

AGENDA

Meeting: STAFFING POLICY COMMITTEE
Place: Committee Room III - County Hall, Trowbridge
Date: Wednesday 24 November 2010
Time: 10.30 am

Please direct any enquiries on this Agenda to Roger Bishton, of Democratic and Members' Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713035 or email roger.bishton@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225) 713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Membership:

Cllr Allison Bucknell
Cllr Rod Eaton
Cllr Mike Hewitt
Cllr David Jenkins
Cllr Francis Morland

Cllr John Noeken
Cllr Mark Packard
Cllr Jane Scott OBE
Cllr John Smale

Substitutes:

Cllr Ernie Clark
Cllr Peter Colmer
Cllr Mary Douglas
Cllr George Jeans

Cllr Howard Marshall
Cllr Bill Moss
Cllr Christopher Newbury
Cllr Jonathon Seed

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PART I

Items to be considered while the meeting is open to the public

1. **Apologies for absence**

2. **Minutes of Previous Meeting** *(Pages 1 - 4)*

To confirm the minutes of the meeting held on 12 October 2010. (Copy attached)

3. **Declarations of Interest**

To receive any declarations of personal or prejudicial interests or dispensations granted by the Standards Committee.

4. **Chairman's Announcements**

5. **Public Participation**

The Council welcomes contributions from members of the public.

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named above for any further clarification.

Members of the public wishing to ask a question should give written notice (including details of any question) to the officer named above by **12.00noon on Monday 22 November 2010**.

6. **Management Review - Update** *(Pages 5 - 8)*

A report by the Service Director HR & OD is attached.

7. **Disciplinary Policy & Procedure Update** *(Pages 9 - 50)*

A report by the Service Director HR & OD is attached.

8. **Grievance Policy & Procedure** *(Pages 51 - 70)*

A report by the Service Director HR & OD is attached.

9. **Appeal Policy & Procedure - New Policy** *(Pages 71 - 82)*
A report by the Service Director HR & OD is attached.
10. **Career Break Scheme - New Policy** *(Pages 83 - 94)*
A report by the Service Director HR & OD is attached.
11. **Agency Interim and Consultancy Staff Procurement Policy**
A report by the Service Director HR & OD is attached.
12. **Externalisation, Procurement and the Workforce** *(Pages 95 - 102)*
A report by the Service Director HR & OD is attached.
13. **Local Government Pension Scheme (LGPS) - Employer Discretions** *(Pages 103 - 108)*
A report by the Service Director HR & OD is attached.
14. **Quarterly Workforce Reports - September 2010** *(Pages 109 - 116)*
A report by the Service Director HR & OD is attached.
15. **Date of Next Meeting**
To note that the next meeting is due to be held on Thursday 16 December 2010, starting at 10.30am.
16. **Urgent Items**
Any other items of business which, in the opinion of the Chairman, should be considered as a matter of urgency. Urgent items of a confidential nature may be considered under Part II of this agenda.

PART II

Items during whose consideration it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

None

STAFFING POLICY COMMITTEE

DRAFT MINUTES OF THE STAFFING POLICY COMMITTEE MEETING HELD ON 12 OCTOBER 2010 AT COUNTY HALL, TROWBRIDGE.

Present:

Cllr Allison Bucknell (Chairman), Cllr Mike Hewitt, Cllr David Jenkins, Cllr Francis Morland, Cllr John Noeken, Cllr Mark Packard, Cllr Jane Scott OBE and Cllr John Smale

47. Apologies for absence

An apology for absence was received from Cllr Rod Eaton.

48. Minutes of Previous Meeting

Resolved:

To confirm and sign the minutes of the Committee meeting held on 22 September 2010 as a correct record.

Arising therefrom

Minute No. 43 – Trade Union Negotiations

Cllr David Jenkins drew attention to a request from Cllr Peter Colmer made at the last meeting that consideration be given to extending the Member substitution policy to the newly formed Staff Management Executive Board and that the Chairman had undertook to seek the views of the Board on this suggestion and report back to Cllr Colmer.

The Chairman reported that the Staff Management Executive Board had considered this request but had decided that on balance it would not be appropriate or practical for members of the Board, either Councillor or Officer, to have deputies bearing in mind the fast changing situation. Furthermore, the Board was not a decision making body and substitution facilities were not extended to similar bodies.

Cllr John Noeken as Chairman of the Staff Management Executive Board, stressed the importance of regular attendance at Board meetings and

encouraged both Councillor and Officer members to ensure their availability to attend these meetings.

49. **Declarations of Interest**

There were no declarations of interest.

50. **Chairman's Announcements**

There were no Chairman's announcements.

51. **Public Participation**

There were no members of the public present.

52. **Redundancy Pay, Redundancy and Appointments Policies**

Consideration was given to a report by the Service Director HR & OD which set out revision proposals to the redundancy pay, redundancy and appointments policies.

It was noted that negotiations had been taking place with UNISON, UNITE and GMB, the recognised trade unions to reach agreement on the revisions to these three policies. Progress on reaching such agreement had been positive and the trade unions had acknowledged the Council's financial position and the pressure to change the redundancy pay policy. The trade unions had now agreed to these proposed policy changes but the GMB would be recommending acceptance of these proposals via a ballot of their members, the outcome of which would be announced on 22 October 2010.

The UNISON Branch Secretary reported that whilst her members appreciated the reasons for the need to change these policies, they were not at all pleased in particular with the £380.00 per week maximum weekly pay figure proposed to be used to calculate compulsory redundancy.

After further discussion,

Resolved:

- (1) *To approve the revised proposals in the redundancy pay, redundancy and appointments policies.*
- (2) *To note that approval of these policies by Staffing Policy Committee is still subject to the outcome of a member ballot by GMB being in favour of the proposed changes to the policies.*
- (3) *To note that these policies cannot be implemented, and the formal consultation period for the redundancies resulting from the management*

review cannot take place, until the outcome of the GMB ballot is known.

53. **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.00pm – 2.50pm)

The Officer who has produced these minutes is Roger Bishton, of Democratic & Members' Services, direct line 01225 713035, e-mail roger.bishton@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

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WILTSHIRE COUNCIL

STAFFING POLICY COMMITTEE

24 November 2010

MANAGEMENT REVIEW - UPDATE

Purpose of Report

1. This purpose of this report is to provide the Staffing Policy Committee with an update on the management review.

Background

2. The council has set out plans to achieve £40m savings in the 2011/12 budget. Of this £16m of the savings will be found from people management costs. These savings are broken down as follows:-
 - a. Reduction in annual cost of temporary agency and consultancy staff - £5.5m
 - b. Management review, removal of 240 management posts - £8m
 - c. Reduction in the cost of some terms and conditions of employment - £2.5m
3. Prior to the management review starting it was necessary to review the policies that would be required to support this process, and to reduce the financial impact of those policies. Those policies are: -
 - a. Redundancy pay policy
 - b. Redundancy policy
 - c. Appointments policy & procedure
4. Agreement with the recognised trade unions, UNISON, UNITE & GMB was reached following a series of negotiation meetings and the outcome of a GMB ballot confirming it's members acceptance of the propose changes to those policies.
5. Changes to these policies were approved by Staffing Policy Committee on 12th October 2010, and the policies were implemented on 25th October 2010.
6. Revised management structures have been developed over recent months by Corporate and Service Directors, with the aim of delivering £8m savings from their salary budgets. As a result of the revisions to structures a number of management posts have been deleted, and others created or changed as a result.
7. In support of the revisions to the structures 135 job evaluations of changed and new jobs have been carried out.
8. The management posts included in the review are those which have responsibility for managing people. This includes managing and directing the work of staff, external partners and/or volunteers, and may also include management posts that have no day to day responsibility for people but do manage tasks for example projects and/or resources which could include facilities, contracts and financial management.
9. The extended leadership team (ELT) were briefed on 1 November 2010. Service directors were provided with a PowerPoint presentation to use at collective consultation

meetings and were briefed on their responsibilities during the first 4 weeks of the 90 day consultation period.

Current Situation

10. The management review is now underway. A total of 571 managers have been placed at risk of redundancy, and formal consultation with those managers has begun. (Week commencing 8th November 2010).
11. An Employee Assistance Programme has been devised which includes sessions for managers on job search, transferable skills, finance, interview skills and wellbeing.
12. A total of 25 collective consultation meetings took place on Wednesday 10 November 2010. At these meetings managers at risk of redundancy were given a redundancy information pack which included:
 - A letter formally placing them at risk of redundancy
 - A redundancy estimate (based on a notional date of 31 December 2010)
 - A pension quote if they are aged 55 or over
 - An application form to apply for voluntary redundancy
 - Information about the Employee Assistance Programme
 - Copies of the redundancy, redundancy pay and appointments policies
13. Service directors will hold one to one meetings with affected individuals between 11 November and 26 November 2010.
14. An HR email address and helpline number have been set up to answer any queries from managers placed at risk of redundancy.
15. A "Management review" webpage is available on HR Online which includes copies of the proposed structure charts, useful documents and information about the Employee Assistance Programme.
16. The deadline for applications for voluntary redundancy is 26th November 2010. Further applications will be invited from those staff who remain displaced following completion of the appointments procedure.
17. Comments and alternative suggestions about the proposed new management structures have been invited from all staff. The deadline for this feedback is 26th November 2010.
18. A further ELT briefing is planned for 29th November 2010 to go through the next stages of the 90 day consultation period, including:
 - Completing the voluntary redundancy scoring matrix
 - Managing voluntary redundancies and the leaver process
 - Completing the ownership and ring fencing process
 - Re-opening voluntary applications (where appropriate)

Environmental Impact of the Proposal

19. None.

Equalities Impact of the Proposal

20. An Equalities Impact Assessment of the management review took place on 20 October 2010. No major issues were identified.

Risk Assessment

21. None

Options Considered

22. None.

Recommendation

23. Staffing Policy Committee is asked to note the content of this report.

**Barry Pirie
Service Director
HR & OD**

Report Author: Joanne Pitt. Service Head - HR Policy & Strategy

The following unpublished documents have been relied on in the preparation of this Report: None

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WILTSHIRE COUNCIL

STAFFING POLICY COMMITTEE

24 November 2010

DISCIPLINARY POLICY AND PROCEDURE UPDATE

Purpose of Report

This report presents the updated disciplinary policy and procedure together with the toolkit of guidance documents.

Background

1. The current disciplinary policy was last revised prior to the move to a unitary authority.
2. It applies to all Wiltshire Council employees (except for teaching and non-teaching staff employed in locally managed schools) and forms part of their terms and conditions of employment.
3. The policy and procedure clearly sets out the council's expectations of employee conduct and ensures any disciplinary matters are managed fairly and consistently, in line with legislation.
4. The main aim of this further review was to:
 - maintain consistency of approach by adopting the standard policy format;
 - make the policy easy to read, understand and use;
 - ensure the content is up to date and fit for purpose.

Main Considerations for the Council

5. In amending the policy and procedure key stakeholders were consulted including the operational human resources teams, the stakeholder panel and the unions.
6. There has been no major change to the content of the policy and procedure and it continues to reflect the ACAS Statutory Code of Practice (2009).
7. The main changes in the updated policy and procedure are:
 - the policy and procedure has been put in to the new HR policy template;
 - there is an emphasis on it being the line manager who carries out the formal investigation and produces the investigation report (unless this is inappropriate);
 - the investigating officer takes the decision whether there is a disciplinary case to answer - the investigation report is not referred to a senior officer (although HR are still involved);

- it is the responsibility of the manager (rather than HR) to make the arrangement for the disciplinary hearing, ensure a note taker attends, send letters etc.;
 - roles and responsibilities have been clarified;
8. There is no longer a specific appeals procedure within the disciplinary policy, instead employees will use the new single appeal procedure.
9. A toolkit of documents has been created (including letter templates, guidance notes, process flowcharts etc.) to enable to smooth deployment of the policy in practice.

Environmental Impact of the Proposal

10. None.

Equalities Impact of the Proposal

11. An Equalities Impact Assessment was undertaken on 16 November 2010 and no negative impacts were identified.

Risk Assessment

12. None

Options Considered

13. None.

Recommendation

14. The Staffing Policy Committee is asked to support and approve the revised disciplinary policy and procedure.

Barry Pirie
Service Director
HR & OD

Report Author: Paula Marsh, Human Resources Policy & Reward team

The following unpublished documents have been relied on in the preparation of this Report: None

Wiltshire Council Human Resources

Disciplinary policy and procedure

This policy can be made available in other languages and formats such as large print and audio on [request](#).

What is it?

This policy and procedure sets out expectations of employee conduct and ensures any disciplinary matters are managed fairly and consistently, in line with legislation.

Go straight to the section:

- When [does](#) this policy apply / When [doesn't](#) this policy apply
- [Main points](#) – employee guide
- Resolving matters [informally](#)
- [Establishing the facts](#)
- When to use [paid suspension](#)
- Conducting a [formal investigation](#)
- Giving [notice of a disciplinary hearing](#)
- [Employee's responsibilities](#) prior to a disciplinary hearing
- [Who attends](#) a disciplinary hearing
- [Format of a disciplinary hearing](#)
- Outcomes of a disciplinary hearing
- [Allegation not upheld](#)
- [Written warning](#)
- [Final written warning](#)
- [Action short of dismissal](#)
- [Dismissal](#)
- Right of [appeal](#)
- Special circumstances
 - [Trade union representatives](#)
 - [Criminal offences](#)
 - [Where the employee raises a grievance](#)
- [Investigating manager responsibilities](#)
- [Further information](#)
- [Frequently asked questions](#)

There is also a [toolkit of documents](#) including letter templates and guidance notes to use when following this policy.

Who does it apply to?

This policy applies to all employees of Wiltshire Council with the exception of teaching and non-teaching staff employed in locally managed schools.

In disciplinary matters relating to the conduct of the chief executive, corporate directors or service directors this policy must be read in conjunction with their NJC terms and conditions of employment and [Wiltshire Council's constitution](#).

When does it apply?

This policy will apply in cases of alleged misconduct.

It is not possible to define all acts of misconduct or unacceptable behaviour which may lead to disciplinary action.

Examples of acts which may lead to disciplinary warnings or dismissal can be found in this [guidance](#) document.

In all cases the question should be asked "Would a reasonable person be aware that disciplinary action would result from a certain act or omission?"

When does it not apply?

This policy does not apply in cases of:

- alleged incompetence, incapability or other poor performance at work which is due to a lack of skill, ability, knowledge, experience or aptitude. In these cases the [capability procedure](#) should be applied. However it does apply to poor performance due to deliberate lack of care or wilful refusal.
- absence or ill health which should be dealt with under the [absence management policy](#).
- dismissals for reason of redundancy where the [redundancy policy](#) should be applied.

Main points of the policy – employee guide

1. All disciplinary matters will be dealt with fairly and consistently.
2. All those involved in a disciplinary have a responsibility to:
 - raise and deal with issues promptly
 - not unreasonably delay meetings, decisions or confirmation of decisions;
 - behave consistently, appropriately and professionally
3. Any necessary investigations will be carried out to establish the facts of the case.
4. You will be informed of the nature of the alleged misconduct, and have an opportunity to put your case in response, before any decision is made.
5. You may be accompanied by a work colleague or Trade Union representative at any formal disciplinary meeting.

6. Your manager will make any necessary reasonable adjustments to ensure that you are treated equally – see guidance on [equal opportunities in disciplinary situations](#).
7. You will have the right of appeal against any formal decision made.

Informal stage

8. In cases of minor misconduct or unacceptable behaviour it is expected that your manager will attempt to resolve the matter informally, rather than invoke the disciplinary procedure. See [guidance for managers – informal resolution of issues](#).

Disciplinary procedure

Preliminary informal investigation meeting to establish the facts

9. Where a potential disciplinary matter arises your line manager will establish the facts of the case. If it is not appropriate for your line manager to be involved an alternative manager will be nominated by the head of service to establish the facts of the case.
10. In most circumstances this will involve holding an informal investigatory meeting with you as soon as possible after the incident occurs or is brought to their attention.
11. You will be informed that this meeting is an opportunity for you to comment on the allegation and is not, at this stage, a formal disciplinary hearing.
12. There is no right to be accompanied by a trade union representative or work colleague at this stage, although where the allegations are serious you may request to be accompanied – see guidance on the right to be accompanied.
13. Notes of the meeting will be taken (using [template](#) or other method) and an attempt will be made at the end of the meeting to seek your agreement of the accuracy of this account.
14. Following the meeting the manager will confirm to you whether:
 - they are satisfied with your response and the matter will be dropped without further investigation; or
 - a further formal investigation will be undertaken that may lead to a formal disciplinary hearing; or
 - the allegation is serious enough to warrant a period of suspension with pay whilst further formal investigations are undertaken.

Paid suspension

15. Suspension should not be undertaken without obtaining advice from an HR advisor and must be authorised by the head of service or their nominee.
16. If you are suspended it will be made clear that this is a neutral act and not a disciplinary action. You will be issued with a [suspension letter](#) and [frequently asked questions about suspension](#) document within one working day.

Formal investigation

17. Your line manager, or the manager nominated by the head of service, will take the role of investigating officer and carry out further investigations to collect evidence that may be presented at any disciplinary hearing.
18. This may include formally interviewing you again, taking statements from relevant witnesses and gathering any documentary evidence.
19. At this stage the investigating officer must inform their HR advisor that the investigation is taking place if they are not already aware. Depending on the circumstances of the case an HR advisor may attend the formal interviews.
20. If a formal investigation interview is required you will be [notified in writing](#) and will have the right to be accompanied at the interview by a trade union representative or work colleague.
21. The investigating officer will ensure a written account is kept of any formal interview (using templates found in guidance on conducting formal investigations) and an attempt will be made to seek agreement of the accuracy of this account.
22. The investigating officer will produce an [investigation report](#) summarising their findings together with their decision of whether there is a disciplinary case to answer.
23. If their decision is that there is no disciplinary case to answer the investigating officer will inform you of this in writing (using [template letter – no case to answer](#)) and the matter will be closed.

Disciplinary hearing

24. Where the investigating officer decides that there is a disciplinary case to answer they will arrange, in conjunction with their HR advisor, for a disciplinary hearing to take place.
25. You will be sent a [notification of disciplinary hearing letter](#) at least 5 working days in advance of the disciplinary hearing.
26. In exceptional circumstances (for example where the potential outcome of the case could be gross misconduct) there may be a mutual agreement to extend the minimum notice to 10 working days.

Employee responsibilities prior to the disciplinary hearing

27. If you intend to present any supporting documentation or witness statements at the disciplinary hearing these must be provided to the manager hearing the case at least 2 working days in advance of the meeting.
28. If you would like any witnesses to attend the hearing it is your responsibility to contact the witnesses and inform them of the date, time and venue of the meeting. Witnesses must approach their manager at the earliest opportunity to request time off to attend in line with the guidelines for witnesses.
29. If you are unable to attend the hearing you should inform the manager hearing the case as soon as possible. If you are unable to attend due to circumstances outside of your control the meeting will be re-arranged.
30. If you do not attend the hearing, you will be expected to contact the manager hearing the case to rearrange the meeting. If you do not make contact on or before the original hearing date your manager will attempt to contact you to establish the reason for your non attendance.
31. A further hearing date will be scheduled and you will be notified of this date in writing.
32. At this stage you will also be notified that failure to attend this hearing without prior arrangement may lead to the hearing taking place and a decision being taken, in your absence, on the basis of the available evidence.
33. If failure to attend the hearing is due to sickness absence an occupational health appointment will be arranged where appropriate to obtain advice on your fitness to attend.

Who attends a disciplinary hearing

34. The disciplinary hearing will normally involve:

Manager hearing the case	Wherever possible this will be your manager's manager. If this is not possible the service director will nominate another manager from within your service area. In the case of gross misconduct the manager must be at head of service level or above.
HR advisor	Who will advise the manager hearing the case on procedural matters.
Investigating officer	Who wrote the investigation report making the recommendation for disciplinary action and will present the management case.
Employee	Against whom the allegation is made.
Employee's representative	A work colleague, trade union representative or an official employed by a trade union.

Relevant witnesses	From either the employer's or employee's side.
Note taker	Nominated by the employer's side to keep an accurate record of the meeting.

Disciplinary hearing format

35. The hearing will follow a standard format as outlined in the guidance document [format of a disciplinary hearing](#).
36. The manager hearing the case will decide whether or not disciplinary action will be taken.
37. The decision will usually be reached immediately following the meeting, but must be made and confirmed in writing within 5 working days of the meeting taking place.
38. One of the following decisions must be taken:

The allegation is not upheld

39. If an adequate explanation has been provided, or there is no evidence to support the allegation that has been made, the manager hearing the case will issue a letter confirming no disciplinary action will be taken.
40. This letter may confirm any informal advice given to the employee by the manager hearing the case, for example guidance about future behaviour.

Stage 1 – written warning

41. Where misconduct is confirmed a [written warning letter](#) will be issued setting out the nature of the misconduct and the change in behaviour required, with timescales.
42. A further act of misconduct within 6 months would usually result in a final written warning or dismissal.
43. The written warning remains current and on file for the purposes of disciplinary for 6 months.

Stage 2 – final written warning

44. A final written warning will be issued where the misconduct is similar in nature to that for which a written warning has already been issued.
45. If the misconduct is sufficiently serious (for example if your actions have had, or are liable to have, a serious or harmful impact on another employee, service user, customer or the council) it may be appropriate to move straight to a first and final written warning.

46. A [final written warning letter](#) will be issued setting out the nature of the misconduct and the change in behaviour required, with timescales.
47. The final written warning remains current and on file for the purposes of disciplinary for 12 months.
48. You will be informed that, should there be no improvement or change in behaviour in the required timescale they may be subject to dismissal or action short of dismissal.

Action short of dismissal

49. Where misconduct is serious, but dismissal is deemed too severe to be an appropriate sanction, action short of dismissal may be taken in line with managers guidance on taking action short of dismissal.
50. Such action may be taken alongside issuing a final written warning or as an alternative to dismissal.
51. A [letter confirming action short of dismissal](#) will be issued setting out the sanctions which may include one or a combination of:
 - a period of unpaid suspension;
 - withholding of incremental progression;
 - a compulsory transfer to another team or location at no expense to the council;
 - dismissal and re-engagement on new terms and conditions with no pay protection (which may involve loss of seniority).

Dismissal

52. Dismissal may be the result of continued misconduct or failure to improve following the issue of previous warnings.
53. In the case of gross misconduct, it may be appropriate to move straight to dismissal, without issuing a prior warning.
54. Only a manager at head of service level or above, can dismiss.
55. A [dismissal letter](#) will be issued setting out the reasons for the dismissal, the date on which your employment will terminate, the appropriate period of notice and your right of appeal.
56. Where dismissal occurs as a result of gross misconduct no notice, or payment in lieu of notice, is applicable and a [letter confirming summary dismissal](#) will be issued.

Appeal

57. If you feel that the outcome of the disciplinary hearing is wrong or unjust you have the right to appeal against the decision in line with the council's appeals procedure.

58. The appeal panel, hearing an appeal against disciplinary action including dismissal, may:
- dismiss the appeal;
 - allow the appeal;
 - allow the appeal and substitute a different warning;

Special circumstances – action against Trade Union representatives

59. Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed.
60. Depending on the circumstances it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement.

Special circumstances - criminal offences

61. If an employee is charged with, or convicted of a criminal offence this is not normally in itself reason for disciplinary action.
62. Consideration needs to be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with their employer, work colleagues and customers.

Special circumstances - grievances

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

Roles and responsibilities

Investigating manager responsibilities

64. To ensure that each stage of the disciplinary procedure is followed without unreasonable delay.
65. To establish the facts of the case and, where appropriate, conduct a formal investigation. See guidance notes for undertaking formal investigations.
66. To keep your human resources advisor and relevant senior managers informed of the progress of the case, and to seek advice from them where appropriate.
67. To ensure accurate records are kept of any meetings or interviews, including arranging for a note taker to attend the disciplinary hearing.
68. To keep the employee under investigation informed about the progress of the case.

69. To make arrangements for any disciplinary hearing including ensuring attendance of all relevant parties and, where necessary, rearranging the meeting.
70. To ensure the employee receives notification of any disciplinary hearing within appropriate timescales, together with relevant documentation and written confirmation of the outcome (using appropriate template letters).
71. To present the management case at the disciplinary hearing.
72. To make any reasonable adjustments required to ensure equality of opportunity.

HR advisor responsibilities

73. To advice on policy and procedure and to ensure that the case is managed in an appropriate and timely manner.
74. To attend formal investigation interviews where appropriate.
75. To attend disciplinary hearings to advise on procedure.
76. To advise the manager hearing the disciplinary case regarding any live warnings on the employee's file.

Frequently asked questions

77. I am in the middle of conducting a formal investigation but the employee against who the allegations have been made has just been signed off as unfit to work by his GP. Can I continue to follow the disciplinary procedure or should I wait until he is back at work?
 - You should take advice from your HR advisor. You may need to postpone the investigation for a short period of time. It may also be appropriate to arrange for the employee to attend an occupational health appointment
78. I issued an employee with a written warning 7 months ago. Their conduct during the 6 month period whilst the warning was live was good but, now the warning has lapsed, their conduct has deteriorated. Do I have to issue another written warning or can I move on to a final written warning.
 - You will need to go through the full disciplinary procedure to establish the facts of the case and decide whether a disciplinary hearing should be held.

If, during the disciplinary hearing, evidence is presented to show that there is a pattern of misconduct the manager hearing the case would be entitled to look back at the employee's previous disciplinary record (including warnings which have expired) when deciding on the level of warning to give and how long this warning should remain live for.

It would not be appropriate to get into a cycle of giving multiple first written warnings for similar misconduct over a relatively short time period. It may be reasonable to escalate this to a final written warning or to extend the period for which the warning remains live.

Legislation

[ACAS Statutory Code of Practice \(April 2009\)](#)

Further advice and information

There are a number of related policies which you should be aware of:

- Capability policy and procedure
- Appeals procedure
- Absence management policy
- Redundancy policy and procedure
- Grievance policy and procedure

For further information please speak to your manager, service director or contact a member of your [HR advisory team](#).

Toolkit

- [Managers guide – taking informal action to resolve disciplinary matters](#)
- [Equal opportunities in disciplinary situations](#)
- [Examples of acts or omissions which may lead to disciplinary action](#)
- [Template letter - paid suspension](#)
- [Frequently asked questions – paid suspension](#)
- [Template letter – notification of formal investigation interview](#)
- [Template – record of formal investigation interview](#)
- [Template – investigation report](#)
- [Template letter – no disciplinary case to answer](#)
- [Template letter – notification of disciplinary hearing](#)
- [Format of disciplinary meeting](#)
- [Template letter – written warning](#)
- [Template letter – final written warning](#)
- [Template letter – action short of dismissal](#)
- [Template letter – dismissal with notice](#)
- [Template letter – summary dismissal \(no notice\)](#)
- [Flowchart - role of investigating manager](#)
- Guidance for investigating managers
- Guidance on holding a formal meeting
- Guidance on taking action short of dismissal

Being worked on by other people in policy team

Policy author	HR Policy and Reward Team – PM
Date policy updated	24 November 2010

Managers Guide – Informal resolution of issues

Cases of minor misconduct or unsatisfactory performance are often best dealt with informally.

An informal conversation may be all that is required to improve an employee's conduct or performance. In some cases additional training, coaching and advice may be needed.

However where informal action does not bring about an improvement, the misconduct is repeated or where the issue is considered too serious to be dealt with informally, the formal disciplinary procedure should be followed.

Informal discussions should be:

- Held in private and away from colleagues;
- A two-way conversation aimed at resolving the problem;
- Clear - making the employee aware of what the expected standards are and giving examples of where these have not been met;
- Constructive - with the emphasis on finding ways for the employee to improve and for this improvement to be sustained;
- Specific – in terms of the timescales over which improvements are expected.

It may be useful to follow up the meeting with an email or letter confirming what was discussed and agreed. This should be copied to HR for the employee's file. You may also want to arrange a date for a review meeting.

Be careful that any informal meeting does not turn into formal disciplinary action as this would deny the employee certain right, such as the right to be accompanied.

If, during the discussion, it becomes clear that this is a more serious matter which cannot be resolved informally you should adjourn the meeting and explain to the employee that you will continue the matter under the formal disciplinary procedure.

Example:

An employee is late for work on a number of occasions causing difficulties for other people in the team who have to provide cover.

You talk to the employee who reveals that he has recently split up from his wife and he now has to take the children to school on the way to work. You agree a temporary adjustment to his start and finish times and he undertakes to make alternative arrangement to cover the school run.

No formal disciplinary action is required; however you confirm the agreement in an email to the employee (copied to HR) and arrange a follow up meeting to review the situation.

Source: [The Acas Guide – Discipline and Grievance at work](#)

Guidance for managers - Equal opportunities in disciplinary matters

Equality is not about everybody being treated in exactly the same way; it is about everybody having equal opportunities and removing barriers that stop this from happening.

Managers have a responsibility to consider whether:

- particular groups are more likely to be subject to the disciplinary procedure;
- people from particular groups may be prevented from participating fully in the disciplinary process

and to look at whether there are adjustments that can be made to overcome these issues.

Adjustments may include:

- obtaining advice from external bodies with a better understanding of a particular group (for example a particular race or religion) in order to understand why an employee behaved in a particular way;
- providing a translator or interpreter for an employee with English as a second language or a disability (such as deafness) which makes communication more difficult.

Remember that where an employee has declared a disability under the Disability Discrimination Act we have a duty to make reasonable adjustments.

Some examples of inequality in disciplinary cases include:

A part time employee is unable to arrange a meeting with their trade union representative prior to a disciplinary hearing due to the fact that they are only in the office two days a week.

It would be reasonable to agree with the employee to rearrange the date of the hearing to allow them to meet with their representative. It would also be reasonable to arrange the hearing on the employee's normal working days.

An employee with a hearing impairment is asked to attend a disciplinary hearing but states that they will find it impossible to participate.

You could ask the employee what adjustments could be made to improve their ability to participate – this could include arranging for a sign language interpreter to attend the hearing.

Further advice

We have two staff forums where staff can network and support each other:

Staff disability forum

If you have a disability or hidden impairment, your experiences will be valued in the forum. Members meet every other month to share information and resolve practical issues related to disability, as well as acting as a consultation group.

Black and minority ethnic forum

The forum is open to all employees across the council who consider themselves to be BME as well as other individuals who may be subject to discrimination and harassment on the basis of their own ethnicity, nationality or faith, or of those with whom they are associated. They also act as a consultation group.

Contact the [equality and diversity team](#) for information about accessing these forums.

Access to Work

When considering reasonable adjustments for disabled employees "[Access to work](#)" can provide advice and support to both employees and managers. Contact by telephone 02920 423 291 or textphone 02920 644 886.

More information

The council's [equality and diversity team](#) are happy to offer support on equality issues affecting any groups of staff.

Individual employees with queries can contact their [HR advisor](#).

Examples of acts / omissions which may lead to disciplinary action

- Unauthorised acceptance of gifts, presentations and awards;
- Undisclosed pecuniary interest in the council's contracts;
- Unauthorised action on behalf of the council or service;
- Public criticism of the council's decisions and/or activities connected with the employee's own work;
- Disobedience to orders (i.e. when an employee without sufficient cause disobeys, omits or neglects to carry out a lawful order whether in writing or not) including failure to observe operational regulations and policies;
- Abuse of authority and/or where an employee's conduct towards a fellow employee or a member of the public is oppressive, abusive or disrespectful;
- Unauthorised employment (i.e. engaging in unauthorised employment during hours when contracted to work for the council, or engaging in employment during off-duty hours which is detrimental to the interests of the authority);
- Misconduct, in relation to official documents (i.e. when an employee without sufficient cause destroys or mutilates any record or document made, kept or required for the purposes of the council, or alters, erases or adds to any entry in such a record or document);
- Improper disclosure of information, including the breach of the data protection act;
- Sleeping on duty;
- Unauthorised use of the council's equipment;
- Smoking within designated no smoking areas, including council property or on council owned premises, or vehicles;
- Unauthorised absence or abuse of the sickness scheme.

Examples of acts that could be deemed to be gross misconduct

- Wilful breaches of safety rules, including the use of a mobile telephone whilst driving for the purposes of work;
- Conviction of a criminal offence related to, or liable to have a serious adverse affect on the work of the employee or other employees or the credibility of the council;
- Theft and/or fraud;
- Threatening behaviour, assault or fighting;
- Deliberate and serious misuse of and/or damage to council property;
- Incapability at work brought on by alcohol or illegal drugs;
- Negligence which causes unacceptable loss, damage or injury;
- Acts of insubordination;
- Discrimination against a member of staff or the public on any grounds of sex, race, disability, age, religion or belief, sexual orientation, pregnancy and maternity; gender reassignment or marriage or civil partnership;
- Deliberate use of the council internet and/or email to access or distribute material of a pornographic, offensive, obscene or inappropriate nature;
- Bringing the council into serious disrepute.

These lists are not exhaustive. You should apply the test "Would a reasonable person be aware that disciplinary action would result from a certain act or omission?"

Template - Record of informal investigation meeting

Date:	Time:
Manager's name:	Employee's name:
Prior to commencing meeting ensure the employee is aware: This is an informal investigatory meeting to establish facts. There is no right of accompaniment but in serious cases they may be accompanied. Possible outcomes of this meeting are: <ul style="list-style-type: none">• No further action will be taken;• To undertake a formal investigation that may result in a formal disciplinary hearing;• In the case of very serious allegations or where the person remaining in post would be detrimental to the investigation/service to suspend the employee on full pay whilst the investigation is carried out.	
The reason for this meeting is (outline allegations):	
Employee's response:	
Outcome of meeting:	

Copies - one for employee, one retained by manager, one to HR for file

Template letter – paid suspension

Confidential (usually sent by recorded delivery or hand delivered)

Name

Address

DATE

Dear NAME

SUSPENSION FROM DUTY

Further to your meeting today with NAME, JOB TITLE [and ADD OTHER ATTENDEES], I am writing to confirm that you have been suspended from duty with immediate effect.

The reason for your suspension is that it is alleged [add allegations].

The suspension will continue until the investigation is complete and I can assure you there will be no unnecessary delay.

Suspension is a neutral act and is not a form of disciplinary action and you will continue to receive your normal pay during this period.

The terms of your suspension are that;

- You do not remove or retain any documents;
- You do not enter any of the council buildings and will return any keys or equipment that you have in your possession to me;
- You must make yourself available, during normal working hours, to attend any meetings connected with the investigation. You will be given reasonable notice and normally you should be prepared to attend on the day following the request;
- If for any reason you wish to visit any council premises during your suspension you must first obtain permission from myself.

Whilst you are suspended from duty you must not contact any employee of the council in the course of their employment, or visit any council premises without the specific consent of myself.

I would advise you that if you meet with colleagues outside of work and intend to discuss your suspension, this may place them in a difficult position. You should, therefore, approach them sensitively and consider whether it is appropriate to discuss the reasons for your suspension.

I advise you to contact your Union, if you belong to one. You may also, if you wish make use of the confidential Employee Well-Being Helpline available on 01225 713147 and establish whether a referral to specialist counselling would be appropriate in your circumstances.

A human resources advisor, who will have no involvement with the case, has been allocated to you to answer any procedural questions you may have and explain what the various stages mean. They will not be able to advise on your specific case or accompany you to any meetings.

Your advisor will be **ADD NAME AND JOB TITLE**, who can be contacted by telephone on **ADD DETAILS** or by email on **ADD DETAILS**. Please note that this advisor will not be able to comment on the progress of the investigation or offer you advice other than guidance on procedural matters.

Please would you acknowledge receipt of this letter by signing the attached copy letter and returning it to me.

I enclose the document “Frequently asked questions – paid suspension” which aims to answer the most common questions asked by employees in this situation. However if you have any queries please do not hesitate to contact me or your HR advisor.

Yours sincerely

NAME
JOB TITLE

Enc. “Frequently asked questions – paid suspension”

I acknowledge receipt of the letter of suspension dated **ADD DETAILS** and confirm that I will comply with the terms of my suspension from duty.

Signed:..... Date:.....
ADD NAME

Frequently asked questions – paid suspension

Currently at <http://hr.wiltshire.gov.uk/employee-handbook/eh-employee-conduct/employee-conduct-guidance-for-employees-who-have-been-suspended.htm>

When is paid suspension used?

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

Suspension will not be undertaken without obtaining advice from a human resources advisor and must be authorised by a head of service.

How should I be notified of my suspension?

Normally you will be notified by your line manager (or nominated manager):

- Verbally - if it is practical or possible for you to be informed in this way;
- By telephone - if it is not possible to meet with you in person;
- By letter - if it is not possible to meet with you or contact you by telephone.

Regardless of how you are informed of your suspension you will be issued with a suspension letter outlining the reasons for your suspension and any terms you must abide by during the period of the suspension.

Will I be paid if I have been suspended?

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

Will continuous service be affected by suspension?

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

Do I have to stay at home during my normal working hours in case I am called back to work?

You are required to make yourself available to your employer at reasonable notice (e.g. for a meeting or interview). Normally this would mean you should be prepared to report to work on the day following the request for you to report to work.

However, you could be asked to return on the same day as the request is made, which would not be unreasonable if the request was made early in the day for an afternoon meeting and a representative was also available.

What happens if I wish to make a trip away from home during the period of suspension?

Annual leave arrangements still apply during suspension, therefore if you wish to make a trip away from home, which would make you unavailable to attend work as described above, you will need to seek authorisation for annual leave from your line manager in the normal way.

Given that suspension is not a disciplinary penalty, annual leave which has been arranged prior to suspension will be honoured other than in exceptional circumstances, where the matter will be discussed with you.

You will need to clear any request in advance, including confirming pre-arranged leave, with your line manager. They will need to consider the likelihood of your being required to attend work during the time requested.

Am I allowed access to my workplace and colleagues during suspension?

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

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

What assistance is there for employees on paid suspension?

If you are a member of a trade union you are advised to seek advice from your trade union representative.

Your manager, or another nominated person if this is not appropriate, will keep in contact with you to both advise you of progress regarding the investigation and keep you updated with any development in connection with your job.

You will also be allocated an HR advisor (who has had and will have no involvement in the case) to answer any procedural questions and explain what the various stages mean.

The employee well-being helpline is a confidential service that provides the opportunity to talk to somebody about any issues affecting your physical and emotional well-being.

The helpline number is 01225 713147. You will hear a recorded message and be invited to leave your contact details and a member of the occupational health team will call you back and will help directly or signpost you to other services that will be able to help. No-one has access to any details about those calling the helpline – it is completely confidential unless you give consent for the information to be shared.

How long can the suspension last?

There are no specified time limits. However, suspension will be for as short a period as possible.

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

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

How will I know when the suspension has ended?

Normally, suspension ends when, following the completion of the investigation, a decision is taken.

This decision may be:

- to take no action and end the suspension;
- to proceed with formal disciplinary action;
- to take some other form of action.

In any event you will be notified in writing of the decision.

Where disciplinary action is taken, the suspension will normally continue until the hearing takes place, and it will be decided at the hearing when the suspension will end. You will remain suspended until informed otherwise by your head of service.

How can I return to work after being suspended?

Paid suspension is not a disciplinary penalty. Employees can return to work successfully after being suspended and will receive support from both their manager and HR advisor in this event.

Template letter – notification of formal investigation meeting

Dear **NAME**

Formal investigatory interview

Further to our meeting on **DATE** I am now writing to invite you to attend a formal investigation meeting on **DATE**, at **TIME**, in **LOCATION**.

This meeting will be led by myself/**NAME** [and will also be attended by **NAME (HR)**]. A note taker will also be present to ensure that an accurate record is taken – you will have access to these notes.

The purpose of this meeting will be to discuss and ask you questions in relation to the allegation(s) that **ADD INFO**

[You should be aware that the above allegation is considered to be gross misconduct under the council's disciplinary procedure].

This is a formal meeting and you have the right to be accompanied by a trade union representative or a work colleague. I would be grateful if you could advise me in advance of the name of your representative.

Following this meeting I will assess whether it is appropriate to carry out further investigations.

Please note that, depending on the outcome of the formal investigation, it may be necessary to hold a formal disciplinary hearing.

I enclose a copy of the disciplinary policy and procedure for your information. If you have any queries please do not hesitate to contact me.

Please sign a copy of this letter and return it to me to acknowledge receipt and to confirm that you will attend this meeting.

Yours sincerely

NAME
JOB TITLE

Enc. Copy letter for signature and return
Wiltshire Council disciplinary policy and procedure

I acknowledge receipt of this letter and confirm that I will attend the investigation meeting on **DATE**.

Signature: _____ Date: _____

Record of formal investigation interview - with employee under investigation

Record of investigation meeting held on DATE

Meeting attended by:	
Investigating manager:	
Note taker	
HR Advisor (if required)	
Employee being interviewed	
Employee's representative	

Checklist prior to starting meeting

If employee has not brought a representative with them the investigating manager must ask the employee if they are happy to proceed without any representation? Record employee comments in the notes section below.	√
--	---

Investigating manager must explain to employee:

You are being interviewed as part of an investigation under the Council's disciplinary procedure which may lead to informal action or possibly a disciplinary hearing taking place.	
The allegations being investigated are: ADD DETAILS	
Notes will be taken of this meeting. You will have an opportunity to review and comment on these notes. If the matter leads to a disciplinary hearing these notes will be used as evidence.	
You should not discuss the matter under investigation with colleagues except for your representative and any individual you may wish to call as a witness if the matters leads to a disciplinary hearing.	
Introduce all of those present at the meeting	

Initials of person speaking	What was asked / said (written in language used)

Signature of attendees that this is a true record of the meeting:	
Name:	Signature:
Name:	Signature:
Name:	Signature:

Record of formal investigation interview - with witness

Record of investigation meeting held on DATE

Meeting attended by:	
Investigating manager:	
Note taker	
HR Advisor (if required)	
Witness being interviewed	
Witness's representative	

Checklist prior to starting meeting

If witness has not brought a representative with them the investigating manager must ask if they are happy to proceed without any representation? Record comments in the notes section below.	√
--	---

Investigating manager must explain to witness

You are being interviewed as part of an investigation under the Council's disciplinary procedure which may lead to informal or formal action or possibly a disciplinary hearing taking place.	
Notes will be taken of this meeting. You will have an opportunity to review and comment on these notes. If the matter leads to a disciplinary hearing these notes may be used as evidence and you may be called as a witness.	
You should not discuss the matter with anyone (including the employee under investigation and other witnesses) apart from the investigating manager.	
Introduce all of those present at the meeting	

Initials of person speaking	What was asked / said (written in language used)

Signature of attendees that this is a true record of the meeting:	
Name:	Signature:
Name:	Signature:
Name:	Signature:

Investigation report template

Investigating manager:	
Employee(s) under investigation:	
Summary of allegations:	•
Evidence gathered: (include documents, notes of formal interviews, photos etc. as appendices)	•
Manager's report:	
Investigating manager's recommendation:	No disciplinary case to answer [] Disciplinary hearing to be arranged []

Template letter – outcome of formal investigation no disciplinary case to answer

Confidential

Name

Address

DATE

Dear NAME

Outcome of formal investigation

I am writing to confirm that, following a formal investigation into the allegations of ADD DETAILS, it has been found that there is no disciplinary case to answer.

As discussed at the meeting on DATE, it was agreed that ADD ACTIONS AGREED.

No further action will be taken and a copy of the investigation report will be sent to human resources to be held on your file.

IF EMPLOYEE ON SUSPENSION AGREE BACK TO WORK PLAN

If you have any queries regarding this matter please do not hesitate to contact me.

Yours sincerely

NAME OF INVESTIGATING MANAGER
JOB TITLE

Template letter – notification of disciplinary hearing

Confidential

Name

Address

DATE

Dear NAME

Notification of disciplinary hearing

I am writing to inform you that further to a formal investigation taking place, and in accordance with Wiltshire Council's disciplinary policy and procedure, you are required to attend a disciplinary hearing to be held on DATE AND TIME. The hearing will take place in LOCATION.

NAME, JOB TITLE will hear the case (and will be advised by HR NAME, JOB TITLE). A note taker will also attend the hearing.

You will be required to answer the allegation(s) that

- DETAIL ALLEGATIONS

[You should be aware that the above allegation is considered to be "gross misconduct" and could result in summary dismissal. Please note that where dismissal occurs as a result of gross misconduct no notice, or payment of lieu of notice, is applicable.]

As the investigating manager I will be presenting the management case.

You have the right to be accompanied by a Trade Union representative or work colleague during the disciplinary hearing. Please confirm as soon as possible who will accompany you to the meeting.

During the disciplinary hearing you will have an opportunity to present your case, call witnesses and give evidence.

The disciplinary procedure and two copies of the written statement of the case are enclosed. You should note that any written statement that you may wish to submit should also be circulated to all parties as soon as possible and in at least X working days before the hearing.

Choice of paragraphs

If you are unable to attend the hearing you should inform me as soon as possible. If you are unable to attend due to circumstances outside of your control the meeting will be re-arranged.

If you do not attend the hearing, you will be expected to contact me to rearrange the meeting. If you do not make contact on or before the original hearing date we will attempt to contact you to establish the reason for your non attendance.

A further hearing date will be scheduled and you will be notified of this date in writing. At this stage you will also be notified that failure to attend this hearing without prior arrangement may lead to the hearing taking place and a decision being taken, in your absence, on the basis of the available evidence.

If failure to attend the hearing is due to sickness absence an occupational health appointment will be arranged to obtain advice on your fitness to attend.

OR

This meeting has been rearranged at your request to enable you to attend. Please note that failure to attend this hearing without prior arrangement may lead to the hearing taking place and a decision being taken, in your absence, on the basis of the available evidence.

You will receive written confirmation of the decision of the disciplinary hearing and have a right of appeal against the decision.

Please acknowledge receipt of this letter by signing the second copy and returning it to me.

Yours sincerely

NAME OF INVESTIGATING MANAGER
JOB TITLE

Enc: Investigation report x 2
Disciplinary procedure

I acknowledge receipt of this letter dated **ADD DATE**.

Name: _____

Date: _____

Signature: _____

Format of a disciplinary hearing

1. The disciplinary hearing will be attended by:

Manager hearing the case	Wherever possible this will be your manager's manager. If this is not possible the service director will nominate another manager from within your service area.
HR advisor (if required)	Who will advise the manager hearing the case on procedural matters.
Investigating manager	Who wrote the investigation report making the recommendation for disciplinary action and will present the management case.
Employee	Against whom the allegation is made.
Employee's representative	A work colleague, trade union representative or an official employed by a trade union.
Relevant witnesses	From either the employer's or employee's side.
Note taker	Nominated by the employer's side to keep an accurate record of the hearing.

2. The manager hearing the case will open the hearing, ensure introductions are made and explain that the purpose of the hearing as detailed in the investigation report. They will outline the sequence of the hearing.
3. The investigating manager will state precisely what the allegation is and outline the case by going through the evidence that has been gathered during the formal investigation, including calling any witnesses if appropriate.
4. There will be an opportunity for the manager hearing the case and the employee to ask questions of the investigating manager.
5. The employee will be asked if they have any explanation for the alleged misconduct, or if there are special circumstances to be taken into account. They will also be given the opportunity to state their case, present evidence and call witnesses.
6. There will be an opportunity for the manager hearing the case and the investigating manager to ask questions of the employee.
7. The employee's representative is allowed to address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee. If requested by the employee they can also ask questions on their behalf of the investigating manager or their witnesses. (The representative does not have the right to answer questions on the employee's behalf, address the hearing if the employee

does not wish it, or prevent the investigating manager from explaining their case).

8. The manager hearing the case will have an opportunity to ask any remaining questions of either party or any witnesses.
9. Both sides will be asked to sum up their cases, the investigating manager will go first followed by the employee.
10. The manager hearing the case may adjourn the hearing at any point to allow a comfort break, discuss the case with their HR advisor or clarify a point of procedure.
11. Once both the management and employee's cases have been heard the manager hearing the case will adjourn to reach a decision.
12. If appropriate the manager hearing the case will reconvene the hearing to give their decision. Alternatively they may confirm the decision in writing within 5 working days of the meeting taking place.
13. The employee will have the right to appeal against any formal disciplinary action taken.

DRAFT

Template – Written warning letter

Confidential

NAME

ADDRESS

DATE

Dear **NAME**

Outcome of disciplinary hearing

I write to confirm the outcome of the disciplinary hearing which I heard on **DATE**.

The hearing was also attended by **NAME OF INVESTIGATING MANAGER** who presented the management case, and **NAME OF HR ADVISOR**, representing human resources.

You were accompanied at the meeting by **NAME**.

or

You were informed of your right to be accompanied at the hearing but declined to invite a representative.

[As requested I enclose a copy of the written record of the hearing].

At the disciplinary hearing the following allegations were considered.

-

Following careful consideration the decision was made to uphold the allegations made against you and to issue a written warning under the council's disciplinary procedure.

The written warning will be placed on your file but will be disregarded for disciplinary purposes after a period of **6 months (or timescale agreed at the meeting with explanation of why it is longer than 6 months)** provided there are no further incidents of this nature.

The following action is required by you within the noted timescales;

-

You are entitled to appeal against this decision in line with the enclosed appeals procedure. Any appeal must be received by the disciplining officer within 10 working days of receipt of this letter.

Please acknowledge receipt of this letter by signing and returning the enclosed copy

Yours sincerely

NAME

JOB TITLE

Enc. Appeal procedure

[Written record of disciplinary hearing]

I acknowledge receipt of this letter dated **ADD DATE**.

Name:

Date:

Signature:

DRAFT

Template – Final written warning letter

Confidential

NAME

ADDRESS

DATE

Dear **NAME**

Outcome of disciplinary hearing

I write to confirm the outcome of the disciplinary hearing which I heard on **DATE**.

The hearing was also attended by **NAME OF INVESTIGATING MANAGER** who presented the management case, and **NAME OF HR ADVISOR**, representing human resources.

You were accompanied at the meeting by **NAME**.

or

You were informed of your right to be accompanied at the hearing but declined to invite a representative.

[As requested I enclose a copy of the written record of the hearing].

At the disciplinary hearing the following allegations were considered.

-

Following careful consideration the decision was made to uphold the allegations made against you and to issue a final written warning under the council's disciplinary procedure.

The final written warning will be placed on your file but will be disregarded for disciplinary purposes after a period of **12 months (or timescale agreed at the meeting with explanation of why it is longer than 12 months)** provided there are no further incidents of this nature.

The following action is required by you within the noted timescales;

-

Please note that, should you fail to make the required improvements within the given timescales you may be subject to dismissal or a sanction short of dismissal (which may include unpaid suspension, withholding of incremental progression, dismissal and re-engagement on new terms and conditions with no protection of salary or compulsory transfer to a new team or location at no expense to the council).

You are entitled to appeal against this decision in line with the enclosed appeals procedure. Any appeal must be received by the disciplining officer within 10 working days of receipt of this letter.

Please acknowledge receipt of this letter by signing and returning the enclosed copy.

Yours sincerely

NAME

JOB TITLE

Enc. Appeal procedure

[Written record of disciplinary hearing]

I acknowledge receipt of this letter dated ADD DATE.

Name:

Date:

Signature:

DRAFT

Template letter – action short of dismissal

Confidential

Name

Address

DATE

Dear NAME

Outcome of disciplinary hearing

I write to confirm the outcome of the disciplinary hearing which I heard on DATE.

The hearing was also attended by NAME OF INVESTIGATING MANAGER who presented the management case, and NAME OF HR ADVISOR, representing human resources.

You were accompanied at the meeting by NAME.

or

You were informed of your right to be accompanied at the hearing but declined to invite a representative.

[As requested I enclose a copy of the written record of the hearing].

At the disciplinary hearing the following allegations were considered.

-

Following careful consideration the decision was made to uphold the allegations made against you and to issue a final written warning under the council's disciplinary procedure.

The warning will be placed on your file but will be disregarded for disciplinary purposes after a period of 12 months (or timescale agreed at the meeting with explanation of why it is longer than 12 months) provided there are no further incidents of this nature.

Due to the seriousness of the misconduct it was also agreed that:

- You will be suspended without pay for a period of, effective from – ADD DETAILS
- Your incremental progression due on DATE will not be paid – add details
- You will be moved to a new team...ADD DETAILS

The following action is required by you within the noted timescales;

-

Please note that, should you fail to make the required improvements within the given timescales you may be subject to dismissal.

You are entitled to appeal against this decision in line with the enclosed appeals procedure. Any appeal must be received by the disciplining officer within 10 working days of receipt of this letter.

Please acknowledge receipt of this letter by signing and returning the enclosed copy.

Yours sincerely

NAME

JOB TITLE

Enc. Appeal procedure

[Written record of disciplinary hearing]

I acknowledge receipt of this letter dated ADD DATE.

Name:

Date:

Signature:

Template letter – dismissal with notice

Confidential

Name

Address

DATE

Dear NAME

Outcome of disciplinary hearing

I write to confirm the outcome of the disciplinary hearing which I heard on DATE.

The hearing was also attended by NAME OF INVESTIGATING MANAGER who presented the management case, and NAME OF HR ADVISOR, representing human resources.

You were accompanied at the meeting by NAME.

or

You were informed of your right to be accompanied at the hearing but declined to invite a representative.

[As requested I enclose a copy of the written record of the hearing].

At the disciplinary hearing the following allegations were considered.

-

Following careful consideration the decision was made to uphold the allegations made against you and to dismiss you under council's disciplinary procedure with effect from DATE OF DISMISSAL.

In line with the terms and conditions of your employment you are entitled to X weeks pay in lieu of notice.

You are entitled to appeal against this decision in line with the enclosed appeals procedure. Any appeal must be received by the disciplining officer within 10 working days of receipt of this letter.

Please acknowledge receipt of this letter by signing and returning the enclosed copy.

Yours sincerely

NAME

JOB TITLE

Enc. Appeal procedure

[Written record of disciplinary hearing]

I acknowledge receipt of this letter dated ADD DATE.

Name:

Date:

Signature:

DRAFT

Template letter – Summary dismissal (no notice)

Confidential

Name

Address

DATE

Dear NAME

Outcome of disciplinary hearing

I write to confirm the outcome of the disciplinary hearing which I heard on DATE.

The hearing was also attended by NAME OF INVESTIGATING MANAGER who presented the management case, and NAME OF HR ADVISOR, representing human resources.

You were accompanied at the meeting by NAME.

or

You were informed of your right to be accompanied at the hearing but declined to invite a representative.

At the disciplinary hearing the following allegations were considered.

-

ADD SUMMARY OF MEETING AND WHY DECISIONS WERE MADE

Following careful consideration the decision was made to uphold the allegations made against you.

As these allegations constitute gross misconduct under council's disciplinary procedure you will be summarily dismissed with immediate effect from DATE OF DISMISSAL.

Where dismissal occurs as a result of gross misconduct no notice, or payment in lieu of notice, is applicable.

You are entitled to appeal against this decision in line with the enclosed appeal procedure. Any appeal must be received by the disciplining officer within 10 working days of receipt of this letter.

Please acknowledge receipt of this letter by signing and returning the enclosed copy.

Yours sincerely

NAME

JOB TITLE

Enc. Appeal procedure

I acknowledge receipt of this letter dated ADD DATE.

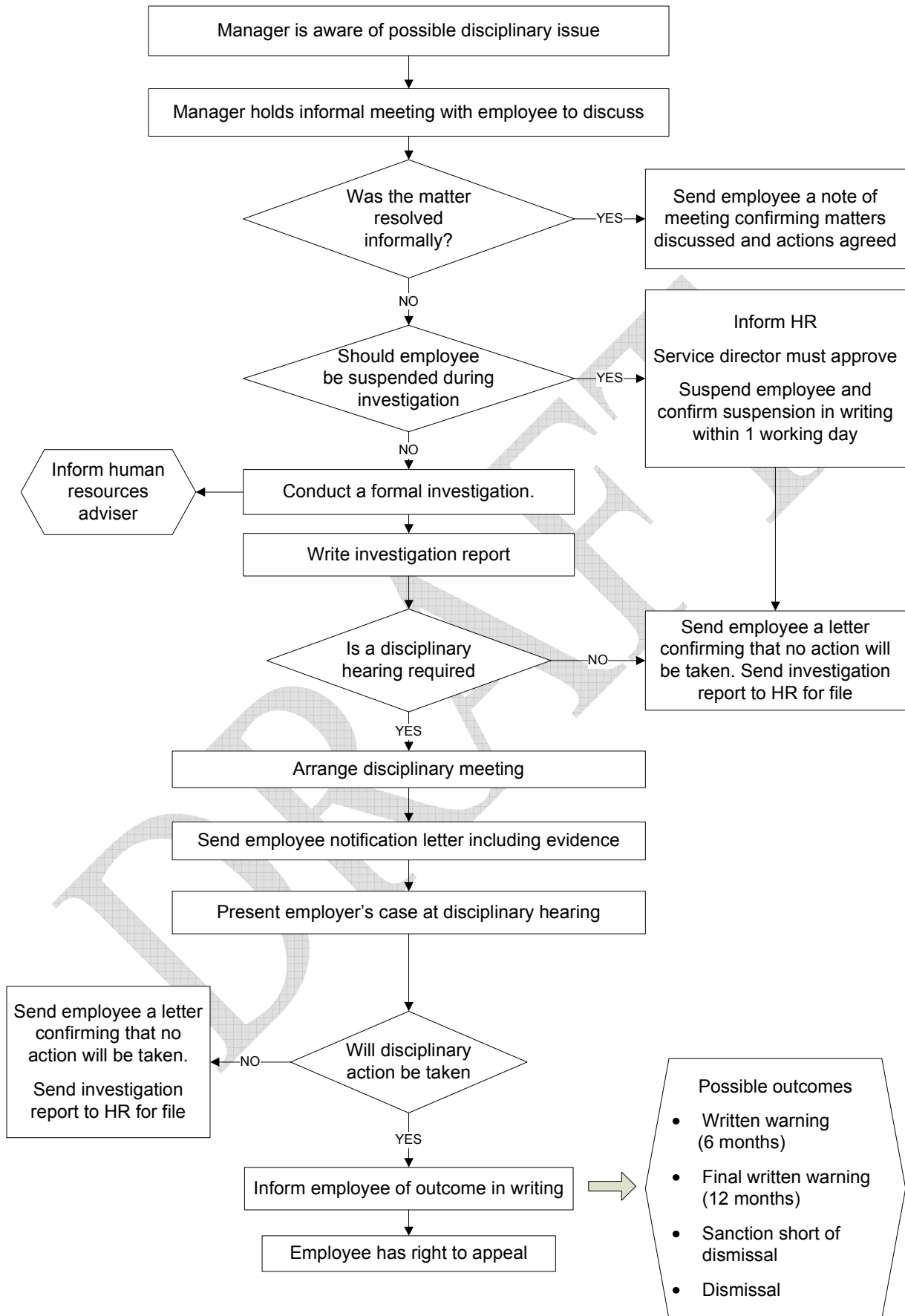
Name:

Date:

Signature:

DRAFT

Flowchart – role of investigating manager in disciplinary procedure



WILTSHIRE COUNCIL

STAFFING POLICY COMMITTEE

24 November 2010

GRIEVANCE POLICY AND PROCEDURE

Purpose of Report

1. This report presents the updated grievance policy and procedure with the aim of having it approved by this committee.

Background

2. The current grievance policy and procedure was last revised prior to the move to a unitary authority.
3. It applies to all Wiltshire Council employees (except for teaching and non-teaching staff employed in locally managed schools) and forms part of their terms and conditions of employment.
4. The policy and procedure clearly sets out the steps which will be followed in the event that a member of staff raises a grievance to ensure consistency of treatment amongst staff.
5. The main aim of this further review was to:
 - Maintain consistency of approach by adopting the standard policy format;
 - Make the policy easy to read, understand and use;
 - Ensure the content is up to date and fit for purpose.

Main Considerations for the Council

6. In amending the policy and procedure key stakeholders were consulted including the operational human resources teams, the stakeholder panel and the unions.
7. The grievance policy and procedure reflects the ACAS code of practice, disciplinary and grievance procedures April 2009.
8. The main changes to the grievance policy and procedure are:
 - additional details have been put in to the procedure to try and make it clearer
 - there is more emphasis on using the informal part of the procedure in the first instance
 - a grievance clarification meeting has been introduced for the manager to clarify the grievance and explore what steps need to be taken, if any, prior to a formal grievance meeting. It also provides the employee with the early opportunity to meet the manager responsible for responding to their grievance and to understand how the grievance will be dealt with.

- roles and responsibilities have been added.
9. There is no longer a specific appeals procedure within the grievance policy and procedure, instead employees will use the new single appeal procedure.
 10. A toolkit of documents has been created (including letter templates, guidance notes, process flowcharts etc.) to enable smooth deployment of the policy and procedure in practice. The guidelines also outline the support available to staff raising a grievance and staff who are the subject of a grievance.

Environmental Impact of the Proposal

11. None.

Equalities Impact of the Proposal

12. An Equalities Impact Assessment was undertaken on 16 November 2010 and no negative impacts were identified.

Risk Assessment

13. None

Options Considered

14. None.

Recommendation

15. The Staffing Policy Committee is asked to support and approve the revised grievance policy and procedure.

Barry Pirie
Service Director
HR & OD

Report Author: Catherine Coombs, Human Resources Policy & Reward team

The following unpublished documents have been relied on in the preparation of this Report: None

DRAFT

Wiltshire Council Human Resources

Grievance Policy and Procedure

This policy can be made available in other languages and formats such as large print and audio on [request](#).

What is it?

This policy and procedure sets out a framework for employees to raise concerns, problems or complaints that arise at work and for managers to respond to these concerns in a fair and reasonable way.

Go straight to the section:

- [Who does it apply to?](#)
- [When does this policy apply/ When doesn't this policy apply](#)
- [What are the main points?](#)
- [What is the procedure for making a grievance?](#)
- [Mediation](#)
- [Resolving matters informally - stage 1](#)
- [Resolving matters formally - stage 2](#)
- [Grievance clarification meeting](#)
- [Formal grievance meeting](#)
- [Failure to attend the formal grievance meeting](#)
- [Time limits](#)
- [Transfer to another procedure](#)
- [Right of appeal - stage 3](#)
- [Right to be accompanied at meetings](#)
- [Reasonable adjustments](#)
- [Investigations](#)
- [Line manager's and senior manager responsibilities](#)
- [Investigation officer responsibilities](#)
- [Employee's responsibilities in relation to raising a grievance](#)
- [The role of Human Resources \(HR\)](#)
- [Your responsibilities if you have had a grievance raised against you](#)
- [Support](#)
- [Relationship between grievance and disciplinary procedure](#)
- [Requirement to keep records](#)
- [Frequently asked questions](#)
- [Relevant legislation](#)

- [Further information](#)

There is also a [toolkit of documents](#) including letter templates and guidance notes to use when following this policy

Who is covered by this policy?

This policy applies to all employees of Wiltshire Council with the exception of teaching and non-teaching staff employed in Locally Managed schools.

In grievance matters that are raised by the chief executive, corporate directors and service directors of the council these procedures must be read in conjunction with their JNC terms and conditions of employment and [Wiltshire Council's constitution](#).

When does it apply?

Issues about which a grievance may be raised include but are not limited to the following:

- terms and conditions of employment
- health and safety
- work relations
- new working practices
- working environment
- organisational change
- equal opportunities

The policy and procedure applies equally to a grievance of a group of employees, in which case the group can appoint one of their number as a spokesperson, who will then follow the procedure on their behalf and the answers given will then be deemed to apply to all members of that group.

When does it not apply?

The grievance policy and procedure will not apply to:

- Allegations of bullying and harassment which will be dealt with in accordance with the council's [dignity at work policy and procedure](#) and not under this policy and procedure.
- Reports of illegal activities, wrongdoing or malpractice and concerns relating to these issues should be raised under the council's [whistleblowing policy](#) and not under the grievance policy and procedure. However, where the employee is directly affected by the matter in question, or where the employee feels he or she has been victimised for whistleblowing, an employee may raise the matter under this policy and procedure.

- Complaints relating to the [right to request access to information requests](#) which should be raised under the [review procedure for information requests](#).
- Individual redundancies, the non renewal of fixed term contracts on their expiry and job evaluations and any other internal or external policy where there is a separate policy and procedure and appeal or review process where this is more appropriate.
- Challenges in relation to disciplinary procedures or decisions and/or sanctions awarded as part of the disciplinary process must be pursued through the disciplinary appeals process and not through the grievance process.
- Issues relating to pensions, statutory deductions from pay such as income tax and national insurance
- Personal matters not directly related to employment. Line managers may be able to assist or advice can also be sought from the Employee Wellbeing helpline on 01225 713147.
- A collective grievance raised on behalf of two or more employees by a representative of a trade union or other appropriate workplace representative. Collective grievances will be dealt with in the context of the Council's joint consultative process.

What are the main points?

1. The grievance policy provides you with a procedure for raising a grievance which is fair and consistent and:
 - provides you with the opportunity to put your case and say how you would like your concern resolved.
 - have the facts related to your concerns investigated (where appropriate and necessary) so that an informed decision can be made
 - deals with your concerns promptly
 - allows you the right to be accompanied at any formal grievance meeting
 - allows you the right of appeal against any formal decision made
2. Grievances which are considered frivolous, vexatious or malicious could lead to disciplinary action being taken against you.
3. Please note that where events are more than three months old it may not be possible to investigate them fully or to establish facts with any certainty. You are therefore encouraged to come forward with any complaints at the earliest opportunity.
4. Grievance complaints need to be set out in full and cover all the issues that you consider are relevant to your complaint. This is to ensure that all issues are investigated concurrently to provide a consistent

outcome. Please note, therefore, that second and subsequent grievances relating to the same course of events, may not be accepted if those grievances could have been included within the original complaint and there is no reasonable explanation why they were not.

What is the procedure for making a grievance?

Raising a Grievance

5. Most employment problems and concerns are often raised and settled as a matter of course during everyday working relationships. This is often the most effective route and usually allows for problems to be settled quickly.
6. Where this is not possible or you have tried this and it has not worked you are also able to raise problems and concerns as a grievance using the grievance policy and procedure.
7. The grievance procedure sets out an informal and formal stage and unless there are good reasons not to do so you should raise and resolve your concern at the informal stage first if at all possible. Raising a concern at an early stage may also assist in reaching a prompt and satisfactory outcome. Where concerns are suitable for informal resolution and this route has not been followed, you will be asked to attempt informal resolution before your complaint can be considered formally.
8. In certain circumstances, where the grievance is complex or where the informal process is not appropriate, it may be possible to go straight to the formal stage in consultation with your manager. Guidance should be sought from HR before bypassing the informal stage and where bypassing this stage occurs, the reasons for this should be recorded.
9. During the operation of this procedure the status quo will remain (i.e. the procedures and policies that applied immediately prior to the formal use of the grievance procedure) until the Council's procedure is exhausted.

Mediation

10. Mediation may be available at any stage of the grievance procedure. If it is felt appropriate your manager may discuss this with you and any other individuals who are involved in the matter. If all the parties agree to use mediation, then the grievance procedure will be temporarily suspended. A decision about whether to continue with the grievance procedure will be made by all parties once mediation has taken place.

The process

Resolving matters informally - Stage 1

11. If you have a grievance relating to your employment you should discuss the matter initially with your immediate line manager, making it clear by stating that you are raising it as a grievance. If the grievance is raised verbally you may be asked to follow it up in writing, to assist the line manager in fully understanding the nature of the grievance.
12. If your grievance is against your line manager you should raise the grievance with your line manager's manager.
13. In all cases your line manager or line manager's manager should meet with you to discuss your grievance and ensure that:
 - a written record is made of the discussions and that a copy is given to you as a confidential record.
 - you are given a written response setting out the outcome within 10 working days of the date that the grievance was raised. In circumstances where the outcome cannot be provided to you within 10 working days i.e. during leave periods or holiday periods a response will be provided to you as soon as is reasonably possible thereafter.
14. There is no right to be accompanied by a trade union representative or work colleague at this stage, however any request to be accompanied will be fairly considered and agreed where possible.
15. If you are dissatisfied with the response given you can pursue the matter to Stage 2 – the Formal Stage of the procedure without unreasonable delay and within 10 working days of the notification of the outcome of the informal stage.

Resolving matters formally - Stage 2

16. In order to start the formal stage, you must submit your grievance in writing to your manager on the grievance notification form G1 provided for this purpose.
17. If the grievance is against your manager then you should raise the grievance with your manager's manager.
18. On the grievance notification form you should set out sufficient details of your concerns along with relevant evidence, where available, to enable your manager to establish the nature of your grievance. You may wish to seek help from a work colleague or trade union representative to complete the grievance notification form.

19. Your manager should send a copy of the grievance notification form to Human Resources.
20. Once you have submitted your written grievance your manager will establish who will be responsible for considering and responding to your grievance in consultation with HR. Wherever possible this is likely to be your manager's manager or another manager from within your service line management structure, who is not the subject of your grievance.

Grievance Clarification Meeting

21. You will be invited to a grievance clarification meeting with the manager who is responsible for responding to your grievance within 5 working days of the receipt of your grievance notification form. The purpose of the meeting will be to clarify your grievance and to explore what steps need to be taken, if any, prior to a formal grievance meeting. This should include giving careful consideration to:
 - what has been done informally to resolve the grievance
 - the remedy you are seeking
 - mediation
 - an investigation (the remit for the investigation will also be established at the meeting and the manager will make the appropriate arrangements for the investigation to commence as quickly as possible)
 - other measures including speaking to the subject (perpetrator of your grievance and or parties involved on your behalf etc).
 - whether any personal support is required
 - moving straight to a formal grievance meeting
22. At the meeting you will allowed to be accompanied by a work colleague or trade union representative, if you wish. An HR Advisor and note taker may also be present at the meeting.
23. After the meeting the manager responding to your grievance will write to you to confirm the outcome of the meeting within 5 working days of the date of the meeting. You will also be provided with a copy of the notes of the meeting.
24. In circumstances where the manager responding to your grievance considers that your grievance is clear and requires no further investigation or other measures, they may move straight to inviting you to the formal grievance meeting, without the need for the grievance clarification meeting.

Formal Grievance meeting

25. Following the completion of an investigation or other steps identified at the grievance clarification meeting you will be invited to a formal grievance meeting.
26. You will be entitled to 5 working days notice of the meeting. In the event that an investigation has taken place you will be sent a copy of the investigation report and any statements taken as part of the investigation or any other paperwork which will be relied on at the meeting. If you wish to submit any further supporting documentation for your grievance you must ensure that you submit this well in advance of the meeting.
27. At the meeting you will allowed to be accompanied by a work colleague or trade union representative, if you wish. Further information about this and the role of the companion is provided in the guidelines.
28. At the grievance meeting you will be given the opportunity to restate your grievance and how you would like to see it resolved. Where a grievance investigation has taken place you have the opportunity to receive feedback on the grievance report.
29. The manager responsible for responding to your grievance may consider adjourning the meeting if necessary to investigate any new facts which arise or to consider the information that has been provided before making a final decision on the outcome. An HR representative and an impartial note taker may also be present at the meeting.
30. If you wish to call a witness to the grievance meeting you should make a request regarding this in advance. The manager responsible for responding to your grievance will decide on the appropriateness of any witnesses and will inform you in advance if any other management witnesses will be called to the meeting.
31. Where it is inappropriate or sensitive to call a witness or the person who the grievance has been brought against to the meeting it may be appropriate to consider a signed written statement from that person instead (Where an investigation has taken place this is likely to form part of the investigation report and attached statements).
32. After the grievance meeting the manager responding to your grievance will give a written response with the outcome of the decision within 5 working days of the date of the meeting. You will also be given a copy of the notes of the meeting. The letter will set out:
 - Whether the grievance has been upheld, either in part or full
 - What action will be taken to resolve your grievance

- Your right of appeal if your grievance has not been upheld in full.
33. The manager responsible for responding to your grievance will ensure that any actions identified as part of the outcome of the grievance are communicated and implemented as appropriate.

Failure to attend the formal grievance meeting

34. You must take all reasonable steps to [attend](#) the grievance meeting. If you fail to attend the grievance meeting more than once without reasonable cause the manager hearing your grievance can decide to proceed in your absence on the basis of the information available. You will be notified of this decision and the outcome in writing. In addition to this where insufficient evidence is available in your grievance, the manager may decide that the complaint should be treated as withdrawn (due to lack of active pursuit) and any further complaints relating to the same facts and individuals will not be accepted.

Time limits

35. The time limits referred to in the procedure may be varied by the council and you will be kept informed of the reasons for this. However, the procedure should be conducted expediently and in reasonable time to ensure compliance with statutory obligations and to ensure fairness.

Transfer to another procedure

36. This procedure including the investigation may be suspended at any point where it becomes apparent that the matter would be best dealt with in line with a different policy and procedure i.e. disciplinary or dignity at work policy and procedure. An assessment of the impact of any transfer will be carried out by the manager responsible for resolving your grievance in consultation with HR.

In these circumstances you will be informed by the manager responsible for resolving the grievance that either:

- the grievance will be suspended immediately, to allow the transfer to the alternative policy and procedure to take place
- or
- the investigation will continue until the outcome is known, with the possibility that the issue may be transferred for further investigation under an alternative policy.

In circumstances where only part of the grievance needs to be transferred to an alternative policy and procedure the remaining

elements may continue to be investigated under the grievance procedure at the same time.

Right of Appeal – Stage 3

37. If you are unhappy with the grievance decision you may lodge an appeal. This must be within 10 working days of receipt of the written outcome.
38. If you decide to exercise your right of appeal you should do so in line with the council's appeals procedure.

Right to be accompanied

39. Guidance notes - right to be accompanied

Reasonable adjustments

40. If you have a disability and feel that there are adjustments which would assist you in being able to express and formulate your grievance or attend the grievance meeting you should let your manager know as soon as possible so that they can give consideration to reasonable adjustments.
41. You should also notify your manager if your companion has a disability and reasonable adjustments may be required for them to attend the meeting. Further advice can be obtained your HR Advisor.

Investigations

42. Where a formal investigation is required investigations will be carried out in accordance with the council's guidelines for conducting investigations.
43. It may be deemed necessary to investigate the matters which you raise in your grievance and you will be informed if this is the case. The aim of any investigation will be to establish the facts behind the issues raised in the grievance in a fair and impartial way. The amount of investigation will depend on the nature of the issues raised and will vary from case to case.
44. Investigations may involve interviewing and taking statements from you and from any witnesses or the person(s) whom the grievance may be against, and/ or reviewing relevant documents and records. The investigation may be carried out by your line manager or a nominee appointed to undertake this role.

45. If you are an employee who has had a grievance raised against you, you will be informed of this as soon as it is possible and appropriate. You will be given a copy of the grievance notification form, or in cases where the grievance also relates to other matters, a copy of the part which is relevant to you.
46. Where you are invited to take part in an investigation you will be expected to co-operate fully and promptly with any investigation process.
47. The manager responsible for responding to the grievance will ensure that you are kept informed in writing, at regular intervals, of the progress of the investigation if you are either raising a grievance or are the subject of a colleague's grievance. Line managers who are not part of the grievance process or witnesses may also need to be kept informed of progress as appropriate.

Roles and Responsibilities

Line manager and senior manager responsibilities

Manager responding to the grievance - responsibilities

48. To manage the grievance including the process, timescales, outcomes and the flow of information to all parties to the grievance in line with the grievance policy and procedure following HR advice.
49. To establish whether an issue, concern or complaint raised by an employee is a grievance or not and whether it is appropriate to deal with it under the grievance policy and procedure or another procedure.
50. To ensure that HR are informed of any grievance raised under the grievance policy and procedure and are sent a copy of the grievance notification form where a formal grievance is raised.
51. To ensure that grievances are dealt with promptly and at the informal stage in the first instance where possible.
52. To ensure that careful consideration is given at the formal stage, to who should consider and respond to the grievance, conduct the investigation (where appropriate), hear the appeal and provide support to the employee who has raised the grievance and other staff and managers who are the subject of or are affected by the grievance.
53. To make arrangements for formal meetings (including the investigation and appeal), including ensuring appropriate note taking is organised.

54. To ensure that the employee raising the grievance is offered support as outlined in the policy and procedure and is informed and kept up to date with details of the grievance process and timescales.
55. To ensure that where the grievance is against another employee that they are:
 - informed of the details of this as soon as possible as appropriate and that they are given a copy of the grievance notification form (or in cases where the grievance also relates to other matters) a copy of the part which is relevant to them.
 - offered support at the same time as the above
 - informed and kept up to date with details of the process and timescales.
56. To respond to all grievances in a fair, impartial and consistent manner having regard to equal opportunities and in line with the grievance policy and procedure.
57. To try and find positive and constructive ways of resolving grievances where a resolution is possible.
58. To give careful consideration to using mediation where appropriate.
59. To ensure that where recommendations are made as a result of a grievance that these are communicated to all those involved in the grievance and those who need to implement the recommendations. This also includes informing employees who are the subject of the grievance of the outcome in relation to their part in the grievance.
60. For line managers to review where recommendations have been made that they have been implemented successfully at a suitable interval following the final grievance meeting.

Investigation officer responsibilities

61. To undertake an impartial fact finding investigation in line with the investigation brief from the manager responsible for responding to the grievance and in line with the guidance for investigating officers, equal opportunities and the grievance policy and procedure.
62. To undertake correspondence with the employees involved in the investigation in relation to meetings and drawing up summary notes (statements) of meetings and arranging for these to be signed.

63. To keep the manager responsible for responding to the grievance up to date with the progress of the investigation so that they can keep all parties up to date with the timescales.
64. To consider the facts that have been gathered in an impartial manner and to draw up a report for the manager responsible for responding to the grievance containing recommendations relating to the issues which have been raised in the grievance.

Employee's responsibilities in relation to raising a grievance are:

65. To provide as much relevant information as possible to enable your manager or manager's manager to clarify and respond to your grievance, including how you would like the grievance to be resolved and to make it clear to your manager that you are raising the matter as a grievance under the procedure, at both the informal and formal stage.
66. To complete the grievance notification form as requested to initiate the formal stage of the procedure.
67. To commit to approaching the procedure with a positive approach and engaging in constructive discussion in order to resolve the grievance wherever possible, at the informal stage.
68. To maintain a professional approach towards colleagues in respect of your working responsibilities whilst the grievance process is ongoing. A discrete and co-operative approach will be expected to ensure that information collected from witnesses is independent and not unduly influenced by external sources.
69. To make every effort to attend meetings set up under the grievance procedure and to notify the manager who has invited you to the meeting, if you are unable to attend and the reasons for this.
70. If you have requested that a trade union rep or work colleague should be present you will need to ensure that you arrange for them to attend the meetings that you have been invited to promptly and that you inform the manager who has invited you to the meeting if your companion is unable to attend as soon as possible.
71. You should let the manager who invited you to the meeting know if you or your chosen companion require any adjustments to be made for the meeting.
72. If it is decided that an investigation is required in to the matters you have raised you should be prepared to fully participate and co-operate in any investigation, including attending an interview with the

investigating officer and providing as full information as possible. You will also be asked to sign a summary statement of the interview.

73. If it is felt that matters are best resolved by using mediation then you should be prepared to engage with this recommendation.
74. If you raise a grievance this should be a genuine concern and should be made in good faith. Malicious and vexatious complaints against colleagues and any intimidation of witnesses as a result of an investigation will not be tolerated and will be pursued in order to determine whether action could be taken for a disciplinary offence.
75. If at any point during or at the end of the investigation a decision concludes that there have been actions of misconduct then the matter will proceed under the disciplinary or dignity at work formal procedure and you may be required to attend as a witness.

The role of Human Resources (HR)

76. An HR advisor will be allocated to support managers where they are informed that a grievance has been received.
77. The role of HR will be to provide:
 - professional advice and guidance to managers to enable them to make an informed management decision.
 - an overview of the grievance to help ensure a timely resolution and progression of the matter
 - an audit trail and chronology of the grievance
 - co-ordination of the involvement of any other stakeholders (if necessary) e.g. mediators, other HR advisors or legal
 - support to managers during grievance meetings where appropriate
 - support to managers during grievance investigations where appropriate
78. In most cases the HR Advisor will become involved at the formal rather than informal stage of the grievance although this will depend on the nature and complexity of the issue. HR Advisors will not be responsible for note taking at any meetings under this policy and procedure.

Employee's responsibilities if you have had a grievance raised against you:

79. These are set out in the [guidance and support for staff who are the subject of a grievance](#)

Support

80. Details of the support available to you if you are raising a grievance or if you are the subject of a colleague's grievance are set out in the
- Guidance and support for staff raising a grievance
 - Guidance and support for staff who are the subject of a grievance

Relationship between grievance and disciplinary procedure

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

Requirement to keep records

82. It is important to keep written records during the grievance process. Records should include:
- The nature of the grievance raised
 - A copy of the written grievance
 - Notes of meetings held during both informal and formal stages
 - The manager's response
 - Action taken
 - Reasons for action taken;
 - Whether there was an appeal and, if so, the outcome; and
 - Subsequent developments
83. Managers should send copies of all grievance records to HR to retain on employee's file. Records will be processed in accordance with the Data Protection Act 1998.
84. **What do I do if I don't want to use the formal procedure yet?**

Employment problems and concerns are often raised and settled as a matter of course during day to day management. Often if your manager is aware of your concern or issue they can work with you to resolve it. As such you should aim to settle most concerns informally and quickly with your line manager.

However, there will be situations where matters are more serious or where an informal approach has been tried and has not worked. If informal action under the procedure does not resolve the matter, or the grievance is considered serious, you should raise a formal grievance. The grievance procedure will be used to manage your grievance.

85. **When should I not use the grievance procedure?**

You cannot use this procedure to raise a grievance regarding a matter that has already been dealt with under the grievance procedure. You should consider whether your issue would be better dealt with under separate policies and procedures that deal specifically with the matter concerned please see section [when the procedure does not apply](#). Other issues it may be helpful to consider include whether the grievance procedure is the best way of achieving your outcome, how old the issue is and whether it is now realistically resolvable.

86. Does anyone else need to be told about my grievance?

Your grievance will be treated confidentially but there are likely to be a number of people who are involved in your grievance who will need to know details of all or part of your grievance in order to be able to assist in the process of resolving it. This will include your line manager and any other manager hearing your grievance or appeal (if it gets to this stage), the investigation officer (if one is appointed) and HR staff assisting managers.

Where your grievance is against another member(s) of staff or involves other member(s) of staff as witnesses they will need to be made aware of the parts of your grievance which relate to them in order that the matter can be investigated fully with them and to potentially involve them in the resolution of the grievance and outcome.

87. What is mediation and does it suit my circumstances?

If your grievance concerns your working relationship with your manager or another member(s) of staff mediation should be considered and might be helpful. Mediation is a method of helping people resolve disputes and finding ways of working together more effectively and can be beneficial either prior to a formal grievance being raised or at any stage during the grievance procedure.

An external mediator will use specific skills which are impartial and they will facilitate a process that aims for a workable agreement between parties.

Mediation introduces a new dynamic to any discussion involving disagreements or disputes and enables people to restore and develop healthy working relationships.

You should seek advice from your line manager or their manager to decide whether mediation support could be a productive way forward.

88. Is it appropriate for me to continue working with the person I have complained about?

This will very much depend on the nature of your grievance and the circumstances. Wherever possible the status quo will be maintained and support may need to be put in place for you and others affected. Your manager (or their manager where the grievance is against your line manager) will take into account your views, those of the person your grievance is against and possibly other members of your team. Your manager may take advice on possible ways forward from an HR Advisor before a decision can be reached about this. The council does not have any obligation to offer you employment in any other area of the council if you raise a grievance.

89. I have just become aware that a colleague has raised a grievance against me. What support is available to me?

Your manager should inform you if a grievance is raised about you and you should be given details of the complaint (you will only be given details of the parts which relate to you if there are a number of facets to the grievance). Your manager or their manager will involve you in trying to seek to resolve the matter informally in the first instance where possible. You may be invited to take part in mediation either at the informal or formal stage of the procedure.

If the grievance moves to the formal stage of the procedure you may be invited to an investigation meeting and if this is the case you will have the opportunity to be accompanied by a trade union representative or work colleague. The investigation officer will give you the opportunity to respond to the complaint made against you and will arrange for a statement of the meeting to be drawn up which you will have the opportunity to check and sign.

They should also keep you informed of the timescales for resolving the grievance. You will also be entitled to be informed of the outcome of the grievance where appropriate and where it relates to you (which might not be the full grievance). For further information and details of the support available please refer to the guidance for staff who have a complaint made against them.

90. What happens if my grievance is upheld?

Where the grievance is upheld the manager who has heard your grievance is responsible for ensuring that the outcome and any recommendations are communicated to your line manager or the manager responsible for implementing them.

Where the grievance is against another member of staff and the outcome of the grievance is that there has been an issue of misconduct the matter may be referred to a disciplinary hearing. If this is the case

you may be called as a witness at the hearing and copies of the grievance meeting records and /or statements obtained during any investigation may be used at the disciplinary hearing. In addition or as an alternative to disciplinary action, the manager may consider taking some other action to resolve any outstanding concerns for example, extra training, re-clarification of accepted standard of work, reallocation of tasks etc. You will not know the outcome of any disciplinary action relating to another member of staff as the matter will be confidential.

Relevant Legislation

From 6 April 2009 the key statutory provisions governing grievances at work are to be found in:

- the Employment Act 2008, and
- the Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2008.

The policy and procedure takes in to account current employment legislation together with the revised ACAS Code of Practice (April 2009).

Further advice

There are a number of related policies which you should be aware of:

- Dignity at Work policy and procedure
- Appeals procedure
- Whistleblowing policy and procedure
- Disciplinary policy and procedure
- Capability policy and procedure
- Absence Management policy and procedure

For further information please speak to your supervisor, manager, service director or contact a member of your [human resources advisory team](#).

Toolkit

Guidance for Managers

Guidance for Investigating Managers

Guidance on holding formal meetings

Guidance on the right to be accompanied

Guidance and support for staff raising a grievance

Guidance and support for staff who are the subject of a grievance or a witness

The mediation scheme

Template letters

Flowchart

Policy author	HR Policy and Reward Team – (CC)
Policy last updated and implemented	24 November 2010

WILTSHIRE COUNCIL

STAFFING POLICY COMMITTEE

24 November 2010

APPEAL POLICY AND PROCEDURE – NEW POLICY

Purpose of Report

1. The purpose of this report is to update the Staffing Policy Committee on the proposed new Appeals Policy and Procedure.

Background

2. This policy has been produced to be used in conjunction with the majority of policies which include an appeal facility. This will ensure that the listed policies below follow the same appeal process. It will inform an employee how to make an appeal and provide managers with a clear procedure to follow.
3. Policies including the right of appeal covered by this policy are:

Grievance	Disciplinary
Flexible working	Flexible and age retirement
Capability	Dignity at work
Redeployment	Redundancy
Equal opportunities	Whistle blowing
Time to train	Absence management
Some other substantial reason termination	
4. Human Resources aim to create policies which are consistent in format, easy to read and understand, and are fit for purpose. This policy is in the new format which supports these aims.

Main Considerations for the Council

5. During a review of the above policies it was found that there was a lack of consistency in the appeal process in a number of policies. This included appeal deadlines, timescales, who the appeal should be made to, and the procedure itself.
6. The main changes to the policy and procedure include:
 - To make an appeal, an employee will need to do so in writing, using an appeal form, within 10 working days of receiving a written outcome or a decision made on their case.
 - The appeal manager will confirm receipt of an appeal in writing, within 5 working days.
 - The appeal hearing will be held within 25 working days of receipt of the appeal. Any extension on the time frames must be agreed in advance by both parties.

- At least 5 days prior to the hearing the employee will be:
 - given written notice of the hearing time and place
 - informed how the case will be heard and by whom
 - provided with any additional new management information /evidence that will be considered at the hearing.
 - At least 5 working days prior to the hearing the employee will need to provide the hearing panel with the following:
 - any additional details to support their appeal form, if applicable
 - the details of their representative, if applicable
 - the details of their witnesses, if applicable
 - The introduction of a clear appeal hearing format for managers and employees to follow. This includes a clear order of proceedings to ensure that all parties are given the opportunity to put their case forward and that witnesses and representatives know what to expect. It should be noted that there are new guidelines linked to the policy – Right to be Accompanied and Guide for Witnesses.
 - Providing links to relevant forms and to associated policies.
7. There are some exemptions from the one appeal process. This is because the processes and procedures they require are very specific and may require longer deadlines in order for appropriate investigation to be carried out. This applies to:
- Politically restricted posts, as appeals need to be referred to the Local Standards Committee.
 - Job evaluation.
 - Flexible Working for Parents and Carers of Adults.
 - Recovery of Overpayments.

Environmental Impact of the Proposal

8. None.

Equalities Impact of the Proposal

9. An Equality Impact Assessment was undertaken on 3 August 2010 and no negative impacts were identified. A recommendation was made however, to research whether appeals and their deadlines could be monitored using current HR systems. This is viable. In addition it was stated that employees without day to day PC access may need hard copies of the policies. Related policies will be amended to ensure hard copies of the appeals policy and procedure will be sent out with outcome letters.

Risk Assessment

10. None

Options Considered

11. None.

Recommendation

12. The Staffing Policy Committee is asked to support and approve the proposed Appeals Policy and Procedure.

**Barry Pirie
Service Director
HR & OD**

Report Author: Rebecca Williams, Human Resources Policy & Reward team

The following unpublished documents have been relied on in the preparation of this Report: None

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Wiltshire Council Human Resources

Appeals Policy and Procedure

This policy can be made available in other languages and formats such as large print and audio. Contact the Human Resources Policy team for further information.

What is it?

This policy outlines the Wiltshire Council appeal procedure. It ensures that the majority of policies with an appeal procedure will follow the same process. It informs employees how to make an appeal, and provides managers with a clear procedure to follow.

Go directly to the section on:

- [Who does it apply to?](#)
- [The Appeal Process](#)
- [Preparation for the appeal hearing](#)
- [The appeal hearing](#)
- [The decision](#)
- [Are there any exemptions?](#)
- [Role of the manager hearing the appeal](#)
- [More Information](#)
- [Definitions](#)
- [FAQ's](#)

Who does it apply to?

This policy applies to all Wiltshire Council employees, apart from teachers, non teaching staff appointed in accordance with the Schools Standards and Framework Act 1998 and the Education Act 2002.

In matters which involve chief officers and deputy chief officers (corporate directors and service directors) this policy must be read in conjunction with their terms and conditions of employment and [Wiltshire Council's constitution](#) and NJC Chief Officers.

Policies including the right of appeal covered by this policy are:

Grievance	Disciplinary
Flexible working	Flexible and age retirement
Capability	Dignity at work
Redeployment	Redundancy
Equal opportunities	Whistle blowing
Time to train	Absence management
Some other substantial reason termination	

The Appeal Process

1. To make an appeal, you will need to do so in writing, using the [appeal form](#), within 10 working days of receiving a written outcome or a decision made on your case.
2. You should send the appeal form to the appeal manager who was named in the letter confirming your case outcome. You should also send a copy of the form to Human Resources.
3. Your grounds for appeal should be reasonable, and it is your responsibility to clearly define the reason for your appeal within the [appeal form](#). You can make an appeal against the decision/matter/outcome of your case if you believe:
 - the decision was wrong
 - unfair or incorrect procedures were used
 - the sanction was unfair
 - new evidence has come to light
4. If the grounds for your appeal are not reasonable and/or clear, the appeal manager will seek advice from their HR Advisor, and will decide whether to allow the appeal to be heard.
5. The appeal manager, in conjunction with the HR Advisor, will determine the procedure for how the appeal will be heard as follows:
 - If your grounds for appeal is that the original hearing procedure was flawed your case may be re-heard by the appeal panel.
 - If your grounds for appeal are regarding a specific part of the original case, the appeal panel will consider that specific part, and the appeal will not be a re-hearing of your whole case.
6. The appeal manager will confirm receipt of your appeal [in writing](#), within 5 working days.

Preparation for the appeal hearing

7. The appeal hearing will be held within 25 working days of receipt of your appeal. Any extension on the time frames must be agreed in advance by both parties.
8. At least 5 days prior to the hearing you will be:
 - given written notice of the hearing time and place
 - informed how the case will be heard and by whom

- provided with any additional new management information /evidence that will be considered at the hearing.
9. You have the [right to be accompanied](#) by a representative at the hearing. This can either be a work colleague, a recognised union representative, or an official employed by a recognised trade union.
 10. At least 5 working days prior to the hearing you will also need to provide the hearing panel with the following:
 - any additional details to support your appeal form, if applicable
 - the details of your representative, if applicable
 - the details of your witnesses, if applicable
 11. It is your responsibility to ensure that your [witnesses](#) are available to attend the hearing.
 12. The manager of the appeal panel may either rely on the written management case or arrange for the original investigating manager, original hearing manager and other participants to attend the appeal hearing.
 13. You are not be permitted to record the hearing electronically, but you or your representative may want to take notes. The manager will also ensure notes of the appeal hearing are taken by a separate note taker, and you are provided with a copy of the notes.
 14. Provision will be made for any reasonable adjustments to accommodate the needs of a person with disabilities at the hearing. You will need to inform the panel of any requirements at least 48 hours before the hearing.

The appeal hearing

15. The hearing will be held by the appeal manager and an HR Advisor, both of whom have not been previously involved in your case. This is referred to as the Appeal Panel.
16. The manager holding the appeal hearing will introduce all present and provide a brief summary of the outcome of the original hearing.
17. You will then be asked to present your appeal case and call named witnesses if required.
18. You can confer with your representative during the hearing, and they are able to speak on your behalf, and participate as fully as possible. However, they are not able to answer questions for you.
19. The appeal panel will examine the original written management case and any further evidence that is presented.

20. The appeal panel will question you and any witnesses you have called to attend.
21. The appeal panel may also question the original investigating manager, hearing manager and management witnesses if they have been asked to attend. You will also be given the opportunity to question them.
22. You can then question the original investigating manager
22. The manager of the appeal panel may adjourn the appeal hearing if further investigation is required or to gain clarification on issues raised.
23. You are able to request an adjournment to the hearing, but this must be agreed by the manager of the appeal panel.
24. At the end of the hearing you will have the opportunity to summarise your points.

The decision

25. The appeal panel will adjourn and decide the next step. This could include one of the following:
 - dismiss the appeal and confirm the original management decision
 - allow the appeal and overturn the original management decision
 - allow the appeal and substitute a different outcome – e.g. implement a lesser sanction
26. You may be informed of the appeal panel's decision as soon as it has been made. Alternatively, the appeal panel may wish to consider their decision for longer. In both cases the decision will be confirmed in writing, within five working days. The letter will contain an explanation of the decision made.
27. There is no further right of appeal against the decision of the appeal panel.

Are there any exemptions?

- Politically restricted posts – refer to [Politically Restricted Posts policy](#) as appeals need to be referred to the Local Standards Committee.
- Job evaluation GLPC. You will need to complete the [JE appeal form](#).
- Flexible Working for Parents and Carers of Adults. You should appeal using the [FW2 – Flexible Working Appeal Form](#).
- Overpayments. You will need to follow the procedure outlined in the [Recovery of Overpayments policy](#).

Role of the manager hearing the appeal

- Refer to the appeal policy and procedure, and manager guidelines, which include details of how to conduct an appeal hearing.
- Ensure that the policy is followed and that timescales are adhered to, making sure that the employee is aware of these.
- Remind the employee that they have the right to be accompanied and that they need to name their representative in advance of the meeting.
- Call upon the original investigating manager and any other relevant participants should further information or clarity be required.
- Allow the employee time to state their case clearly.
- Pay particular attention to any new evidence introduced.
- If required, adjourn the meeting if more evidence, not previously discussed, has come to light, or if more information is required.
- Ensure notes of the meeting are taken and a copy sent to the employee.
- Inform the employee of the outcome as soon as possible, ensuring that all evidence has been carefully considered and confirm in writing within 5 working days.
- Make sure copies of all correspondence and notes relating to the case are sent to Human Resources.

More Information

Legislation you need to be aware of:

- Equal Pay Act 1970
- Sex Discrimination Act 1975
- Race Relations Act 1976
- Race Relations (Amendment) Act 2000
- Disability Discrimination Act 1995, 2005
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Age) Regulations 2006
- Employment Act 2002
- Human rights Act 1998
- Data protection Act 1998

Definitions

Working days: This term refers to council working days.

FAQs

- **What if I do not agree with the appeal decision?**
If you do not accept the appeal decision you could seek advice from an external expert.
- **What if relations have broken down between me and my manager? Do I stay in the same job whilst the appeal is going on?**
It is important to remain as professional as possible. If you have any concerns, you should discuss the situation with your manager or if not possible, a more senior manager.
- **What if I don't want to stay in the same team?**
You may be able to be temporarily assigned to another role within your department or be managed by a different manager in the short term. Mediation may be a consideration. You should discuss the situation with your manager or if not possible, a more senior manager.
- **What if my union representative, work colleague or myself are not available on the day scheduled for the appeal hearing?**
If there are genuine reasons why you or your representatives are unable to attend on the scheduled date, a further date will be arranged. Should this delay have an impact on timescales, your agreement to extend the hearing beyond the time limit will be expected.

What if I work part time and I don't think I have enough time to prepare my case?

Each appeal request will be dealt with on a case by case basis. Your manager will ensure that you are allowed time to prepare for your case.

What if I am appealing because I feel I have been treated unfairly in my original hearing?

You should give examples of the treatment you believe to be unfair within your appeal form.

Can the appeals panel consider new and/or related incidents that come to light in the appeal hearing?

The appeals panel can only consider matters considered during the original case. If substantial new information comes to light during the hearing this will need to be referred for separate investigation as a new case - in line with the relevant policy or procedure.

What happens if I do not attend and miss the appeal hearing?

If you miss the hearing for a genuine reason the meeting will be rescheduled. If you fail to attend more than once without reasonable cause, the manager hearing your grievance can decide to proceed in

your absence on the basis of the information available. You will be notified of the decision in writing.

For further advice

For further information please speak to your manager, corporate director or contact a member of your [human resources advisory team](#).

Policy author	HR Policy and Reward Team – (RW)
Date last updated	24 September 2010

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WILTSHIRE COUNCIL

STAFFING POLICY COMMITTEE 24 November 2010

CAREER BREAK SCHEME – NEW POLICY

Purpose of Report

1. To update the Staffing Policy Committee on the proposed new Career Break scheme.

Background

2. There have recently been three requests from employees enquiring whether we were able to offer a career break scheme.
3. Our Employment Break Scheme currently only applies to parents and carers who need to take a break from work to care for:
 - Pre-school age children, including adoptive children
 - Other dependent relatives
4. We have researched the career break schemes that other local authorities have in place, in order to determine whether a scheme open to all employees is suitable for Wiltshire Council.
5. The research included a South West Councils survey and industry reports. [IRS 2007]. The outcome suggested a growing trend for local authorities to be opening up such schemes to all employees.
6. 11 out of 17 survey respondents had career break schemes. The respondents included 1 county council, 4 unitary authority and 12 district councils.
7. The following benefits of having a career break scheme have been identified by these councils :
 - Positive contribution to employer brand, underlying a supportive culture, ensuring employees feel valued as individuals.
 - Enhanced ability to recruit and retain talented and dedicated individuals, making the council an employer of choice, especially in the local area.
 - Assists in attracting a younger work force. This might be particularly attractive to younger employees who missed out on gap year opportunities.
 - Motivation and retention of older employees.
 - Emphasis of a culture of goodwill and reward.

- Enables the re-recruitment of experienced employees who simply wanted a career break and did not want to leave the organisation.
 - Build employee loyalty and morale.
8. An employee may want or need to take a period away from work. A career break can provide employees with an opportunity for personal development or to fulfil personal or domestic commitments.
 9. This policy gives guidance on the council's career break scheme which gives all Wiltshire council employees the opportunity to take unpaid time away from work, in the form of a career break.
 10. Parents of pre-school children, including adoptive children, and carers of dependent relatives, will continue to refer to the Parents and Carers Employment Break Scheme.

Main Considerations for the Council

11. The scheme is open to employees with 1 or more year's continuous service and can be for a period of between 3 and 12 months.
12. The career break is unpaid.
13. Under the career break scheme it is not possible to take up alternative paid employment, or activities that are deemed detrimental to the council or its reputation.
14. Following the career break the employee will normally be entitled to return to the same or similar role within the council.
15. An employee will maintain their continuous service in line with their contract of employment, with the exception of annual holiday entitlement and sick pay. On return from a career break, the period of continuous service before the break will be added to the period of continuous service after the break for the purpose of calculating sick pay and annual leave entitlement.
16. For short term career breaks managers may cover the absence within the team. Longer term breaks may require a replacement employee on a fixed term contract. The manager will need to consider the best solution to meet the department and councils needs.
17. The scheme operates at the discretion of the council and is not a right of the employee. It depends on the existing and longer term operational requirements and business need. A manager has the right to refuse a career break request.

Environmental Impact of the Proposal

18. None.

Equalities Impact of the Proposal

19. An Equality Impact Assessment was undertaken on 28 October 2010 and no negative impacts were identified.

Risk Assessment

20. None

Options Considered

21. None.

Recommendation

22 The Staffing Policy Committee is asked to support and approve the proposed Career Break Scheme.

Barry Pirie
Service Director
HR & OD

Report Author: Rebecca Williams, Human Resources Policy & Reward team

The following unpublished documents have been relied on in the preparation of this Report: None

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Wiltshire Council Human Resources Career Break Scheme

This policy can be made available in other languages and formats such as large print and audio on [request](#).

What is it?

This policy gives guidance on the council's career break scheme which gives all Wiltshire council employees the opportunity to take up to a year of unpaid time away from work, in the form of a career break.

Parents of pre-school children, including adoptive children, and carers of dependent relatives, should refer to the [Parents and Carers Employment Break Scheme](#) if they wish to take a career break of more than one year.

Go directly to the section on:

- [What is a career break?](#)
- [Main points](#)
- [How to apply](#)
- [Declined requests](#)
- [Returning to work](#)
- [Line manager responsibilities](#)
- [Related policies](#)
- [Frequently asked questions](#)

Who is covered by this policy?

All employees, [apart from teachers, non teaching staff appointed in accordance with the Schools Standards and Framework Act 1998 and the Education Act 2002], with at least 12 months continuous service.

What is a career break?

1. There may be times when you may want or need to take a period away from work. A career break can provide you with an opportunity for personal development or to fulfil personal or domestic commitments.
2. A career break can be for a period of between 3 and 12 months.

Main points

3. You may want to take a career break for a number of reasons. These could include:
 - Caring responsibilities for children or dependants (Those not covered by Parents and Carers Employment Break Scheme)

- Personal development
 - Voluntary or community work
 - Education or training
 - Extended foreign travel
4. Under the career break scheme it is not possible to take up alternative paid employment, or activities that are deemed detrimental to the council or its reputation. Exceptions to this rule will be considered on a case by case basis, but may include:
- a career break for educational purposes and work on a casual basis or as part of a placement is required.
 - a career break to work for a charitable organisation where you may receive a small subsistence wage.
5. You will need to keep in touch with your line manager to ensure that you are kept up to date with your role and with any developments within the council. You will need to agree how this is done in advance with your manager.
6. You may carry out work for the council during your employment break as a means of keeping in touch with the organisation. Work may be done on a temporary basis and would attract payment at the rate appropriate to the job.
7. Following your career break you will normally be entitled to return to the same or similar role within the council. Should there be a reorganisation whilst you are on your career break, your manager will contact you as soon as possible, to discuss the implications to your role. Should a redundancy situation occur you may be required to participate in the consultation process and attend the work place.
8. Whilst on a career break you remain an employee of Wiltshire Council in line with your contract of employment and you will retain your continuous service.

How to apply

9. You should discuss your request for a career break with your line manager.
10. Formal applications for a career break should then be made using the [career break request form](#). This should be at least 3 months before the intended start date. However, there will be some flexibility in exceptional circumstances.

11. Your line manager will review your application and discuss it with their Head of Service or Service Director.
12. A decision will be made within 28 days of your request and your manager will confirm the outcome in writing.

Declined requests

13. The scheme operates at the discretion of the council and is not a right of the employee. It depends on the existing and longer term operational requirements and business needs. Your manager has the right to refuse a career break request.
14. Circumstances where a career break request may be declined or postponed are:
 - Where an employee has been appointed to cover another member of staff to carry out a specific task
 - Where an employee is on an approved training course funded by the council
 - Inability to recruit additional staff or reorganise work amongst existing staff
 - A substantial negative impact on service delivery
 - The activity could affect the council's reputation
15. As there is no guarantee that an application for a career break will be accepted, you should not commit yourself to any plans unless your career break has been approved.
16. If your request is refused you will be informed in writing. The letter will include the reasons for refusal.
17. There is no right of appeal.

Returning to work

18. You need to confirm your availability for work, in writing to your manager, 6 weeks before your intended return. For shorter career break periods this may be agreed prior to the start of your career break. Your return to work may be delayed where the notice period of the temporary employee covering your role is longer than 4 weeks. Your manager will inform HR.

Line manager responsibilities

19. Line managers must treat all requests fairly, within timescales, giving clear reasons for approval or non approval of a career break.
20. Forward paperwork to HR as soon as possible. Managers should complete an HR change form and return it directly to the SST-Payroll/Lifecycle team for action.
21. Prior to the start of the career break agree how communication will be maintained. Ensure that the employee is aware that it is also their responsibility to maintain contact.
22. Maintain a record of any occasional work and inform SST-Payroll/Lifecycle team.
23. Write to the employee prior to their return to work to remind them of the need to disclose any changes in personal circumstances that could impact on their role.
24. Advise SST-Payroll/Lifecycle team of the employees return date, and any changes regarding the employees return to work.
25. If the employee is returning to a role requiring CRB disclosure ensure that their record is up to date and assess whether it needs to be reviewed. You should seek advice from the HR advisory team should you be unsure whether a change of circumstance or incident needs to be reported.
26. Report any changes in health to the HR advisory team as they may require a referral to the Occupational Health department.
27. If the employee returns to the same department, or to a new role and department, the line manager will need to make suitable arrangements for the reintroduction into the workplace. Depending on the length of the break, this may include an induction period and assessment of any training and development needs, including ensuring access to IT systems if necessary. Any reasonable adjustments required previously will need to be retained.
28. Managers must keep a written record of all refused requests and the reason for refusal. Copies should be sent to the HR advisory team.

Related policies and documents

- Flexible working policy
- Maternity leave
- Parental leave

- Annual leave
- Parents and carers leave

For further information please speak to your supervisor, manager, head of service, service director or contact a member of your human resources advisory team.

FAQs

What happens to my pension?

Under the Local Government Pension Scheme Regulations 1997 (As Amended), a Career Break is treated as unpaid leave.

The regulations state that the employee must pay the pension contributions if the period of unpaid leave is under 30 days, the service then counts as qualifying and reckonable for pension purposes.

The Regulations then state that after the first 30 days:

- An employee can elect to pay the pension contributions due on the further period of unpaid leave. If the employee elects to pay the pension contributions, then this period of service counts as qualifying and reckonable service for pension purposes.

OR

- An employee can elect not to pay the pension contributions due on the further period of unpaid leave. If the employee elects not to pay the pension contributions, then this period of service does not count as qualifying and reckonable service for pension purposes.

For further queries please contact the Wiltshire Pension Fund.

Do I need to make National insurance contributions?

You only make contributions during paid periods of employment. If you want to maintain payments during a career break you will need to make arrangements with the Benefits Agency.

What happens if my post is made redundant or there is a restructure while I am on a career break?

There is no guarantee that reorganisation or redundancy will not take place whilst you are on a career break. However, you should discuss the likelihood of this occurring prior to making the decision of whether you want to take a career break at this time. If you decide to continue with your application for a career break and are successful, whilst you are away, your manager will keep you

updated of any changes and consult with you should a redundancy situation occur.

If you are on a career break you will be treated the same as other Wiltshire Council employees, in line with the Wiltshire Council Redundancy Policy and Procedure, and the Redundancy Pay Policy.

How will my manager cover my job?

This will depend on the length of your career break. Short term it may be possible to cover your workload within the team. However for longer breaks they will have to consider the best solution to meet the department and council's needs.

What if I want to return from my career break early?

If your circumstances change, you are able to return early. However, how quickly you can return will depend on the length of your career break and whether someone has been employed to cover your role. If this is the case you will need to give 6 weeks notice. For shorter breaks, where your role has been covered by your team, you will need to contact your manager.

What if I decide I do not want to return to work at the council?

You should inform your line manager as soon as you make the decision and confirm your resignation in writing. Your contract of employment will then be terminated.

What if I get pregnant whilst on a career break?

Employees on an unpaid career break or who have been on an unpaid career break may not be entitled to statutory maternity/paternity/adoption pay which is based upon previous earnings and national Insurance contributions. You may be entitled to a Maternity Allowance in which case you should seek advice from the Benefits Agency. If in doubt please contact the HR advisory team.

What if I am ill during my career break?

There will be no entitlement to sick pay whilst on a career break. No period of unpaid leave can be regarded as sick leave, even if you submit a doctor's Certificate.

On return from a career break, the period of continuous service before the break will be aggregated with continuous service after the break for the purpose of calculating sick pay.

What happens to my annual leave entitlement?

During the period of unpaid leave you will not accrue entitlement to paid annual leave or be paid for bank holidays.

However you will maintain your annual leave entitlement before the break and it will continue to accrue on your return.

What happens to my pay whilst on a career break?

You will not receive any salary, allowances or other payments that form part of your employment conditions.

What happens to the other deductions from my salary including my lease car?

You will need to ensure that you make alternative payment arrangements for these whilst you are on leave. Your manager will need to contact the SST-Payroll/Lifecycle team to implement this.

Equal Opportunities

This policy has been Equality Impact Assessed to identify opportunities to promote equality and mitigate any negative or adverse impacts on particular groups.

Further advice and information

There are a number of related policies and procedures that you should be aware of including:

For further information please speak to your supervisor, manager, service director or contact your HR advisor.

There is also a toolkit including manager guidance and supporting documents to use when following this policy and procedure.

Policy author	HR Policy and Reward Team – (RW)
Policy last updated	11 November 2010

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WILTSHIRE COUNCIL

STAFFING POLICY COMMITTEE

24th November 2010

AGENCY INTERIM AND CONSULTANCY STAFF PROCUREMENT POLICY

Purpose of Report

1. The purpose of this report is for Staffing Policy Committee to consider a policy for the procurement of temporary agency/interim and consultancy staff. The new policy will seek to replace all current arrangements that exist for procuring for these staff.

Background

2. Wiltshire Council does not currently have a policy and procedure for the procurement of agency and consultancy services. Managers currently follow many different processes when procuring these services.
3. A report to CLT on 19th July 2010 outlined the need for consistent processes to be in place to enable better control of agency/interim and consultancy spend and use of resources.

Main Considerations for the Council

4. CLT have approved the following arrangements:
 - Agency/interim staff:
A neutral vendor managed service which will be run by Comensura on the council's behalf. Comensura are not a recruitment agency but will take responsibility for managing the agencies on the council's behalf. Comensura will engage with the agencies and offer the opportunity to work with the council through the new arrangements.
 - Consultancy services:
Managers will complete a business case form and if this is approved by the chief executive procurement will negotiate with the provider on their behalf.
5. The new arrangements will support the achievement of savings of £5.5m per annum.
6. It is important to highlight these arrangements are not about stopping agency/interim and consultancy spend but ensuring that the best practice and value for money is achieved.

Environmental Impact of the Proposal

7. None.

Equalities Impact of the Proposal

8. This policy will apply to Wiltshire Council Staff, excluding schools.

Recommendation

9. The Staffing Policy Committee is asked to support and approve the policy for the procurement of temporary agency/interim and consultancy staff.

Barry Pirie
Service Director
HR & OD

Report Author: Sadrick Rodrigues, HR Project Officer – Strategy & Policy

The following unpublished documents have been relied on in the preparation of this Report: None

Wiltshire Council Human Resources

Agency/interim and consultancy staff procurement policy

This policy can be made available in other languages and formats such as large print and audio on [request](#).

What is it?

This policy provides guidance on the appropriate and cost effective use of consultant and agency/interim staff and outlines the correct procedure to follow when undertaking professional procurement activities.

Who is covered by this policy?

All Wiltshire Council employees (with the exception of teaching and non-teaching staff employed in locally managed schools) who undertake procurement of consultants or agency/interim workers.

What are the main points?

1. In line with the council's recruitment policy, prior to any procurement taking place you should consider:
 - Is re-distribution of work possible amongst existing team members?
 - Would restructuring remove the need for the role?
 - Is there an opportunity to streamline working practices and processes which could remove the need for the role?
 - Is there an opportunity for an existing employee to act up or be seconded into the role?
2. Procurement of consultant or agency/interim staff should only take place when in-house employees are not available.
3. You must identify whether you need to procure a:

Consultant	to undertake a bespoke piece of work that is time bound, has an outcome and sits outside of a Wiltshire Council job description or remit of an employee
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Agency/Interim to undertake work which sits within a job description or would be in the remit of an employee

4. Contact the central procurement unit (CPU).for further information about which procurement route to take

Agency/Interim procurement

5. Agency/interim staff may be used where:
 - there is a requirement to fill a vacancy quickly
 - there is a short term increase in workload
 - to cover a temporary period of absence
6. You are not able to make arrangements with any agency direct – all agency and interim procurement must go through one of the three routes identified below:
 - For administration and clerical staff you must contact the Wiltshire Temporary Agency in the first instance.
 - For care workers you must contact the Relief bank
 - For all other agency/interim staff you must go through Comensura's C-Net system
7. In most cases agency/interim staff should not be used to cover a role for more than 12 weeks.
8. If the role is envisaged to last longer than 6 months you should consider recruiting on a fixed term contract in line with the council's Recruitment Policy
9. You must complete the approval process using the approval to recruit form (this is available on the C-Net site if using Comensura).
10. You will be required to include an end date on your approval to recruit form.

Consultancy procurement

11. All consultancy procurement should be carried out in consultation with the professional buyer within the central procurement unit (CPU).
12. To initiate recruitment of a consultant you must complete a business case form, which must be approved by the budget holder, and forward this to the CPU.
13. This will be reviewed by the CPU within 3 working days to ensure it has been accurately completed.

14. Once reviewed by the CPU the business case will be assigned a business case number and forwarded directly to the chief executive for approval.
15. Once approval has been obtained the CPU will ensure that the tender and negotiation process is carried out in line with procurement regulations.
16. The CPU will arrange contract set up in conjunction with you.
17. Once the CPU have confirmed the provider you must initiate a requisition through the SAP Supplier Relationship Management (SRM) system

Monitoring arrangements

18. You must ensure that appropriate review arrangements are in place to monitor the performance of temporary agency/interim staff and consultancy staff.
19. If you wish to extend the contract period you will need to complete a further approval (for agency/interim) or business case form (for consultants).

Policy compliance

20. The CPU will provide guidance and monitor compliance with this policy.
21. Failure to comply with this policy will be managed through the appropriate disciplinary or performance management route.

Frequently asked questions – agency/interim procurement

23. Where can I get further information about procuring agency staff?

For administrative staff you should contact the Wiltshire Temporary Agency. For careworkers you should contact the Relief Bank. For all other types of agency staff you should contact Comensura. If you have further queries please contact [Nicky Griffiths](#), senior procurement officer.

24. I always use a particular agency – why can I no longer use them and have to use Comensura instead?

Comensura are not an agency, they do not supply staff but manage third party agencies on our behalf. Therefore if you have a particular agency you have used in the past, who are not currently part of the Comensura arrangement, they can contact Comensura directly and sign up to our agreement. You can then procure staff via this agency as normal through the Comensura C-Net system.

Frequently asked questions – consultancy procurement

25. Why does every single piece of consultancy work have to go through this process?

At present we engage with numerous consultants and recruitment agencies which can be time consuming, expensive and can also put the council at risk of legal challenge from non-compliance of employment law, EU procurement directives and HRMC regulations.

The approach we are taking, requiring a business case for each piece of work, will enable the council to better manage and track the use of consultants. It is important to highlight that the project is not about stopping consultancy spend but ensuring that the best practice and value for money is achieved.

26. What are the timescales for approval?

Once a business case is submitted to the CPU it will be reviewed within 3 working days and either returned to the manager (if incomplete) or forwarded to the chief executive for approval.

Once approval is obtained the CPU will work with the manager who submitted the business case. Some projects will require more complex tender arrangements in line with procurement regulations but the CPU will keep the manager updated regarding progress.

27. How will compliance be monitored?

You will not be able to procure professional services via the SRM system without an approved business case number. This will ensure that all procurement has gone through the approval route.

The Shared services team – finance will not be able to process payments through any other route within SAP.

28. What happens if there is a problem with the consultant who has been given the contract?

As part of the contract negotiations managers should work with the CPU to ensure that deliverables are written into contracts where appropriate to enable them to manage the performance of the consultant, and ensure outcomes and project delivery.

29. What about arrangements already in place – can these be renewed?

When current arrangements are due to end or be reviewed you will be required to submit a business case in line with this policy if you wish to extend the arrangements.

Are there any exemptions?

None – all procurement must follow the appropriate procurement route as outlined in this policy.

Further advice

For all queries you should contact the central procurement unit

Policy author	HR Policy and Reward Team – PM
Date last updated	November 2010

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WILTSHIRE COUNCIL

STAFFING POLICY COMMITTEE 24 NOVEMBER 2010

EXTERNALISATION, PROCUREMENT AND THE WORKFORCE

Purpose of Report

To brief Staffing Policy Committee on the proposed agreement on Externalisation, Procurement and the Workforce between Wiltshire Council and the Council's Recognised Trade Unions. This is in connection with the externalisation of a service involving the transfer of staff.

Background

In 2003, the Office of the Deputy Prime Minister produced a Code of Practice specifying the way in which local authorities transfer staff to a new service provider.

The Code of Practice provides that local authorities and service providers approach outsourcing contracts on the basis that TUPE will apply, unless there are genuinely exceptional reasons for it not to do so. Staff will be transferred therefore to the employment of the service provider on their existing terms and conditions and also either continue to have access to the Local Government Pension Scheme, or offered a broadly comparable alternative.

Following the transition to a unitary authority there is no single agreement for managing and dealing with such transfers, and whilst in the main the former Wiltshire County Council Agreement has been used, bearing in mind the work programme coming up it is now timely for it to be reviewed. A copy of the former Wiltshire County Council Agreement is attached as appendix 1.

Main Considerations for the Council

The absence of not having a single agreed protocol that Officers and the Corporate Procurement Unit are aware of and use is putting the Council in a vulnerable position. We cannot be sure that the Council is adhering the Code of Practice.

The budget savings that the Council is required to make along with the Departmental Service Reviews is likely to result in an increase of consideration for externalisation of some services which could affect staff.

The Trade Unions have been keen for the new Council to agree a local protocol. Following negotiations between representatives from the Corporate Procurement Unit, Human Resources and the Joint Consultative Committee a local protocol has been jointly written and agreed. It is consistent with the Code of Practice, is intended to apply to all outsourcing arrangements and give more details of the various stages. A copy of the revised protocol is attached as appendix 2.

Environmental Impact of the Proposal

None

APPENDIX B

Protocol on Workforce Matters

Preamble

The County Council recognises that the successful transfer of staff is dependent upon staff and Trade Unions;

1. being consulted throughout the process,
2. having sufficient relevant and disclosable information in order that consultations can be meaningful,
3. being satisfied that staff and Trade Union views emerging from the consultation are taken into account by the County Council in the award of the contract,
4. working with the County Council and the successful contractor between the award of the contract and staff being transferred.

To this end the County Council and the Trade Unions have agreed the following protocol which will apply to all externalisation exercises. The protocol will be reviewed in the light of any forthcoming statutory changes.

Protocol

1. The County Council will seek to comply with all statutory requirements relating to the transfer of staff.
2. The County Council will begin meaningful consultation with Trade Unions and staff at the earliest opportunity and throughout until the staff transfer has been completed.
3. The County Council will invite the Trade Unions to attend open days arranged for contractors and offer the Trade Unions the same opportunity as contractors to comment on issues such as the specification and the process to be followed in the particular externalisation.
4. The County Council will notify the Trade Unions of the information relating to staffing matters provided by contractors at the pre-qualification stage.

RW40114 Protocol on Workforce Matters

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EXTERNALISATION, PROCUREMENT AND THE WORKFORCE

An Agreement Between Wiltshire Council

And

The Council's Recognised Trades Unions (UNISON, GMB, UNITE)

November 2010

1. General Principles

- a. Wiltshire Council, its employees and the trade unions are committed to providing high quality services that meet the needs of local communities.
- b. Wiltshire Council recognises that trade union involvement is important for facilitating change, protecting the workforce, encouraging positive staff engagement, and raising service standards.
- c. It is inevitable that the council's business needs and/or service reviews will indicate, in some cases, that there is a need to consider transferring services and staff to other employers.
- d. Where this occurs, Wiltshire Council recognises that the successful transfer of staff is dependent upon staff and Trade Unions;
 - i. being consulted throughout the process
 - ii. having sufficient relevant information in order that consultations can be meaningful
 - iii. being satisfied that the staff and Trade Union views emerging from the consultation are considered by the council in the award of contract
 - iv. being prepared to work with the council and the successful contractor between the award of the contract and staff being transferred.
- e. It is, therefore, vital that unions are consulted at the service review/option appraisal stage and, where there is a decision to out source, they should be involved at the selection stage and throughout the process in such a way as to ensure that their views may be taken into account whenever the council needs to make key decisions. The parties will agree structures and timetables that enable this to happen.
- f. Wiltshire Council believes that the recruitment and motivation of high quality staff to work on its contracts post transfer should be a key criterion when assessing which contractors should supply services. To this end, it will require the contractor to demonstrate its support for these principles when

tendering for contracts.

- g. Any proposed reorganisation of services will be equality impact assessed, including the impact on staff and on equal pay in line with the statutory public sector equality duties and Wiltshire Council's Equalities scheme(s).
- h. To ensure that these principles are enshrined in practice, this agreement sets out how Wiltshire Council will involve and consult with the trade unions in the key stages of the service review, service transformation and/or procurement process.
- i. The agreement will be reviewed at least bi-annually or as necessary in the light of any statutory or significant business changes.

2. **Service Review and Options Appraisal**

- a. Wiltshire Council will engage with the trade unions when it can reasonably foresee that potential staff transfer issues may occur.
- b. The assessment and evaluation of all proposals will take into account the costs, loss of direct management control and any risks to service provision from out-sourcing services.

3.

The Procurement Process

Wiltshire Council will:

- a. Apply the Code of Practice on Workforce Matters in Local Authority Service Contracts and will, in particular, require all contractors providing on its behalf to abide by the Code of Practice on Workforce Matters:-
 - i. Draw the requirements of the Code to the attention of potential contractors,
 - ii. Comply with all statutory requirements relating to the transfer of staff.
- b. Notify the Trade Unions of the evaluation criteria and the scoring mechanism which will apply in the award of the contract.
- c. Invite the Trade Unions to attend open days arranged for contractors and offer the Trade Unions the same opportunity as contractors to comment on issues such as the specification and the process to be followed in the particular externalisation.
- d. Where the Council is legally able to it will facilitate meetings between the trade unions and potential service providers and short listed bidders at key stages of process to ensure staffing matters are considered appropriately.

- e. Invite the trades unions to comment on the procurement selection process.
- f. Upon the award of the contract, the Council will provide the Trade Unions with detailed information relating to staff to be transferred or otherwise directly affected by the transfer as soon as it is possible to do so.
- g. Encourage the chosen provider to have discussions with trades unions early following the award of a contract.

4. **Access to Information**

Wiltshire Council will:

- a. Where information is commercially confidential the union will be informed that the information is being withheld and the reasons.
- b. Encourage all bidders to provide trade unions with appropriate and timely access to all relevant information. It will be a matter for individual contractors to determine the extent to which they wish to engage in discussion with the Trade Unions at that stage.

5. **Workforce Issues**

a. **General**

- i. Staff transferred to a private sector employer will do so subject to the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) unless there is a mutual agreement between Wiltshire Council and the trade unions that other transfer arrangements (such as secondment) should apply.
- ii. Wiltshire Council will comply with its statutory responsibility under the TUPE regulations.

b. **Pension Provision**

- i. Where employees transfer from Wiltshire Council to another employer, Wiltshire Council's preference will be that the service provider applies for Admitted Body status with the Local Government Pension Scheme through Wiltshire Pension Fund. This ensures continuity within the Local Government Pension Fund for TUPE-transferred staff.
- ii. As a minimum, contractors will be required to provide pension rights to transferring employees that are the same as, or broadly comparable (as assessed by a suitably qualified actuary), to the previous pensions arrangements.

- iii. Contractors will be encouraged to consider whether or not they could offer new employees, employed wholly or mostly to work on the contract, access to the Local Government Pension Scheme.

c. Trade Union Recognition and Facilities

Trade union recognition will continue for any group of employees transferred from Wiltshire Council to a new employer and TU representatives will continue to be able to have reasonable access to facilities within the new employer's organisation which enable them to carry out their trade union responsibilities, including use of e-mail, internal post and telephones.

d. Learning and Development

- i. Wiltshire Council is committed to workforce development and will encourage contractors to make learning and development opportunities accessible to all transferred staff and staff recruited to work wholly or mostly on the contract.
- ii. Wiltshire Council will encourage contractors to recognise the positive role of trade unions and union learning representatives in workforce development.

e. Monitoring and Enforcement

- i. Wiltshire Council will support its own compliance with statutory public sector equality duties and its own Equalities Scheme(s) by including specific requirements for, and monitoring of, contractors to improve equality for the workforce providing public services.
- ii. Wiltshire Council will ensure that contractors understand their statutory responsibility to comply with the general equality duties.

WILTSHIRE COUNCIL

Staffing Policy Committee
24 November 2010

LOCAL GOVERNMENT PENSION SCHEME (LGPS) – EMPLOYER DISCRETIONS

Purpose of Report

1. To recommend to the Committee that Wiltshire Council adopts the former Wiltshire County Council's policy on Employer Discretions within the Local Government Pension Scheme, to cover all Wiltshire Council employees.

Background

2. Most elements of LGPS are defined by Act of Parliament. However, there are some limited elements which employers have the freedom to decide.
3. The LGPS requires employers prepare and publish a written statement of policy in relation to these elements.
4. Prior to 'One Council' the former Wiltshire County Council and the former District Councils implemented separate discretions policies through their own constitutions. Following the dissolution of these former employers, Wiltshire Council must publish a policy to cover all its employees, in order to satisfy the requirements of LGPS.

Main Considerations for the Council

5. The Council is required by statute to publish a statement of its policy on specified employer discretions.
6. The Employer Discretions Policy is a technical document, for the purposes of satisfying LGPS statutory regulations. A copy of the former Wiltshire County Council's policy is attached. (This is the template provided by Wiltshire Pension Fund.)
7. As the continuing employer at transition to 'One Council' was Wiltshire County Council, many of its employment policies were adopted as the default policies for all Wiltshire Council employees. It would be appropriate therefore to follow this practice with regard to the Employer Discretions Policy.

Environmental Impact of the Proposal

8. Nil.

Risk Assessment

9. Technically, Wiltshire Council does not have a discretions policy in place. The Wiltshire Pension Fund would be within its rights not to allow the Council to exercise any of the statutory discretions until one is in place (i.e. no pre-60 early retirements or flexible retirements). It is understood that this is the position the Fund has taken with some other employers.

10. Without a published policy in place, Wiltshire Council is in breach of its statutory obligations.

Financial Implications

11. There is no additional cost incurred by Wiltshire Council in publishing the Employer Discretions Policy.

Options Considered

12. Since there is a statutory requirement to publish an Employers Discretion Policy the options for consideration were limited.
13. It is understood that the former District Councils and the former County Council followed broadly similar policies. Theoretically it would have been possible to have adopted one of the former District Council's policies, however this would have been a departure from practice with regard to other employment policies.

Reasons for Proposal

14. To ensure that Wiltshire Council fulfils its statutory obligation to publish an Employer's Discretions policy for the Local Government Pension Scheme.

Proposal

15. That Wiltshire Council adopts the former Wiltshire County Council's Employers Discretions policy in relation to LGPS regulations.

Barry Pirie

Director of HR & OD

Report Authors: Diane Haines & Susan Coleman

The following unpublished documents have been relied on in the preparation of this Report:

WILTSHIRE COUNCIL

WILTSHIRE PENSION FUND
POLICY STATEMENT ON EMPLOYING AUTHORITY DISCRETIONS

Page 113

REGULATION	POLICY ON INDIVIDUAL DISCRETIONS	RATIONALE
<p>BMC12: Augmentation of membership of an active member (up to 10 years) <i>(Required in Policy Statement)</i></p>	<p>The Council will not exercise this option except in circumstances of redundancy or a termination of service in the interests of the authority's functions.</p>	<p>This is an enabling discretion, should the Council wish to augment pensions. Historically, WCC used this provision to compensate employees who were dismissed through no fault of their own. This enabled a Severance policy which included options on enhanced pension benefits to be approved by this Committee. (eg the One Council Severance policy.) The current Severance Policy (as agreed by this Committee in October 2010) does not make use of this provision to augment membership.</p>
<p>BMC 13: Whether to grant additional pension to a member (up to £5,000pa) <i>(Required in Policy Statement)</i></p>	<p>The Council will not exercise this discretion.</p>	<p>This is an enabling discretion, should the Council wish to increase the cash value of pensions of current or former employees. Historically, WCC has not used this provision. In considering options for severance payments, the Council chose to augment service rather than cash.</p>
<p>BMC 18(1): Whether all or some benefits can be paid if an employee reduces hours/grade and continues to work ("flexible retirement")</p>	<p>The Council does not give blanket consent for staff in the LGPS aged 50 or over (55 or over from 1 April 2010) to flexibly retire and draw immediate payment of pension benefits. Requests will be considered by the relevant Service Director in</p>	<p>Following the introduction of the concept of Flexible Retirement into LGPS, ie with the consent of the Council, employees aged 55 or over may draw their benefits early while continuing to work for the Council on reduced hours and/or grade. A Flexible Retirement Policy, enabled by this discretion,</p>

REGULATION	POLICY ON INDIVIDUAL DISCRETIONS	RATIONALE
<i>(Required in Policy Statement)</i>	in conjunction with the HR Service Director, and assessed on their merits taking into account such factors as cost and service delivery.	was agreed by this Committee in November 2008.
BMC (3): Waiving actuarial reduction on flexible retirement. <i>(Required in Policy Statement)</i>	The Council will not exercise this discretion.	This is an enabling discretion, should the Council wish to waive the actuarial reduction of pension for employees taking flexible retirement. The current Flexible Retirement Policy was agreed by this Committee chose not to use this discretion in order to minimise the cost to the Council.
BMC30 (2): Whether to allow early payment of benefits at/after age 50 (55 from 2010). <i>(Required in Policy Statement)</i>	The Council does not give blanket consent for staff in the LGPS aged between 50 and 59 years to retire and draw immediate payment of pension benefits. Requests will be referred to the relevant Service Director in conjunction with the HR Service Director, and assessed on their merits taking into account such factors as cost and service delivery.	This is an enabling discretion, should the Council wish to approve applications from individuals for early retirement (ie between the ages of 55 to 59 inclusive) with early release of pension benefits.
BMC30 (3): Waiving actuarial reduction on early retirement. <i>(Required in Policy Statement)</i>	This will be exercised by the Staffing Sub-Committee in individual cases, on compassionate grounds only. Individual circumstances will be looked at according to the dictionary definition of compassion – “inclined to pity or mercy”.	LGPS regulations only permit an actuarial reduction to be waived on the grounds of “compassion”. It was previously agreed that decisions relating to individual cases should be taken by this Committee, rather than individual service directors.
Admin 16(4)(b)(ii): Whether to extend 12-month period to combine previous LG service.	The Council will allow an option to combine previous Local Government service except in cases involving potential early retirement and consequent capital costs. This discretion will be exercised by	LGPS regulations give employees an automatic right to combine previous LGPS service with their current pensionable service, within 12 months of rejoining the pension scheme. Beyond this, employees normally require the consent of their Corporate Director.

REGULATION	POLICY ON INDIVIDUAL DISCRETIONS	RATIONALE
	the appropriate Corporate Director advised by HR.	However, between October 2010 and October 2011, LGPS regulations will allow all employees an automatic right to link previous LGPS service, in excess of the normal 12 month limit. After October 2011, it may be appropriate for this Committee to reconsider its options in relation to this discretion, in the light of economic circumstances.
BMC 3 Determine rate of employees' contributions	The Council allocated employees to the relevant contribution band on 31 March 2008 or at the commencement of their employment with the Council if later. From 1 April 2009, reassessment will be made for all salary changes as they occur during the year.	This is essentially an administrative requirement, which ensures that employees and employer make contributions to the pension fund on a correct & consistent basis. This arrangement ensures that the payroll systems make the correct deductions from salary on a concurrent basis.
Admin 22(2): Whether to extend the period for a member to elect to pay contributions to cover unpaid leave of absence, maternity, paternity, or adoption leave beyond 30 days after returning to work or leaving.	The Council will allow the extension of the period in cases where the member was not notified of the right to pay contributions.	The Council ensures that staff are notified of their rights in relation to LGPS contributions, so that they can make informed decisions in a timely manner.
Admin 83(8): Whether to extend 12-month period to allow a transfer-in of non-LG pension rights.	The Council will allow an option to combine previous non-Local Government service except in cases involving potential early retirement and consequent capital costs. This discretion will be exercised by	LGPS regulations give employees an automatic right to transfer in non-LGPS pension benefits, within 12 months of joining LGPS. Beyond this, employees require the consent of their Corporate Director. It is impossible to predict future costs to the Council of

REGULATION	POLICY ON INDIVIDUAL DISCRETIONS	RATIONALE
	the relevant Corporate Director advised by HR.	allowing late transfers in individual cases, so Staffing Policy Committee may wish to review this discretion in conjunction with Admin 16(4)(b)(ii) above from October 2011.

Abbreviations

- LGPS** Local Government Pension Scheme
- BMC** Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007
- Admin** Local Government Pension Scheme (Administration) Regulations 2008

QUARTERLY WORKFORCE REPORTING

WILTSHIRE COUNCIL (excl. schools) Quarter ended: **Sept 2010**

Notes on the figures:

- All reported figures exclude casual employees and agency/professional services staff
- Wiltshire Council figures exclude Fire, Police and Schools
 - **Headcount** = Number of positions that are filled not individual people
 - **FTE** = “Full Time Equivalents” which take into account actual working hours to show accurate staffing levels
- **Age profile** and **Employee diversity** information is as a % of the headcount (explained above).
- **Working days lost per FTE** = The lost time to sickness based on hours worked. Cost is a great incentive for looking at these rates: A sick day on average will cost £90 in lost productivity so a rate in line with the local Government median (10.0 days) would cost £900 per employee a year. WC has around 5600 staff meaning a rate at this level would incur an annual cost of over **£5,000,000** in lost productivity (Temporary cover costs, lost morale, reduction in quality of work etc are not included in this figure).
- **“Annualised”** means we take the measured amount divide it by the months it covers (in this case 3) and multiply it by 12 to give an estimate of the rate that would be seen throughout the year.
- **Incidents/injuries reported** - The Health and Safety section shows the number of RIDDOR (The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995) incidents that have occurred. There may have been other minor incidents that are not included. <http://www.hse.gov.uk/riddor/riddor.htm>.
- **“YTD”** means year to date i.e. All information known since April 2010 has been included.
- The **Voluntary staff turnover** section does not include information for those who leave due to statutory retirement, ill health, compulsory redundancy, dismissals, end of contract, unsatisfactory probation and TUPE transfers as these are classified as compulsory reasons. Only Voluntary leavers are included as these are the individuals that have decided to leave for their own reasons and therefore it may not be in Wiltshire’s best interest. Overall turnover rates will be higher and can be analysed on request.
- Although the cost associated with turnover is not readably available, CIPD estimate that the recruitment cost of replacing a leaver is £2930. Based on the Median turnover rate (7.6%) of local government, we could estimate that 422 employee will leave Wiltshire Council a year resulting in approximate costs of **£1,250,000**.
- **% all staff turnover** is the number of voluntary leavers as a percentage of headcount shown elsewhere in the report
- **% <1 year turnover rate** is the number of individuals that left voluntarily before completing one year service as a percentage of the employees in post with less than one years service. The cost of turnover in this group is generally higher as the investment in recruitment, induction and training is unlikely to be recovered within such a short time period.

If you have any queries on these reports or requests for further information, please contact Paul Rouemaine, HR Business Analyst, on 01225756159 or Paul.Rouemaine@Wiltshire.gov.uk

QUARTERLY WORKFORCE REPORTING

WILTSHIRE COUNCIL (excl. schools) Quarter ended: **Sept 2010**

Management Information Team Observations:

- Overall, the headcount (excluding schools) reduced by 27 (0.5%), and the FTE by 40.8 (0.9%). The biggest reduction was shown by Department of Resources (DOR), which reduced by 30, or 2.9%. Department for Public Health and Wellbeing (DPHW) increased its headcount by 6 (4%) and its FTE by 5.24 (3.7%).
- The percentage of staff who are BME (1.5%) has increased very slightly since last quarter, but still remains well below the upper quartile of local authorities (4.3%).
- The percentage of staff who have declared themselves as disabled is slightly higher at 2.3%. The upper quartile of local government is 4.0%.
- The percentage of “unknown” ethnicity across Wiltshire Council is 20.81%, but the figures for DNP (34.4%), and DPHW (36.3%) are significantly higher. Similarly, DNP and DPHW show high percentages of “unknown” disability status, at 62.3% and 56.1% respectively, compared to the Wiltshire Council overall figure of 36.5%.
- Sickness rates slightly increased this quarter to 8.4 days per FTE (+0.4 days). For the reasons stated in the last Quarterly Report, sickness rates are expected to increase as managers more successfully take over the responsibility for input of sickness absence.
- Much of the increase is accounted for by an increase by 4% in long-term illness days lost (over 20 days), now making up 48% (from 44%) of the total lost fte days. This is borne out by increases in contribution by the “longer-term” sickness reasons: Cancer/Tumours/Growth up from 2.9% of the total to 3.9%, and Heart/Blood Pressure/Circulation up from 1.5% to 1.8%.
- Mental/Emotional/Psychological reasons still account for the highest recorded days lost, but are down slightly from 24.9% of the total to 24.7%.
- The highest sickness rates remain in the Department of Community Services (DCS), with 11.1 days per FTE, whilst Chief Executives Office (CHEX) and DOR saw the lowest days lost at 4.2 and 6.4 days lost respectively.
- The annualised voluntary turnover rate increased significantly this quarter to 9.9% (+2.1%). This has resulted from an increase by 61 in the actual number of leavers compared to the first quarter.
- The Department of Children and Education (DCE) continues to display the highest annualised voluntary turnover rate (just under 15%: up from 12.2%). Although DOR saw the biggest increase, with 13 more leavers (85% increase) in the second quarter, it still shows a relatively low turnover rate of 5.4%.
- “Resigning for a job outside of a local authority” (26.6%) continues to be the reason stated by the highest percentage of voluntary leavers. There is an increasing number recorded as “no reason given”, now accounting for 14% of all the voluntary leavers.
- The turnover rate amongst those with less than one-year’s service has increased from 15.7% to 23.7%, with 17 more leavers in the second quarter. The September headcount with less than one year’s service has reduced, though, by a total of 42 people, as more employees stay beyond one year.
- The number of disciplinary cases this quarter reduced very slightly (now 5.3 per 1000 employees) but grievance cases have reduced drastically to 2.5, which is just below the upper quartile benchmark rate of 3.1.

QUARTERLY WORKFORCE REPORTING

WILTSHIRE COUNCIL (excl. schools) Quarter ended: Sept 2010

Benchmark figures are DLA Piper Benchmarking Upper Quartile (UQ), Lower Quartile (LQ), all (all) or Median (M) for all local authorities. See separate sheet for further information.

Headcount and Full Time Equivalent

Measure	This quarter	Change since last quarter
Headcount	5636	-27 (-0.5%)
FTE	4479.2	-40.8 (-0.9%)

Age Profile

Measure	This Quarter	Last Quarter	Benchmark
% of workforce under 25	6.3%	6.7%	6.2% (all)
% of workforce 55 and over	22.9%	22.7%	20.0% (all)

Employee Diversity

Measure	This Quarter	Last quarter	Benchmark
% Female	70.5%	70.5%	67.2% (M)
% Part-time	42.0%	44.1%	40.5% (M)
% Temporary contracts	11.4%	12.3%	9.8% (M)
% Black or Minority Ethnic	1.5%	1.4%	4.3% (UQ)
% Disabled	2.3%	2.2%	4.0% (UQ)

Sickness Absence

Measure	This Quarter	Last quarter	Benchmark
Working days lost per FTE (if annualised)	8.4 days	8.0 days	8.6 days (LQ)
Average length of absence (fte days) – ytd.	4.8 days	4.7 days	5.3 days (M)
% of total absences over 20 days (ytd.)	45.6%	39.3%	52.9% (M)

Health and Safety

Measure	This Quarter	Last quarter	Benchmark
No. of workplace incidents/injuries reported per 1000 employees (ytd annualised)	2.1	2.1	3.4 (LQ)

Voluntary Staff Turnover

Measure	This Quarter	Last quarter	Benchmark
% staff turnover (ytd annualised)	9.9%	7.8%	6.5% (LQ)
% <1 year turnover rate(ytd annualised)	23.7%	15.7%	n/a
Average leavers' length of service	7.2 years	8 years	n/a

Disciplinary and Grievance Cases

Measure	This Quarter	Last quarter	Benchmark
New disciplinary cases per 1000 employees (annualised)	5.3	5.6	4.8 (LQ)
New grievance cases per 1000 employees (annualised)	2.5	12.7	3.1 (LQ)

QUARTERLY WORKFORCE REPORTING

BENCHMARK DATA

Benchmark figures are supplied by DLA Piper Benchmarker. The Local Authority benchmarks represent combined data from 54 subscriber Local Authorities. The Private Sector benchmarks represent data from approximately 250 private sector organisations classified as "large" (over 1000 employees), consisting of a mix of Financial, Professional and Support Services; Manufacturing, Engineering and Processing; and Retail and Leisure.

AGE PROFILE

Measure	All Local Authorities	All Private Sector
% under 25	6.2%	18.8%
% 55 and over	20.0%	7.6%

EMPLOYEE DIVERSITY

Measure	Local Authorities Median	Local Authorities Upper Quartile	Private Sector Median
% Female	67.2%	73.7%	49.1%
% Part-time	40.5%	48.4%	16.3%
% Temporary contracts	9.8%	12.0%	1.3%
% Black or Minority Ethnic	2.8%	4.3%	10.4%
% Disabled	3.0%	4.0%	1.1%

SICKNESS ABSENCE

Measure	Local Authorities Median	Local Authorities Upper Quartile	Private Sector Median
Working days lost per FTE	10.0	8.6 (lower q.)	5.7
Average length of absence (FTE days)	5.3	7.3	3.5
% of absences over 20 days	52.9%	59.9%	40.5%

HEALTH & SAFETY

Measure	Local Authorities Median	Local Authorities Upper Quartile	Private Sector Median
No. of workplace incidents/injuries reported per 1000 employees	6.3	3.4	8.0

VOLUNTARY TURNOVER

Measure	Local Authorities Median	Local Authorities Upper Quartile	Private Sector Median
% staff turnover	7.6%	6.5%	10.5%
% staff turnover of leavers within first year's service	n/a	n/a	n/a

DISCIPLINARY & GRIEVANCE CASES

Measure	Local Authorities Median	Local Authorities Upper Quartile	Private Sector Median
No. of disciplinary cases per 1000 employees	7.4	4.8	44.8
No. of grievance cases per 1000 employees	4.5	3.1	6.4

EXIT INTERVIEW QUESTIONNAIRES ANALYSIS OF RESPONSES APRIL to SEPTEMBER 2010

Response rates

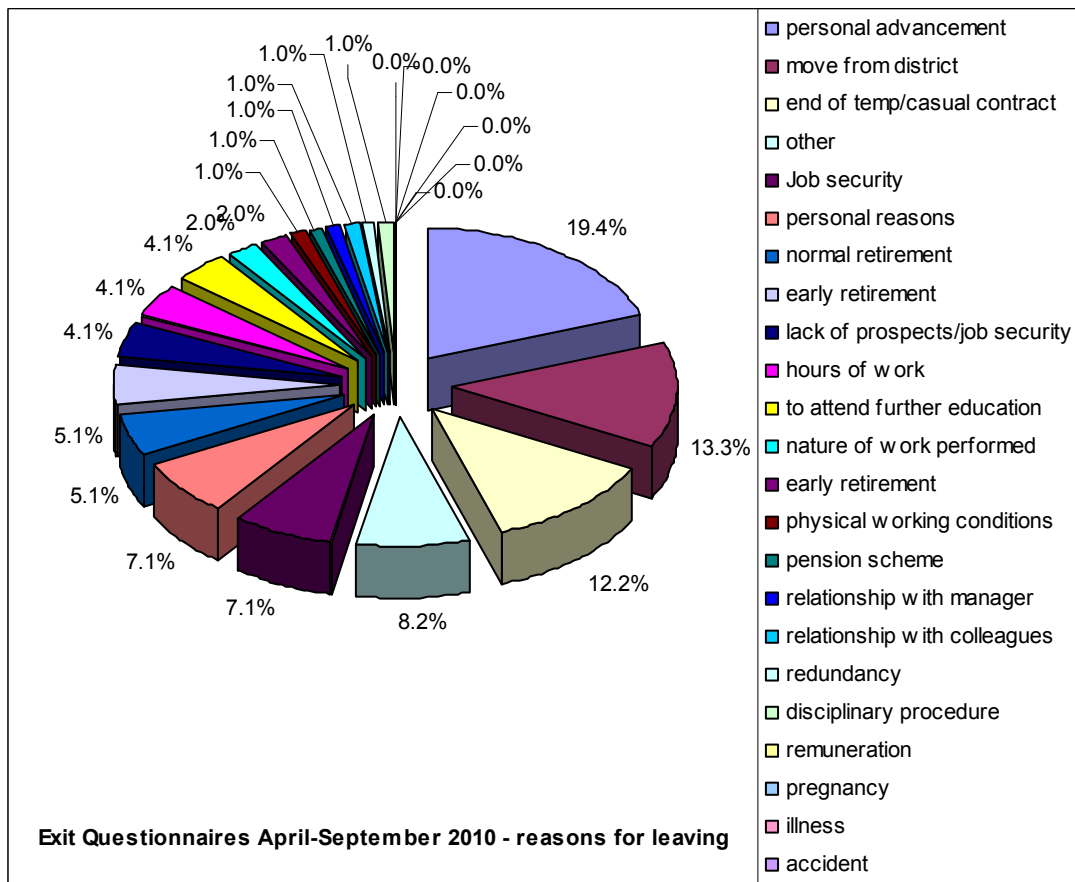
Number of leavers during the period (excluding transfers) **299**
 Number who completed Exit Questionnaires **68**
 Response rate **22.7%**

By department:

	leavers	responses	%
DNP	92	7	7.61%
DOR	33	7	21.21%
CHEX	3	2	66.67%
DCS	54	18	33.33%
DCE	112	34	30.36%

Reasons given for leaving

Note that some respondents give more than one reason. The total reasons will therefore be more than the total respondents show above.



47% of leavers state they left for “non-voluntary” reasons including *move from district, end of contract, normal retirement, redundancy, disciplinary procedure*. 53% therefore left voluntarily.

16.3% state they left for a “negative” reason: *job security, lack of prospects, nature of work performed, relationship with their manager, relationship with their colleagues, physical working conditions*.

The highest single reason given was *personal advancement*, stated by 19 of the 68 respondents.

Respondents' ratings

A total of 52 "poor" ratings were given by the 68 respondents: (7% of all ratings).

23 of the respondents gave at least one "poor" rating (33%)

Highest numbers of "poor" ratings:

- **Morale in the section:** 8 poor ratings (11.8% of respondents).
- **Training opportunities:** 8 poor ratings (11.8% of respondents).
- **Personal development interviews:** 7 poor ratings (10.3% of respondents).
- **Working environment and conditions:** 7 poor ratings (10.3% of respondents).

Highest number of "poor" ratings by Department:

- DOR: 9.46% of all ratings were poor with 57% of respondents marking at least one rating as poor. Highest "poor" ratings for **Training Opportunities and Personal Development Interviews**.
- DNP: 9.21% of all ratings with 42.1% of respondents marking at least one rating as poor. These poor ratings were evenly spread over most questions.

The main reason for leaving was for "personal advancement" (19 people);

- 1 gave 4 poor ratings (**working environment & conditions, communications, training opportunities and morale in the section**)
- 3 gave 3 poor ratings (**personal development interviews** [3], **management style** [2], **working environment & conditions** [1], **morale in the section** [1], , **management working relationships** [1], **salary** [1])

The joint second main reason for leaving was for "personal reasons" (7 people), only 1 poor rating was given across these individuals.

The other joint second main reason for leaving was "job security" (7 people)

- 3 gave poor ratings for **morale in the section**
- 2 gave poor ratings for **working conditions**
- 1 poor rating was given each for **salary** and **personal development interviews**

Of the 8 who left for "other" reasons, only 2 gave poor ratings, but one individual, within DCE, marked 10 as "poor":

- **training opportunities**
- **salary**
- **communications**
- **working environment and conditions**
- **working hours**
- **work duties and responsibilities** [1],
- **management working relationships** [1],
- **personal development interviews** [1],
- **management style** [1],
- **Morale in the section** [1].

Conclusions

Exit Questionnaires are only being received from under a quarter of all leavers (22% overall), with a particularly low completion rate for those leaving from DNP. This is believed to be due to inconsistency and lack of clarity in the operation and purpose of the completing of these, and as a direct consequent a lack of commitment by managers. There is currently a project being undertaken to *a)* reinforce and clarify the process, and *b)* to introduce a simple on-line completion method, forming an automatic step in the leaving process. The new process will take out the burden currently placed on management and ensure the confidentiality of these questionnaires.

By far the highest number of reasons given for leaving was **personal advancement** (19%). When added to the 7.1% who stated **job security**, and the 4.1% who stated **lack of prospects**, this may well suggest a failure to develop and retain employees that could have benefited the authority further.

Overall, the incidence of "poor" ratings was relatively low, at only 7% of all ratings given. 33% of respondents gave at least one poor rating, with the highest number given to **morale in the section, personal development interviews** and **training opportunities**, which appears to support the observation above.

71% of all ratings were "good". This can be seen as encouraging but to ensure this depicts the feeling across the authority the completion of exit questionnaires around the authority needs to be more common.

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