

PERSONNEL COMMITTEE – 5TH OCTOBER 2021

Report of the Strategic Director Environmental and Corporate Services

Part A

ITEM 8 PROBATION POLICY AND PROCEDURE AND PROBATION POLICY AND PROCEDURE GUIDANCE

Purpose of Report

Personnel Committee to agree the proposed amendments to the Probation Policy and Procedure and the Probation Policy and Procedure Guidance following a review of both documents.

Recommendation

That Personnel Committee agree the changes as outlined below and as attached at Annex 1 and Annex 2.

Reason

The Probation Policy and Procedure process was reviewed to ensure compliance with best practice and to propose a more streamlined process. The Probation Policy and Procedure and the Probation Policy and Procedure Guidance have been amended to reflect those recommendations.

Policy Justification and Previous Decisions

The current Probation Policy and Procedure and Probation Guidance were approved at Personnel Committee in 2015. The proposed changes are recommended to further improve the probation process.

Implementation Timetable including Future Decisions

It is recommended that the Probation Policy and Procedure and the Probation Policy and Procedure Guidance be published on the intranet, following approval at the Personnel Committee meeting.

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 1 – Probation Policy and Procedure
 Annex 2 – Probation Policy and Procedure Guidance

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Part B

1. A review of the current probation policy documents has been undertaken in order to put forward an amended policy and guidance that improves the probation process.
2. Outlined below are proposed key changes to the Probation Policy and Procedure and the Probation Policy and Procedure Guidance:
 - 2.1 An increased emphasis on managers responsibilities regarding probation during a new employee's induction.
 - 2.2 The new policy confirms that extensions to probation should only be agreed in exceptional circumstances and that more than one extension may be granted unless the 3-month maximum would be exceeded.
 - 2.3 Currently, Formal Probation Hearings involve 2 senior managers and a representative from HR. Within the amended policy it is proposed that this will be a simplified Formal Probation Review meeting led by the manager with support from HR, rather than a formal hearing. Full information regarding the probation will be discussed at the meeting, with both sides being given the opportunity to set out their case. The manager will be responsible for the determining the outcome of the meeting, with advice from HR, which could include dismissal.
 - 2.4 Appeals to this decision will be heard by an independent panel in accordance with the Appeal Policy and Procedure.
 - 2.5 The policy outlines additional clarification on the process to be used in the event of disciplinary action for employees in their probation period.
 - 2.6 Associated letters have been amended to reflect the proposed changes.



Probation Policy and Procedure

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Scope

The Probation Policy and Procedure applies to all new employees of Charnwood Borough Council with the exception of:

- Casual workers;
- Employees who joined the Council as the result of a TUPE transfer.

All new employees who are appointed for 6 months or more, including those with previous continuous local government service are required to satisfactorily complete a 6 month probationary period before they are confirmed in post.

Purpose

The purpose of the Probation Policy and Procedure is to provide a framework for managers to use to objectively assess a new employee’s suitability for their role, taking into account the individual’s overall capability, skills, performance, conduct and attendance.

The aim of the probation period is to maximise the support provided to new employees in order to assist them to effectively perform the duties of their role and to encourage two-way discussions around performance from their first day of employment with the Council.

Managers are advised to refer to the supporting [guidance](#) for further information on the application of this policy.

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Duration of the Probation Period

The probation period will normally last for 6 months but may be [extended](#) in exceptional circumstances. New employees who are appointed on a fixed-term contract for less than 6 months will be subject to the probation process for the duration of their contract.

The probation period will consist of the following structured meetings:

- [3 Month Probation Assessment](#);
- [5 Month Probation Assessment](#); and
- If required, [Formal Probation Review Meeting](#) (at 6 months).

In addition to these meetings, managers are expected to conduct regular one-to-one discussions throughout the employee's probation period. These meetings are an important part of the probation process as they will allow the employee's performance and progress to be continuously monitored and prompt feedback to be given. By not holding regular one-to-one meetings, managers risk important issues being overlooked as well as delays in resolving issues.

Where there are concerns regarding an employee's suitability but the manager fails to complete the Formal Probation Review Meeting prior to the employee completing 6 months in employment, the employee will be considered to have passed their probation by default unless an [extension](#) has been agreed or exceptional circumstances apply.

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Escalation to a Formal Probation Review Meeting

The manager may proceed to a [Formal Probation Review Meeting](#) at any time during the probation period if:

- It can be demonstrated that the employee may have misrepresented or provided false information during the recruitment process regarding their qualifications, skills, experience, etc.;
- It is apparent that the employee will be unable to satisfactorily demonstrate their suitability during the probation period despite being given appropriate support;
- The employee is unwilling or unable to take steps to enable them to satisfactorily demonstrate or improve their suitability.

Where concerns about an employee's suitability may be connected to a disability or long-term health condition, managers must ensure that up-to-date medical information has been obtained and reasonable adjustments have been considered and implemented before moving to a Formal Probation Review Meeting.

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Confirming Probation Requirements during Induction

Managers are responsible for ensuring that the following is completed during a new employee's induction:

- A copy of the Probation Policy and Procedure is provided to the employee;
- The probation process is explained to the employee and they are clear what the consequences are if they fail to achieve the required standard of performance, conduct and attendance;
- The employee is advised of the criteria that will be used to assess them during their probation period;
- The employee should be advised of the date for their 3 Month Probation Assessment.
- The employee should be advised that reasonable adjustments for disabilities can be identified and implemented as a matter of priority

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3 Month Probation Assessment

The 3 Month Probation Assessment must be held no later than 3 months from the employee's start date.

The purpose of this meeting is to review the employee's performance, conduct and attendance against the required standards. The employee will be given constructive feedback, using specific examples, highlighting both achievements and any areas where they are falling short.

The employee may be accompanied by a work colleague or trade union representative, if the employee feels they need support.

Satisfactory Performance

Where the employee is meeting the required standards, the manager will update the [Probation Assessment Record](#) to confirm this and set a date for the 5 Month Probation Assessment. This meeting must be held no later than 5 months from the employee's start date. The employee will be provided with an updated copy of the Probation Assessment Record.

Unsatisfactory Performance

Where there are concerns regarding the employee's performance, conduct or attendance, the manager must:



- Re-affirm the required standards;
- Update the [Probation Assessment Record](#) to include details of the relevant objectives/targets and any training and/or support that the employee requires. A copy should be provided to the employee;
- Agree a date when the employee's progress against these objectives/targets will be reviewed (usually after 2 to 4 weeks);
- Set a date for the 5 Month Probation Assessment. This meeting must be held no later than 5 months from the employee's start date;
- Advise the employee that if they fail to meet the required standards by the 5 Month Probation Assessment, this may result in the matter progressing to a Formal Probation Review Meeting which could result in their dismissal.

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5 Month Probation Assessment

The 5 Month Probation Assessment must be held no later than 5 months from the employee's start date.

The purpose of this meeting is to again review the employee's performance, conduct and attendance against the required standards. The employee will be given constructive feedback, using specific examples, highlighting both achievements and any areas where they are falling short.

The employee may be accompanied by a work colleague or trade union representative if the employee feels they need support.

Satisfactory Performance

Where the employee is meeting the required standards, the manager will update the [Probation Assessment Record](#) to confirm this. The employee will be advised that, subject to them sustaining this level of performance for the remainder of their probation period, they will receive a letter confirming them in post within 2 weeks of the end of their probation period. A template letter is available by clicking [here](#). A copy of the completed Probation Assessment Record will also be provided to the employee for their records.

Where an employee's performance deteriorates following the 5 Month Probation Assessment, the manager will hold a further meeting with the employee to discuss the issue(s). Depending on the seriousness of the issue(s), it may be necessary to invite the employee to attend a Formal Probation Review Meeting to consider whether or not to confirm the employee in post.

Unsatisfactory Performance

Where there are concerns regarding the employee's performance, conduct or attendance, the manager must:



- Update the [Probation Assessment Record](#) to reflect the discussion and provide a copy to the employee;
- Consider whether an [extension](#) to the probation period would be appropriate;
- If not, advise the employee that, as they have failed to achieve the required standards, they will be invited to attend a Formal Probation Review Meeting which may result in their dismissal.

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Formal Probation Review Meeting

The Formal Probation Review Meeting must be held no later than 6 months from the employee's start date, unless an extension to the probation period has previously been agreed. The manager will be accompanied by a HR representative.

The employee must be given at least 10 working days' written notice of the Formal Probation Review Meeting. A template letter is available by clicking [here](#). The letter must clearly specify the areas in which the employee's performance is below expectations and include a copy of the Probation Assessment Record.

The manager will make the employee aware that they have the right to be accompanied at the meeting by a work colleague or trade union representative.

Possible Outcomes

The Formal Probation Review Meeting may result in:

- The employee being confirmed into post;
- An [extension](#) to the probation period to allow the employee further time to demonstrate that they can meet the required standards of performance, conduct and attendance.
- The individual's contract of employment being terminated. One month's notice will be provided.

The outcome of the meeting will be confirmed in writing to the employee. A template letter is available by clicking [here](#).

Right of Appeal

An employee who is dismissed from their employment with the Council has the right to appeal this decision. The employee must submit their appeal, using the [Appeal Registration Form](#), to their manager within 7 working days of receiving written notification of the decision to dismiss them. The appeal will be heard in line with the [Appeal Policy and Procedure](#).

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Extending the Probation Period

Extensions to probation periods will only be considered in exceptional circumstances.

In the majority of cases if an individual is absent for a substantial part of their probationary period this will be taken into account in monitoring their performance and may lead to their dismissal. However, in exceptional circumstances, consideration may be given to extending the probationary period. This will enable the employee's actual work performance in the job to be assessed over a length of time, where possible up to the amount of time equal to the probationary period.

In such circumstances, advice should be sought from HR Services. Each case should be considered individually and on a case by case basis and an extension should only be considered where the length of absence during the probationary period is extensive and leads to a potentially difficult situation in assessing and reporting on the employee. The employee should be kept informed in writing, of any such extensions to the probationary period.

Where an extension is agreed, it will be for a maximum period of 3 months. More than one extension may be granted unless the 3-month maximum would be exceeded.

The employee will receive a letter confirming the details of the extension including the reasons why it has been granted. A template letter is available by clicking [here](#). During the extension period, the manager will meet with the employee to review progress. The employee may be accompanied by a work colleague or trade union representative if the employee feels they need support.

Where an employee goes on maternity or adoption leave during their probation period, it may be necessary to suspend the employee's probation and recommence it on their return to work.

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Support Available to Employees during the Probation Process

During the probation process, the manager and employee will identify any training and/or support that the employee requires to effectively perform the duties of their role. Examples of potential supportive measures are available in the supporting [guidance](#).

Employees may wish to seek additional support during their probation period from one or more of the following:

- AMICA
- Mental health First Aider
- Their trade union;
- A work colleague.

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Disciplinary Issues during Probation

Minor conduct issues should be discussed with the employee as part of one-to-one meetings and any required actions documented during Probation Assessments. Where a manager considers the conduct of an employee to be beyond a minor issue and of an unacceptable standard, the [Disciplinary Procedure for Probationary Employees](#) must be followed.

Suspension

In exceptional cases, managers may need to consider suspending an employee during their probation period. Suspension does not pre-determine any particular outcome and must only be used if there is no reasonable alternative. The reason for the suspension must be confirmed to the employee in writing and the manager will regularly review the situation, including revisiting whether alternatives to suspension may be available and staying in contact with the employee.

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Document control:

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Appendix A - Disciplinary Procedure for Probationary Employees

Where a manager considers the conduct of an employee to be beyond a minor issue and of an unacceptable standard, they will invite the employee to attend a disciplinary meeting in order to discuss the matter. The manager will be accompanied by a HR representative. Notes will be taken, and a copy provided to the employee.

The employee must be given at least 10 working days' written notice of the meeting. A template letter is available by clicking [here](#). The letter must include details of the alleged misconduct and a copy of any evidence that will be referred to during the meeting must be provided.

The employee has the right to be accompanied at the meeting by a work colleague or trade union representative. Where an employee or their chosen representative is unable to attend on the proposed meeting date, the employee is able to suggest an alternative date which is within 5 working days of the original date. Where, due to the availability of their representative, the employee requests a date which is beyond the 5 days, it may be appropriate to allow the postponement if it does not cause unreasonable delay. Advice is available from the Corporate HR Team (email: HR@Charnwood.gov.uk or telephone: 0150 963 4605).

The employee will be given the opportunity to explain their version of events and provide copies of any relevant evidence. Witnesses may be called as necessary.

The manager will adjourn the meeting to consider the evidence that has been provided. In certain circumstances, it may be necessary to undertake further investigations. Once a decision has been reached, the manager will reconvene the meeting and advise the employee of the outcome.

Possible Outcomes

The disciplinary meeting may result in:

- No further action being necessary;
- A first written warning (which will expire after 6 months);
- A final written warning (which will expire after 12 months);
- Dismissal (with or without notice).

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

The outcome of the meeting will be confirmed in writing to the employee. A template letter is available by clicking [here](#). 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.



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Right of Appeal

An employee has the right to appeal against all disciplinary sanctions. The appeal must be submitted by the employee, using the [Appeal Registration Form](#), to their manager within 7 working days of receiving written notification of the meeting outcome. The appeal will be heard in line with the [Appeal Policy and Procedure](#).

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Probation Policy and Procedure Guidance

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Purpose

This guidance document is designed to be used in conjunction with the Council's [Probation Policy and Procedure](#). Managers may contact Human Resources for advice at any stage in the probation process.

Induction

Line Managers are responsible for ensuring that an induction programme is in place for each new starter. Line Managers are responsible for setting the standards expected and familiarising new employees with the work area and requirements of the job.

The probation period will consist of the following structured meetings:

- [3 Month Probation Assessment](#);
- [5 Month Probation Assessment](#); and
- If required, [Formal Probation Review Meeting](#) (at 6 months).

In addition to these meetings, managers are expected to conduct regular one-to-one discussions throughout the employee's probation period. These meetings are an important part of the probation process as they will allow the employee's performance and progress to be continuously monitored and prompt feedback to be given. By not holding regular one-to-one meetings, managers risk important issues being overlooked as well as delays in resolving issues.

Where there are concerns regarding an employee's suitability but the manager fails to complete the Formal Probation Review Meeting prior to the employee completing 6 months in employment, the employee considered to have passed their probation by default unless an [extension](#) has been agreed or exceptional circumstances apply.

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Escalation to a Formal Probation Review Meeting

The manager may proceed to a [Formal Probation Review Meeting](#) at any time during the probation period if:

- It can be demonstrated that the employee may have misrepresented or provided false information during the recruitment process regarding their qualifications, skills, experience, etc.;
- It is apparent that the employee will be unable to satisfactorily demonstrate their suitability during the probation period despite being given appropriate support;
- The employee is unwilling or unable to take steps to enable them to satisfactorily demonstrate or improve their suitability.

Where concerns about an employee's suitability may be connected to a disability or long-term health condition, managers must ensure that up-to-date medical information has been obtained and reasonable adjustments have been considered and implemented before moving to a Formal Probation Review Meeting.

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Confirming Probation Requirements during Induction

Managers are responsible for ensuring that the following is completed during a new employee's induction:

- A copy of the Probation Policy and Procedure is provided to the employee;
- The probation process is explained to the employee and they are clear what the consequences are if they fail to achieve the required standard of performance, conduct and attendance;
- The employee is advised of the criteria that will be used to assess them during their probation period;
- The employee should be advised of the date for their 3 Month Probation Assessment.
- The employee should be advised that reasonable adjustments for disabilities can be identified and implemented as a matter of priority

At the One-to-one meetings the Line Manager will review the Probation Assessment Record with the employee. The Line Manager should clearly set out expectations and the required standard that is expected of the employee within the role. Any further training or support that is required should be discussed and the outcomes of the meeting should be documented.

One-to-one Meeting(s) should take place regularly to review progress against the Probation Assessment Record until the Final Probationary Review.

You will need to ensure that the employee is very clear that unless the required standard of performance/attendance/conduct is reached by the Final Probation Meeting then the matter will be referred to a Formal Probation Review Meeting which may lead to their dismissal.

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3 Month Probation Assessment

The 3 Month Probation Assessment must be held no later than 3 months from the employee's start date.

The purpose of this meeting is to review the employee's performance, conduct and attendance against the required standards. The employee will be given constructive feedback, using specific examples, highlighting both achievements and any areas where they are falling short.

The employee may be accompanied by a work colleague or trade union representative if the employee feels they need support.

Satisfactory Performance

Where the employee is meeting the required standards, the manager will update the [Probation Assessment Record](#) to confirm this and set a date for the 5 Month Probation Assessment. This meeting must be held no later than 5 months from the employee's start date. The employee will be provided with an updated copy of the Probation Assessment Record.

Unsatisfactory Performance

Where there are concerns regarding the employee's performance, conduct or attendance, the manager must:

- Re-affirm the required standards;
- Update the [Probation Assessment Record](#) to include details of the relevant objectives/targets and any training and/or support that the employee requires. A copy should be provided to the employee;
- Agree a date when the employee's progress against these objectives/targets will be reviewed (usually after 2 to 4 weeks);
- Set a date for the 5 Month Probation Assessment. This meeting must be held no later than 5 months from the employee's start date;
- Advise the employee that if they fail to meet the required standards by the 5 Month Probation Assessment, this may result in the matter progressing to a Formal Probation Review Meeting which could result in their dismissal.

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5 Month Probation Assessment

The 5 Month Probation Assessment must be held no later than 5 months from the employee's start date.

The purpose of this meeting is to again review the employee's performance, conduct and attendance against the required standards. The employee will be given constructive feedback, using specific examples, highlighting both achievements and any areas where they are falling short.

The employee may be accompanied by a work colleague or trade union representative if the employee feels they need support.

Satisfactory Performance

Where the employee is meeting the required standards, the manager will update the [Probation Assessment Record](#) to confirm this. The employee will be advised that, subject to them sustaining this level of performance for the remainder of their probation period, they will receive a letter confirming them in post within 2 weeks of the end of their probation period. A template letter is available by clicking [here](#). A copy of the completed Probation Assessment Record will also be provided to the employee for their records.

Where an employee's performance deteriorates following the 5 Month Probation Assessment, the manager will hold a further meeting with the employee to discuss the issue(s). Depending on the seriousness of the issue(s), it may be necessary to invite the employee to attend a Formal Probation Review Meeting to consider whether or not to confirm the employee in post.

Unsatisfactory Performance

Where there are concerns regarding the employee's performance, conduct or attendance, the manager must:

- Update the [Probation Assessment Record](#) to reflect the discussion and provide a copy to the employee;
- Consider whether an [extension](#) to the probation period would be appropriate;
- If not, advise the employee that, as they have failed to achieve the required standards, they will be invited to attend a Formal Probation Review Meeting which may result in their dismissal.

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Formal Probation Review Meeting

The Formal Probation Review Meeting must be held no later than 6 months from the employee's start date, unless an extension to the probation period has previously been agreed. The manager will be accompanied by a HR representative.

The employee must be given at least 10 working days' written notice of the Formal Probation Review Meeting, including presenting documentary evidence and calling witnesses. A template letter is available by clicking [here](#). The letter must clearly specify the areas in which the employee's performance is below expectations and include a copy of the Probation Assessment Record.

The manager will make the employee aware that they have the right to be accompanied at the meeting by a work colleague or trade union representative. The employee will have the right to submit documentary evidence in advance of the hearing and to call witnesses; this should be done 5 days before the meeting.

At the meeting the manager should explain the concern against the employee and go through the evidence that has been gathered. The employee should be allowed to set out their case and answer any allegations that have been made. The employee should also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses.

Witnesses

It is the responsibility of the Line Manager to ensure that they invite any witnesses (if required) to attend the meeting.

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

Witnesses will be allowed to attend the meeting in works time.

Failure to Attend

Wherever possible, arrangements for the date of the meeting 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 meeting, 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 meeting may go ahead in their absence.

Possible Outcomes

The Formal Probation Review Meeting may result in:

- The employee being confirmed into post;
- An extension to the probation period to allow the employee further time to demonstrate that they can meet the required standards of performance, conduct and attendance.
- The individual's contract of employment being terminated. One month's notice will be provided.

The outcome of the meeting will be confirmed in writing to the employee. A template letter is available by clicking [here](#).

Right of Appeal

An employee who is dismissed from their employment with the Council has the right to appeal this decision. The employee must submit their appeal, using the Appeal Registration Form, to their manager within 7 working days of receiving written notification of the decision to dismiss them. The appeal will be heard in line with the [Appeal Policy and Procedure](#).

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Extending the Probation Period

Extensions to probation periods will only be considered in exceptional circumstances.

In the majority of cases if an individual is absent for a substantial part of their probationary period this will be taken into account in monitoring their performance and may lead to their dismissal. However, in exceptional circumstances, consideration may be given to extending the probationary period. This will enable the employee's actual work performance in the job to be assessed over a length of time, where possible up to the amount of time equal to the probationary period.

In such circumstances, advice should be sought from HR Services. Each case should be considered individually and on a case by case basis and an extension should only be considered where the length of absence during the probationary period is extensive and leads to a potentially difficult situation in assessing and reporting on the employee. The employee should be kept informed in writing, of any such extensions to the probationary period.

Where an extension is agreed, it will be for a maximum period of 3 months. More than one extension may be granted unless the 3-month maximum would be exceeded.

The employee will receive a letter confirming the details of the extension including the reasons why it has been granted. A template letter is available by clicking [here](#). During the extension period, the manager will meet with the employee to review progress. The employee may be accompanied by a work colleague or trade union representative if the employee feels they need support.

Where an employee goes on maternity or adoption leave during their probation period, it may be necessary to suspend the employee's probation and recommence it on their return to work.

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Disciplinary Issues during Probation

Minor conduct issues should be discussed with the employee as part of one-to-one meetings and any required actions documented during Probation Assessments. Where a manager considers the conduct of an employee to be beyond a minor issue and of an unacceptable standard, the Disciplinary Procedure for Probationary Employees must be followed.

Suspension

In exceptional cases, managers may need to consider suspending an employee during their probation period. Suspension does not pre-determine any particular outcome and must only be used if there is no reasonable alternative. The reason for the suspension must be confirmed to the employee in writing and the manager will regularly review the situation, including revisiting whether alternatives to suspension may be available and staying in contact with the employee.

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