the employee to confirm at least three working days before the meeting, that they are able to attend; to supply any relevant documentation; and give names of any witnesses who are likely to be called. It is the responsibility of the employee raising the grievance to obtain the agreement of witnesses attending on their behalf, and to arrange for their attendance, before passing their names to the Designated Officer.
- b) At the meeting, the employee or their representative will be given an opportunity to express the grievance, call witnesses and explain any documentary evidence. Where the grievance concerns the actions of another employee, that employee may also be called as a witness; in some exceptional cases, e.g., where there are allegations of bullying, the Designated Officer may choose to interview the parties separately.
- c) The Designated Officer will have the opportunity to ask questions of the employee and, as necessary, the Investigating Officer.
- d) The Designated Officer will consider the grievance and reply to the employee and give the decision in writing within five working days following the grievance meeting.
- e) Where the Designated Officer is unable to answer the grievance without further investigation they will immediately make the necessary enquiries to enable a response to be provided within a reasonable period. This should be confirmed to all parties in writing by the Designated Officer.

8.2.2 Stage 2 (Appeal) - referral to Director

If an employee feels that their grievance has not been dealt with satisfactorily at Stage 1, the grievance can progress to Stage 2 (Appeal).

- a) The Stage 2 grievance should be registered by the employee or their representative in writing to the appropriate Director within five working days of the written decision made under Stage 1. The appeal request must specifically detail why they are dissatisfied with the resolution of the Stage 1 grievance meeting, e.g., if they disagree with the way the grievance was handled, if they feel the decision taken was wrong, or if they have new evidence that they feel should be considered.
- b) An HR Advisor will act in an advisory capacity to the Director and may be present at the meeting; the Director may arrange for a note taker to be available.
- c) It is the responsibility of the employee raising the grievance and Designated Officer responding, to obtain the agreement of witnesses attending on their behalf, and to arrange for their attendance, before passing their names to the Director.

PROCEDURE FOR GRIEVANCE APPEAL MEETING/STAGE 2

- a) The Director will arrange a Stage 2 grievance appeal meeting without unreasonable delay. The employee should be given at least five working days written notice of the meeting. The letter should include:
 - the date, time and place of the meeting
 - the employee's right to be accompanied
 - name of Director who will respond to the grievance
 - names of any witnesses
 - any relevant paperwork including a copy of the grievance procedure
 - a requirement for the employee to confirm at least three working days before the meeting, that they are able to attend; supply any relevant documentation; and give names of any other witnesses
- b) The employee (or representative) will be given an opportunity to express their views, describe the grievance and the action taken, call witnesses and present relevant evidence to the meeting.
- c) The Designated Officer presenting the management case and the Director will have the opportunity to ask questions of the employee and witnesses.
- d) The Designated Officer from the Stage 1 grievance meeting will then outline the decision at that meeting, explaining the reasons for it. They will explain and clarify the management action taken so far and can call witnesses and produce relevant documents to the appeal meeting.
- e) The employee (or representative) and the Director will have the opportunity to ask questions of the Designated Officer and his/her witnesses.

The employee (or representative) and the Designated Officer will have the opportunity to sum up their cases.
- f) The employee and Designated Officer will withdraw to allow the Director and the HR Advisor to discuss the case in private. All parties will be recalled to clarify points of uncertainty.
- g) The Director will consider the submissions on behalf of the employee and management, consider any new information and make a decision. They may announce their advice or decision to the parties verbally on conclusion of the appeal meeting or, alternatively confirm when the decision will be made. This will be confirmed in writing within five working days.

- h) If the Designated Officer feels that they need to carry out further investigation then the process will revert back to the investigation stage.
- i) This is the final decision on the matter, there will be no further right of appeal.

9 EMPLOYEES WITH LESS THAN 6 MONTHS SERVICE OR IN PROBATIONARY PERIOD OR INDIVIDUALS UNDERTAKING CASUAL WORK

Employees still in their probationary period or individuals undertaking casual work are specifically excluded from the above grievance procedure. However, they may have grievances which they raise with the manager which will need to be heard.

In the event of a grievance being raised by individuals in these categories, the following three step procedure must be used:

Step 1: The individual must raise the issue in writing and will then be invited to attend a meeting with the manager, where the issue will be addressed. There will be the right to be accompanied by a trade union representative or a work colleague.

Step 2: The outcome of the meeting will be confirmed in writing. The individual will be told in writing that there is a right to appeal.

Step 3: Any appeal will be heard by a more senior manager, usually a Designated Officer and will follow step 2 again; and this will be the end of the process.

There will normally be five working days' notice of a meeting, decisions will be communicated in writing within five working days of the meeting and the individual will have five working days to raise any appeal.

APPENDIX A - GRIEVANCE FORM

This form must be used in order to proceed with a formal grievance.

You, or your Trade Union representative, should complete the form and send it to your Designated Officer (a list of Designated Officers is available on the intranet), and a copy to HR@bracknell-forest.gov.uk

NAME:	TEAM:
POST TITLE:	
MANAGER'S NAME:	
<p>Remember that you must attempt to resolve your grievance informally before submitting a formal grievance. The Designated Officer may decide not to go ahead with a formal grievance meeting if he or she is not satisfied that you have made such an attempt.</p> <p>Be aware that any person named in your grievance may have the right to see this document and other documents relating to the grievance</p> <p style="text-align: center;">*Please complete all fields*</p>	
Please state the precise nature of your grievance (be as specific as possible):	
When and with whom did you first raise your grievance?	
What action has been taken so far to try to resolve the grievance informally?	
Why are you not happy with the outcome of trying to resolve this informally?	
What outcome are you seeking?	
Signed:	Date:

APPENDIX B – SAMPLE LETTERS

PRIVATE AND CONFIDENTIAL

[Name]

[Address/Job Title]

Date

Dear []

Acknowledgement of grievance

I confirm that on [date] Bracknell Forest Council received your [form/letter/email] dated [date] raising a formal grievance about [state issues].

In accordance with the Council's grievance procedure, we will arrange a formal grievance meeting with you after the investigation has been carried out.

In the meantime, [name of individual as Investigation Officer] has been appointed to investigate your grievance. Should you have any queries before you are invited to the formal grievance meeting, please contact them by [telephone/email].

As part of this investigation [name of individual] may be required to interview potential witnesses and review documents. Please be assured that this matter will be kept confidential as far as possible and every witness will be instructed not to discuss this matter. However, as part of the investigation process, it will be necessary to inform witnesses that a grievance has been raised.

Finally, the organisation wishes to point out that no decision will be taken regarding your grievance until the investigation has been completed and you have had an opportunity to discuss your complaints formally at a grievance meeting.

Please note that you will be expected to attend work as normal while the investigation takes place.

We appreciate this can be a difficult time, so I would like to remind you that the grievance procedure provides a list of where you can get support.

Yours sincerely

Designated Officer

PRIVATE & CONFIDENTIAL

[Name]

[Address/Job Title]

Dear

Invite to Stage 1 Grievance Meeting

Thank you for the completed grievance form which I received (date) in relation to your grievance concerning ****. A copy of it is attached.

I wish to consider this matter under the Council's Grievance Procedure and you are therefore requested to attend a Stage 1 Grievance Meeting at [time and date], at Time Square, Market Street.

If the Grievance Meeting needs to take place as a hybrid or Teams meeting please contact HR for the appropriate wording

Please supply me with any documents you intend to produce at the meeting by (date). If you wish anyone to appear on your behalf to give evidence, it is your responsibility to arrange for them to attend; please let me know in advance of the meeting if you are intending to call anyone to give evidence to me.

I attach a copy of the Grievance Procedure and the Investigating Officers report.

(I will be calling x as a witness)

(Name) from the HR section will be in attendance (if applicable)

You have the right to be represented or accompanied by a representative of your Trade Union or another work colleague.

Please confirm to [name, job title], via (email@bracknell-forest.gov.uk) or telephone (01344 35xxx) that you will be attending this meeting.

Yours sincerely

Designated Officer

cc: HR Advisor

PRIVATE & CONFIDENTIAL

[Name]

[Address/Job Title]

Date

Dear

Outcome of Stage 1 Grievance Meeting

I refer to the above meeting which took place on (DATE) to consider your grievance relating to At the meeting you were accompanied by your Trade Union representative/you chose not to have any representation.

My decision, as explained to you verbally already, is:

(Details as to what has been upheld/not upheld/partially upheld and reasons why. Can uphold some of it, but not all of it if relevant)

If you are dissatisfied with my decision and/or the actions taken, you have the right to appeal and have the grievance considered at Stage 2. This would be heard by the Director or an Assistant Director from this Department. In this case, the grievance should be registered by you or your representative in writing to the Director, <NAME>, within five working days of this letter, stating specifically why you think the outcome was wrong or unfair.

Yours sincerely

Designated Officer

cc: HR Advisor
Director

PRIVATE AND CONFIDENTIAL

[name]
[address]

[date]

Dear

Invite to Stage 2 (Appeal) Grievance Meeting

Further to the appeal you submitted in response to the outcome of your Stage 1 grievance, I would like to invite you to a Stage 2 Grievance Meeting. This will be on [date] at [time] in Time Square, Market Street. I can confirm that your grounds of appeal were that ...

If the Grievance Meeting needs to take place as a hybrid or Teams meeting please contact HR for the appropriate wording

Those present at this meeting will be myself, as Designated Officer/Director/Assistant Director, [name] from HR who will act in an advisory capacity, [name] as *Investigating Officer*, and [name, job title] who will be taking notes (delete/add names as necessary)

As you are aware, you have the right to be accompanied at this meeting by your trade union representative or a work colleague of your choice, but no one else.

We look forward to meeting with you on [date], in the meantime should you have any queries please do not hesitate to contact me.

The procedure to be followed is in accordance with the Council's Grievance Procedure. Your attention is drawn to Page 7 of the procedure which requires you to confirm your attendance at this meeting. Please supply me with any documents, not already supplied, that you intend to produce at the meeting and the name of any witnesses you intend to call, by no later than [DATE], three working days prior to the meeting.

The following documents are enclosed for your attention:

1. *Grievance Procedure*
2. *Your first grievance*
3. *The Designated Officer's decision at Stage 1*
4. *Your appeal against the Stage 1 grievance outcome*
5. *A copy of the Stage 2 investigation report*
(delete or include more as necessary)

I can confirm that the Designated Officer/I will be calling the following as witnesses...*(remove if none to be called)*

Please confirm to [name, job title], via email (@bracknell-forest.gov.uk) or telephone (01344 35xxx) that you will be attending this meeting.

Yours sincerely,

Director/Assistant Director
cc: HR Advisor

PRIVATE AND CONFIDENTIAL

[name]

[address]

[date]

Dear

Outcome of Stage 2 (Appeal) Grievance Meeting

Following our meeting on [date] at which we discussed your grievance appeal dated [date] [and our subsequent meeting on [date]] *amend as appropriate*, I write to confirm my findings.

In addition to meeting with you, I investigated your grievance appeal by [set out persons interviewed or documents considered or other investigation undertaken].

In light of this investigation, I have decided to uphold the original decision *OR* vary the original decision *set out details of variation*. This is because [set out detailed reasons].

In light of my decision *OR* Due to issues brought to light by your grievance and grievance appeal, we will take the following action [details of action].

My decision is final and there is no further right of appeal.

Yours sincerely

Director/Assistant Director

cc: HR Advisor

Performance Improvement/Capability Procedure

Document Control

Current Version:	1.2	Date Modified:	February 2022
Revision due	The service aims to review policies and procedures every two years to ensure documents are up to date		
Owning Service	Human Resources		

Approvals (if required)

Date Employment Committee gave authorisation for changes (where necessary)

Change History

Version	Date	Description	Changes made by
1.1	Feb 2019	Amended to remove reference to departmental HR and BORIS – now reads intranet	Melissa Berry
1.2	June 2022	General update, addition of Equality statement, addition of information about holding meetings remotely, addition of Redeployment process, scope changed to include Assistant Director, Director or Executive Director and clarification of procedure for a case against them	Sarah Darby

**BRACKNELL FOREST COUNCIL'S
PERFORMANCE IMPROVEMENT/CAPABILITY PROCEDURE**

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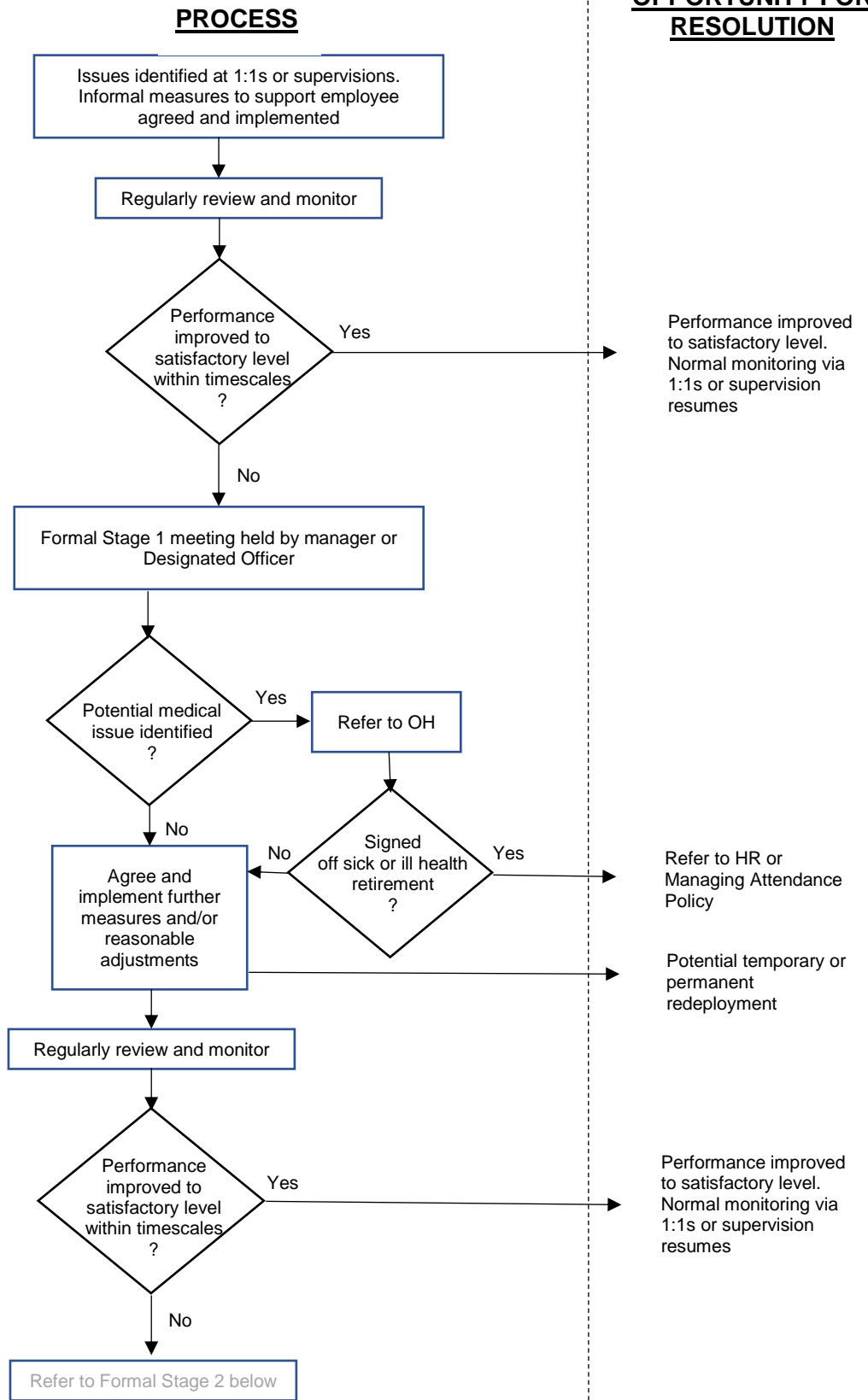
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PERFORMANCE IMPROVEMENT & CAPABILITY FLOWCHART

STAGE
Informal

Formal
Stage 1

**OPPORTUNITY FOR
RESOLUTION**



STAGE

PROCESS

OPPORTUNITY FOR RESOLUTION

Formal Stage 2

Formal Stage 2 meeting held by Designated Officer

Is dismissal a possible outcome at this stage?

Yes

No

Potential medical issue identified?

Yes

Refer to OH

No

Signed off sick or ill health retirement?

No

Yes

Refer to HR or Managing Attendance Policy

Measures, actions and/or reasonable adjustments decided by Designated Officer and communicated to employee

Potential temporary or permanent redeployment

Regularly review and monitor

Performance improved to satisfactory level within timescales?

Yes

Performance improved to satisfactory level. Normal monitoring via 1:1s or supervision resumes

No

Formal Stage 3 meeting held by AD/Director

Measures or actions decided by AD/Director and communicated to employee

Potential temporary or permanent redeployment

Is employee dismissed?

Yes

No

Dismissal

Regularly review and monitor

Performance improved to satisfactory level within timescales?

Yes

Performance improved to satisfactory level. Normal monitoring via 1:1s or supervision resumes

Right to appeal

Formal Stage 3

Right to appeal

BRACKNELL FOREST COUNCIL'S PERFORMANCE IMPROVEMENT/CAPABILITY PROCEDURE

1 INTRODUCTION

This procedure is a means of providing a consistent and fair approach to managing performance and capability issues. The main aim of this procedure is to establish the reasons behind the performance issues and to support and assist the employee to improve to an acceptable level.

It is the responsibility of all managers to ensure they attend relevant training and awareness sessions to enable them to manage performance in a mindful and compassionate manner, and for all managers and staff to promote wellbeing throughout the Council.

2 EQUALITY

At Bracknell Forest Council we are committed to encouraging equality, diversity and inclusion among our workforce, and eliminating unlawful discrimination. We want everyone that works for us to feel that their individuality is respected, and their unique contributions are valued.

The aim is for our workforce to be truly representative of all sections of society and our customers, and for each employee to feel respected and able to give their best.

The organisation - in providing goods and/or services and/or facilities - is also committed against unlawful discrimination of customers or the public.

3 PURPOSE

The Performance Improvement/Capability Procedure is used when an employee is not able to perform their contractual duties to an acceptable standard due to their level of ability, ill health or any other reason not connected to misconduct.

A separate procedure exists for Managing Attendance, which covers short and long term absence, which should be consulted in parallel with this procedure if it becomes clear that ill health is contributing to performance issues, and if the employee is absent from work.

This procedure covers all stages of performance management, from initial informal discussions through to a formal process which may result in dismissal.

The Council's policy is to ensure that fair and effective arrangements exist for dealing with performance improvement matters and that, as far as possible, common standards are observed for all employees.

4 PRINCIPLES

- All references in the procedure to "Director" can also mean Executive Director or Assistant Director or other 2nd tier officer who may act in place of the Director
- How performance is measured must be consistent across the team. This might involve managers setting their employees objectives and/or expected behaviours. The measurements that are set must be fair and must not be discriminatory.
- Managers are encouraged to resolve performance improvement issues, where possible, through informal means, for example at one-to-ones.

- Any employee who enters Formal Stage 2 or 3 of the Procedure will be entitled to be accompanied by a trade union representative or work colleague of their choice, but by no-one else. For the purposes of the Procedure, any informal meetings, up to and including Formal Stage 1, are regarded as meetings/interviews convened by management and the right to be accompanied is not available.
- Employees should be willing to do everything they reasonably can, with the Council's support, to overcome performance issues. An employee will always be given a clear explanation of the nature of any concerns raised, consulted appropriately and allowed an opportunity to state their case.
- Time limits will be given for improved performance and a review date set to assess whether the improvement has been achieved.
- All reasonable measures will be considered including any appropriate offers of alternative employment.
- Where necessary advice should be sought from the Occupational Health Service if a medical problem is evident.
- Particular care should be exercised if the identified shortcomings in performance could have the effect of putting any child, young person or vulnerable adult at risk in any way. If there is a concern that this could be the case, please contact the safeguarding specialists for further advice before proceeding in any way. Details can be found on the [Safeguarding children and adults at risk](#) page of the intranet.
- Employees must be advised that failure to improve within a specified time, having explored all opportunities for improvement, could lead to invoking Formal Stage 3 of this procedure and ultimately dismissal.
- No employee will be dismissed on grounds of poor performance without going through every stage of this procedure.
- When carrying out this procedure managers may also refer to other relevant policies and guidance such as:
 - Managing Attendance
 - Stress at Work
 - Substance Misuse
 - Domestic Abuse
 - Agile Working
 - Information about [reasonable adjustments](#)
- No action beyond Formal Stage 1 will take place with an employee who is a recognised trade union official until the circumstances of the case have been discussed by the Designated Officer and HR with a full-time official or other appointed official of the employee's Trade Union.
- A member panel will hear any case against an Executive Director, Director or Assistant Director, and a separate member panel will hear any subsequent appeals.

- The performance of all policies will be reviewed annually as part of the Workforce Monitoring Report.

5 SCOPE - EMPLOYEES COVERED BY THE PROCEDURE

This policy applies to all employees of Bracknell Forest Council, with the exception of:

- School based staff (see separate School policy)
- Employees serving a probationary period
- Individuals undertaking casual work

The latter two groups should be managed via one-to-one meetings and probationary reviews. See also the information on the intranet about [Probationary Periods](#).

6 THE CONDUCT OF A PERFORMANCE IMPROVEMENT/CAPABILITY CASE

6.1 Carrying out Meetings remotely

All meetings should be carried out face to face unless there is a specific reason why this is not feasible. Before deciding whether to carry out a meeting remotely or using a hybrid method it is important to consider if:

- everyone involved has access to the technology needed for video meetings, for example the necessary equipment and internet connection, and that all parties agree to have their cameras switched on
- anyone involved has any disability or other accessibility issues that might affect their ability to use video technology, and whether any [reasonable adjustments](#) might be needed
- it's possible to obtain all the evidence needed for the investigation or meeting, for example records or files that are kept in the office or workplace
- any witness statements or other evidence can be seen clearly by everyone involved during an interview or meeting and provided in advance where appropriate
- it will be possible to fairly assess, and question evidence given by people interviewed during a video meeting
- it's possible for the person under investigation to be fairly and appropriately accompanied during the meeting

If there is a need to digitally record a meeting, this must be done in line with data protection law and follow local policy.

7 STAGES OF PROCEDURE

When it becomes apparent to a manager there may be issues with an employee's performance and it needs to be examined more closely, the steps below should be taken.

Should performance improve to an acceptable level during the process, this should be recorded formally, and the individual should be made aware that review meetings under the procedure are being discontinued at that time. However, it must be made clear that a deterioration in performance may lead to re-entering the procedure, and if there are no new mitigating circumstances then earlier stages may not be repeated.

7.1 Informal Action

The manager will hold a meeting to draw the employee's attention to the identified concerns about their performance. This may take place during one-to-one/supervision meetings and should be fully documented in one-to-one/supervision notes.

The manager should take the time to question and listen to the employee to establish the possible reasons for the unsatisfactory performance. For example, the employee may require additional training, or they may be experiencing external stressors or personal issues that are affecting their work.

The manager will discuss the options with the employee and decide whether any informal measures can be introduced to help support the employee and overcome the problem (see suggested formal and informal measures below).

The manager must ensure that the employee understands the expected levels of performance and provide them with a copy of this procedure.

The matters discussed, and the proposed actions/measures and review period, should be noted and confirmed to the employee in writing (see Appendix F – Sample Letters. Regular review meetings on these actions will be part of the informal stage of the procedure with full notes being recorded at each review. At the end of the specified period a meeting to review performance will take place between the manager and the employee.

7.2 Formal Stage 1- Counselling/More formal measures to help the employee

If informal measures are not effective, the matter may either be progressed further by the manager or may be brought to the attention of the [Designated Officer](#). Once again, a meeting should be held with the employee to discuss the issues, reasons behind the issues and any potential further measures. The employee must also be informed that this is now being dealt with under Formal Stage 1 of the procedure.

The appropriateness of the measures to be taken will depend on what has happened in the past, and whether the problem is to do wholly or in part with a medical problem. The measures for improvement will be specified in writing following the meeting (see Appendix F – Sample Letters), and the letter should clearly indicate that this is Formal Stage 1 of the Performance Improvement Procedure. If there is a potential medical problem, and if the individual has not yet seen Occupational Health, the individual should be referred to the Occupational Health Service for advice.

One or more review meetings may be part of the identified measures/action plan at Stage 1. At the end of the specified period a meeting to review performance will take place between the manager or Designated Officer and the employee. A letter will be sent confirming if the performance has improved to a satisfactory level, and the process is therefore ending, or if the performance has not improved, and will therefore be moving to Stage 2 of the procedure.

Determining what is a reasonable timescale between review meetings and between stages will be on a case-by-case basis. Managers can refer to HR for advice on specific cases.

7.3 Formal Stage 2 - Further Formal Action

If Formal Stage 1 proves to be unsuccessful, not less than five working days' written notice will be given of a Stage 2 Performance Meeting. This Meeting and any subsequent action will follow the procedures laid down in Appendix A and will be conducted by the Designated Officer.

The manager will provide a report to the Designated Officer which will include details of the performance issues, and of action taken to date to address the problem. Outcomes may ultimately include a final written warning to improve – see Appendix E. At the end of the specified period a meeting to review performance will take place between the Designated Officer and the employee. Stage 2 may be repeated, if necessary, but the matter must be referred to Stage 3 if a dismissal is seen to be a possible outcome, for example, if there is a final written warning in place and sufficient improvement is not being made.

Individuals who may have a medical problem will already have been referred to the Occupational Health Service. In the event that the Occupational Health Service recommends early retirement on ill health grounds then the Performance Procedure will not need to be invoked further. An HR Advisor will see the person concerned to discuss any arrangements that apply for ill-health retirement and issue the formal letter terminating employment on grounds of ill health. A right of appeal exists in accordance with Appendix D.

7.4 Formal Stage 3 – The final stage.

In cases where the situation has not been resolved at Stage 2, and there is a final written warning in place, the matter may be referred to a Director for resolution at a Stage 3 Meeting. The meeting will follow the procedures laid down in Appendix B. Dismissal is a possible outcome.

A right of appeal exists and is detailed in Appendix D.

8 INFORMAL AND FORMAL MEASURES TO HELP OVERCOME PERFORMANCE ISSUES

Depending on the nature of the problem, a manager or Designated Officer can use different measures to help an employee to improve if the problem is one of skill or ability. These measures, or actions, should be achievable and realistic, and could include:

- informal counselling
- performance improvement plans linked to review meetings
- change to work practices
- training/retraining
- increased supervisory support/coaching on a temporary basis
- reviewing work targets
- periodic performance reviews
- consideration for redeployment to suitable alternative work (this may also be appropriate following medical advice, at the discretion of the Designated Officer and after discussion with the relevant HR Section). See further information about the Redeployment process below.

In serious cases, the Designated Officer additionally has the ability to withhold an increment (Stage 2 or 3).

Should the Designated Officer feel that continued failure to improve may potentially lead to a decision to dismiss, a Final Written Warning should be issued at Stage 2. Any decision to dismiss can only be taken at Stage 3.

Formal warnings can only be given at Formal Stages 2 and 3.

In medical cases the Occupational Health Service will be contacted. The outcome depends on the nature and severity of the problem and whether the prognosis indicates a reasonable chance of recovery and return to work. Measures recommended by Occupational Health may include:

- change in duties or hours

- reasonable adjustments to the working environment
- redeployment to a suitable alternative role (this may be on a temporary basis as a temporary adjustment, or on a permanent basis).

In such cases it will be for the Designated Officer to decide if the changes recommended can be accommodated. Further discussion with HR and Occupational Health will be required if the recommendations cannot be fully adopted.

In cases where the Equality Act may apply, reasonable adaptations to the work or the work environment may need to be made. Please consult HR for advice before proceeding.

9 REDEPLOYMENT

The employee will be invited to a personal interview with an HR Advisor, which may also be attended by a Trade Union representative and the manager, where the redeployment process will be explained. The individual's skills, experience and abilities will be explored, and which types of posts may be suitable or unsuitable.

The individual employee has an equal responsibility to play a proactive role in the search for redeployment, and HR will ensure they have access to view all job vacancies across the Council.

Where a post is identified as potentially suitable, the individual should submit an application for the post, making it clear that they are in a redeployment situation. The HR Advisor must be informed that the application has been submitted and will be responsible for ensuring that the recruiting manager is aware of the organisation's policy on redeployment which states that, if the individual appears on paper to meet the essential requirements of the person specification, the manager must shortlist them for interview to investigate their suitability for the post. The manager must give careful consideration to the suitability of the potential redeployee, and then make an appropriate selection decision.

There may be the option for a 28 day trial period to ensure that the employee and the manager are satisfied that they are capable of carrying out the new role. Further information about this can be provided by HR where appropriate.

The Council cannot indefinitely employ an individual whilst seeking redeployment opportunities. Therefore, the redeployment process will operate for a limited time only, normally up to three months. If no suitable alternative post is found within this timeframe then a Formal Stage 3 meeting will be arranged which may result in dismissal (see Appendix B).

10 HEALTH ISSUES: LINK TO GUIDANCE ON MANAGING ATTENDANCE

The effects of chronic illness or permanent disability are different from those caused by frequent short-term absence. Some health problems, such as menopause, may not cause absence but have an adverse effect on the ability of the employee to perform their job satisfactorily, and where this is the case the individual should be referred to Occupational Health and where necessary their advice acted upon.

Reasonable adaptations to work should be considered where appropriate. However, where performance at work is adversely affected, the existence of health issues will not in itself prevent the manager from continuing with Performance Improvement Procedures.

Parallel procedures exist for managing short and long-term sickness absence issues, and the manager should consider whether [Managing Attendance](#) Procedures should be used (starting at an equivalent level of the Procedure) if a performance problem begins to manifest itself as a health-related absence problem.

APPENDIX A – FORMAL STAGE 2 MEETING PROCEDURE

Prior to the Meeting

A letter giving at least five working days' notice of the meeting will be sent to the employee outlining the matters to be dealt with at the meeting and reminding the employee of their right to representation and to call witnesses. The employee will also receive copies of any papers which are to be produced by the Designated Officer at the meeting, and the names of any witnesses.

The employee should supply to the Designated Officer, at least three working days prior to the meeting, copies of any documents which they intend to produce and indicate which, if any, witnesses are to be called.

The Designated Officer may ask for an HR Advisor to be present at the meeting, however this is not compulsory.

At the Meeting

- a) The circumstances as supported by any documentary evidence and witnesses, will be put by the manager to the Designated Officer and the employee and/or their representative. The manager may call witnesses if appropriate.
- b) The employee and/or their representative will be entitled to ask questions of the manager and witnesses relating to that evidence.
- c) The employee and/or the representative will put their case and be able to call such witnesses as they wish.
- d) The Designated Officer will have the opportunity to ask questions of the employee, their witnesses and the manager.
- e) The parties will have the opportunity to sum up their cases if they so wish.
- f) The parties and their witnesses will withdraw.
- g) The Designated Officer (with the HR representative if attending as adviser), will deliberate in private, recalling the parties only to clear any points of uncertainty on evidence already given. If recall is necessary both parties should return, notwithstanding only one may be concerned with the point in question.
- h) The Designated Officer will announce their findings and the action they intend to take to the parties preferably immediately or within a reasonable time after the meeting. This will then be confirmed in writing, within five working days of the meeting.

The letter will specify the action taken, together with any review arrangements and right of Appeal (See Appendix C).

APPENDIX B – FORMAL STAGE 3 MEETING PROCEDURE

Prior to the Meeting

A letter giving at least five working days' notice of the meeting will be sent to the employee (see Appendix F – Sample Letters) outlining the matters to be dealt with at the meeting and reminding the employee of their right to representation and to call witnesses. The employee will also receive copies of any papers which are to be produced at the meeting, and the names of any witnesses.

The employee should supply to the Director, at least three working days prior to the meeting, copies of any documents which they intend to produce and indicate which, if any, witnesses are to be called by the employee.

At the Meeting

- a) The circumstances as supported by any documentary evidence and witnesses, will be put by the Designated Officer to the employee and/or their representative.
- b) The employee and/or their representative will be entitled to ask questions of the Designated Officer and witnesses relating to that evidence.
- c) The employee and/or the representative will put their case and be able to call such witnesses as they wish.
- d) The employee and/or witnesses may be questioned by the Designated Officer.
- e) The Director will have the opportunity to ask questions of the employee and their witnesses and of the Designated Officer and/or their witnesses.
- f) The parties will have the opportunity to sum up their cases if they so wish.
- g) The parties and their witnesses will withdraw.
- h) The Director (with the HR Advisor attending) will deliberate in private, recalling the parties only to clear any points of uncertainty on evidence already given. If recall is necessary both parties should return, notwithstanding only one may be concerned with the point of issue.
- i) The Director will announce their findings and the action they intend to take to the parties preferably immediately or within a reasonable time after the meeting. This will then be confirmed in writing within five working days of the meeting.

The letter will specify the action taken, together with any review arrangements and right of Appeal (see Appendix D).

APPENDIX C- RIGHT OF APPEAL TO DIRECTOR (STAGE 2 APPEAL) PROCEDURE

An employee has a right of appeal to a Director against action taken by a Designated Officer. The right of appeal may be for one of the following reasons and will be a complete review of the case:

- a) Where the employee considers that the Designated Officer has unjustly found against them.
- b) Where the employee contends that a matter of fact referred to at the meeting has not been properly taken into account by the Designated Officer in reaching their decision.
- c) Where the employee feels that the action taken by the Designated Officer has been too severe.

The employee must exercise the right of appeal within five working days of receiving confirmation of action taken against them. The letter indicating the employee's intention to appeal should be addressed to the Director and should specifically detail why they are dissatisfied with the outcome.

The Appeal will be held within 10 working days of the written notification of intention to appeal. The HR Advisor will act as adviser to the Director.

Prior to the Meeting

The Director will give notice in writing to the employee (see Appendix F – Sample Letters) at least five working days in advance of the time and place of appeal. All documents relevant to the appeal will be attached to this letter, as well as names of any witnesses.

The employee should supply to the Director, at least three working days prior to the appeal, copies of any documents which they intend to produce and indicate which, if any, witnesses are to be called. The employee is responsible for arranging attendance of their own witnesses and representative.

At the Meeting

- a) The Designated Officer will put the case to the Director in the presence of the employee and their representative (if any) and may call witnesses.
- b) The employee (or their representative) will have the opportunity to ask questions of the Designated Officer and witnesses on the evidence given by them.
- c) The Director may ask questions of the Designated Officer and witnesses.
- d) The employee (or their representative) will put their case in the presence of the Designated Officer and call such witnesses as they may wish.
- e) The Designated Officer will have the opportunity to ask questions of the employee and witnesses on the evidence given by them.
- f) The Director may ask questions of the employee and witnesses.
- g) The Designated Officer and then the employee (or their representative) will have the opportunity to sum up their case if they so wish.
- h) The Designated Officer, the employee and their representative, and the witnesses will withdraw.

- i) The Director together with the HR Advisor will deliberate in private only recalling the Designated Officer and the employee to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return, notwithstanding only one may be concerned with the point in question.
- j) The Director will, if possible, announce the decision to the parties immediately or as soon as possible, and confirm in writing within five working days.

The decision of the Director will be final.

APPENDIX D – APPEAL TO MEMBERS APPEALS PANEL (STAGE 3 APPEAL) PROCEDURE

An employee has a right of appeal to a Member Appeals Panel against action taken by a Director. The right of appeal may be for one of the following reasons and will be a complete review of the case:

- a) Where the employee considers that the Director has unjustly found against them.
- b) Where the employee contends that a matter of fact referred to at the meeting has not been properly taken into account by the Director in reaching their decision.
- c) Where the employee feels that the action taken by the Director has been too severe.

The employee must exercise the right of appeal within five working days of receiving confirmation of action taken against them. The letter indicating the employee's intention to appeal should be addressed to the Assistant Director: HR.

The Appeal will be held within 20 working days of the written notification of intention to appeal. The Assistant Director: HR or their nominated representative will be the officer appointed as Secretary to the Appeals Panel.

Prior to the Meeting

The Assistant Director: HR will give the employee at least five working days' notice of the time and place of meeting. All documents relevant to the meeting will be attached to this letter, as well as names of witnesses.

The employee should supply to the Assistant Director: HR, at least three working days prior to the appeal, copies of any documents which they intend to produce and indicate which, if any, witnesses are to be called. The employee is responsible for arranging attendance of their own witnesses and representative.

At the Meeting

- a) The Director will put the case to the Appeals Panel in the presence of the employee and their representative (if any) and may call witnesses. The Designated Officer and/or manager will be available to assist the Director as necessary.
- b) The employee (or their representative) will have the opportunity to ask questions of the Director and witnesses on the evidence given by them.
- c) The Appeals Panel may ask questions of the Director and witnesses.
- d) The employee (or their representative) will put their case in the presence of the Director and call such witnesses as they may wish.
- e) The Director will have the opportunity to ask questions of the employee and witnesses on the evidence given by them.
- f) The Appeals Panel may ask questions of the employee and witnesses.
- g) The Director and then the employee (or their representative) will have the opportunity to sum up their case if they so wish.
- h) The Director, the employee and their representative, and the witnesses will withdraw.

- i) The Appeals Panel (together with the Assistant Director: HR who is Secretary to the Panel) will deliberate in private only recalling the Director and the employee to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return, notwithstanding only one is concerned with the point in question.
- j) The Chairman, on behalf of the Appeals Panel will, if possible, announce the decision to the parties immediately, or as soon as possible and confirm in writing within five working days.

The decision of the Appeals Panel will be final.

APPENDIX E – ROLES AND RESPONSIBILITIES

The list of Designated Officers can be found on the intranet.

A Designated Officer may take a range of actions to help and assist the employee to improve performance. However, they will additionally have the power to impose any of the following in Stage 2:

- Transfer to alternative duties or a lower graded post for a specified period of time or permanently, as a form of redeployment.
- Withholding of increments until satisfactory performance is achieved.
- Final Written warning – this would indicate that dismissal for capability reasons might be an outcome if the improvements required are still not achieved. (The warning will generally be for up to 24 months but may, in certain circumstances be left on file for an unlimited period of time.)

Where a judgement is made by the Designated Officer that the continued performance problem may be dismissible (e.g., this may result from failure to heed a final written warning), a referral will need to be made to the Director for a further meeting at Stage 3.

As well as the range of actions outlined above, the Director will have the ability to dismiss.

APPENDIX F – SAMPLE LETTERS

PRIVATE & CONFIDENTIAL

Date

Dear

PERFORMANCE IMPROVEMENT – INITIAL DISCUSSION AND ACTIONS

I spoke with you today about concerns regarding your performance, particularly relating to.....

We discussed the nature of the performance issue and we agreed some targets for performance/agreed what would be an acceptable level of performance. We also discussed some actions that will help you to address this issue.

The action plan we agreed was as follows:/is attached

It is important that we work together to improve your performance; we may not see dramatic results instantly, but we do need to have a plan for reaching an acceptable level of performance. If performance does not improve sufficiently then I may need to look at referring this matter on to the first formal stage of the Performance Improvement/Capability Procedure. However, I am confident that the targets we have discussed can be met.

I will keep your performance under review and will arrange a review meeting of your progress on DATE/weekly/monthly. However, if you need any help or support outside of this schedule please feel free to come and discuss it with me.

Yours sincerely

Manager

cc: HR Advisor

PRIVATE & CONFIDENTIAL

Date

Dear

OUTCOME OF FORMAL STAGE 1 PERFORMANCE IMPROVEMENT/ CAPABILITY MEETING

I/Your manager has/have been talking to you recently about concerns relating to your performance. (I understand that) initial, informal efforts to improve your performance to an acceptable level have not yet been successful/I understand that while there has been some improvement in your performance, it still falls short of an acceptable level and further progress is needed.

(Your manager spoke to me on this matter, and we agreed that) this needed to be progressed through a meeting with you under Formal Stage 1 of the Council's Performance Improvement Procedure. This Stage 1 meeting took place on DATE in PLACE.

We discussed the nature of the performance issue, and we agreed some targets for performance/agreed what would be an acceptable level of performance. We also agreed some measures which will help you to tackle the problem areas.

The action plan we agreed with you was as follows:

XXXX

I will keep your performance under review and will arrange a short review meeting of your progress on DATE/weekly/monthly.

I am sure that if we work together on this matter we can see the performance improvement we need/I look forward to seeing you then, however please let me (or your manager) know if we can be of any assistance in the meantime.

Yours sincerely

Manager/Designated Officer

cc: HR Advisor

PRIVATE & CONFIDENTIAL

Date

Dear

INVITE TO FORMAL STAGE 2 PERFORMANCE IMPROVEMENT/CAPABILITY MEETING

I refer to issues regarding your level of performance in your job, which have previously been discussed at a Stage 1 Meeting under the Performance Improvement/Capability Procedure. I have not yet seen the necessary improvement in your performance and therefore I wish to take the matter further.

You are therefore required to attend a Stage 2 Meeting at Time Square on, at [Name] will also be attending as the Investigating Office, and [name] will be attending from HR

If the meeting needs to take place as a hybrid or Teams meeting please contact HR for the appropriate wording

The procedure to be followed is in accordance with Appendix A of the Council’s Performance Improvement/Capability Procedure (copy attached). Your attention is drawn to Paragraph 2 of the Appendix which requires you to supply me with any documents you intend to produce at the meeting by as well as the names of any witnesses.

In accordance with item 1 of that Appendix, copies of the papers to be produced during the course of the meeting are attached for your information. They are as follows:

- Management Investigation Report

You have the right to be represented or accompanied by a representative of your Trade Union or another work colleague.

I would be grateful if you could confirm your attendance at the meeting with [name] on [telephone number].

Yours sincerely

Designated Officer

cc: HR Advisor

PRIVATE & CONFIDENTIAL

Date

Dear

OUTCOME OF STAGE 2 PERFORMANCE IMPROVEMENT/CAPABILITY MEETING

I refer to the above meeting which took place in my office on The meeting was in relation to unsatisfactory performance in relation to At the meeting you were accompanied by your Trade Union representative/you chose not to be accompanied.

Following the meeting, I have decided on the following action:

.....
(Actions may be any of those indicated in the Procedure, up to and including Final Written Warnings. Be very specific on whether it is a written warning or final written warning.)

Please be aware that should your performance fail to improve to acceptable levels, this may result in further action against you.

You have the right of appeal against this warning on the following grounds:

- a) where you consider that I have unjustly found against you;
- b) where you contend that I have not properly taken into account any matters of fact referred to at the meeting in reaching my decision;
- c) where you feel that the action taken by me has been too severe.

If you wish to appeal you must notify the Director in writing, by [date] stating the grounds for your appeal.

If you require a copy of any notes taken during the meeting, please let me know.

Yours sincerely

Designated Officer

cc: HR Advisor
Director

PRIVATE & CONFIDENTIAL

Date

Dear

INVITE TO FORMAL STAGE 3 PERFORMANCE IMPROVEMENT/CAPABILITY MEETING

I refer to the Stage 2 Meeting(s) held by (Designated Officer) and their subsequent letter to you of the same date. The meeting was to discuss unacceptable levels of performance in your job. I understand that a Final Written Warning is currently in force and therefore (Designated Officer) views this as a potentially dismissable matter.

You are now required to attend a Stage 3 Performance Improvement/Capability Meeting. You have the right to be represented or accompanied by a representative of your Trade Union or work colleague of your choice. You may call witnesses at the meeting as necessary.

The meeting will be at Time Square onand you will be required to attend at that time. The procedure to be followed is in accordance with Appendix B of the Council's Performance Improvement/Capability Procedure (copy attached). Your attention is drawn to Paragraph 2 of the Appendix, which requires you to supply me with any documents you intend to produce at the meeting by [date] and provide the names of any witnesses who will be attending.

If the meeting needs to take place as a hybrid or Teams meeting please contact HR for the appropriate wording

In accordance with item 1 of that Appendix, copies of the papers to be produced during the course of the Meeting are attached for your information. They are as follows:

- Attachment 1
- Attachment 2

I can inform you that the Designated Officer will be producing witnesses to support his case, they will be

Yours sincerely

Director

cc: Trade Union Representative
HR Advisor
Designated Officer

PRIVATE & CONFIDENTIAL

Date

Dear

OUTCOME OF STAGE 3 PERFORMANCE IMPROVEMENT/CAPABILITY MEETING

I refer to the Performance Improvement Meeting held on That meeting was as the result of (Designated Officer)'s letter to you on the matter of your unacceptable performance in your job. At the Meeting you were accompanied by your Trade Union representative/you chose not to be accompanied.

Following the meeting, I have decided on the following action:

- To take no further action - your performance appears to be acceptable.
- To (insert recommendation here)
- To issue you with a written warning/final written warning. The warning will remain on your file for months.
- To dismiss you from the Council's service.

You have the right of appeal against this action on the following grounds:

- a) where you consider that I have unjustly found against you;
- b) where you contend that I have not properly taken into account any matters of fact referred to at the Performance Improvement/Capability Meeting in reaching my decision;
- c) where you feel that the action taken by me has been too severe.

If you wish to appeal you must notify the Assistant Director: HR within five days of the date of this letter, stating the grounds for your appeal.

If you require a copy of any notes taken during the meeting, please let me know.

Yours sincerely

Director

cc: HR Advisor
Designated Officer

LETTERS WHERE PERFORMANCE HAS IMPROVED TO AN ACCEPTABLE LEVEL
(May be at any stage of the procedure: adapt to suit circumstances)

PRIVATE AND CONFIDENTIAL

Date

Dear

I am pleased to confirm, following our review meeting on DATE, that your work performance has now reached acceptable levels. Well done on the efforts you have put in to achieve this – I look forward to seeing this improvement sustained.

Various support measures have been in place during the period that your performance has been under review, including (e.g., extra levels of supervision, periodic review meetings, additional advice on prioritising, additional coaching). *Either:* We will look to gradually withdraw these additional measures as we are confident you should now be able to sustain performance. Please let me know if you feel that you are having difficulties within this period.

Or: The following support mechanisms have been put in place as a reasonable adjustment and we will continue to review for/will be kept in place until

We will continue to monitor your performance for the next...months. If the performance levels continue to be good, we will discontinue review meetings under the Procedure.

However, if performance should deteriorate to below acceptable levels in the future, it may be that it is necessary to return to the Performance Improvement/Capability Procedure – earlier stages may not be repeated and you may re-enter the Procedure at the current level.

I am pleased that we have reached this outcome and look forward to seeing a sustained good performance from you.

Yours sincerely

Designated Officer

cc: HR Advisor

HR Policy Review

Paul Young – 12 July 2022



HR Policy Review - General

- Clarifying roles and responsibilities
- Address timeliness
- Including Equality statement
- Remote meeting guidance
- Flow charts
- HR case management

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HR Policy Review

Disciplinary Procedure:

- Clarity where Police involved
- Re-instating role of HR

Performance Improvement/Capability:

- Redeployment arrangements re-enforced
- Awareness of Menopause

HR Policy Review

Grievance Procedure:

- Manager responsibilities
- Support for staff
- Equality allies