

PERSONNEL COMMITTEE – 30TH MARCH 2021

Report of the Strategic Director of Environment and Corporate Services

Part A

ITEM 6 AGILE WORKING POLICY AND RELATED POLICY AMENDMENTS

Purpose of Report

For the Personnel Committee to consider the Agile Working Policy and the recommended amendments to policies related to agile working, alongside the thorough process that has been undertaken regarding the development of the policy.

Recommendation

That the Personnel Committee agree the proposed Agile Working Policy and the recommended amendments to policies related to agile working.

Reason

The Council has, for some time, been considering the principles of agile working and this, combined with the impact of Covid-19, has made it necessary to review working arrangements across the Council. It is therefore proposed to broaden the scope of the Council's current arrangements by introducing the Agile Working Policy.

Policy Justification and Previous Decisions

The proposed Agile Working Policy and Procedure will broaden the scope of the Council's existing flexible working arrangements which include; recruitment and retention of key skills, enhanced productivity and employee motivation.

The principles of the Agile Working Policy were introduced to Personnel Committee at its meeting on 12th January 2021. This provided an update on the project and its progress up to that point in time.

Implementation Timetable including Future Decisions

It is recommended that the Agile Working Policy and Procedure and amendments to the related policies be published on the intranet, subject to agreement at Personnel Committee.

Financial Implications

There are no immediate financial implications arising from this decision.

Risk Management

There are no specific risks associated with this decision.

Background Papers: none

Annexes: Annex A – Agile Working Policy

Annex B - Leave Arrangements

Annex C – Disciplinary Policy and Procedure

Annex D – Disciplinary Guidance

Annex E– Disciplinary Policy and Procedure Chief Officers

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Part B

1. The aim of the Agile Working Policy is to provide managers with a framework for implementing new ways of agile working. It provides advice on managing a workforce in the context of having reduced office accommodation.
2. The increase in agile working will require managers to manage by performance and outcomes rather than by presenteeism and time recording. This will require a greater focus on trust and communication within the employment relationship, which again is highlighted in the policy.
4. This policy sets the scene in term of the reasons, benefits and the vision of Agile Working but also provides guidance around the types of working arrangements which may be considered/ adopted.
5. Managers may have to at times make different decisions for different people to accommodate alternative ways of working. Whilst great emphasis is placed on the need for consistency to ensure fairness, embracing agile working will mean managers having the confidence to consider individual personal circumstances when making decisions. It is recognised that this is a shift and some managers will require additional support in dealing with this change.
6. Home and remote working will be encouraged for a much broader range of employees and the emphasis will be on what tasks could be performed away from the office. The policy incorporates relevant information which relates to this.
7. The policy demonstrates a positive commitment to Agile Working, however, reinforces that any decisions in relation to 'where, when and how' employees work must be subject to service delivery needs.
8. The Agile Working Policy has been considered by SLT, CLT, Organisational Recovery Cell, the Agile Working Group, Staff Forum and the People Board. The policy has been discussed in detail at three JMTUM meetings and submitted to Personnel Committee on the 12th January 2021 for information.
9. In November a full staff consultation was conducted and over 50 staff responded with comments and feedback. GMB and UNISON also provided written feedback as part of this exercise. A response was given from the Council to the points raised by employees and the Unions. The response to Council employees was circulated and published for all employees' information.
10. Amendments have been made to the policy throughout this period to reflect the constructive comments and suggestions that have been provided by trade unions and employees.
11. In February 2021, UNISON, GMB and UNITE confirmed their agreement to the Agile Working Policy in writing.

Review of Related Policies

12. The principles of the Agile Working Policy must be considered in line with relevant council policies. To ensure consistency throughout the following policies have been reviewed:

The policies to be amended are:

- Leave Arrangements – removal of references to flexi time and Toil and inclusion of principles of Medical Appointments
- Disciplinary Policy and Procedure
- Disciplinary Policy and Procedure Chief Officers – both Disciplinary Policy and Procedures have been amended to include “Breach of Agile Working” in the examples of misconduct and gross misconduct.

The policies to be deleted are:

- Flexitime NJC
- Flexitime JNC
- TOIL
- HomeWorking Policy

Policies pending further review:

- Travel, Subsistence and Other Allowances Policy – the policy is currently undergoing a full review and will be submitted to Personnel Committee at a future meeting. In the interim, the Agile Working Policy clearly sets out the principles for claiming mileage relating to Agile Working.

13. It is recognised that to embed new ways of working, it will be necessary to clearly communicate the benefits of agile working in order to develop the culture of the Council. The tone and focus of the policy therefore reflects this change, as does the communication plan to engage employees with this vision. A communications plan will be established to ensure the vision is clearly set out for all employees. Alongside this, it is proposed that briefing sessions on the principles of the policy and agile working will be offered to managers.

14. A copy will be published on the Council’s intranet for managers and employees to view; specifically located on the Human Resources A – Z page.

15. If agreement is reached and the policy and guidance is endorsed by Personnel Committee, the implantation date will be 1st April 2021. However, it is recognised that in practice, agile working arrangements are currently in place as part of the Council’s response to the Covid-19 pandemic.

Agile Working Policy and Guidance

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Purpose

The Council recognises that agile working is essential to the successful transformation of the organisation and contributes to the Council's performance as well as supporting employees to achieve a positive work-life balance.

The Council's aim is therefore to support agile and innovative working arrangements which still meet the delivery of effective customer-focussed services and the needs of the people of the Borough of Charnwood.

Supporting employees to achieve greater flexibility requires consideration on where, when and how work is carried out; this underpins the concept of agile working. There are many business benefits associated with agile working; it can help to increase employee motivation, reduce sickness absence, promote employee wellbeing and attract/ retain a skilled and motivated workforce.

This policy is designed to provide managers with a framework for implementing new ways of working in line with agile working but also managing a workforce in the context of having reduced office accommodation.

This policy replaces the 'Flexible Working' policies for NJC and JNC employees, however as legislative requirements in relation to statutory requests remain; a separate [Statutory Right to Request Flexible Working Guidance](#) still exists. This applies to those who wish to make a formal request to contractually change their working arrangements, under the statutory scheme.

For the majority of employees, who either wish to alter their working pattern which does not constitute a contractual change or where revised working arrangements are informally agreed with their line manager, this will not necessary require submission of a formal statutory request.

Managers are responsible for driving the aims of this policy and promoting the required cultural change, which includes having a positive approach to the consideration of agile working requests, (subject to the needs of the service) and supporting the implementation of the new ways of working.

In addition to the Agile Working Policy, other relevant policies such as the [Statutory Right to Request Flexible Working Guidance](#), Travel, Subsistence and Other Allowances Policy and Lone Working Arrangements are available.

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Culture and Behaviour

The way we work is changing; with the need for greater flexibility, increasing demands, the need to meet efficiency targets and a further need to attract and retain the best talent in order to deliver even better services as an organisation. Therefore, there is a need to consider the way we work and move away from traditional methods of working.

In order to embed the new ways of working, it is necessary to challenge and change the culture and behaviours which prove to be a barrier. The concept of how we work will be further challenged, with reduced office space and will emphasise the need for more effective working practices, management styles, communication and the importance of relationships at work.

Heads of Service and Managers will need to work with employees regarding the appropriate business need and associated hours of work with regards to what is relevant to all parties and workable for the service delivery. This may mean a need to make different decisions for different people, at times taking into account factors such as the needs of the team and service. Whilst it is important to be mindful of consistency to ensure fairness, embracing agile working will mean managers considering workplace requirements as well as individual personal circumstances and work styles, when making decisions. Further advice may be obtained from HR Services.

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Scope

This policy applies to all Charnwood Borough Council employees, employed under the conditions of service of the following bodies:

- National Joint Council for Local Government Service Employees.
- Joint Negotiating Committee for Chief Officers.
- Joint Negotiating Committee (JNC) for Local Authority Craft and Associated Employees'.

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Equalities

The Council's commitment to equality of opportunity will be observed at all times during the operation of this policy and guidance. This will ensure that employees are treated fairly and without discrimination on the grounds of race, nationality, ethnic or national origins, sex, marital status or civil partnership, disability, age, sexual orientation, trade union membership or activity,

political or religious belief, maternity or pregnancy, gender re-assignment and unrelated criminal conviction.

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What is Agile Working

Agile working means being more flexible about where, when we work and how we use space and technology to find new and more effective ways of doing things, e.g. varying working patterns, working remotely, use of virtual team calls as opposed to physical meetings etc. This type of working can help reduce costs, improve productivity and customer focus, as well as supporting the wellbeing of employees and a better work life balance.

It is recognised that for a variety of reasons agile working is not suitable for all employees for example, the home set up isn't conducive to working from home or attending the workplace fulfils a social need for an individual. We will work with employees to consider any concerns relating to agile working.

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Benefits of Agile Working

Research shows that working more flexibly results in a culture whereby staff are motivated, high performing and engaged; increasing productivity which enhances the reputation of the organisation as an 'attractive employer'.

Other benefits of agile working for employees as well as the organisation may also include:

- Improved efficiency and effectiveness.
- Reduced travel time and costs as a result of commuting.
- Contributing to less traffic and pollution.
- Greater job satisfaction.
- Enhanced quality of life by maintaining a work life balance.
- Greater flexibility for combining work and outside commitments.
- More effective use of office and car parking space.
- Reduction in sickness absence.
- Recruitment and retention of key skills.
- Improved opportunity for partnership working.

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Types of Agile Working Arrangement

The following are examples of agile working arrangements which employees and/or managers may wish to consider. This is not an exhaustive list and it is accepted that the requirements of the role and service delivery needs are paramount, managers are however encouraged to be open to ideas and creative when determining what working arrangements could be accommodated within their team/ service.

The following factors should be considered by the manager when addressing specific agile working arrangements:

- The times at which the service cover must be provided.
- Any periods of high or lower demand.
- Minimum service/team cover requirements.
- The availability of support services and facilities such as ICT etc. (as applicable) and access to a manager/ supervisor; and
- The requirements of employees to start work earlier or later and flexible finishing times.
- the employees desired working patterns
- the wellbeing of the employee including whether their personal homelife circumstance is compatible with homeworking.

'Where' work may be carried out:

- Main office base
- Home
- Remotely
- Work Location

Main office base – this is where employees work at the office, which is their main base according to their contract. **Currently there are restrictions in place due to the Covid-19 pandemic which should be discussed with the line manager.**

Home Working - this refers to an arrangement whereby employees work from home on an agreed basis; with the expectation that the employee will attend the office as agreed in line with their working pattern or as necessary to attend meetings, undertake specific pieces of work etc....

Remote Working – this is defined as an informal facility whereby employees carry out work that would normally have been completed at a traditional office, for example, at an alternative site.

The terms and conditions and policies that apply to employees working remotely or from home will be unchanged from those they would receive when working in the workplace, unless a variation to contract is issued which states otherwise.

Work Location

The proposed work site should be both adequate and practical for working in terms of health and safety. It should also be appropriate for the work being undertaken, including the need for confidentiality to be maintained.

Working from home may allow employees with caring responsibilities to have more flexible care arrangements. However, this is not a means for combining work with care responsibilities and employees are expected to have proper care arrangements in place during their working day.

Shared Desks and Clear Desk Protocol

Where there is management agreement to share desks a clear desk policy should be adhered to, so that all desks are depersonalised and all standardised. Hygiene procedures in place must be followed at all times.

Regardless of the frequency of agile working, the following points should be noted:

- The [Working Time Regulations](#) are complied with and employees are not working excessive hours.
- Suitable and sufficient time is set aside for work responsibilities and arrangements made for minimal home related disturbance.
- Employees should be contactable when working remotely or at home during their working hours.
- Appropriate care is taken to ensure the safety and security of equipment.
- The working environment is maintained to the agreed health and safety standards.
- To undertake the [health and safety e-learning module](#).
- Sufficient support is arranged for any dependent care.
- Any equipment supplied by the Council should be used primarily for work related purposes and in accordance with the Council's existing policies on private use.
- There are suitable security arrangements in place for storing confidential Council information.
- Security of information is considered in relation to environment (visibility of screen, ability for others to hear conversations etc...) and before logging on to public-access wi-fi networks when working remotely on Council business.
- All data and information produced, accessed or used in the course of performing the duties of the job is the property of the Council and is subject to data protection legislation.
- The Council's [Code of Conduct](#) is adhered to, regardless of where the employee works or is working.
- The manager provides support and/or guidance when required.
- Employees who travel regularly between sites must adhere to the [Vehicle User Policy](#) and the [Travel, Subsistence and Other Allowances Policy](#).
- Employees should familiarise themselves with the best practice advice outlined within the [Lone Working Arrangements](#) on the intranet e.g. in relation to the location of meetings, travelling alone, notification of whereabouts and/or any changes to scheduled meetings.
- The Attendance Management Policy should be adhered to where an employee is not able to undertake the duties of their role due to illness.

If employees are finding it difficult to work from home for any reason, this should be discussed with their manager and further consideration will be given to their working arrangements.

Managing Work Patterns and Work Plans

Hours of Work

Agile working patterns should be agreed in accordance with the needs of the service, with consideration being given to issues such as the need to be flexible, contactable and available to attend the office for meetings or to undertake specific work as and when required.

If an employee would like to vary their standard working hours this should be by agreement with their line manager on each occasion. Work patterns can involve weekday, evening and/or weekend working but the arrangement must be considered and agreed in accordance with service delivery and the needs of the service. Where the employee agrees with the line manager that they can complete their regular hours at other times, no enhancements will be paid in this circumstance.

Where there is a standard working pattern, employees will not be expected to work outside of their agreed standard working day.

Managers must also ensure employees are working in accordance with the Working Time Regulations.

An [Agile Working Plan Template](#) is available to assist with any discussions regarding agile working requests between the manager and employee(s).

Occasional Accrual of Additional Hours

Due to the flexibility around agile working, it is expected that in most instances' employees will be able to undertake their work within their normal contractual weekly hours. However, should an employee need to work hours in addition to their normal weekly hours, they can only accrue additional hours if the workload requires them to do so and the reason for this is understood by the manager. There may be exceptional circumstances where the manager does not agree with the reason for the additional hours being claimed, which could result in those additional hours claimed being lost if they cannot be justified.

Additional hours will be accrued at plain time i.e. if an employee has agreement to undertake 2 hours in addition to their normal working week, they will accrue 2 extra hours to be taken at a later date, with the agreement of their manager.

When agreeing the accrual of extra hours, managers must ensure that the employee's workload requires them to undertake the extra hours and that the hours the employee is working adhere to the requirements of the Working Time Regulations.

Extra hours should not be accrued on a regular basis. If the employee is regularly required to work extra hours, managers are advised to undertake a review of working arrangements.

TOIL

Employees on Grades A to E who are specifically required to work additional hours beyond their working week as a requirement of their role (e.g. to attend evening meetings or respond to an urgent work requirement that must be completed within the designated hours) are entitled to receive toil for work undertaken between 8pm and 6am on the following basis:

Monday to Saturday – time and a half
Sundays, public and extra statutory days – double time

SO1 and above, where additional hours are required as part of the role and authorised by the line manager, time off in lieu will be at plain time.

Accrual of additional hours under TOIL will need to be authorised by the manager.

Ad Hoc Commitments - If it is agreed that an employee is working flexible hours, then it is expected that employees will manage any personal commitments around their work commitments. This could include attending a school play, sports day, boiler breakdown etc. In most cases the commitment will mean that an employee is only away from work for a short period. It will ordinarily be expected that any time due to be lost will be made up prior to the event taking place. In exceptional circumstances (emergencies or to meet service need etc...) the time can be made up by a date agreed with the manager after the event. In circumstances where the employee is unable to make up the time, they should book annual leave, use any additional hours accrued or take unpaid leave to cover the time lost. For further information, refer to the Planned and Unplanned Leave Sections of the [Leave Arrangements Policy](#).

Agree in advance the work that needs to be completed

Managers should ensure they are in regular contact with the employee. It is recognised that some employees are able to manage their own workload, however it is important that overall, the manager and employee are clear on the workload. The manager may wish to discuss and agree the scope of work that will be undertaken, outlining the expectations and setting any deadlines where required.

Agree accessibility and contact

Depending on the role, the employee may need to be available for customers and colleagues during certain times of their normal working day or during the entire day, where this is the case; it is important to agree in advance what these times will be and how the employee can be contacted. This may include forwarding office extension numbers to the employee's mobile telephone.

Employees should be informed that there may be occasions where they are asked to work from the office to provide cover at short notice due to staff absence etc.

Be realistic about the type of work which can be done

For some, agile working is an excellent opportunity to complete work away from the office with minimal interruptions. Those who normally conduct their work with computers and telephones will find it most easy to adapt. However, for other roles further thought will need to be given; bearing in mind the type of work the employee normally does and what resources they require, in order to carry out their full range of duties. Agile working may not be appropriate in all circumstances.

Contingency Plans

In an event where technical issues are experienced which prevents the employee from working in an agile way, it is important that the manager is informed. The manager will need to establish the extent of the system failure, the impact on the service and to decide on the appropriate course of action.

Adjustment to working arrangements due to illness

There may be occasions where employees who are unwell can agree with their manager to either work at an alternative location or at an alternative time in order to support their recovery, prevent the spread of infection and/or prevent them having to take sickness absence. Such arrangements would normally only be a temporary measure and subject to the needs of the service. Managers would be advised to regularly monitor the arrangements put into place, especially where these are

expected to last over a period of 2 days. It should not be seen that working from home is a substitute for recording sickness. If an employee is unable to work, it should be recorded as sickness in accordance with the [Attendance Management Policy](#). Managers may also wish to seek HR advice in these circumstances.

Managing by Performance and Output

The new ways of working will require a need to manage by performance/ output as opposed to presenteeism.

Managers should focus on the 'outputs' and not how and when the employee works to achieve what they need to do. For example, an advantage of agile working can be that the employee chooses the hours worked across the day, if this fits in with the needs of the service. Without the need to travel into the usual place of work, an earlier start can be made, or the employee might choose to work later into the evening. With a focus on outputs, the person should be able to plan their work in the most effective way.

The Council recognises that this is a change for many who will be more used to staff being in the office regularly or on a daily basis and recording time in the traditional way. The basic principles of management still apply but managers will need to ensure that there are additional protocols in place, some of which are covered below:

Managing agile working will not only require creative thinking, but also a good level of communication, organisation, trust and working together in order to ensure that the arrangements put in place do not have an impact upon the quality of work or the targets that the service is required to meet.

Having an adaptable style of management will ensure managers can take advantage of opportunities to improve the services offered and support employees with different work styles and methods. Managers cannot expect to gain from the flexibility of employees and then to manage in a strict and rigid way.

Managing employees who work in this way should not be radically different from managing them in their specified place of work. However, it is important not to have an 'out of sight, out of mind' approach, whereby just because employees are not physically present, they get overlooked.

The recording of time will be the decision of the employee if they choose to do so, however this is not a requirement within the principles of this policy. Managers may periodically request that an employee or team record their time for work related purposes.

It is therefore important for managers to establish some ground rules with teams and employees when they move towards agile working.

Maintaining Communications

Regular one to ones/Personal Reviews

It is important to continue regular one to ones with employees to discuss their progress on the agreed objectives and keeping them informed on developments within the department and organisation. The principles of the Performance Review policy should be adhered to and in accordance with the Council's Personal Review process, clear objectives/ targets/ deadlines and performance standards should be agreed with all employees including those who are agile workers. Ensuring that agile workers are included in personal development opportunities such as career progression and promotion is vital.

Agree 'check-in' procedures

Managers may wish to agree in advance the frequency and method for checking in which can be by telephone, by email, arranging a face to face meeting or a catch up via Microsoft Teams. Managers should also make themselves available to employees and respond to any questions they may have in a timely manner.

Employee's Welfare

Just because employees are not physically present, it does not mean that they are no longer part of the team. It is essential to include them in any messages and to invite them to meetings or events. Keeping in touch with employees who are agile workers is important so that they feel informed and included.

The employer has a duty of care to the employee. It is therefore important to watch out for signs that they may be switching off, becoming de-motivated or feeling isolated.

Monitoring and Review

All working informal and formal arrangements should be subject to and be monitored on a regular basis, through management one to one meetings and Personal Reviews.

Regularly reviewing working arrangements is important, to ensure that they still meet the needs of the business, as these may vary from time to time, and also those of the individual. Where working arrangements are found to no longer meet service requirements, it may become necessary for the manager to consult and negotiate changes with the employee(s) concerned.

Performance Management:

If problems with performance arise, it is important to provide specific feedback on the areas of concerns and provide the employee with an opportunity to discuss any issues they have and to agree a way forward. Ideally, feedback should be given during a face-to-face meeting but if this is not possible, this may be done by Teams or over the telephone at a suitable time, with the agreement of the employee.

Depending on what the concerns are, the situation may need to be dealt with in line another policy such as the [Performance](#) Management or [Disciplinary](#) policy. Managers may wish to seek further advice from Human Resources in this situation.

New Starter and Employees on Long Term Absence

New Starters

Managers should ensure that the Council's stance on agile working is shared with applicants and new starters; this should be embedded within the interview process and at the point of induction.

Employees on Long Term Absence, i.e. Maternity Leave and Sick Leave

Managers should ensure that any employees on long term absence are informed and kept updated of any arrangements / changes that the department or team have put into place as a result of implementing agile working.

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Medical Appointments

It is expected that employees will take reasonable steps to ensure that absences for medical appointments of any kind are kept to a minimum, and that every effort is made to minimise service disruption. Employees may be asked to provide supporting evidence of their appointments.

Routine Appointments

Wherever possible, arrangements to attend appointments in connection with routine or minor medical matters should take place in the employee's own time. This includes, but is not limited to GP, dentist or opticians' appointments. Where appointments cannot be made outside the employee's normal working pattern, the Planned Leave provisions of the Leave Arrangements Policy will apply.

Specialist Appointments

Where an employee is required to attend a specialist medical appointment which cannot be made outside their normal working pattern, the employee will receive a reasonable amount of paid time off to attend the appointment. Managers and employees will agree the arrangements in advance, and this may incorporate elements of the Planned Leave provisions of the Leave Arrangements Policy, as appropriate. Where paid leave is granted, this should be submitted via iTrent.

Specialist medical appointments may take place at a hospital or other medical establishment or facility (e.g. GP Practice) as required, and may include:

- • Provision of treatment or therapy;
- • Surgical procedures;
- • X-rays or scans;
- • Medical tests;
- • Other investigative procedures.

Further information is available within the Leave Arrangements Policy.

Other Considerations of Agile Working

Confidentiality

The agile worker must carry out work for the council in a suitable location during working hours and must not allow members of their family or third parties who are not employed by the council to access or use the council's equipment or data. Additionally, confidentiality should be maintained where work related conversations are taking place.

Employees who work from home in an agile way are responsible for keeping all documents and information associated with the council's business secure at all times. Specifically, agile workers are under a duty to:

- Keep all confidential documentation and data belonging to the council securely.
- Set up and use unique passwords for the computer and any other digital device in accordance with the council's ICT policies.

Reasonable Adjustments

The legal definition of a disabled person under the Equalities Act, 2010 is "someone who has a substantial and long term physical or mental impairment that has a substantial and long-term effect on his or her ability to carry out normal day to day activities"

Managers should be mindful about employees having a registered disability under the Equalities Act, 2010 for which reasonable adjustments have been put into place/ or need to put into place in order for the employee to be able to carry out their duties without them being disadvantaged. This is particularly important when allocating fixed desks.

In most circumstances, managers will already be aware of employee's disability and any adjustments that have been put into place where relevant.

Where managers are not already aware of an existing disability that has been declared by an employee then depending on the circumstances, in some cases it may be necessary to refer the employee to Occupational Health and/ or carry out an appropriate Health & Safety risk assessment.

Managers may also wish to discuss the situation with Human Resources for further advice.

Health and Safety

The employee and the Council are subject to the provisions of the Health and Safety at Work Act (1974), regardless of where the work is carried out. The Council must, as far as is reasonably practical, ensure the employee's health, safety and welfare at work.

If a work-related accident occurs whilst the employee is working remotely or from home, this must be reported in accordance with the usual procedures.

Personal Security

All meetings with work colleagues, managers or customers should take place via Microsoft Teams or where necessary at an office/ external work location; such meetings should not take place at an employee's home.

Employees working remotely and from home should adhere to the [Lone Working Arrangement](#) on the intranet and should ensure that colleagues know where and when to expect them at a particular location.

Insurance

Council Owned Equipment

Items of equipment belonging to the Council are not covered by the Council's insurance whilst they are in the employee's home and when in transit, with the exception of portable computer equipment. Portable computer equipment (laptops, palmtops, notebooks and tablet computers, removable satellite-navigation systems, digital cameras and smartphones and associated software and programs) is covered whilst in employees' homes and whilst in transit.

Employees must take all reasonable care of Council owned equipment taken away from Council premises. Employees may wish to contact their home insurance company regarding the nature and extent of the use of their home for work purposes, as home working may have an impact upon an employee's home insurance policy.

Employees working from home are covered by the Council's Employer Liability Scheme. However, employees do have a duty to take reasonable care within their own working environment.

Personal Equipment

Any personal equipment used by the employee for work purposes shall not be covered by the Council's insurance.

Travel Costs

Employees should consider the most efficient means of travel in terms of time and the cost amount of mileage incurred, therefore planning journeys accordingly in advance is essential.

*Ordinary commuting is usually travel between an employees' home and their normal permanent place of work, and/or the return journey for which mileage is not claimable.

Any claims to and from a temporary workplace must be reduced by the length of the *ordinary commute journey for the first and last journey, regardless of how many temporary workplaces are visited.

The total mileage can be claimed for journeys relating to approved training courses, that are in excess of the ordinary commute journey.

The designated council location as set out in the contract of employment, is considered an employee's permanent work base.

Further information on mileage claims is available within the Travel, Subsistence and Other Allowances Policy.

Equipment and Technology

The Council is responsible for the equipment and technology that it provides to employees to enable them to work in an agile way.

Discussions relating to equipment and IT requirements should be had between the employee and line manager. If the result of a DSE assessment is that some different furniture is required, it will be possible to arrange for furniture from the office to be used at home. All IT equipment should be sourced from the ICS service.

Additional Costs

Additional costs such as energy costs, broadband, furniture, additional parking will be met by the employee and not paid by the Council. In many cases costs are offset by the reduction in travelling time, cost and mileage normally incurred as a result of commuting to the workplace.

If the result of a DSE assessment is that some different furniture is required, it will be possible to arrange for furniture from the office to be used at home.

Managers' Charter

**Keeping in touch with your team
has never been more important**

To promote motivated, effective and productive teams, we want our managers to:

- Have regular (weekly) all-team meetings
- Hold 1:1s weekly - even if they are just a 15-minute chat
- Use Microsoft Teams to create a space where the team can share and communicate openly
- Encourage your team to support each other by keeping in touch
- Keep in regular contact with other teams and managers
- Ask staff what's working well and not so well - in and out of work
- Make sure your team communication works for everyone
- Be empathetic, human, visible and available
- Provide stability and direction
- Lead by and demonstrate the council's values of **Pride in Charnwood, Customer Focused and Working Together**

**Leave Arrangements
(Annual, Public Holidays and Other Leave Entitlements) Policy**

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Scope

This policy applies to all employees of Charnwood Borough Council employed under the following conditions of service:

- Joint Negotiating Committee for Local Government Services (JNC);
- National Joint Council for Local Government Services (NJC);
- Joint Negotiating Committee for Local Authority Craft and Associated Employees (Craft).

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Principles

- The Council is committed to ensuring the health and wellbeing of its employees and, in addition to promoting health and wellbeing initiatives, will ensure that employees use their leave entitlement to take regular breaks from work.
- The arrangements described below apply to employees who are contracted to work on any of the 7 days of the week, including those required to work on a public/extra statutory or concessionary day.
- Paid leave can only be granted subject to service demands.

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Roles and Responsibilities

<p>Line managers</p>	<ul style="list-style-type: none"> • To ensure that all requests for leave are appropriately considered and dealt with fairly and managed accordingly. • To notify payroll when unpaid leave is taken to ensure that the appropriate amount is deducted from the employee’s salary.
<p>Employees</p>	<ul style="list-style-type: none"> • To make leave requests as soon as possible in advance to their line manager. • Liaising with their line manager about the requirement either to make up time lost or take annual or unpaid leave (i.e. severe weather). • To record leave requested and taken. Employees with access to Trent self service are required to use Trent to submit leave requests for agreement. Employees without access to Trent self service will have a designated annual

	leave administrator to input annual leave on to the Trent self service system.
HR Services	<ul style="list-style-type: none"> To advise and support managers in the application of the Policy and Procedure.
Payroll Services	<ul style="list-style-type: none"> To advise and support managers on any relevant payroll issues.

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Employees with more than one contract

Where an employee has more than one part-time contract of employment, each contract stands alone and the employee will receive separate annual leave entitlement and public holiday entitlements under each contract.

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Annual Leave Entitlement - Full and Part Time Permanent and Fixed Term Contract Employees

The annual leave year for all NJC and JNC employees runs from 1st June to 31st May inclusive. Some groups of employees, including Craft and Associated Employees have different leave years outlined within their contracts which either fall from 1st April to 31st March or 1st January to 31st December.

If an employee commences employment part way through a leave year, pro-rata entitlement will be calculated on each day of completed service based on a full years' annual entitlement rounded down to the nearest half hour for part time employees.

For full time employees (those who work 37 hours per week) annual leave is calculated in days.

For part time employees and employees whose contracted hours are more than 37 hours per week annual leave entitlement is calculated in hours.

The number of days' annual leave entitlement is as follows:

Grade	Below 5 years' service	*Above 5 years' service
Grades 1 to PO4 (including Skills Group 1 – 4)	22	27
JNC	27	32

*Employees completing 5 years' service will receive their additional pro rata entitlement in the leave year in which they attain the requisite service.

Part-time employees are entitled to annual leave pro rata to hours worked.

Protected Annual Leave

Some employees who worked for Charnwood Borough Council prior to January 2000 have their annual leave entitlement protected at 28 days for NJC employees and 33 days for JNC employees as those employees will have over 5 years service. Part time employees who fall into this category will receive a pro rata entitlement based on the protected entitlement.

Employees on older contracts will continue to receive annual leave and public, extra statutory, and locally agreed days in accordance with their contracts, where entitlements specified are different to the current procedure.

Annualised Hours (including term-time working) only

For employees on annualised hours (including term-time) contracts, their holiday entitlement (public holidays and annual leave), is based on the contractual holiday entitlement for Council full time employees and is accrued throughout the contractual year. Further guidance is available on the intranet by following this link [click here](#).

The pattern of an employee's working and non-working periods will be agreed with the employee and then confirmed in writing by their line manager.

Annual leave for full and part time employees who wish to work annualised hours will be divided into hours, including annual leave and bank holiday entitlement, as detailed in the authority's leave policy. Actual working hours will be deducted on each working day for leave.

An employee may, from time to time, be required to work on any public holiday. If they are required to work on a public holiday, the employee will be reimbursed in accordance with the relevant conditions of service.

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Part Time Employees Annual Leave and Public Holidays

For part time employees the annual leave and bank holiday entitlements are added together to give a total leave entitlement (in hours) for the year. When employees take annual leave they must deduct from their entitlement the hours they would normally work on the day or days they are absent from work due to annual leave. If a public holiday, extra statutory or locally agreed day falls on a day when they should be at work then they must also deduct from their entitlement the hours they would have worked on that day.

Part time employees who work the same number of hours each day can convert their leave entitlement to days by dividing their number of hours leave entitlement by the number of hours per day that they work.

Employees whose contractual hours of work are at the beginning of the week may find that they have to utilise annual leave to cover time taken for bank holidays. In such cases employees may wish to negotiate with their manager to recover this time by working on a day they would not normally work. Both parties must mutually agree this agreement.

For example an employee who normally works on a Monday, Tuesday and Wednesday may agree to work on a Tuesday, Wednesday and Thursday where the Monday is a Bank Holiday, they would therefore not need to deduct any time from their leave entitlement.

Part time employees who receive their annual leave entitlement in hours may take any odd hours they have left after taking their annual leave in full or half days as they wish. To make any surplus hours left after taking full or half days, part time employees can add ~~hours banked as flexi~~any accrued additional hours to the remaining annual leave hours.

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Annual Leave Entitlement - Casual Workers

Casual workers are entitled to statutory annual leave (28 days a year). Due to the nature of the work it is difficult for casual workers to take their leave so therefore casual workers automatically receive payment for this, by Trent enhancing the hours worked by 12.07%.

Casual workers' payslips identify the payment made for the hours worked and a separate amount showing holiday pay entitlement for those hours.

However, employment law gives casual workers the right to take leave during any period they have agreed to work. It is recognised that this usually isn't practical, but as this is a requirement of the law it is necessary to include this as an option in the contract for services. In reality it is anticipated that casual workers will only request to take leave on very rare occasions. On the rare occasion that a casual worker will request to take their leave, they may decline to work on a particular day or request not to work on a particular day and managers just need to ensure that the casual worker does not receive pay for the hours that they do not work.

During a period of an assignment, in agreement with their Manager, a casual worker will be entitled to take the annual leave accrued during that assignment. When a request is agreed for annual leave to be taken during an assignment, managers must ensure that the following is recorded on the employee's time sheet 'Leave taken – no hours worked'. Similarly when a casual worker is assigned to work during

a period when a public holiday or the concessionary day falls and they are not required to work managers must ensure that no hours are recorded on that day(s).

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Taking of Annual Leave

Annual leave may be taken by mutual agreement between the manager and the employee, other than in those services where employees are required to take holidays at particular times. Annual leave must be taken in periods of not less than half a day.

All requests for annual leave must be approved in advance.

Employees must not present their manager with a 'fait accompli' by booking a holiday and then requesting leave as this may lead to disappointment if the leave cannot be granted.

Other team members may also wish to take leave at the same time or may already have approved leave arrangements. Managers must ensure fairness and be able to maintain adequate staffing cover (and appropriate skills) so it may not always be possible for managers to grant leave requests in line with an employees request.

It is appreciated that it may not always be possible to give advance notice in the case of short term, unexpected events, and managers need to be sensitive to individual circumstances. For further information, go to the Unplanned Leave section in this policy by [Unplanned Leave](#).

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Public Holidays

In addition to the 8 bank holidays, 2 extra statutory and 2 locally agreed days are granted each year, to be taken as follows:

Christmas and New Year	
Christmas Day	25 December (Public Holiday)
Boxing Day	26 December (Public Holiday)
New Year's Day	1 January (Public Holiday)
One Extra Statutory and Two Locally Agreed Days to allow for closure of office between Christmas and New Year	Variable dates
Easter	

Good Friday	Variable date (Public Holiday)
Easter Monday	Variable date (Public Holiday)
<i>NB Easter Sunday is not a public holiday; it is classed as a normal working day</i>	
Other	
May Day	First Monday in May (Public Holiday)
Spring Bank Holiday	Last Monday in May (Public Holiday)
Summer Bank Holiday	Last Monday in August and Tuesday (Extra Statutory Day) after August Bank Holiday Monday
TOTAL NUMBER OF PUBLIC, EXTRA STATUTORY AND LOCALLY AGREED DAYS = 12	

The locally agreed days are to enable a week's closedown over the Christmas and New Year period. Employees required to work on these days will be paid at the appropriate rate and granted time off in lieu in full recompense.

The date of the Christmas extra statutory and two locally agreed days may vary each year according to how the Christmas dates fall. The date of the concessionary day is determined each year by the Chief Executive.

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Employees who are rostered to work on a Public Holiday

Employees required to work on a rota basis will be given an entitlement to annual leave and bank holiday allowance in hours.

If an employee is rostered to work on a public holiday, they will be paid in accordance with the relevant conditions of service.

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Day off Coinciding with a Public Holiday

Where seven-day working operates, during which the employee will work on a rota a public holiday may coincide with an employee's scheduled day off. In order to compensate for the public holiday the entitlement will have been given to the employee along with the annual leave entitlement.

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Pay arrangements for employees who are called into work on a Public Holiday

Pay arrangements for employees who are called into work on a public holiday are set out in the Pay Arrangements policy.

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Requesting Leave

Leave must not be taken without prior approval. Any alterations to leave arrangements must also be approved by the employee's line manager.

Employees who have access to Trent self service should use this for requesting and booking annual leave.

Employees without access to Trent will have a designated annual leave administrator to input leave on to the Trent self service system.

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Annual Leave Calculator (excluding casual workers and employees on annualised hour's contracts (including term time only))

Annual leave for employees commencing or leaving part way through the leave year should be apportioned.

Leave should not be granted in excess of an employee's entitlement, where it is known that the employee is leaving.

The [annual leave calculator](#) works out annual leave for part time staff for the full year, part time staff for part of the year, part time staff with a change of hours, full time staff for the full year and full time staff for part of the year.

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Carry Over of Annual Leave

Employees may carry forward up to a maximum of 5 working days* of their contracted weekly working hours from one leave year to the next.

In exceptional circumstances, the Head of Service may at their discretion approve a further 5 working days* paid leave to be carried over. *(Pro-rata for part time employees).

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Request to bring forward annual leave from the next leave year

A request may be made by an employee to use some of their leave entitlement from the next year's annual leave entitlement as they have insufficient leave remaining in the current leave year to accommodate a commitment they wish to fulfil e.g. extended holiday. Where a request is granted managers should ensure the

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Version: 2017 v 1

Date Agreed: 05.11.13

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Agreed At: Personnel Committee

employee will have an entitlement remaining in the following leave year that allows at least the entitlement to statutory leave.

There is no general entitlement to bring forward annual leave from the next leave year into the current leave year and other options should be explored in the first instance such as unpaid leave. Following advice from HR, managers and the Head of Service, may approve individual requests in exceptional circumstances.

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Untaken Leave - At the End of the Leave Year

There is no entitlement to be paid for any annual leave that remains untaken at the end of the leave year. Where such leave cannot be carried forward, as per previous section, an employee will lose the entitlement to that leave.

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Untaken Leave - Notice of Termination of Employment

Where notice is worked

The line manager will notify the employee of the proportionate amount of leave to which they are entitled up to the date of leaving. This amount will include any leave remaining from the previous leave year if applicable (up to 5 days) and any leave accrued up to the last day of employment, but not taken for the leave year in which the termination of employment takes place.

Employees are required to take any outstanding annual leave before leaving. If it is not possible to take the outstanding leave before leaving for operational reasons, or if the case is deemed one of special hardship by the Strategic Director, payment will be made for the amount of leave remaining.

Where Notice is Not Worked - Ill Health Retirement and Other Terminations of Employment

The line manager must inform HR Services of any annual leave adjustments via the [leavers' checklist e-form](#).

The amount of contractual leave accrued but not taken for the leave year in which employment terminates will be calculated and paid in lieu. This will include any annual leave which has been carried forward from a previous leave year.

Leave Taken in Excess of Entitlement

Employees who are leaving the service of the Council and have taken leave in excess of their entitlement will have the appropriate amount deducted from their final salary payment.

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Accrual of Annual Leave during a Period of Unpaid Leave

In accordance with the Working Time Regulations employees' should accrue 28 days annual leave (pro rata for part time employees) per leave year. Paid public holidays can be included as part of this statutory leave entitlement. The contractual leave entitlement given to an employee is in excess of the statutory leave entitlement.

An employee would not ordinarily accrue annual leave during a period of unpaid leave. However, where an employee will be having an extended period of unpaid leave, the manager will need to ensure the employee receives the minimum statutory leave entitlement for that leave year. Managers will need to take into account any leave already taken during the leave year as this will count towards the statutory leave entitlement. Where the employee is unable to take the minimum statutory leave entitlement, managers can arrange payment in lieu.

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Planned Leave (pre-arranged appointments)

With the exception of ante-natal and disability related appointments, employees should make every effort to book medical appointments and other absences for personal/domestic matters outside of their normal working arrangements.

There are separate provisions in the [Maternity Leave and Pay Policy and Procedure](#) and [Special Leave for Disability-Related Absence](#) documents.

However, it is recognised that this is not always practicable and employees may need time off from work to accommodate this. ~~It is expected that many of these can be accommodated by utilising the flexibility available under the Flexible Working Time (NJC) and Flexible Working Hours (Flexitime) (JNC) Policy where applicable. If this cannot be possible then the~~ The employee should discuss this with their manager at the earliest opportunity so that agreement can be made on the best arrangements to be put in place to ensure service provision is not affected. ~~This could include utilising already accrued TOIL or swapping working days with a colleague.~~

Should it not be possible to find an alternative arrangement that enables the employee to be absent then the absence may be taken as annual leave. If the employee has insufficient leave remaining, or prefers, the absence should be treated as unpaid leave.

Leave for Carers

Employees who need to attend a medical appointment of a person they are providing care support for, should request appropriate leave arrangements with their manager.

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This can include using; ~~TOIL~~, making up the hours at another time, swapping a working day with a colleague, taking ~~flexi time~~, annual leave or unpaid leave.

Unpaid Leave for Carers

Employees can request unpaid leave to undertake a caring responsibility for a period of up to one month. Any request for leave in excess of one month should be requested in line with the Career Breaks policy.

The cost of unpaid leave will be calculated as follows:

Hours taken as unpaid leave X hourly rate of pay

Example

A full time employee on Scale 6 - pay point 26 (£22221 per annum)

$£22221/52/5 = £85.46p$ for the day's leave

Please Note that the employees' pension contribution will be deducted from the normal monthly salary.

Medical Appointments

It is expected that employees will take reasonable steps to ensure that absences for medical appointments of any kind are kept to a minimum, and that every effort is made to minimise service disruption. Employees may be asked to provide supporting evidence of their appointments.

Routine Appointments

Wherever possible, arrangements to attend appointments in connection with routine or minor medical matters should take place in the employee's own time. This includes, but is not limited to GP, dentist or opticians' appointments. Where appointments cannot be made outside the employee's normal working pattern, the Planned Leave provisions of the Leave Arrangements Policy will apply.

Specialist Appointments

Where an employee is required to attend a specialist medical appointment which cannot be made outside their normal working pattern, the employee will receive a reasonable amount of paid time off to attend the appointment. Managers and employees will agree the arrangements in advance, and this may incorporate elements of the Planned Leave provisions of the Leave Arrangements Policy, as appropriate. Where paid leave is granted, this should be submitted via iTrent.

Specialist medical appointments may take place at a hospital or other medical establishment or facility (e.g. GP Practice) as required, and may include:

- Provision of treatment or therapy;
- Surgical procedures;
- X-rays or scans;
- Medical tests;
- Other investigative procedures.

Medical Appointments

~~Where it is necessary to take time off to visit the doctor, dentist, hospital etc. employees should endeavour to make appointments outside core time. Core time is 9:30 – 11:15 (JNC)/11:45(NJC) and 14:15 – 16:00 (15:30 on a Friday). Where this is not possible, employees should credit the hours absent during core time. Any absence during flexitime should not be credited. It may be necessary to record more than one starting and finishing time on such occasions.~~

~~The cost of unpaid leave will be calculated as follows:~~

~~**Hours taken as unpaid leave X hourly rate of pay**~~

Example

~~A full time employee on Scale 6 – pay point 26 (£22221 per annum)~~

~~£22221/52/5 = £85.46p for the day's leave~~

~~**Please Note** that the employees' pension contribution will be deducted from the normal monthly salary.~~

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Unplanned/Compassionate Leave

Most employees are likely to experience an event or events when their immediate attention is required. The employee should discuss this with their manager at the earliest opportunity so that agreement can be made on the best arrangements to be put in place to ensure service provision is not affected. In these circumstances managers should, as far as reasonably practicable, enable an employee to make up the time taken away from work, by using any existing TOIL or flexi time that they may have, or by them making up the time taken within a set period of time. Where it is not practicable to accommodate all or part of the time taken in this way, the time lost must be taken as annual or unpaid leave. The exception to this is in relation to leave required to deal with bereavement leave and the emergency hospitalisation, emergency situation or the breakdown in care arrangements of a dependant.

Bereavement Leave, Emergency Hospitalisation, Emergency Situation or the Breakdown in Care of a Dependent

A maximum of 10 days' paid leave (pro-rata for part-time) may be granted in any 12 month rolling period for the purpose of dealing with bereavement and the emergency hospitalisation, emergency situation or the breakdown in care arrangements of a dependant. The provisions for each of these specific circumstances are set out below however when combined should not exceed a maximum of 10 days' paid leave (pro-rata for part-time) in any 12 month rolling period. This period commences on the first day when compassionate leave is granted. Ordinarily where an employee has already been granted the maximum number of days available managers should seek to accommodate requests using the provisions of the Planned Leave Section ([see above](#)). In exceptional circumstances a manager may agree a period in excess of 10 days' paid leave (pro-rata) in any 12 month rolling period.

Bereavement Leave

A maximum of 5 days' paid leave may be granted in the event of the death of a family member or close friend. The definition of a family member or close friend ([see below](#)) is not exhaustive as it is recognised that the nature of relationships is complex. Therefore, when determining the number of days to authorise, managers will need to consider the individual circumstances facing the employee including:

- Taking account of the circumstances surrounding the bereavement;
- Being sensitive to cultural and religious observances which may affect the obligations placed upon the employee within the family unit. The Religious Observance section within this policy gives further guidance ([click here](#));
- Taking account of whether the employee has responsibility for making arrangements for the funeral;
- Whether the employee has a practical role to play afterwards (e.g. executor to the estate).

In exceptional and unusual circumstances (e.g. if the child of an employee passes away) it may be appropriate to grant up to a further 5 days paid leave.

Definition of a family member or close friend

For the purpose of Bereavement Leave, a family member or close friend is defined as:

- Own child/step child;
- Partner (including same-sex partner);
- Parents/step parents;
- Siblings/siblings of partner;
- Grandparents or In-laws;
- Next-of-kin or nominated next-of-kin;
- Other family members living long term in the employee's household (not temporary visitors or lodgers, etc);

- Other dependents where an employee has provided care;
- Where an employee has a close personal relationship which may include having responsibility for making any necessary arrangements.

Managers must consider each case on its own basis. Approval for paid time off for bereavement under this scheme is subject to the closeness of the relative/dependent that has passed away. It is therefore necessary for the employee to indicate their relationship with the deceased, if they were the sole carer, the date of the death and the location of the funeral to ensure that the Manager is able to authorise leave as appropriate.

Sickness following bereavement

Where the employee is not well enough to attend work following the bereavement, or other difficult situation that has occurred, due to the effects of stress, anxiety, and reactive depression etc. normal sickness reporting and certification procedures will apply.

Emergency Hospitalisation, Emergency Situation or the Breakdown in Care of a Dependent In the event of the emergency hospitalisation of a dependent where an employee is required to provide care, or in circumstances where care arrangements for a dependent break down or an emergency situation occurs, up to 2 days' paid leave in any one (rolling) year may be granted to enable the employee to make alternative arrangements and manage immediate domestic affairs. It may be applicable in some circumstances (e.g. a life threatening condition) to allow up to a further five days' leave with pay. Ordinarily additional time off will be subject of the provision of the planned leave section above.

The Council interprets the term emergency to mean an unexpected and serious situation requiring immediate attention, affecting him/herself or a close relative or dependant. The time required to address the emergency will be for a finite period. Once the need for immediate action has been addressed, the emergency will be considered to be over.

Managers must consider each case on its own basis. Compassionate leave does not cover minor or common health problems within the family, for instance childhood ailments or planned surgery. In such cases flexi-leave, appropriate arrangements should be discussed and agreed with the manager which may include making up the within a set timescale, using annual leave or unpaid leave ~~should be requested~~ until such time as arrangement for care can be made. Leave granted under these arrangements is not intended for long term family or domestic needs where other arrangements must be made by the employee. For example, a relative's routine medical appointment or arrangements related to domestic issues.

Requesting Compassionate Leave

To request compassionate leave employees' must apply to their line manager and complete the Application for Compassionate Leave e-form, which will then need to

be authorised by their manager. It is accepted that for emergencies and unforeseen circumstances the form can be completed after the leave has been taken, provided that prior agreement to the leave has been received from the manager. In addition to completing the e-form, employees must also request the leave through i-Trent employee self service.

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Severe Weather Conditions

The Council recognises that adverse weather conditions will, from time to time, make travel to and from work difficult. However, employees are expected to make all reasonable efforts to reach their workplace to help fulfil the stated objectives. If it is not possible to reach the workplace, requests for working from home will be considered by the manager.

In circumstances where an employee ~~on a permanent or fixed term contract~~ fails to attend work, or where the employee arrives late and the manager is not satisfied that the arrival time is reasonable, the time lost will be made up ~~by using any existing TOIL that they may have, or~~ by the ~~employee~~ making up the time taken within a set period of time. Where it is not practicable to accommodate all or part of the time taken in this way, the time lost must be taken as ~~flexi time~~, annual or unpaid leave. Casual employees who fail to attend work will not be paid for the day(s) in question.

Where employees arrive late and the Manager is satisfied that their arrival time is reasonable the employee will not lose pay and will be credited with their normal contracted hours for that day. The Manager must take account of the following factors when reaching their decision:

- The distance they live from their workplace, and
- The prevailing weather conditions.

Casual employees will be paid for the actual hours of attendance at work.

If weather conditions are particularly severe and employees request to leave work early, the Manager may allow those who are not required to provide essential cover to do so taking account of:

- The distance the employee(s) lives from their workplace; and
- The prevailing weather conditions.

Employees will generally continue working until their normal finishing time.

Permanent and temporary employees granted permission to leave early under managerial discretion will not lose pay and will be credited with their normal contracted hours for that day.

Where the Council is unable to provide employment at the employee's normal workplace, e.g. due to heating breakdown, full closure of an establishment etc, and/or a suitable alternative work location cannot be provided, including working at home, the employee will receive normal pay for any time lost up to a maximum of the employee's normal contracted hours for that day.

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Fertility Treatment

There is no statutory entitlement to time off for IVF treatment. However, the Council recognises the potential emotional pressure employees may experience during the process. By way of alleviating some of the associated anxiety the Council has agreed that time off to attend appointments and treatment will be subject to the planned leave provisions of this policy [click here](#). Time off due to any side effects of the treatment will be dealt with under the Attendance Management policy. Sickness absence associated with the treatment will not be classed as pregnancy related absence.

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Religious Observance

The Council recognises the diversity of its workforce. Any requests for time off for the purpose of religious observance including religious festivals should be granted unless there are exceptional circumstances which make it impossible for the employee to be released.

Employees may wish to offer prayers whilst at work in accordance with their religious customs. Where religious observance needs to take place during working hour's line management approval must be sought in advance and the time must be made up by the employee.

~~Leave requests may be:~~

- ~~• either accommodated through the provisions of the Flexible Working Hours (NJC) or Flexible Working Time (JNC) Policy or;~~
- ~~• met from the employee's annual leave; or,~~
- ~~• unpaid leave.~~

Further guidance on [Religion and Religious Beliefs](#) is available.

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Blood and Platelet Donors

Paid time off will normally be granted to employees who wish to donate blood or platelets. Employees donating blood are expected to visit the mobile transfusion unit when it is in their work locality. It is recognised that donation of platelets can only be

done at a hospital and where it is not possible to arrange the appointment outside of working hours, reasonable time off may be allowed, with the agreement of the manager, to attend the appointment subject to service needs.

Examination Leave

For post entry training where financial assistance and paid release has been granted by the council, in accordance with the [scheme for financial support assistance policy](#), examination leave will be granted as paid leave (first attempt only). Sufficient notice of examinations must be given. Leave may also be granted for revision on the basis of ½ day per examination (final examinations only). Other revision time should be taken using annual leave ~~or flexitime.~~ or making up the hours within a set timescale, as agreed with the manager When a course of study and/or examinations have been completed a copy of the results achieved should be sent to the Learning and Development Division.

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Job Interviews

For employees who are eligible for [redeployment](#), the provisions for time off are explained in the Council's [Organisational Change Policy](#).

Managers will grant paid leave to employees attending interviews for posts with other local authorities and public sector organisations only.

No paid leave for interviews at other employers will be allowed. Time off for an employee attending an interview, other than in the above circumstances, will be subject to the planned leave provisions of this policy [click here](#).

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Lectures etc

Employees who are invited to give lectures, presentations and radio talks etc as part of their normal duties may do so within their contractual hours, subject to prior line management approval.

Employees must ensure that any fees received from the organising body are paid directly to the Council.

Employees who participate in such activities outside their normal working hours will not be compensated by the Council for the time spent or any travel or subsistence attached to the event.

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Professional Bodies – Attendance at Meetings

Office Holders

Employees who serve on a committee or council of a professional body may be granted paid leave to attend such meetings in working hours, where operational needs permit at the discretion of the manager. Managers may approve travel and subsistence expenses where these are not met by the professional body concerned.

General

Where employees are not serving members of committees or councils of professional bodies, but it is considered of some benefit to the Council to attend meetings, managers may approve paid time to attend in addition to travel and subsistence, where appropriate.

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Public Service Leave

Subject to operational needs up to 15 days' leave with pay per year may be granted to employees who are members or officials of the public bodies listed below or to attend meetings concerned with National or Provincial Council affairs:

- local authority
- statutory tribunal (e.g. employment tribunal)
- police authority
- service authority for the National Criminal Intelligence Service
- service authority for the National Crime Squad
- board of prison visitors or prison visiting committee
- probation boards
- members of court boards
- relevant health authority
- relevant education body (i.e. school/college governors)
- Environment Agency
- Youth Offending Panels
- Justices of the Peace
- School/College Governors.

Where applicable, employees should claim the financial loss allowance directly and this will be deducted from full pay. An employee must provide evidence to their manager and payroll.

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Jury Service and Court Attendance as a Witness

Paid leave will be granted to employees undertaking jury service or required to attend Court, or a Tribunal, as a witness on behalf of the Crown, Police or Defence, or for either side in a civil case. Employees must claim the attendance allowance for loss of earnings paid by the Court. The amount received for such allowance will be

deducted from the employee's pay. The employee must provide confirmation of the amount received to their manager and payroll.

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Voluntary Service

Employees who provide voluntary services to relevant charities or voluntary sector bodies are supported in their participation as part of our social responsibility for the work of these bodies within communities. Individual requests will be considered taking account of service needs and the nature of the work, the time commitment being sought and the availability of staffing cover. Employees will be required to make up the time taken, take annual or unpaid leave.

Cadet Corps (Army, Air Force and Sea Cadets)

Cadet level

Membership of the army, air force or sea cadets is purely voluntary and activities normally take place in the evenings and at weekends, i.e. in the employee's own time.

However, employees may be granted up to 5 days' paid leave from their Council employment to attend an annual training camp.

The maximum age limit for cadets is normally 18. They have an opportunity to participate in activities such as the Duke of Edinburgh Award Scheme or undertake a BTEC qualification and other activities designed to release and enhance their physical, intellectual and social potential. They often gain skills therefore that assist them in their day to day work activities.

Adult Instructors

Once the maximum age limit for cadet level has been reached some may decide to continue as adult instructors.

Adult instructors are also voluntary roles which are undertaken in the employee's own time. They normally participate in activities for a minimum of one or two evenings per week and attend approximately four weekend training events per year.

Adult instructors receive payment for attendance at training courses and the annual training camp for which paid leave from their Council employment will not be granted. Requests from employees, who are adult instructors wishing to attend these activities should be considered as planned leave.

Other Types of Leave

For Family Leave (including Maternity, Adoption and Shared Parental Leave) - [click here](#).

For Parental Leave [click here](#).

For Reserve Forces Leave [click here](#)

Disciplinary Policy and Procedure

1 Scope

This policy applies to all employees of Charnwood Borough Council employed under the Conditions of Service for National Joint Council for Local Government Employees and the Joint Negotiating Committee (JNC) for Local Authority Craft and Associated Employees’. It is not applicable to employees within their probationary period or casual workers. Managers and employees should refer to the supporting [guidance](#) for further information on the application of the policy.

2 Purpose

The Council’s procedures and the Code of Conduct set the expected standards of conduct at work. Managers and employees should ensure that they read this policy in conjunction with the Code of Conduct.

The purpose of this policy is to ensure that all employees achieve and maintain satisfactory standards of conduct and behaviour. It also provides a fair and consistent method of dealing with alleged failures to observe these standards.

3 Roles and Responsibilities

HR Services	HR Services will provide advice, coaching and support to managers on the application of the Disciplinary Policy and Procedure. HR will also act as panel members at hearings and will express a view on whether the case is founded and make recommendations about the appropriate outcome.
Investigating Officer	When allegations of misconduct are made, an appropriate person, the “Investigating Officer”, will be appointed to investigate the concerns and decide whether there is sufficient evidence to take disciplinary action. Further information regarding the role of the Investigating Officer can be found in the supporting guidance .
Decision Maker	Will make decisions about the most appropriate actions to be taken based on the evidence available.
Chair of the Panel	The Chair of the panel will manage the hearing and notify the employee of the decision. They will also normally present the case if the employee exercises their right to appeal against that decision.
Panel Members	Will support the Chair of the panel and express a view on whether the case is founded and make recommendations about the appropriate outcome.

Management Representative	A management representative will present the management case at a hearing. This will usually be the Investigating Officer, however this may be a different representative.
Democratic Services	Democratic Services is responsible for arranging hearings involving individuals employed under the Conditions of Service of the Joint Negotiating Committee for Chief Officers of Local Authorities.
Trade Union Representative or Work Colleague	To support and advise, if appropriate, the employee. At a hearing this may include presenting the employee's case, summarising and conferring with the employee and responding to points on behalf of the employee. The Trade Union or work colleague cannot answer questions put directly to the employee.

4 Stage 1 Informal Discussion

In cases of misconduct (see [Appendix A](#)), the appropriate manager must make initial enquiries about the incident/concern. This will normally involve a discussion between the manager and the employee concerned to find out their version of events and to establish if there is an acceptable explanation. It is not usual practice for an employee to be accompanied at this stage. However, if the manager or employee feels that it would be appropriate, the employee may be accompanied by a work colleague or Trade Union representative. On the basis of this discussion, the manager may decide:

- No further action is necessary;
- To deal with the matter informally. The employee should be advised of the expected standards and any remedial action which is required;
- That further investigation is required and to refer the matter to a Formal Investigatory Meeting (possibly including [suspension](#) of the employee).

Notes should be taken at this meeting and a copy sent to the employee for agreement.

Where it is not appropriate to deal with an allegation informally or where further investigations are required, the employee should be advised that a Formal Investigatory Meeting will be arranged.

Where the incident/concern involves any of the following, managers are advised to refer to the [Disciplinary Guidance](#) for information on additional procedures that must be followed:

- Criminal offences;
- Allegations of financial irregularity;
- Disciplinary action against a Trade Union representative;
- Allegations of safeguarding;
- Use of electronic surveillance records.

5 Suspension

Suspension is not a disciplinary penalty and does not pre-determine in any way the outcome of an investigation. Suspension should only be imposed after careful consideration, which may include the possibility of transferring the employee or adjusting their work as an alternative to suspension. Employees may be suspended at any stage during the investigation process. Suspension should only be considered if there are concerns about the employee remaining in the workplace and once confirmed must be kept under regular review. The reason for the suspension (i.e. due to the seriousness of the concerns) should be made clear to the employee and confirmed in writing.

Advice should be sought from Human Resources before suspending an employee. If the manager believes that the allegation is so serious that it warrants a period of suspension, this should be approved by a Director.

6 Stage 2 Formal Investigatory Meeting

No formal disciplinary action will be taken until the matter has been fully investigated. This includes providing the employee with the opportunity to attend a Formal Investigatory Meeting. Before meeting with the employee the Investigating Officer should make enquiries regarding the concerns, which may include interviewing witnesses, and present evidence to the employee at the Formal Investigatory Meeting. The employee has the right to be accompanied at the meeting by a work colleague or Trade Union representative.

The letter inviting the employee to the meeting should outline the nature of the concerns (e.g. serious concerns regarding your conduct). Notes should be taken at this meeting and a copy sent to the employee for agreement.

At the meeting the Investigating Officer will:

- Make clear to the employee what concerns have been raised;
- Ask the employee to respond to the concern(s) against them;
- Warn the employee that the matter may result in a formal disciplinary hearing at which they will have the right to be accompanied by a work colleague or Trade Union representative;
- Interview/obtain signed statements from witnesses following the employee's evidence (if applicable).

The employee will:

- Respond to the allegations/questions;
- Produce evidence that supports their position;
- Provide the names of witnesses (if applicable).

The Investigating Officer will collect **all of the evidence**, including that which is favourable to the employee, and consider whether there is a case to answer. A report will be produced, for consideration by their manager (or the manager for the employee's service area if the Investigating Officer is external or works in a different department) as to what action should be taken. The potential outcomes are:

- No further action is necessary;

- Deal with the matter informally. The employee should be advised of the expected standards and any remedial action which is required;
- Refer the matter to a formal disciplinary hearing (possibly including [suspension](#) of the employee).

7 Stage 3 Formal Disciplinary Hearing

The Investigating Officer (or the employee's manager if the Investigating Officer is external or works in a different department) will be responsible for arranging a panel, chaired by a Senior Manager (PO grade or above) and accompanied by another Senior Manager and a representative from Strategic HR.

Ten working days written notice will be given to attend the formal hearing in which the employee will be informed of the reasons for the hearing and their right to be accompanied by a work colleague or Trade Union representative. If applicable, the letter must state that a potential outcome of the hearing is dismissal. Employees should also receive copies of any relevant documentation that will be used as evidence at the hearing and be given the opportunity to provide any evidence that supports their case. Notes should be taken at the hearing and a copy sent to the employee. Details of the format the hearing should take can be found in the supporting [guidance](#).

The following outcomes are available to the panel dependent on the seriousness of the offence:

- No case to answer / no further action is necessary;
- First written warning (which will remain on file for 6 months);
- Final written warning (which will remain on file for 12 months);
- Dismissal (with or without notice).

Employees should be dismissed with notice except in the case of gross misconduct. In the case of gross misconduct, the employee should be summarily dismissed with no notice.

The employee will be notified in writing of the outcome of the hearing. If the outcome is dismissal, the letter will include the reason for the dismissal and the date this is effective from. The letter must also include details of the employee's right of appeal.

Details of allegations (including warnings) that are connected to the safeguarding of children should be retained on an employee's personal file until the individual has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

In cases involving unacceptable behaviour (i.e. bullying and/or harassment), a mandatory meeting must be held at the end of the disciplinary process, except where the outcome has been dismissal, to re-establish working relationships between the relevant parties.

8 Right of Appeal

Right of Appeal

An employee has the right to appeal against all disciplinary sanctions. Any appeal must be submitted in writing by the employee within 7 working days of receiving notification of the hearing outcome.

Appeals should be submitted to the Chair of the panel and will be heard, in line with the [Appeal Policy and Procedure](#).

Appendix A - Examples of Misconduct and Gross Misconduct

Examples of Misconduct

The following list is not exhaustive but gives examples of offences which may amount to misconduct:

- Persistent bad timekeeping;
- Unauthorised absence from work without reasonable cause;
- Damage to Council property;
- Failure to follow Council procedures;
- Abusive or disruptive behaviour;
- Minor breaches of Health and Safety regulations;
- Misuse of Council facilities;
- Undertaking unauthorised employment;
- Improper behaviour or conduct towards colleagues or members of the public;
- Unreasonable refusal to follow a management instruction;
- Abuse of the E-Communications Policy.
- Abuse of Working Time (e.g. personal use of mobile phones, misuse of breaks, time recording etc....)
- Abuse of Agile Working

Serious examples of any of the above may amount to gross misconduct.

Examples of Gross Misconduct

The following list is not intended to be exhaustive and gives only an indication of the types of offences which could be considered as gross misconduct:

- Serious incapability as a result of being intoxicated by reason of alcohol, non-prescribed drugs, illegal drugs or prescribed drugs which may have an adverse effect on performance and safety;¹
- Deliberate falsification of reports, accounts, expense claims or self certification forms;
- Theft, removal or unauthorised possession or deliberately aiding another person to remove or failure to properly account for any property or facilities belonging to the Council or to another employee or customer;
- Unauthorised entry to computer records or deliberate falsification of records;
- Serious breach of the Council's E-Communications Policy;
- Repeated refusal to carry out duties or reasonable instructions or to comply with Council policies and procedures;
- Serious Abuse of Working Time (e.g. personal use of mobile phones, misuse of breaks, time recording etc....)

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

- Serious breaches of confidence, confidentiality or the Data Protection Act 1988 (subject to the Public Interest Disclosure Act 1988);
- Deliberate or reckless damage to Council property;
- Serious acts of insubordination;
- Acts of bullying, harassment or discrimination;
- Serious breach of the Council's safety rules or a single error due to negligence which causes or could have caused significant loss, damage or injury to the Council, its employees or customers;
- Bringing the Council into serious disrepute;
- A criminal offence, which may (whether it is committed during or outside of the employee's hours of work) adversely affect the Council's reputation or the employee's suitability for or ability to undertake the type of work they are employed to perform;
- Violent or threatening behaviour;
- Failure to maintain professional registration where this is a pre-requisite for the post;
- Failure to maintain satisfactory DBS clearance where this is a requirement for the post.
- Serious abuse of Agile Working.

Disciplinary Guidance

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Purpose

This guidance should be used in conjunction with the Council's Disciplinary Policy and Procedure or the Disciplinary Policy and Procedure for JNC Grade and above.

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Stage 1 - Informal Discussion

On becoming aware of an employee's alleged misconduct (see [Appendix A for examples](#)), an appropriate manager (usually the employee's line manager) should make initial enquiries about the incident/concern. This will normally involve a discussion between the manager and the employee concerned to ascertain the employee's version of events. It is not usual practice for an employee to be accompanied at this stage. However, if the manager or employee feels that it would be appropriate, the employee may be accompanied by a work colleague or Trade Union representative. There is no requirement to provide the employee with notice of this meeting as it is part of normal day-to-day management.

On the basis of the discussion, the manager will need to consider whether any further action is required. The employee should be notified, verbally, of the outcome of the meeting. If it is necessary to remind the employee about the expected standards and any remedial action (e.g. training) which is required, this should be confirmed to the employee in writing. A copy of this letter should be retained by the line manager.

Notes of the discussion should be taken and the employee given the opportunity to amend them as necessary before signing and returning one copy. If the employee makes any amendments, where it is not possible to incorporate these changes, a copy of the amended notes should be kept on file along with the original version. Both copies will need to be presented to the panel if the case proceeds to a disciplinary hearing. Anything discussed as part of this meeting could be used as evidence in any subsequent meeting/hearing.

During or following the meeting, the manager will need to consider whether it is necessary to suspend the employee.

Where it is not appropriate to deal with an allegation informally or where further investigations are required, the employee should be advised that a Formal Investigatory Meeting will be arranged.

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Suspension

Suspension is not a disciplinary penalty and does not in itself imply any presumption of guilt on the part of the employee. It should only be considered if:

- The employee has been arrested or charged with a serious criminal offence which has an impact upon their position or calls into question their suitability for their job;
- There is a demonstrable concern that the employee or others (e.g. colleagues) may be placed at risk by the employee remaining in the work place;
- There is reasonable belief that the employee may seek to influence witnesses or the conduct of the investigation.

Suspension should only be imposed after careful consideration, which may include the possibility of transferring the employee or adjusting their work as an alternative to suspension. Advice should be sought from Human Resources before suspending an employee. Following discussions with HR, if the manager believes that the allegation is so serious that it warrants a period of suspension, this should be approved by a Director. Once the decision has been made it will be necessary for a meeting to be convened with the employee immediately. If the employee is not on site, they should be seen immediately when they are next at work.

Suspending an employee via email, voicemail or text is not considered suitable in any circumstance. Suspension via the phone should only be used in exceptional circumstances (e.g. if there is a safeguarding issue) and should be confirmed in writing to the employee as soon as possible.

In the case of safeguarding issues, theft or other possible criminal offences it may be necessary, as well as suspending the employee, for the Investigating Officer to consider informing the police of their investigation. Advice should be sought from Human Resources if it is felt that this measure is necessary.

Preparing for the Suspension Meeting

When preparing to suspend an employee the following should be considered:

- How the suspension will be carried out (i.e. when, where and by whom). It is important to ensure that confidentiality is maintained;
- Who will accompany the employee to collect their personal belongings;
- How other members of staff will be communicated with (bearing in mind the need to maintain confidentiality);

- What property/records should be obtained from the employee before they leave the premises (e.g. if the investigation is around the falsification of travel claims it may be necessary to ensure receipt of the employee's work diary in order to verify journeys travelled);
- Contact arrangements with the suspended employee (the employee's telephone number should be confirmed) including frequency of contact. It may be difficult for the employee's line manager to take on this position as they are likely to be the Investigating Officer, therefore a nominated manager will normally take on this role;
- Contact with other employees following suspension;
- How to escort the employee off the premises.

Conducting the Suspension Meeting

During the suspension meeting, the employee is likely to have a number of queries surrounding the nature of the concerns raised against them. It is important that the meeting does not turn into an investigatory interview and that the Investigating Officer does not engage in detailed conversation regarding the allegations. The employee will be invited to attend a Formal Investigatory Meeting where they will have the opportunity to put forward their version of events.

At the suspension meeting the employee should be advised:

- Why they have been suspended (i.e. outline the nature of the allegations but not specifics);
- That suspension is viewed as a neutral act and does not pre-determine the outcome of the investigation;
- That the suspension will be on full pay (providing that they make themselves available to be contacted and/or attend meetings throughout their suspension);
- That they should not enter the premises without prior permission;
- That colleagues and possibly service users will need to be informed of their absence and confirm what reason they would like to be given to explain their absence;
- That they should not discuss/involve/engage with or contact work colleagues, service users or others about the case. (If the employee wishes to call a witness, contact should be made via their representative. If they do not have a representative, contact should be made via the Investigating Officer);
- That they will be invited to attend a Formal Investigatory Meeting and given the opportunity to put forward their version of events / explain their conduct;
- That they should be available to be contacted or attend meetings during their normal working hours. Therefore, if applicable, prior to taking any leave it will be necessary to gain authorisation from their line manager;
- That Trade Union representation and welfare advice is available and should be sought if required. Employees are able to discuss the issues with their Trade Union representative;

- That any sickness during the period of their suspension must continue to be reported in line with the Council's sickness absence reporting procedures;
- That the investigation will be conducted as swiftly as possible and they will be kept updated on how the investigation is progressing. An investigation should not normally exceed 3 months' from the date that the allegation is formally made, unless there are contributory factors to justify this.
- That they are required to temporarily return any property belonging to the Council which may be required during their suspension (e.g. keys);
- That they are still within the employ of the Council and in line with their contract of employment should not undertake any work for another employer without prior permission;
- That they will receive written confirmation of the suspension meeting (the employee's current address should be confirmed).

The employee is able to be accompanied at the meeting if they wish and should be made aware of this at the beginning of the meeting. If the Investigating Officer is aware that the employee is a member of a union it may be appropriate for them to make contact with the union prior to the meeting to check if someone would be available to offer support to the employee either during the meeting or immediately afterwards. The detail of the concerns should not be divulged to the union representative in order to ensure the employee's privacy is maintained. The meeting should not be delayed if no-one is available to accompany the employee.

The Investigating Officer should confirm to the employee the reason for, and terms of, the suspension in writing as soon as possible after the meeting. A template letter is attached at [Appendix C](#). It is recommended that the duration of suspensions are kept to a minimum and that employees are kept updated on the progress of the investigation on a regular basis.

Lifting the Suspension

During the course of the investigation it may become apparent that it is no longer necessary for the employee to be suspended from work. In such cases, the Investigating Officer should contact the employee as soon as possible to advise them of this and to arrange their return to work. A template letter to confirm arrangements is attached at [Appendix D](#). The employee should be briefed on issues that have occurred during their suspension (e.g. progress on work the team may have been undertaking, appointments to vacant posts, etc.). It will also be necessary for the Investigating Officer to advise those employees affected by the investigation that the employee will be returning to work.

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Investigation

The Investigating Officer

Investigations will normally be conducted by the employee's line manager, unless they are involved in any way. Conducting an investigation can be time consuming

therefore it is important, when identifying an Investigating Officer, that the individual has both the ability and time to commit to completing the task.

The role of the Investigating Officer is to collect relevant evidence, including that which is favourable to the employee and make a determination on the allegations based on the evidence. They should not be involved in making a decision on the disciplinary outcome but will be expected at the end of their investigation to make a recommendation on next steps. This recommendation will be forwarded, as part of the investigation report, to their manager or the manager for the employee's service area if the Investigating Officer is external or works in a different department (i.e. the Decision Maker) for consideration.

The expectation is that disciplinary matters will be dealt with as swiftly as possible and the whole process should be completed within a reasonable period of time. If an investigation exceeds 3 months from the date that the allegation is formally made, the reasons for this will be reviewed by the Decision Making Manager.

Throughout the investigation, the Investigating Officer should:

- Remain impartial and objective, and guard against forming personal opinions. The Investigating Officer's role is to gather the facts, not to make a judgement;
- Not allow personal opinion of the employee to cloud their opinion;
- Consider any mitigating circumstances the employee may wish to have taken into account;
- Focus on facts rather than opinions or assumptions;
- Consider the validity of the witness' version of events (e.g. does the witness have a personal grudge against the employee?);
- Maintain confidentiality;
- Ensure detailed notes are made which are signed and dated by the relevant person to confirm that they are an accurate record. Where the individual requests changes to be made, if it is not possible to incorporate these changes, a copy of the amended notes should be kept on file along with the original version.

Interviewing Witnesses

The Investigating Officer should arrange to meet individually with any witnesses, including those identified by the employee. There is an expectation that when asked, employees should co-operate and assist in the investigation process. If an employee is unwilling to participate, the Investigating Officer should seek to identify the reason for the employee's reluctance and assure them that they will be supported throughout the process. If the person accused of the allegations harasses or victimises a potential witness in any way, this could lead to further disciplinary action being taken.

When arranging to interview a witness the Investigating Officer should ensure that the meeting is held in an appropriate location and consider if any special requirements / reasonable adjustments are needed to support the employee (e.g. hearing loop). The meeting room should be booked to ensure sufficient time is allowed for a thorough meeting to be conducted and time is factored in for rest breaks during the course of the interview.

At the meeting it is not necessary to inform the witness of the full facts of the case, the intention of the meeting is to discover what they have witnessed and obtain any information, including any documentation, which may assist in the investigation. The Investigating Officer should prepare in advance a list of questions for each witness so that they are clear about what issues they wish to discuss. As the meeting evolves it may be necessary for supplementary questions to be asked if further explanation or understanding is required. If a witness statement was produced immediately following the event, the Investigating Officer should refer to this when questioning the witness.

During the meeting the Investigating Officer should:

- Acknowledge that they appreciate it may be difficult for the employee to provide information about a work colleague and thank them for attending the meeting;
- Introduce the people present and explain their role;
- Explain the purpose of the meeting;
- Advise that breaks can be taken as necessary;
- Advise that a written record of the meeting / witness statement will be taken and sent to them for verification. They will have the opportunity to amend the notes as necessary before signing and returning one copy. Where the individual requests changes to be made, if it is not possible to incorporate these changes, a copy of the amended notes should be kept on file along with the original version;
- Use open questions to gain a broad picture (e.g. what happened next?);
- Reiterate the importance of maintaining confidentiality;
- Inform the witness that if the case proceeds to a disciplinary hearing they may be asked to attend and that the notes of their meeting / witness statement will be used as evidence and may be cross-examined.

As well as work colleagues it may be necessary to consider if any external people should be involved in the investigation process. If this is the case, they should be asked if they would be willing to assist the investigation (e.g. by providing a written statement). There is no general barrier to interviewing children or other client groups (e.g. adults with learning disabilities). The decision to include service users in the investigation must be taken very carefully and if considered necessary, permission should be sought from an appropriate senior manager following discussion with the relevant safeguarding team. Whilst the employee should be made aware of the service user's identity, it will be necessary to ensure that their identity is protected

(e.g. by ensuring that initials rather than their full name is used in interview notes) as the paperwork may be seen by parties outside of any disciplinary proceedings (e.g. if a referral is required to the Disclosure and Barring Service).

Having conducted initial interviews with both the employee and witnesses, it may be necessary to re-interview either party if further clarification is needed or other allegations arise. Consideration should be given as to whether, as a consequence of any new information, it may now be necessary for the employee to be suspended if they are currently still at work or have their suspension lifted.

If, as a consequence of the investigation, it is determined that another employee has committed an act of misconduct it will be necessary for a separate investigation to be conducted to consider these concerns.

Collecting Evidence

In addition to interviewing witnesses, the Investigating Officer should collect any documentation that is relevant to the allegations raised. As a matter of course the employee's personal file should be accessed and a copy of the employee's job description and person specification obtained. The Investigating Officer should consider any previous disciplinary warnings the employee may have on file that relate to this or a similar issue.

The types of documents/information required will vary depending on the case but may include:

- Files and documents
- Policies and procedures
- Management documents (e.g. Financial Procedure Rules)
- Rotas and timesheets
- CCTV footage*
- Computer records*
- Telephone records*
- Door access systems*
- Automatic number plate recognition*
- Vehicle tracking systems*
- Training records
- Mileage claims forms
- Text messages (these should be copied and the written document signed by the Investigating Officer and recipient of the text)
- Service user medication records
- Supervision or Personal Review records
- Written complaints
- Witness statements
- Custom and practice

Assistance may need to be sought from colleagues within other departments as part of the investigation process (e.g. IT, Legal Services, Audit, etc.) for specific information in relation to accepted practice, rules and procedures.

If the employee would like information from any of the above sources to be considered as evidence, the Investigating Officer should arrange for this to be obtained or enable the employee to obtain the information.

***Use of Electronic and Surveillance Equipment**

If approval is given by Human Resources and the Monitoring Officer to consult the electronic records and these are subsequently used in a formal disciplinary case the following is recommended as best practice:

- The use of any records should be reasonable and proportionate to the issue under investigation;
- Only records which are to be specifically referred to at a disciplinary hearing should be included in the pack of evidence issued by the Investigating Officer;
- Records collated should be kept secure and destroyed at the conclusion of the case (which needs to allow time for an appeal, Employment Tribunal or civil claim);
- Care should be taken to act within the confines of relevant legislation and not inappropriately infringe on the employee's rights. Further advice is available from Human Resources;
- Covert monitoring of employees is rare but may be considered necessary where criminal activity is suspected. Such monitoring is strictly covered by the Regulation of Investigatory Powers Act (RIPA) and advice must be sought from Human Resources and Legal Services before invoking it.

Further guidance on the type of records available and the process for accessing this information is attached at [Appendix B](#).

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Stage 2 - Formal Investigatory Meeting

The Formal Investigatory Meeting will be conducted by the [Investigating Officer](#). The purpose of this meeting is to establish the facts and allow the employee to respond to the incident / concerns and evidence.

The employee should be informed in writing of the requirement to attend the meeting. This letter should confirm that there are concerns / serious concerns regarding the employee's conduct and, where possible, provide an outline of the concerns. It must also include details of the employee's right to be accompanied at the meeting by a work colleague or Trade Union representative. A template letter is attached at [Appendix E](#).

When choosing a work colleague the employee should bear in mind that it is not reasonable to be accompanied by a colleague whose presence would prejudice the hearing or who might have a conflict of interest. A work colleague who has agreed to accompany a fellow employee is entitled to take a reasonable amount of paid time off to fulfil that responsibility. Work colleagues do not have to accept a request to accompany an employee and they should not feel pressurised to do so. The Investigating Officer should ensure that the work colleague is not a potential witness.

The Investigating Officer should ensure that the meeting is held in an appropriate location and consider if any special requirements / reasonable adjustments are needed to support the employee (e.g. hearing loop). The meeting room should be booked to ensure sufficient time is allowed for a thorough meeting to be conducted and time is factored in for rest breaks during the course of the interview. It may also be useful to book a second room in order to provide flexibility (e.g. to give the employee somewhere to wait during adjournments).

At the meeting the Investigating Officer will:

- Explain the purpose of the meeting and their role as Investigating Officer;
- Remind the employee, if they are not accompanied, of their right to representation by a work colleague or Trade Union representative and confirm that they are happy to proceed with the meeting. The representative is not able to answer questions on the employee's behalf;
- Ensure that the employee is clear on the concerns being raised;
- Ask the employee to respond to the concerns against them;
- Obtain details of any witnesses that will need to be interviewed following the employee's evidence;
- Obtain copies of any documentary evidence that the employee wishes to provide;
- Warn the employee that the matter may result in a formal disciplinary hearing at which they will have the right to be accompanied by a work colleague or Trade Union representative.

When interviewing the employee the Investigating Officer should:

- Stick to facts and avoid making assumptions;
- Point out and question any discrepancies;
- Determine whether there are any special circumstances or mitigation to be taken into account;
- Not be afraid to challenge what the employee is saying;
- Be careful not to express disapproval or pass judgement (the Investigating Officer should not get involved in arguments or make personal remarks);
- Summarise the main points of discussion at the end of the meeting, therefore allowing all parties to be reminded of the nature of the offence, the arguments and the evidence put forward;

- Ask the employee, prior to ending the meeting, if there is anything else that they wish to say.

When questioning the employee the Investigating Officer should do so in a non-accusatory manner. Open questions should be asked during the interview (e.g. “what happened next?”) in order to get a broad picture of the incident. Closed questions requiring a yes/no answer are required only when specific information is needed. Leading questions (e.g. “would you describe Mr Smith as being aggressive?” or “you did everything you could to prevent the situation, didn’t you?”) should not be asked.

As well as determining the facts of the allegation it is important to ascertain if the employee has an understanding of the consequence of their alleged behaviour / action. In the following scenario, where an unattended child has fallen and hurt themselves, the Investigating Officer may wish to ask the employee responsible for caring for the child the following fact finding questions:

- Why did you leave the child unattended?
- When did you leave the room?
- What was the child doing when you left the room?
- Where was the child lying when you returned to the room?
- Who did you inform that an accident had occurred?

In the case of an employee pushing a member of the public whilst accompanying a service user to the shop the following questions may be considered to see if the employee has an understanding of the consequence of their behaviour:

- How would you act in hindsight if you were confronted by a member of the public again? Why would you do that?
- What do you consider is appropriate behaviour when working in the community?
- What do you think the service user would have felt?

The Investigating Officer is responsible for arranging for an external note taker to be present at the investigatory meeting. The line manager should contact Human Resources to obtain the contact details for external note takers. It is important to ensure that the note taker is competent and has no first-hand knowledge of the case. The note taker should be fully briefed on the details of the case and reminded of the importance of confidentiality. It is not expected that a verbatim account of the meeting will be produced. The employee should be advised in any correspondence of who the note taker will be.

Detailed notes should be taken at all meetings and two typed copies provided to the employee as soon as possible. The employee should be given a deadline by which to return one copy, signed to confirm that they are an accurate record. If the employee makes any amendments, where it is not possible to incorporate these

changes, a copy of the amended notes should be kept on file along with the original version. Both copies will need to be presented to the panel if the case proceeds to a disciplinary hearing.

Following the meeting, the Investigating Officer will need to consider whether or not it is necessary to suspend the employee. If an employee is already suspended, consideration should be given as to whether, following the meeting, this can be lifted.

No formal disciplinary action will be taken until the matter has been fully investigated and, only if the matter is deemed to be serious then, a formal disciplinary hearing held.

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Concluding the Investigation

The investigation is complete once the Investigating Officer has interviewed the employee, any witnesses and/or other relevant parties, and has obtained sufficient evidence on which to base a decision as to whether or not there is a case to be answered. The Investigating Officer will need to consider all of the relevant evidence, including that provided by the employee, and take a balanced view as to whether the allegations against the employee are founded. The standard of proof for any investigation and any subsequent disciplinary hearing will need to be “on the balance of probabilities”.

The Investigating Officer should produce a report, for consideration by their manager or the manager for the employee’s service area if the Investigating Officer is external or works in a different department (i.e. the decision making manager), outlining their findings and a recommendation on next steps. As a copy of the report should be included in any disciplinary hearing paperwork, it is important that the report is well structured and clearly defines the background, methods of investigation, and summarises the key points. An example investigation report format can be found at [Appendix G](#).

The decision making manager should take on the role of deciding, based on the contents of the investigation report, what action should be taken and whether the case should proceed to a formal disciplinary hearing. Once a decision has been made, the employee should be advised of the outcome in writing as soon as possible by the decision making manager.

If the investigation concludes that there is no substance to the allegation, a misunderstanding has occurred or there is insufficient evidence to proceed further, the manager may decide that no further action is required. If there is no evidence, the Investigating Officer may wish to consider whether the person who originally made the allegation did so maliciously. If so, disciplinary action may be taken against this person. Advice should be sought from Strategic HR in this instance. A

template letter advising the employee that no further action will be taken is attached at [Appendix F](#).

If the investigation reveals some evidence but it appears to be of a minor nature, the manager may decide to address the issue informally. In this instance, the decision making manager will need to arrange a meeting with the employee and reiterate the standards that are expected of them and if necessary implement any remedial action. If any training needs, support and/or coaching for the individual has been identified, the decision making manager will need to decide how best this should be delivered (e.g. via an action plan) and consider the timescales for reviewing progress. The employee should be made aware that if no improvement has been made following the review period it may be necessary to consider if further disciplinary action is required. A template letter advising the employee that the issue will be addressed informally is attached at [Appendix F](#).

If the decision is made to proceed to a disciplinary hearing, the employee should be advised of the specific allegations in the letter inviting them to the disciplinary hearing. A template letter is attached at [Appendix J](#).

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Stage 3 - Disciplinary Hearing

If the outcome of the investigation is that formal disciplinary action should be taken, a disciplinary hearing will be convened to consider the case. The Investigating Officer (or decision making manager if the Investigating Officer is external or works in a different department) is responsible for organising the hearing, including arranging a panel, rooms, refreshments, and an external note taker. It is not expected that a verbatim account of the hearing will be produced.

Documentation

The Investigating Officer (or the decision making manager) will write to the employee, on behalf of the Chair of the panel, to notify them of the details of the hearing giving them a minimum of 10 working days' notice. The letter should include:

- The date, time and venue of the disciplinary hearing;
- A clear statement of the allegations;
- Details of the employee's right to be represented at the hearing by a work colleague or Trade Union representative;
- The names of any witnesses that will be attending.

A template letter is attached at [Appendix J](#). **A copy of any evidence that will be relied on at the hearing must also be enclosed.** This should include:

- Brief details of the employee's role and their employment (include a copy of the employee's job description and person specification);

- A copy of the investigation report (including copies of all signed meeting notes and statements);
- Copies of relevant policies and procedures.

An example disciplinary hearing folder contents list can be found at [Appendix H](#). Further guidance on preparing for the hearing can be found in the [Hearing Preparation Guide](#).

The letter to the employee must also request that if they intend to refer to any documentation at the hearing, a copy of this must be sent to the Investigating Officer, (or decision making manager) with the names of any witnesses, at least 5 working days before the date of the hearing. The Investigating Officer (or decision making manager) should ensure that copies are provided to the panel members.

At the disciplinary hearing the Investigating Officer (or decision making manager) will be required to act as Presenting Officer and present a 'statement of case'. This should include information relating to the individual's employment, what the allegations are and how they came about, details of the investigation and its findings. Attached at [Appendix I](#) is an example statement of case format which the Presenting Officer may find useful as a basis for their presentation. It is important that only relevant, factual, concise information which can be evidenced is presented.

In advance of the hearing, the Presenting Officer should try to predict the questions which the employee and panel may ask and prepare the answers. If witnesses are due to attend in support of the management case, questions the Presenting Officer wishes to ask of them should also be prepared in advance.

Failure to Attend

Wherever possible, arrangements for the date of the hearing should be made in consultation with the employee and their representative. Where an employee's chosen representative is unable to attend on the arranged date of the hearing the employee can suggest an alternative within 5 working days of the original date. It is important that the employee is made aware that if they fail to attend on the given (or rearranged) date without an acceptable reason, the hearing may go ahead in their absence.

Where an employee is not able to attend due to ill health it may be necessary, depending on the length of and reason for the absence, to postpone the hearing. In such cases, it may be appropriate for an Occupational Health referral to be made regarding the employee's fitness to attend a hearing.

Witnesses

It is the responsibility of the Presenting Officer (i.e. the manager who will be presenting the case at the disciplinary hearing) to ensure that they invite any witnesses (if required) to attend the hearing.

Likewise, it is the employee's responsibility to ensure that they invite any witnesses (if required) to support their case at the hearing. Please note that the employee's Trade Union representative / work colleague can act on behalf of the employee to arrange their attendance at the hearing if permission from the employee has been granted.

Witnesses should only be present at the hearing whilst questions are being asked of them by the employee/representative, Presenting Officer and panel members.

Release of Witnesses

Employees who are asked to attend a disciplinary hearing as a witness **must** be released from duty unless this would have a significant impact on service delivery. Advice should be sought from Human Resources before declining such a request.

Conduct of the Hearing

1. The panel will introduce those present and outline the procedure to be followed. An employee who is not accompanied will be reminded of their right to representation by a work colleague or Trade Union representative.
2. The manager presenting the case (i.e. the Presenting Officer) will outline their statement of case. They should refer to documents circulated beforehand to evidence their views.
3. If applicable, the Presenting Officer will invite management's witnesses (one by one) to the hearing. The witness will be questioned initially by the Presenting Officer, then the employee and/or their representative may question the witness followed by questions from the panel.
4. The Presenting Officer will conclude their statement of case.
5. The employee and/or their representative may question the Presenting Officer on their case presentation.
6. The panel may question the Presenting Officer on their case presentation.
7. The employee and/or their representative will outline their case. They may refer to documents circulated beforehand.
8. If applicable, the employee or their representative will invite the employee's witnesses (one by one) to the hearing. The witness will be questioned initially by the employee and/or their representative, then the Presenting Officer may question the witness followed by questions from the panel.
9. The employee and/or their representative will conclude their case.
10. The Presenting Officer may question the employee and their representative on their case presentation (the employee's representative is not usually able to answer questions on their behalf).
11. The panel may question the employee and their representative on their case presentation (the employee's representative is not usually able to answer questions on their behalf).
12. The Presenting Officer will have the opportunity to sum up the case against the employee. No new evidence can be included at this point.

13. The employee and/or their representative will have the opportunity to sum up their case. No new evidence can be included at this point.
14. The Presenting Officer, the employee and their representative will leave the room so that the panel can deliberate.
15. Having deliberated on the matters placed before them, the panel will reach their decision. Depending on the complexity of the case, it may be appropriate to ask all parties to wait and be recalled to be advised of the outcome. In other cases, it may be more appropriate for the panel to deliberate and to advise the employee and subsequently the management side of the outcome, at a later date. If this is the case, the decision should be made within a reasonable timescale e.g. within a few days and the method of contacting the employee should also be agreed before the hearing is concluded.

Potential Outcomes

For each allegation the panel will first need to decide whether that allegation is founded or not. If founded, they will then need to consider an appropriate sanction. The following options are available to the panel dependent on the seriousness of the offence. Examples of actions / behaviours / attitudes which may constitute gross misconduct and misconduct are shown in Appendix A.

- **No Case to Answer / No Further Action Necessary**

There may be instances where the outcome of the hearing is that there is no case to answer (i.e. there is no finding on the disciplinary charge or the findings are so insignificant). In these circumstances the case will be dismissed without any further formal action against the employee although the panel may wish to make recommendations (e.g. training).
- **First Written Warning**

For less serious breaches of discipline a First Written Warning may be issued. The employee will be given a letter confirming the warning including confirmation of any improvement required and the consequences should the required standard not be achieved. A record of this will be kept on file for a period of 6 months from the date of the disciplinary hearing after which time it will be disregarded, unless it is connected to the safeguarding of children and/or vulnerable adults.
- **Final Written Warning**

In cases where there has been a further act of misconduct related to a previous warning, or where the misconduct is sufficiently serious, a Final Written Warning may be issued. The employee will be given a letter confirming the warning including confirmation of the improvement required and the consequences of their future conduct not meeting the required standards. A record of this will be kept on file for a period of 12 months from

the date of the disciplinary hearing after which time it will be disregarded, unless it is connected to the safeguarding of children and/or vulnerable adults.

- **Dismissal**

Except for cases of gross misconduct (see [Appendix A](#)), an employee should not usually be dismissed for a first breach of discipline. Employees should be dismissed with notice (or pay in lieu of notice) except in the case of gross misconduct where the employee will be dismissed without notice.

The disciplinary sanctions outlined will normally be followed sequentially in the order shown above. However, offences of a serious nature may be brought into the procedure at any level if an earlier sanction would not be appropriate or severe enough to deal with the issue.

Notification of the Outcome

Where possible, the outcome of the hearing should be confirmed verbally on the same day as the hearing has taken place. The outcome of the hearing should be confirmed in writing as soon as possible by the Chair of the panel. A template letter can be found at [Appendix K](#). The letter should state the reason for the decision, confirm the sanction awarded and advise the employee of their right of appeal. A copy of the notes from the hearing should also be provided.

Safeguarding Allegations

If an employee is dismissed, or resigns before dismissal, where there are safeguarding allegations then a referral must be made to the [Disclosure and Barring Service \(DBS\)](#). Human Resources are available to support the referral process.

Details of allegations (including warnings) that are connected to the safeguarding of children and/or vulnerable adults should be retained on an employee's personal file until the individual has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer. Information which relates to allegations that were unfounded or found to be malicious should not be retained.

Allegations of Unacceptable Behaviour

For cases involving allegations of unacceptable behaviour (i.e. bullying and/or harassment), a mandatory meeting **must** be held at the end of the disciplinary process, except where the outcome has been dismissal, to re-establish working relationships between the relevant parties. This meeting should take place as soon as possible and should focus on agreeing strategies to assist the parties to resume and repair their working relationship. It may be beneficial for a third party (e.g. manager, trained mediator) to be involved in this meeting to help facilitate a solution. Further information on mediation is available from Human Resources.

Right of Appeal

The employee has the right to appeal against all disciplinary sanctions and must be advised of this right in the hearing outcome letter. Any appeal must be submitted in

writing by the employee within 7 working days of receiving notification of the hearing outcome.

Appeals against warnings should be submitted to the Chair of the panel and will be heard, in line with the Appeal Policy and Procedure, by a panel of two officers, chaired by a Strategic Director and accompanied by a representative from Human Resources. Template letters for inviting an employee to an appeal hearing and confirming the outcome can be found at Appendix M and Appendix N.

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Hearings relating to JNC employees

The Policy relating to JNC level employees clearly sets out the composition of the hearing panel and also allows for an alternative sanction to dismissal. Alternative sanctions suggested include secondment or redeployment to a lower graded post. A panel who would wish to explore this sanction would need to carefully consider the practicalities of this option e.g. does such a vacant post exist and if so does the employee meet the essential requirements of the job. The panel must also consider whether the behaviour which warranted dismissal, within their current post, could be deemed to be acceptable in a lower level post.

If the panel explore whether a realistic alternative to dismissal can be accommodated, but conclude that the employee will be dismissed, they should then ensure that brief notes of that deliberation are recorded.

Notice of dismissal, in all circumstances for JNC staff, cannot be issued until the Chief Executive is provided with the name and relevant details relating to the proposal to dismiss. This should be done without delay as the Chief Executive needs to provide these details to every member of the Cabinet, along with relevant details and timeframe within which any objections can be raised. Panel members should work closely with the Chief Executive to ensure that this opportunity for an objection is provided to the employee within 5 working days.

If an objection is raised by a Cabinet member then the basis of their objection needs to be explored with the Chief Executive. The employee should be notified of the situation and given a realistic timescale for the issue to be resolved as quickly as possible.

Hearings Relating to Head of Paid Service, Monitoring Officer and Chief Financial Officer

This policy allows for an informal stage, a meeting with a panel appointed by the Personnel Committee, a hearing by the Personnel Committee a referral to an Independent Panel and consideration by the Full Council. Guidance on managing those stages is set out below:

- The Chief Executive or appropriate person will investigate and discuss the conduct in order to assess whether to deal with it informally. If they conclude that the matter is of a serious nature and there is a reasonable level of evidence that the employee's conduct is unacceptable, then a meeting should

be arranged with a panel appointed by the Personnel Committee. That panel is able to decide that no further action should be taken, issue sanctions short of dismissal or appoint an independent investigator. They can also consider secondments or redeployment at this stage, and would also need to carefully consider the practicalities of this option e.g. does such a vacant post exist and if so does the employee meet the essential requirements of the job. The panel must also consider whether the behaviour which warranted dismissal, within the employee's current post, could be deemed to be acceptable in a lower level post. The employee has right of appeal at this stage, in relation to sanctions short of dismissal, through the Councils Appeal Policy and Procedure:

- Following an independent investigation, the case will be considered by a panel appointed by the Personnel Committee in the case. This panel can decide that there is no case to answer, to issue a penalty short of dismissal or to dismiss the employee. The employee can appeal against penalties short of dismissal through the Council's Appeal Policy and Procedure. If the employee is dismissed, then an Independent Panel will be convened to review the case and prepare a report for Full Council:
- Full Council will consider the report and listen to any challenges that the employee or their representative makes. There is no further process of appeal for the employee following this meeting:
- If full Council uphold the dismissal, then the Chief Executive or appropriate officer should provide every member of the Cabinet with the opportunity to object to the dismissal before it is confirmed in writing within 5 days of the meeting. If an objection is raised by a Cabinet member then the basis of their objection needs to be explored with the Chief Executive. The employee should be notified of the situation and given a realistic timescale for the issue to be resolved as quickly as possible.

Grievance raised during the Disciplinary Process

The Council's Grievance Policy should not be used for appeals against disciplinary decisions, as this is the purpose of the Appeal Policy. If, however, the employee has a complaint against the disciplinary process during the course of a disciplinary case, they may raise a grievance using the Council's Grievance Policy. If necessary, the disciplinary procedure may be suspended for a short period until the grievance can be considered. There may be a number of possible outcomes from this including:

- Application of other formal action such as disciplinary against another employee / manager;
- Instigation of other separate investigations which should not prevent the current issue being progressed wherever possible;
- That another manager is brought in to deal with the disciplinary case.

Other Factors

Criminal Offences

Advice should be sought immediately from Human Resources if a case appears to involve criminal activity so that a decision can be made as to whether the matter should be referred to the police. In such circumstances the employee will normally be informed of such action unless the police advise otherwise.

Employees who are charged with or convicted of a criminal offence should only face disciplinary action if the conduct which led to such charges has implications on their employment or their suitability for the job. If insufficient evidence is available to form a reasonable view as to whether or not a disciplinary hearing should be held, action should be deferred until further enquiries have been made or the matter is settled by a court.

Allegations of Financial Irregularity

In all cases where fraud, corruption or impropriety are suspected or detected these must be reported immediately to Audit and Finance.

Disciplinary Action against a Trade Union Official

Although normal disciplinary standards will apply to their conduct as an employee, no disciplinary action should be taken against a Trade Union representative until the circumstances of the case have been discussed with a senior Trade Union representative or full-time officer of the Trade Union concerned. Disciplinary action should not be taken against an employee due to trade union related activities.

Allegations of Safeguarding

Any allegations of misconduct that involve potential safeguarding issues connected with children must be discussed with Human Resources prior to any discussions taking place with the employee.

If an allegation is in any way connected to the safeguarding of children or adults then a referral must be made to the [Disclosure and Barring Service \(DBS\)](#) at the appropriate point in the process. Information provided by the police or other agencies (e.g. investigation outcome, statements) should be shared with the employee, unless specifically advised otherwise, particularly if this information will form part of the management case at a subsequent disciplinary hearing.

Use of Electronic Surveillance Records

Managers who strongly suspect employee misconduct and believe that access to electronic surveillance records may support their case must first discuss their concerns with Human Resources. Further information is available in [Appendix B](#).

Appendix A - Examples of Misconduct and Gross Misconduct

Examples of Misconduct

The following list is not exhaustive but gives examples of offences which may amount to misconduct:

- Persistent bad timekeeping;
- Unauthorised absence from work without reasonable cause;
- Damage to Council property;
- Failure to follow Council procedures;
- Abusive or disruptive behaviour;
- Minor breaches of Health and Safety regulations;
- Misuse of Council facilities;
- Undertaking unauthorised employment;
- Improper behaviour or conduct towards colleagues or members of the public;
- Unreasonable refusal to follow a management instruction;
- Abuse of the E-Communications Policy.
- Abuse of Working Time (e.g. personal use of mobile phones, misuse of breaks, time recording etc.....)
- Breach of Agile Working

Serious examples of any of the above may amount to gross misconduct.

Examples of Gross Misconduct

The following list is not intended to be exhaustive and gives only an indication of the types of offences which could be considered as gross misconduct:

- Serious incapability as a result of being intoxicated by reason of alcohol, non-prescribed drugs, illegal drugs or prescribed drugs which may have an adverse effect on performance and safety;¹
- Deliberate falsification of reports, accounts, expense claims or self-certification forms;
- Theft, removal or unauthorised possession or deliberately aiding another person to remove or failure to properly account for any property or facilities belonging to the Council or to another employee or customer;
- Unauthorised entry to computer records or deliberate falsification of records;
- Serious breach of the Council's E-Communications Policy;
- Repeated refusal to carry out duties or reasonable instructions or to comply with Council policies and procedures;

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

- Serious Abuse of Working Time (e.g. personal use of mobile phones, misuse of breaks, time recording etc.....)
- Serious breaches of confidence, confidentiality or the Data Protection Act 1988 (subject to the Public Interest Disclosure Act 1988);
- Deliberate or reckless damage to Council property;
- Serious acts of insubordination;
- Acts of bullying, harassment or discrimination (i.e. unacceptable behaviour);
- Serious breach of the Council's safety rules or a single error due to negligence which causes or could have caused significant loss, damage or injury to the Council, its employees or customers;
- Bringing the Council into serious disrepute;
- A criminal offence, which may (whether it is committed during or outside of the employee's hours of work) adversely affect the Council's reputation or the employee's suitability for or ability to undertake the type of work they are employed to perform;
- Violent or threatening behaviour;
- Failure to maintain professional registration where this is a pre-requisite for the post;
- Failure to maintain satisfactory DBS clearance where this is a requirement for the post.
- Serious Breach of Agile Working.

Appendix B - Use of Electronic Surveillance Equipment Records and Data in Disciplinary Cases

This policy does not affect any other policies relating to equipment used at Charnwood Borough Council.

Types of Relevant Equipment in Use

Electronic surveillance equipment of various types is in operation at Charnwood Borough Council, namely:

- CCTV cameras
- Door access system
- In-vehicle monitoring - tracker devices
- Body Worn Video (BMV)
- Mobile hand-sets i.e. hand held
- Car park access system
- Chipside activity data

Data and information from this equipment is monitored and gathered by the Council in the interests of safety and security. It may also include information about employees' activities to ensure that they carry out their duties efficiently and safely, or for training purposes and record-keeping.

E-Communications Data Records

Other sources which leave a data record are:

- Telephony system
- Emails - incoming and outgoing
- Internet usage (Please also see: [Internet and Email Acceptable Usage Policy](#))

Charnwood Borough Council is transparent in the way that it monitors and gathers data and information obtained from electronically collected data. Information collected for another purpose than which employees have been advised, will not be used for another purpose unless it is clearly in the employees interest to do so or the information potentially reveals activity that the Council could not reasonably be expected to ignore. The type of activities which could not reasonably be ignored might include criminal activity in the workplace, gross misconduct or breaches of health and safety rules that jeopardise other workers or members of the public.

Charnwood Borough Council does not use data and information that it holds to deliberately scan or review for issues relating to employee conduct.

Condition of Service / Contracts of Employment

Employees are advised through their individual contracts of employment that data and information from any of the above sources may be used as evidence in

suspected disciplinary matters that may involve them where it is believed that gross misconduct may have potentially occurred.

Suspected Misconduct - Management Action

Managers, who strongly suspect employee misconduct, should initially meet with the employee to discuss their concerns and, where appropriate, advise them their behaviour is unacceptable informing them of the required standard. Details of the meeting should be followed up in writing and placed on the employee's file. At this stage unless gross misconduct is suspected, there should be no need to gather electronic data. Further occurrences however are likely to be perceived as gross misconduct and the manager is then able to request electronic data as part of their investigation. A formal checklist is available for this purpose.

Gross Misconduct

Safeguards are in place to ensure there is a justifiable and reasonable reason for managers requesting electronic records. Therefore managers who strongly suspect gross misconduct and believe that the electronic logs from any of the above sources may support their case must first discuss their concerns with the HR Team Manager. Based on the case put forward by the manager, the HR Team Manager will contact the Monitoring Officer who may authorise the electronic logs to be examined and subsequently used where necessary and appropriate. **No electronic surveillance logs can be requested beyond a 12 month period. Information relating to CCTV imaging is only stored for a period of 28 days, therefore any requests should be made as soon as practicable. CCTV imaging may only be requested for footage collected on Charnwood Borough Council premises. Although the final decision to release the footage lies with the CCTV Manager, initial approval is still required from the HR Team Manager.**

On no account should the manager contact Internal Audit/ICS Services directly for access to the information without HR approval and guidance and authorisation from the Monitoring Officer.

As part of any investigation relating to an allegation of gross misconduct, employees who believe that information gathered by the Council's electronic logs will help demonstrate that the allegation is unfounded, will have the right to request access to that information which has been collected within the last 12 month period. This does not affect the employee's right to make a subject access request, however full access requests covering any other personal data held by the Council will be subject to a £10 fee. Information relating to CCTV imaging is only stored for a period of 28 days. This request should be placed with their manager although the final decision to release the footage lies with the CCTV Manager. CCTV imaging may only be requested for footage collected on Charnwood Borough Council premises. Should an employee believe that their request is not being complied with then they have the right to contact their Strategic Director.

It is acknowledged that all cases will differ in nature and severity, and some instances may require immediate and decisive action, i.e. alleged gross misconduct. However, before consulting an HR Team Manager, the manager should:

- Have a reasonably strong suspicion of serious, regular and/or prolonged misconduct amounting to gross misconduct;
- Be clear about the nature of the employee's alleged transgression(s);
- Be able to give an indication of the frequency, level of seriousness and time period over which the employee is alleged to have transgressed. For example, have monitored the situation for a period of time through observation and diary noting events (e.g. arrival and departure times, diminished work output versus time spent on the PC, etc.);
- Be aware of the activities of co-workers and take care not to single out a particular individual;
- Ensure the action he/she takes is proportionate to the alleged case. For example, it may be more appropriate to use censure and correction rather than formal action where the issue may be a minor, one off transgression perhaps through ignorance or forgetfulness or where it is not a regular occurrence or blatant gross misconduct. Simply cautioning the employee against further transgressions may resolve the matter. It may be more appropriate in those instances therefore for the manager to speak to the employee informally, outline why, how and when the employee transgressed pointing to the relevant policy or procedure, and advise him/her that further commissions of the same or similar offence in the future may lead to formal disciplinary action.
- Have already completed an initial investigation except in the instance of suspected gross misconduct.

Appendix C - Confirmation of Suspension

STRICTLY PRIVATE AND CONFIDENTIAL

[Date]

[Address]

[Date]

Dear [Name],

I am writing to confirm the outcome of our meeting on [date] during which you were advised that, following serious concerns regarding your conduct, you were being suspended from work with immediate effect. As I advised, suspension is not a disciplinary penalty and is not a presumption of guilt. To reiterate, I have not come to a view about whether or not the concerns against you are true and will not do so until these have been thoroughly investigated.

During your suspension you will receive your full contractual basic pay and an investigation will be undertaken into the concerns which have been raised. It is a term of your suspension that you should not attend work in any capacity (including casual work) and you should not contact or discuss these concerns with colleagues [or service users].

During the course of your suspension you must be available to be contacted at all times during your normal working hours and will be required to make yourself available for meetings as appropriate. You have the right to be accompanied at any such meetings and this can be a work colleague or a Trade Union representative.

I appreciate that this is a concerning time for you and would like to remind you that the services of AMICA are available to you. Trade union members can also contact their union for advice and support.

If, as a result of the investigations, there are grounds for formal disciplinary proceedings to be invoked, you will be informed in writing of the reasons for this action and given adequate notice of any disciplinary hearing and your rights of representation at that meeting. A copy of the Disciplinary Policy and Guidance is enclosed for your information.

Finally, I would like to assure you that the investigation will be conducted as speedily as possible and I will contact you [insert frequency] to update you on its progress. Once completed, you will be notified of the outcome. As your suspension will be reviewed on a regular basis, if it is decided that it can be lifted, I will of course get in touch with you immediately.

If you have any queries about the contents of this letter then please do not hesitate to contact me on [insert telephone number].

Yours sincerely,

[Name of Investigating Officer]
[Job Title]

Encs

Disciplinary Policy and Guidance
AMICA leaflet

Appendix D - Lifting of Suspension

STRICTLY PRIVATE AND CONFIDENTIAL

[Date]

[Address]

[Date]

Dear [Name],

I am writing to advise that following my letter dated [insert date of suspension letter] I have reviewed your suspension.

Following [enter details of reason why suspension is being lifted, e.g. new evidence] it has been decided that your suspension from work is to be lifted with effect from [date].

In order to assist you with your return to work, I would be grateful if you would contact me to arrange a meeting to discuss how this could be best facilitated. [Or enter details of return if these are already known]

Please do not hesitate to contact me if you have any queries about the contents of this letter.

Yours sincerely,

[Name of Investigating Officer]

[Job Title]

Appendix E - Invitation to Formal Investigatory Meeting (Stage 2)

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]

[Address]

[Date]

Dear [Name],

I am writing to invite you to a Formal Investigatory Meeting under Stage 2 of the Disciplinary Policy into [serious] concerns regarding your conduct.

The nature of the allegations are [provide an outline of the nature of the allegations where possible.]

The investigatory meeting will take place at [time] on [date] in [venue]. [Name] will also be in attendance to take notes.

The purpose of this meeting is to give you the opportunity to put forward your case and to provide any relevant information. A copy of the Disciplinary Policy and Guidance is enclosed for your information.

As this is a formal meeting, you are entitled to be accompanied by a work colleague or Trade Union representative.

Once the investigation has been completed you may be required to attend a formal disciplinary hearing. If this is the case, you will be given every opportunity to state your case and outline your version of events. You will again be entitled to be accompanied by either a work colleague or Trade Union representative.

Please sign and return the second copy of this letter as acknowledgement of receipt.

Should you wish to clarify any points in relation to this meeting, please do not hesitate to contact me.

Yours sincerely,

[Name of Investigating Officer]

Disciplinary Guidance
Version: 2018 -1
Agreed at: Personnel Committee
Date agreed: 20/09/16
Date Amended: 12/06/18

[Job Title]

I acknowledge receipt of the letter dated [date].

I will/will not be attending the Formal Investigatory Meeting arranged for [date].

Signed: _____

Date: _____

Print Name: _____

Appendix F - Outcome of Disciplinary Investigation (Stage 2)

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]

[Address]

[Date]

Dear [Name],

Following the Formal Investigatory Meeting on [date], I am writing to confirm the outcome of the investigation into your conduct.

At the meeting the following concerns were discussed:

[List concerns]

[Name] was present as your representative and [name] to take notes.

[Delete options below as appropriate]

Option One

On the basis of the findings of the investigation, I feel that no further action is necessary as the incident / allegation is not substantiated.

Option Two

As a result of the findings of the investigation, I am satisfied that the incident/allegation has been investigated sufficiently and I will address the issue on an informal basis. [Include details of the standards which are expected and any action which is required]. Please note that failure to achieve and maintain the required standards/improvements may result in formal disciplinary action being taken against you.

Please do not hesitate to contact me if you have any queries about the contents of this letter.

Yours sincerely,

[Name of Decision Making Manager]

[Job Title]

Appendix G - Investigation Report Template

The following guidelines may be useful for the Investigating Officer to consider when preparing their investigation report:

1. Background of Work Employment

Details of the employee's job role, how long they have been employed, etc.

A copy of the employee's job description and person specification should be attached as an appendix.

2. Allegations and how they came to light

3. Methodology

How evidence was gathered

A full list of witnesses interviewed including a brief rationale as to why they were interviewed

What documentation, other evidence was collected / considered

4. Findings

Describe what evidence was found

How the evidence was evaluated

Any contributing factors to the situation

Any mitigating circumstances

Why a particular version of events was preferred when conflicting views were given

Consistencies and inconsistencies in evidence should be outlined and explanations given if known

Any risks identified

5. Conclusion

The Investigating Officer should state clearly if the investigation was conclusive and what the conclusions are.

6. Recommendation

Based on the information that the Investigating Officer has gathered they need to complete their report by providing a recommendation as to how they feel the case should proceed.

When formulating their recommendation and considering whether or not disciplinary proceedings are appropriate the Investigating Officer should:

- View the matter objectively;
- Take into account all of the evidence gathered, including the employee's version of events or explanation of what happened as well as anyone they asked to be interviewed as part of the investigation process;
- Decide the matter by applying the balance of probabilities;

- Take a reasoned decision on whether or not to recommend that disciplinary proceedings against the employee should be instigated;
- Identify any associated risks e.g. safeguarding.

Action recommended may include:

- No case to answer;
- Informal action;
- Disciplinary action to be taken;
- Training and development;
- Mediation.

As part of the investigation report it is necessary to include appendices of any evidence that has been collated which back up the main report.

HR Comments

Appendix H - Hearing Folder Contents List Template

This template is to provide a framework on how to structure a disciplinary hearing folder. It is not intended to be prescriptive and can be adapted to suit individual requirements.

Name of Employee
Disciplinary Hearing
Date and Venue of Hearing

Panel Members:

Name, Job Title (Chair)

Name, Job Title (HR Representative)

Presenting Officer:

Name, Job Title

Section 1 Disciplinary Policy

- 1.1 Disciplinary Policy
- 1.2 Hearing Format

Section 2 Employment Details

- 2.1 Employee Summary (Job Title, Grade, Hours, Start Date, etc.)
- 2.2 Contract of Employment
- 2.3 Job Description and Person Specification

Section 3 Correspondence

- 3.1 Confirmation of Suspension dated [date]
- 3.2 Invitation to Formal Investigatory Meeting dated [date]
- 3.3 Outcome of Disciplinary Investigation dated [date]
- 3.4 Invitation to Disciplinary Hearing dated [date]

Section 4 Witness Statements / Notes of Meeting / Evidence

- 4.1 Witness statement from [name/job title] dated [date]
- 4.2 Witness statement from [name/job title] dated [date]
- 4.3 Notes from Formal Investigatory Meeting held on [date]
- 4.4 Copies of evidence (e.g. complaint letters, PDR's, etc.)

Section 5 Supplementary Information

- 5.1 Induction/Improvement/Training plans from [date]

Appendix I - Statement of Case Template

The statement of case is the presentation that the Investigating Officer will make at the disciplinary hearing. Each statement of case will obviously be slightly different but as a rule the following guidelines can be used:

1. Introduction

The introduction should cover general background information about the employee which will also include information on their role and responsibilities, for example:

- Start date
- Job role
- Responsibilities (making reference to job description and person specification contained in the disciplinary hearing folder)
- Hours of work
- Any relevant training
- Any other local arrangements which the Investigating Officer feels the panel should be made aware

2. Allegations

- Set out the allegations investigated
- How the investigation came about
- Details of any previous relevant warnings / concerns and how they may have sparked off more serious concerns

3. Investigation

In order to determine the outcome of the hearing the panel need to ensure that a fair investigation has been conducted. It is therefore necessary for the Investigating Officer to outline how they carried out their investigation making reference to documentation contained in the disciplinary hearing folder.

4. Findings

This should set out the findings of the case. It is recommended to put a chronology of events at the start and then set out under each allegation heading, what was found. A number of specific incidents should be identified and referred to in greater depth.

To support the evidence gathered it will be necessary for the Investigating Officer to call any witnesses who are key to the investigation. This is not confined to people who witnessed the event in question but can include individuals with specialist knowledge of specific procedures.

5. Management Expectation

The Investigating Officer should identify their expectations for example, how an employee should behave in the specified circumstance and why their conduct was not acceptable. Where possible this should be backed up with any documents or policies.

6. Summary

The Investigating Officer should briefly make reference to the key points of their investigation. No new information should be referred to at this stage.

Appendix J - Invitation to Disciplinary Hearing (Stage 3)

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]

[Address]

[Date]

Dear [Name],

Following the Formal Investigatory Meeting on [date] and the completion of my investigation, the decision has been made to progress to a disciplinary hearing. I am therefore writing to invite you to a disciplinary hearing and to confirm the arrangements.

The hearing will take place at [time] on [date] in [location] and will be heard by [name, job title], [name, job title] and [name, job title]. Also present will be [name] to take notes. On arrival you should report to [location] and ask for [name].

[Name] will be in attendance at the hearing to present the management case. Enclosed is a copy of the documents that will be referred to at the hearing.

During the course of the hearing you will have the right to hear and question all of the evidence presented. You will also have the opportunity to present your case.

The purpose of the hearing is to consider and seek your explanation about the following allegations:

[Include allegations]

[If applicable] These allegations are in breach of the following policies:

[Include details of policies]

In view of the seriousness of these allegations, consideration will be given as to what disciplinary action to take. You will need to be aware that all disciplinary matters are considered serious and a range of penalties are available, including summary dismissal. [If appropriate: These allegations, jointly or separately, may amount to gross misconduct and could result in your dismissal.]

As this is a formal meeting, you are entitled to be accompanied by a work colleague or Trade Union representative.

Please confirm if you are able to attend the hearing and whether you will be calling any witnesses to support your case so that necessary arrangements can be made.

[For your information, I will be calling [name] as a witness]. If you are unable to provide names of witnesses at this point in time, these may be submitted to [name] no later than 5 days before the hearing. Any documentation that you wish to provide should also be submitted to [name] no later than 5 days before the hearing.

If you are unable to attend the hearing, please contact me as soon as possible to advise me of the reasons for your non-attendance.

Should you or your representative require any special arrangements in order to attend the hearing, please contact me on the above number as soon as possible so that I can facilitate these for you.

A copy of the Disciplinary Policy and Guidance is enclosed within the evidence folder for your information.

Please do not hesitate to contact me if you have any queries about the contents of this letter.

Yours sincerely,

[Name of Decision Making Manager]
[Job Title]

I acknowledge receipt of the letter dated [date].

I will/will not be attending the Disciplinary Hearing arranged for [date] (if not attending please provide a reason and note that if this is not an acceptable reason the hearing may go ahead in your absence). Please note that if you do not respond to confirm your attendance before the hearing date it will be assumed that you will be attending.

I will/will not be calling witnesses (please provide names of any witnesses you intend to call).

Signed: _____ Date: _____

Print Name: _____

Appendix K - Outcome of Disciplinary Hearing (Stage 3)

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]

[Address]

[Date]

Dear [Name],

I am writing to confirm the outcome of the Disciplinary Hearing held on [date] which was heard by me along with [name, job title] and [name, job title]. Also present were [name] as your representative and [name] as note-taker.

The purpose of the hearing was to consider the following allegations:

[List allegations]

[Delete options below as appropriate]

Option One

Having considered all of the evidence provided at the hearing, the panel has decided that [include decision (i.e. founded or unfounded) on each of the allegations making reference to mitigating circumstances if applicable]. As a result, no further action will be taken against you on this occasion.

[Include further details as to why this decision was made and, if applicable, any recommendations/expectations given by the panel.]

In cases of alleged unacceptable behaviour (bullying and/or harassment):

[You are required to attend a **mandatory** meeting to discuss and agree strategies to assist you and [name] to re-establish your working relationship. Your manager will confirm the details of this meeting to you as soon as possible.]

Option Two

Having considered all of the evidence provided at the hearing, the panel has decided that [include decision on each of the allegations (i.e. founded or unfounded) making reference to mitigating circumstances if applicable].

Given the above, the panel has decided that you should be issued with a [first/final] written warning. This warning will remain on your file for [6/12] months. [As this warning relates to an allegation of safeguarding of children/vulnerable adults then it will remain on your file until you reach normal retirement age or for a period of 10 years from the date of the allegation, whichever is longer.]

As explained to you at the hearing, an immediate improvement in your conduct is expected. [Include details of the required improvements.] If you fail to demonstrate an acceptable improvement, or if any offence of a different nature occurs during the life of this warning, the likely consequence is that further formal disciplinary action will be taken against you. This could include the termination of your employment.

I have enclosed a copy of the Appeal Policy and Procedure along with an appeal registration form. You have the right to appeal against this decision and should complete and return the appeal registration form to me within 7 working days of receiving this letter.

In cases of alleged unacceptable behaviour (bullying and/or harassment):
[You are required to attend a **mandatory** meeting to discuss and agree strategies to assist you and [name] to re-establish your working relationship. Your manager will confirm the details of this meeting to you as soon as possible.]

Option Three

Having considered all of the evidence provided at the hearing, the panel has decided that [include decision on each of the allegations (i.e. founded or unfounded) making reference to mitigating circumstances if applicable].

Given the above, it is the panel's view that your actions did constitute gross misconduct and therefore, you are summarily dismissed from the Council's employment with immediate effect. Your P45 will be forwarded to you shortly.

[As a result of your dismissal, I must advise you that I will be informing the Disclosure and Barring Service who may wish to undertake their own investigation.]

You are required to return any property which is still in your possession and [name] will be in contact with you to arrange this.

I have enclosed a copy of the Appeal Procedure along with an appeal registration form. You have the right to appeal against this decision and should complete and return the appeal registration form within 7 working days of receiving this letter.

Should you decide to appeal; the effect of the dismissal will still stand pending the outcome of the appeal hearing.

Option Four

Having considered all of the evidence provided at the hearing, the panel has decided that [include decision on each of the allegations (i.e. founded or unfounded) making reference to mitigating circumstances if applicable].

On [date of previous letter] you were informed in writing that you had been given a final written warning in accordance with the Disciplinary Policy. In that letter you were advised that failure to improve your conduct or committing another act of

misconduct, whether the act was of the same or different nature, could result in your dismissal.

Given the above, it is the panel's view that your conduct is not satisfactory and therefore, you are dismissed from the Council's employment. As this is not summary dismissal, you are entitled to [duration] paid notice from the date of the hearing and therefore your employment will terminate on [date]. You [are/are not] required to work this notice. Your P45 will be forwarded to you shortly.

[As a result of your dismissal, I must advise you that I will be informing the Disclosure and Barring Service who may wish to undertake their own investigation.]

You are required to return any property which is still in your possession and [name] will be in contact with you to arrange this.

I have enclosed a copy of the Appeal Procedure along with an appeal registration form. You have the right to appeal against this decision and should complete and return the appeal registration form within 7 working days of receiving this letter.

Should you decide to appeal; the effect of the dismissal will still stand pending the outcome of the appeal hearing.

A copy of the notes taken at the hearing is enclosed for your information.

Please sign and return the second copy of this letter in acknowledgement of receipt.

Yours sincerely,

[Name of person who chaired the hearing]
[Job Title]

Appendix L - First/Final Written Warning Template

DISCIPLINARY POLICY - [FIRST/FINAL] WRITTEN WARNING

Name: [Employee's Name]

Job Title: [Job Title]

1. Date Issued

This warning was issued at a Disciplinary Hearing on [date]. The purpose of the hearing was to consider the following allegations:

[List allegations and whether they were founded or unfounded and a description as to the reason for this decision]

2. Status of Warning

This is a [first/final] written warning issued under the Disciplinary Policy.

3. Nature of Offence

You were issued with this warning as you had [list allegations which were founded].

4. Improvements Required

At the Disciplinary Hearing on [date] you were advised that you would be required to [enter details of standard / improvements in behaviour/conduct required]. Your conduct will therefore be monitored on an ongoing basis.

5. Support to be Given

[Enter details of any agreed support that will be provided, e.g. training]. Your manager, [name], is available to provide you with any help or support that you may need.

6. Retention of Warning on Personal File

A copy of this warning will be kept on your personal file for [6/12] months from [date of Disciplinary Hearing]. [If appropriate: As this warning relates to an allegation of safeguarding of children/vulnerable adults, it will remain on file until you reach normal retirement age or for 10 years, whichever is longer.] Reference to this warning will only be made if your conduct relating to your employment is found to be unacceptable during this timescale or you request a reference while the warning is in effect.

7. Consequences of Failure to Maintain

If you fail to comply with the requirements set out in paragraph 4 above, or if you commit further disciplinary offences of a similar or different nature, this warning may be taken into account in determining any penalty at any subsequent disciplinary hearing. If the case against you was proven, the likelihood is that a more severe penalty would be imposed (i.e. action up to and including dismissal).

Appendix M - Invitation to Appeal Hearing

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]

[Address]

[Date]

Dear [Name],

Following receipt of your appeal under the Disciplinary Policy against the [first / final written warning you were issued / termination of employment], I am writing to invite you to attend an appeal hearing. Your appeal will be heard by [name, job title], [name, job title] and [name, job title] at [time] on [date] in [location]. [Name] will also be in attendance to take notes. On arrival you should report to [location] and ask for [name].

You may, if you wish, be accompanied by a work colleague or Trade Union representative.

Enclosed for your attention is a copy of management's response to your appeal statement, along with supporting documents. I will be in attendance at the hearing to present the management case.

The outcome of the appeal hearing will be to either:

- Uphold the original decision taken and maintain any sanction;
- Overturn the original decision and implement a new decision along with any appropriate sanction/action. [first / final written warning - In cases where new evidence is provided, this could include increasing the original sanction.]

Please be advised that the decision of the appeal hearing will be final and there is no further right of appeal.

I would be grateful if you would please acknowledge if you are able to attend the hearing and whether you will be calling any witnesses to support your case or providing any additional documentation so that necessary arrangements can be made. [For your information, management will be calling [name(s)] as their witness]. If you are unable to provide names of witnesses at this point in time, these must be submitted to [name] no later than 5 days before the hearing, together with any additional documentation that you wish to submit.

Should you or your representative require any special arrangements in order to attend the hearing, please contact me on the above number as soon as possible so that I can facilitate these for you.

Please sign and return the second copy of this letter as acknowledgement of receipt.

Yours sincerely,

[Name of chair of original hearing]
[Job Title]

I acknowledge receipt of the letter dated [date].

I will/will not be attending the Disciplinary Appeal Hearing arranged for [date] (if not attending please provide a reason and note that if this is not an acceptable reason the hearing may go ahead in your absence).

I will/will not be calling witnesses (please provide names of any witnesses you intend to call).

Signed: _____

Date: _____

Print Name: _____

Appendix N - Outcome of Appeal Hearing

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]

[Address]

[Date]

Dear [Name],

I am writing to confirm the outcome of the Disciplinary Appeal Hearing held on [date] which was heard by me along with [name, job title] and [name, job title]. Also present was [name] as your representative and [name] as note taker.

You appealed against the decision made at the Disciplinary Hearing on [date]. The reason for your appeal was [reason].

Having considered the evidence provided at the hearing, the panel have decided to [uphold the original decision to issue you with a first written warning / final written warning / terminate your employment] or [overturn the original decision to issue you with a first written warning / final written warning / terminate your employment]. Include reasons for decision and details of any additional actions/recommendations.]

The decision of the appeal hearing is final and there is no further right of appeal.

Yours sincerely,

[Name of person who chaired the appeal hearing]

[Job Title]

Disciplinary Policy and Procedure (JNC Grade and above)

Scope

This procedure applies to all employees of the Council employed on JNC for local authority Chief Officer terms and conditions. Where the employee concerned is the Head of Paid Service (i.e. the Chief Executive), the Monitoring Officer (i.e. the Head of Strategic Support) or the Chief Finance Officer (i.e. the Strategic Director for Corporate Resources), please refer to [Appendix A](#) for additional procedural requirements which are applicable to these posts in accordance with the JNC for local authority Chief Executive terms and conditions. The policy and procedure and Appendix A should be read in conjunction with the Council's constitution (17.10 – 17.12).

Purpose

The Council's procedures and the Code of Conduct set the expected standards of conduct at work. The purpose of this procedure is to ensure that all employees achieve and maintain satisfactory standards of conduct and behaviour. It also provides a fair and consistent method of dealing with alleged failures to observe these standards.

Criminal Offences

Advice should be sought immediately from Strategic HR if a case appears to involve criminal activity so that a decision can be made as to whether the matter should be referred to the police. In such circumstances the employee will normally be informed of such action unless the police advise otherwise.

Where an employee is charged with or convicted of a criminal offence, the disciplinary hearing may be stayed pending the outcome of the police investigation and/or court case.

Allegations of Fraud, Corruption or Financial Irregularity

The Council has a zero tolerance approach to fraud and corruption (and other forms of financial irregularity). In all cases where fraud, corruption or financial irregularity is suspected, or detected, managers must report the details to the Head of Strategic Support (Monitoring Officer) or the Strategic Director of Corporate Resources (Chief Financial Officer) before proceeding with any investigation.

Financial Loss

If a case involves financial loss (money or assets), advice should be sought from Strategic HR as to whether steps should be taken to recover the loss, in accordance with the Council's loss recovery strategy.

Safeguarding Allegations

Any allegations of misconduct that involve potential safeguarding issues connected with children must be discussed with the Designated Safeguarding Officer in accordance with the policies on safeguarding prior to any discussions taking place with the employee. You can report to:

If an allegation is in any way connected to the safeguarding of children or adults then a referral must be made to the [Disclosure and Barring Service \(DBS\)](#) at the appropriate point in the process. Information provided by the police or other agencies (e.g. investigation outcome, statements) should be shared with the employee, unless specifically advised otherwise, particularly if this information will form part of the management case at a subsequent disciplinary hearing.

Use of Electronic Surveillance Records

Managers who strongly suspect employee misconduct and believe that access to electronic surveillance records may support their case must first discuss their concerns with Strategic HR.

STAGE 1

On becoming aware of an employee's alleged misconduct (see [Appendix B](#) for examples), the employee's manager will make initial enquiries about the incident/concern. This will normally involve a discussion between the manager and the employee concerned to find out their version of events and to establish if there is an acceptable explanation. On the basis of this discussion, the manager may decide:

- That no further action is necessary;
- To deal with the matter informally. The employee should be advised of the expected standards and any remedial action which is required;
- That further investigation is required (possibly including the suspension of the employee) and an appropriate 'Investigating Officer' will be appointed.

Notes should be taken at this meeting and a copy provided to the employee.

Suspension

Suspension is a precautionary measure and does not pre-determine in any way the outcome of an investigation. Suspension should only be imposed after careful consideration of alternatives, which may include the possibility of transferring the employee to an alternative role or adjusting their work. Employees may be suspended at any stage during the investigation process however advice must be sought from Strategic HR before any action is taken. Suspension should only be considered if there are concerns about the employee remaining in the workplace and once confirmed must be kept under regular review. The reason for the suspension should be made clear to the employee and confirmed in writing. The employee does not need to be suspended to be dismissed for gross misconduct.

STAGE 2

No formal disciplinary action will be taken until the matter has been fully investigated. This includes providing the employee with the opportunity to attend a formal investigatory meeting. Before meeting with the employee the Investigating Officer should make enquiries regarding the concerns, which may include interviewing witnesses and/or collating documentation. The employee has the right to be accompanied at the meeting by a work colleague or trade union representative.

The letter inviting the employee to the meeting should outline the general nature of the concerns. Notes should be taken at this meeting and a copy sent to the employee.

At the meeting the Investigating Officer will:

- Make clear to the employee what concerns have been raised;
- Ask the employee to respond to the concern(s) against them;
- Warn the employee that the matter may result in a formal disciplinary hearing at which they will have the right to be accompanied by a work colleague or trade union representative;
- Interview/obtain signed statements from witnesses following the employee's evidence (if applicable).

The employee will:

- Respond to the questions;
- Provide the names of witnesses (if applicable).

After the investigation meeting it may be necessary for the employee to provide documentation and/or for the Investigating Officer to interview witnesses and/or collate additional documentation.

The Investigating Officer will collect **all of the evidence**, including that which is favourable to the employee, and consider whether there is a case to answer. A report will be produced, for consideration by the employee's manager (or another appropriate manager) as to what action should be taken. The potential outcomes are:

- No further action is necessary;
- To deal with the matter informally. The employee should be advised of the expected standards and any remedial action which is required;
- To refer the matter to a formal disciplinary hearing.

STAGE 3

'A disciplinary hearing will be arranged to consider the employee's conduct. The panel for JNC staff up to and including Heads of Service will include a Head of Service and a Strategic Director or 2 Strategic Directors, with no prior involvement in the case, plus a HR Manager. For cases relating to a Strategic Director who is not a Statutory Officer, the

panel, appointed by the Personnel Committee, will consist of five elected members (with a quorum of three) with no prior involvement in the case.

The employee will receive a minimum of 10 working days written notice of the hearing. The letter should include details of the allegations against the employee, details of the employee's right to be accompanied by a work colleague or trade union representative and the potential outcomes of the hearing. A copy of any paperwork which will be used as evidence at the hearing must also be enclosed.

Any documentation that the employee wishes to refer to at the hearing must be received by the Chair of the panel at least 5 working days before the date of the hearing. It will be the panel's discretion as to whether any documentation presented outside of these deadlines will be considered at the hearing.

Prior to the hearing, the employee may write to the Chair of the panel to request further details in relation to the allegations against them. The employee may also request the postponement of the hearing in order to consider the paperwork provided to them and/or to arrange representation. The rearranged date for the hearing must be agreed by all parties and be no later than 14 days after the original hearing date.

Both the manager and the employee may call witnesses. Details of the manager's witnesses will be included in the hearing invite letter. The employee is responsible for inviting their witnesses to the hearing and must provide the names of any witnesses to the Chair of the panel at least 5 working days before the hearing date. The format of the hearing can be found at [Appendix C](#).

The following outcomes are available to the panel depending on the seriousness of the offence:

- No Case to Answer/No further action is necessary;
- First Written Warning (which will remain in place for 6 months')
- Final Written warning (which will remain in place for 12 months');
- Dismissal (with or without notice).
- Some other sanction short of dismissal that is reasonable in the circumstances.

Alternatively, the panel may wish to consider alternatives. For example, secondment or redeployment to a lower graded post. Where a warning is given, the employee should be advised of the level of improvement required, the date by which it is to be achieved and what will happen if it is not.

Employees should ordinarily be dismissed with notice except in the case of gross misconduct where they should be summarily dismissed without notice.

The employee will be notified in writing of the outcome of the hearing within 5 working days. A copy of the notes from the hearing should be provided.

If the panel determines that the employee should be dismissed, notice of the dismissal cannot be issued until:

- The Chief Executive is provided with the name of the employee whom it is proposed to be dismissed and any other particulars which the hearing panel considers relevant to the dismissal; and
- The Chief Executive has provided every member of the Cabinet with the name of the employee whom it is proposed to be dismissed, any other particulars relevant to the dismissal and the date by which any objection to the dismissal must be made by the Leader on behalf of the Cabinet to the Chief Executive; and either
- The Leader has, within the specified period, notified the hearing panel that there are no objections to the dismissal from the Cabinet or the Chief Executive has confirmed to the panel that no objections were received from the Leader; or
- The panel is satisfied that any objection received from the Leader within the specified period is not material or is not well-founded.

The panel will write to the employee within 5 working days to confirm their decision and to give notice of dismissal, if appropriate.

Right of Appeal

An employee has the right to appeal against their dismissal and must submit an appeal registration form to the Head of Strategic Support within 5 working days of receiving the letter confirming their dismissal. When completing the registration form the employee should specify the grounds for their appeal and attach any supporting evidence. New evidence will only be considered if it is relevant and there was a good reason why it was not provided as part of the original hearing.

The appeal will be considered by a panel, appointed by the Personnel Committee, of five elected members (with a quorum of three) with no prior involvement in the case.. The panel should contain no more than one member of the Cabinet. The employee may be accompanied by a work colleague or trade union representative.

The format of the hearing will be as per the Appeal Policy and Procedure. The panel will consider the appellant's grounds of appeal and determine whether the original decision to recommend the employee's dismissal was reasonable in the circumstances.

The panel will write to the employee to confirm the outcome of the appeal within 5 working days. There is no further internal right of appeal.

Appendix A - Additional Procedural Requirements applicable to the Head of Paid Service, Monitoring Officer and Chief Finance Officer

The following variations to the Disciplinary Procedure for Chief Officers will apply where the subject of the alleged misconduct is the Head of the Paid Service (i.e. the Chief Executive), the Monitoring Officer (i.e. the Head of Strategic Support) or the Chief Finance Officer (i.e. Strategic Director for Corporate Services). Further detail can be found at Appendix 5a of the JNC for local authority for Chief Executives handbook.

STAGE 1 - Informal

If the employee concerned is the Chief Executive, an appropriate person will be appointed by the Leader (or Deputy Leader in their absence) to undertake this stage of the procedure. For the other two posts, the Chief Executive will undertake this stage as the manager of the post holders.

STAGE 2 – Personnel Committee

If it has not been possible to resolve the issue informally, the matter will need to be referred for consideration by the Personnel Committee.

A meeting of the panel appointed by the Personnel Committee will be arranged to consider what action, if any, is appropriate. The panel will consist of five elected members (with a quorum of three) with no prior involvement in the case. The Committee must include at least one member of the Cabinet.

The employee will be invited to attend the meeting and may be accompanied by a work colleague or trade union representative. At least 10 working days' notice should be provided. After considering the results of the investigation and hearing the views of the employee, the Committee may decide:

- No further action
- Informal un-recorded oral warning
- Case to answer/further investigation required

While it is advisable to ensure that a thorough independent investigation has been completed before delivering a sanction, the panel may wish to consider alternatives. For example, secondment or redeployment to a lower graded post. Where a warning is given, the employee should be advised of the level of improvement required, the date by which it is to be achieved and what will happen if it is not.

The employee will be notified in writing of the outcome of the meeting. The letter should include the rationale for the decision. A copy of the notes from the meeting should also be provided.

Independent Investigator

The Personnel Committee should appoint an independent investigator where it is decided that there is a case to answer / further investigation is required. The Council should contact the JNC for contact details of independent investigators.

Suspension

The chair of the Personnel Committee has delegated authority to suspend. Suspension should be reviewed after a period of two months and only extended following consultation with the independent investigator and consideration of any objections/representations from the Chief Executive.

Investigation

The independent investigator will gather evidence that will lead to the formulation of a recommendation for consideration by the Personnel Committee. This includes providing the employee with the opportunity to attend a formal investigatory meeting. Before meeting with the Statutory Officer the independent investigator should make enquiries regarding the concerns, which may include interviewing witnesses and/or collating documentation. The Statutory Officer has the right to be accompanied at the meeting by a work colleague or trade union representative.

On completion of their investigation the independent investigator must prepare a report with recommendations and rationale for submission to the Personnel Committee.

Consideration and Decision of the Personnel Committee

The Personnel Committee will conduct a hearing that will allow the Statutory Officer the opportunity to challenge the recommendations of the independent investigator and call witnesses. The hearing will be conducted in accordance with Stage 3 of the Disciplinary Procedure for Chief Officers.

Recommendations of the Personnel Committee

Following the hearing the Personnel Committee will have 3 options:

- No case to answer
- Disciplinary action short of dismissal
- Dismissal

The employee will be notified in writing of the outcome of the meeting. The letter should include the rationale for the decision. A copy of the notes from the meeting should also be provided.

Where the employee wishes to appeal against action short of dismissal, the appeal arrangements set out on page 5 of this document will apply.

Stage 3 - The Independent Panel

Where the Personnel Committee recommends the dismissal of the employee, the matter will be referred to an Independent Panel for a report. This panel will include at least two independent persons who have consented to serve from amongst those previously

appointed by the Council or by another Council under Section 28(7) of the Localism Act 2011.

Both parties should be present or represented at the meeting. The Independent Panel should receive any oral representation from the Statutory Officer. The Personnel Committee should nominate a person to attend on its behalf to provide any response on behalf of the Personnel Committee to the points made. The Independent Panel may ask questions of either party.

The Independent Panel should review the decision of Personnel Committee and prepare a report for Full Council. This report should contain clear rationale if they disagree with the recommendation to dismiss.

Personnel Committee's proposal to dismiss the employee will be referred to Full Council along with a copy of the Independent Panel's report. The meeting of the Independent Panel must take place at least 20 working days before Full Council meet to consider the employee's dismissal.

Stage 4 - Full Council

Full Council will meet to consider the proposal to dismiss the employee and will take into account factors including:

- Any advice, views or recommendations from the Independent Panel;
- The conclusions of the independent investigator into the proposed dismissal;
- The recommendations for dismissal from the Personnel Committee
- Any representations from the employee concerned.

The employee will be invited to attend and may be accompanied by a work colleague or trade union representative. In some circumstances, another appropriate person who is not legally qualified may represent the appellant, but this will be at the discretion of Full Council. Copies of the paperwork to be considered at the meeting should be provided to all parties in advance. The employee should ensure that they take the opportunity to challenge their proposed dismissal as there is no further right of appeal after this meeting.

All discussions will take place under the exempt section of the council meeting.

If Full Council approves the proposal to dismiss the employee, the notice of dismissal cannot be issued until the Chief Executive (or Strategic Director for Corporate Resources) has provided every member of the Cabinet with the opportunity to object to the dismissal.

Personnel Committee will write to the employee within 5 working days to advise them of the outcome and to give notice, if appropriate.

Appendix B - Examples of Misconduct and Gross Misconduct

Examples of Misconduct

The following list is not exhaustive but gives examples of offences which may amount to misconduct:

- Persistent bad timekeeping;
- Unauthorised absence from work without reasonable cause;
- Damage to Council property;
- Failure to follow Council procedures;
- Abusive or disruptive behaviour;
- Minor breaches of Health and Safety regulations;
- Misuse of Council facilities;
- Undertaking unauthorised employment;
- Improper behaviour or conduct towards colleagues or members of the public;
- Unreasonable refusal to follow a management instruction;
- Abuse of the E-Communications Policy.
- Abuse of Working Time (e.g. personal use of mobile phones, misuse of breaks, time recording etc....)
- Breach of Agile Working.

Serious examples of any of the above may amount to gross misconduct.

Examples of Gross Misconduct

The following list is not intended to be exhaustive and gives only an indication of the types of offences which could be considered as gross misconduct:

- Serious incapability as a result of being intoxicated by reason of alcohol, non-prescribed drugs, illegal drugs or prescribed drugs which may have an adverse effect on performance and safety;
- Deliberate falsification of reports, accounts, expense claims or self-certification forms;
- Theft, removal or unauthorised possession or deliberately aiding another person to remove or failure to properly account for any property or facilities belonging to the Council or to another Employee or customer;
- Fraud (i.e. an act of deception intended for personal gain or to cause a loss to another party) or corruption (i.e. the deliberate misuse of a position for direct or indirect personal gain);
- Unauthorised entry to computer records or deliberate falsification of records;
- Serious breach of the Council's E-Communications Policy;
- Repeated refusal to carry out duties or reasonable instructions or to comply with Council policies and procedures;

- Serious Abuse of Working Time (e.g. personal use of mobile phones, misuse of breaks, time recording etc....)
- Serious breaches of confidence, confidentiality or the Data Protection Act 1988 (subject to the Public Interest Disclosure Act 1988);
- Deliberate or reckless damage to Council property;
- Serious acts of insubordination;
- Acts of bullying, harassment or discrimination (i.e. unacceptable behaviour);
- Serious breach of the Council's safety rules or a single error due to negligence which causes or could have caused significant loss, damage or injury to the Council, its employee or customers;
- Bringing the Council into serious disrepute;
- A criminal offence, which may (whether it is committed during or outside of the employee's hours of work) adversely affect the Council's reputation or the employee's suitability for or ability to undertake the type of work they are employed to perform;
- Violent or threatening behaviour;
- Failure to maintain professional registration where this is a pre-requisite for the post;
- Failure to maintain satisfactory DBS clearance where this is a requirement for the post.
- Serious Breach of Agile Working..

Appendix C - Format of the Disciplinary Hearing

1. The panel will introduce those present and outline the procedure to be followed. An employee who is not accompanied will be reminded of their right to representation by a work colleague or Trade Union representative.
2. The manager presenting the case (i.e. the Presenting Officer) will outline their statement of case. They should refer to documents circulated beforehand to evidence their views.
3. If applicable, the Presenting Officer will invite management's witnesses to the hearing. The witness will be questioned initially by the Presenting Officer, then the employee and/or their representative may question the witness followed by questions from the panel.
4. The Presenting Officer will conclude their statement of case.
5. The employee and/or their representative may question the Presenting Officer on their case presentation.
6. The panel may question the Presenting Officer on their case presentation.
7. The employee and/or their representative will outline their case. They may refer to documents circulated beforehand.
8. If applicable, the employee or their representative will invite the employee's witnesses to the hearing. The witness will be questioned initially by the employee and/or their representative, then the Presenting Officer may question the witness followed by questions from the panel.
9. The employee and/or their representative will conclude their case.
10. The Presenting Officer may question the employee and their representative on their case presentation (the employee's representative is not usually able to answer questions on their behalf).
11. The panel may question the employee and their representative on their case presentation (the employee's representative is not usually able to answer questions on their behalf).
12. The Presenting Officer will have the opportunity to sum up the case against the employee. No new evidence can be included at this point.

13. The employee and/or their representative will have the opportunity to sum up their case. No new evidence can be included at this point.
14. The Presenting Officer, the employee and their representative will leave the room so that the panel can deliberate.
15. Having deliberated on the matters placed before them, the panel will reach their decision and then recall both parties to advise them of the decision.