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Hinckley & Bosworth
Borough Council

Bill Cullen MBA (ISM), BA(Hons) MRTPI
Chief Executive

Date: 14 November 2023

**To: Members of the Ethical Governance and
Personnel Committee**

Cllr A Pendlebury (Chair)
Cllr E Hollick (Vice-Chair)
Cllr MB Cartwright
Cllr MA Cook
Cllr MJ Crooks

Cllr WJ Crooks
Cllr C Harris
Cllr KWP Lynch
Cllr LJP O'Shea

Copy to all other Members of the Council

(other recipients for information)

Dear member,

There will be a meeting of the **ETHICAL GOVERNANCE AND PERSONNEL COMMITTEE** in the De Montfort Suite, Hinckley Hub on **WEDNESDAY, 22 NOVEMBER 2023** at **6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Owen'.

Rebecca Owen
Democratic Services Manager

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- *There are two escape routes from the Council Chamber – at the side and rear. Leave via the door closest to you.*
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- **Do not** use the lifts.
- **Do not** stop to collect belongings.

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Thank you

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

2. MINUTES OF PREVIOUS MEETING (Pages 1 - 4)

To confirm the minutes of the previous meeting.

3. ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES

To be advised of any additional items of business which the Chair decides by reason of special circumstances shall be taken as matters of urgency at this meeting.

4. DECLARATIONS OF INTEREST

To receive verbally from members any disclosures which they are required to make in accordance with the Council's code of conduct or in pursuance of Section 106 of the Local Government Finance Act 1992. **This is in addition to the need for such disclosure to be also given when the relevant matter is reached on the agenda.**

5. QUESTIONS

To hear any questions received in accordance with Council Procedure Rule 12.

6. POLICY ON THE MANAGEMENT OF UNACCEPTABLE AND VIOLENT CUSTOMER BEHAVIOUR (Pages 5 - 18)

To seek approval of the updated policy on the management of unacceptable and violent customer behaviour.

7. REVISION OF DISCIPLINARY AND GRIEVANCE POLICY AND INTRODUCTION OF A NEW CAPABILITY POLICY (Pages 19 - 48)

To seek approval of the updated disciplinary and grievance policies and procedures and a new capability policy and procedure.

8. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIR DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

As announced under item 3.

9. MATTERS FROM WHICH THE PUBLIC MAY BE EXCLUDED

To consider the passing of a resolution under Section 100A(4) of the Local Government Act 1972 excluding the public from the undermentioned item of business on the grounds that they involve the likely disclosure of exempt information as defined in the paragraphs of Schedule 12A of the 1972 Act noted under each item.

10. STATUTORY SAFETY COMMITTEE MINUTES (Pages 49 - 54)

Minutes of the meeting held on 5 September. These are exempt in accordance with paragraphs 1 and 10.

11. **COMPLAINTS UPDATE**

To update members on code of conduct complaints. This is exempt in accordance with paragraphs 1, 2 and 10.

12. **CORPORATE COMPLAINT UPDATE (Pages 55 - 64)**

To seek endorsement of an independent review of a corporate complaint. This is exempt in accordance with paragraphs 1, 2 and 10.

HINCKLEY AND BOSWORTH BOROUGH COUNCIL ETHICAL GOVERNANCE AND PERSONNEL COMMITTEE

10 OCTOBER 2023 AT 6.30 PM

PRESENT: Cllr A Pendlebury – Chair

Cllr RG Allen (for Cllr CM Allen), Cllr MC Bools (for Cllr MB Cartwright), Cllr SL Bray (for Cllr MJ Crooks), Cllr MA Cook, Cllr C Harris (for Cllr LJP O'Shea), Cllr L Hodgkins (for Cllr WJ Crooks), Cllr KWP Lynch and Cllr LJ Mullaney (for Cllr E Hollick)

Also in attendance: Mr G Grimes, Independent Person

Officers in attendance: Julie Kenny and Rebecca Owen

150. **Apologies and substitutions**

Apologies for absence were submitted on behalf of Councillors C Allen, Cartwright, J Crooks, W Crooks, Hollick and O'Shea, with the following substitutes authorised in accordance with council procedure rule 10:

Councillor R Allen for Councillor C Allen
Councillor Bools for Councillor Cartwright
Councillor Bray for Councillor J Crooks
Councillor Harris for Councillor O'Shea
Councillor Hodgkins for Councillor W Crooks
Councillor L Mullaney for Councillor Hollick.

151. **Minutes of previous meeting**

It was moved by Councillor Cook, seconded by Councillor Lynch and

RESOLVED – the minutes of the meeting held on 2 August be confirmed as a correct record.

152. **Declarations of interest**

Councillor Allen declared a non-pecuniary interest as his company provided a financial service to a parish council of which one of the councillors subject to a complaint considered at the previous meeting was a member.

153. **Social media policy and guidelines**

Consideration was given to the updated social media guidance and best practice for employees and councillors. The importance of social media guidance in relation to the code of conduct was noted. It was moved by Councillor Bray, seconded by Councillor Allen and

RESOLVED – the social media policy and guidelines for employees and members be approved.

154. Corporate complaints 2022/2023

Members received an annual report relating to corporate complaints. It was noted that the council had seen similar trends to other authorities but received relatively few complaints in comparison.

It was reported that since publication of the Local Government & Social Care Ombudsman's annual letter, a case had been concluded which had found fault in relation to the processing of a planning application and whilst the investigator had not concluded that the outcome of the application would have been any different had it not been for the errors made, recommendations had been made to review internal processes and record keeping. It was noted that the outcome of the review would be reported to Finance & Performance Scrutiny's December meeting.

It was moved by Councillor Allen, seconded by Councillor Bools and

RESOLVED – the report be noted.

155. Matters from which the public may be excluded

On the motion of Councillor Pendlebury seconded by Councillor Bools, it was

RESOLVED – in accordance with section 100A(4) of the Local Government Act 1972, the public be excluded from the following item of business on the grounds that it involves the disclosure of exempt information as defined in paragraphs 1 and 10 of Part I of Schedule 12A of that Act.

156. Complaints update

The Monitoring Officer provided an update on code of conduct complaints, including two considered at the previous meeting.

In relation to complaint 2023/14, the subject member had not apologised and no response had been received to the Monitoring Officer's emails.

Similarly, no apology had been received in respect of 2023/15 and the subject member had made a complaint about way the matter had been handled. Members were disappointed with the bullying behaviour that had been perpetuated with these actions.

Members expressed frustration with the lack of willingness to apologise in both of these instances. In view of the fact that the government's intention with the current standards regime was that members should be accountable at the ballot box, members felt it was appropriate to make the information public. It was moved by Councillor Bools, seconded by Councillor Lynch and unanimously

RESOLVED – the decision notices for complaints 2023/14 and 2023/15 be published on the council's website and press releases be issued.

(The Meeting closed at 6.52 pm)

CHAIR

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Hinckley & Bosworth Borough Council

Forward timetable of consultation and decision making

Ethical Governance and Personnel Committee

22 November 2023

Wards affected: all wards

Policy on Management of Unacceptable and Violent Customer Behaviour

Report of Director (Community Services)

1. Purpose of report

- 1.1 To present for approval the updated Policy on the Management of Unacceptable and Violent Customer Behaviour. (Appendix 1)

2. Recommendation

- 2.1 That the policy is approved.

3. Background to the report

- 3.1 Every incident directed against employees or against anyone lawfully acting in the interests of the Council is regarded as serious and there is a commitment to ensure that the risk of harm to employees and others is eliminated or minimised. The Council will not tolerate behaviour which is deemed to be unacceptable, abusive, threatening or violent to its staff or any third party acting on its behalf.
- 3.2 The current Policy on the Management of Unacceptable and Violent Customer Behaviour was approved by Ethical Governance and Personnel Committee in 2020. The Policy sets out the framework for how the Council will respond to and manage unacceptable and violent behaviour towards staff and others acting legally on its behalf. The policy was put together following consultation with staff and key council departments.
- 3.3 The updated policy is attached at Appendix 1. The refresh has taken into consideration comments from the staff safety team, health and safety team, HR, staff and recognised trade unions.

3.4 The main changes incorporated on refresh of the policy are:

- recognition and inclusion of links to the council's Lone Worker Policy
- acknowledgement that this policy would be used in conjunction with other policies and reporting procedures such as the council's Antisocial Behaviour (ASB) Policy and reporting of incidents to the police
- updated reference and links to key policies and procedures
- referencing in the policy that the staff safety team will decide on any action required in line with the ASB, Crime and Policing Act 2014 which provides further direction on how the council manages ASB
- statement making clear that third party information may also provide the basis for inclusion to the Unacceptable Behaviour and Violent Persons List
- detail on the importance of staff risk assessments and the need for staff to check the Unacceptable Behaviour and Violent Persons List before customer contact
- a flowchart for the Unacceptable and Violent Customer Behaviour process

3.5 Councillors are not currently covered by this policy as at this point in time there is no way of effectively giving councillors access to the Unacceptable Behaviour and Violent Persons List due to where it is stored on the council's internal systems and that any other potential methods suggested to date would cause data protection/data management issues. However, work is underway by Corporate Services that will look to rectify this going forward.

3.6 It is recognised that there are strong links with other council policies and therefore discussions have taken place with other managers on how the policies best link with each other, in particular policies for customer services and health and safety. These have been considered during the formation of this policy.

3.7 Alongside this policy refresh, updates have taken place to the council's health and safety e-learning training modules to ensure training supports the effective use of this policy. The updated training aims to increase effective and timely reports of incidents of unacceptable behaviour and stresses the importance of appropriate staff use of the Unacceptable Behaviour and Violent Persons List.

4. Exemptions in accordance with the Access to Information procedure rules

4.1 The report is to be taken in open session.

5. Financial implications [CS]

5.1 None arising directly from the report.

6. Legal implications [MR]

- 6.1 The Health and Safety at Work Act 1974 requires the Council to ensure so far as reasonably practicable the health safety and welfare at work of all employees.

7. Corporate Plan implications

- 7.1 This report relates to priority ambitions of Hinckley and Bosworth Borough Council's Corporate Plan 2022-25, namely:

People: helping people to stay healthy and protected from harm.

8. Consultation

- 8.1 The policy has been subject to full consultation with the staff safety team, HR, staff and the recognised trade unions.

9. Risk implications

- 9.1 It is the council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.
- 9.3 No risks identified.

10. Knowing your community – equality and rural implications

- 10.1 The policies provide guidance for managing unacceptable customer behaviour from customers across the borough.
- 10.2 The policies aim to protect all individuals from harm irrespective of their age, culture, disability, gender, gender identity, language, racial origin, socio-economic status, religious belief, marital status, pregnancy or maternity and/or sexual orientation.

11. Climate implications

- 11.1 Work will be delivered to limit carbon impact where possible, for example using virtual methods of engagement and paperless systems.

12. Corporate implications

- 12.1 By submitting this report, the report author has taken the following into account:

- Community safety implications
 - Environmental implications
 - ICT implications
 - Asset management implications
 - Procurement implications
 - Human resources implications
 - Planning implications
 - Data protection implications
 - Voluntary sector
-

Background papers: Appendix 1 – Policy on the Management of Unacceptable and Violent Customer Behaviour
On approval the documents will be available on
www.hinckley-bosworth.gov.uk

Contact officer: Rachel Burgess 01455 255400
Executive member: Councillor S Bray
Councillor M Mullaney

Hinckley & Bosworth Borough Council

POLICY ON THE MANAGEMENT OF UNACCEPTABLE AND VIOLENT CUSTOMER BEHAVIOUR

NOVEMBER 2023

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1 INTRODUCTION

1.1 Hinckley and Bosworth Borough Council is committed to providing customers with excellent services. One of the most effective ways to manage the risk of violent incidents is to prevent them happening in the first place. Good customer service is an important factor in good health and safety practice when dealing with the public. Effective and efficient business delivery is a key control measure in managing customer or claimant's expectations and behaviour.

1.2 However, the Council will not tolerate behaviour, which is deemed to be unacceptable, abusive, threatening or violent to its staff or any third party acting on its behalf.

1.3 Every incident directed against employees or against anyone lawfully acting in the interests of the Council is regarded as serious and there is a commitment to ensure that the risks of harm to employees and others as above are eliminated or minimised. The policy expects every manager to ensure that risk assessments and control measures for dealing with customers, claimants and others, both in the office and off site, are in place, up to date and adhered to. Managers must ensure that risks are minimised through training, ensuring the provision of safe office layouts and implementing well-known and well-rehearsed procedures for dealing with threatened or actual incidents and that where appropriate the Councils Lone people working framework is followed.

1.4 Individual employees also have a part to play, particularly in relation to the reporting of incidents. It is the responsibility of all employees to comply with any control measures in place to reduce the risk of incidents occurring.

1.5 In addition to this policy, the council may rely on other policies where appropriate, including but not limited to the Anti-Social Behaviour Policy. In some circumstances an incident may require reporting to Leicestershire Police for action.

2 PURPOSE AND OBJECTIVES

2.1 The purpose of this policy is to define what the Council considers to be unacceptable or violent customer behaviour and to ensure consistency and fairness when dealing with such behaviour.

2.2 The policy provides details on the options available to the Council when dealing with such behaviour, explaining the process which it will follow and the possible consequences to the customer which may include being placed on the Unacceptable Behaviour and Violent Persons List.

2.3 The policy ensures:

- Consistency and fairness when dealing with unacceptable and violent customer behaviour
- That "need to know staff" are made aware of potential health and safety risks from customers and feed into service lone worker risk assessments
- Personal information of customers is processed in accordance with the Data Protection Act 2018 and the General Data Protection Regulation

3 DEFINITION OF UNACCEPTABLE OR VIOLENT CUSTOMER BEHAVIOUR

3.1 Unacceptable or violent behaviour may include one, two or more isolated incidents of the behaviour complained of or an accumulation of those incidents or that behaviour over a longer period.

3.2 Unacceptable or violent customer behaviour is any incident that causes or has the potential to make employees (or any third party acting on the council's behalf) feel upset, threatened, frightened or physically at risk and is/could be directed at them because of their work.

Examples can include:

- **Violence**
- **Verbal abuse**
- **Abuse of a discriminatory nature e.g., sex, race, disability, religion, age**
- **Threats, which are implied or otherwise**
- **Intimidation**
- **Sexual innuendo**
- **Harassment**
- **Unwelcome attention**
- **Attempted or actual assaults - spitting that makes contact with the body is classed as an assault**
- **Damage to property**
- **Employees filmed, photographed or recorded in the workplace or working off-site, without their express consent**
- **Threats made in writing or via email**
- **Information about employees posted on social media e.g., face book**
- **False accusations**
- **History of violence that still poses a risk**
- **Health and Safety risk at address e.g., dangerous dogs, potentially violent visitors at address, needles**
- **Risk of violence due to health issues/ substance misuse issues**

The list is not exhaustive. Any other incident that makes an employee feel uncomfortable, at risk or threatened must be reported.

3.3 Unreasonably persistent complainants will be dealt with via the Council's Persistent Complainants Policy [Complaints - All Documents](#)

However, there will be occasions where the individual will need to be dealt with in line with this policy alongside the Persistent Complainants Policy to inform staff of any potential risks or any restrictions placed upon the customer's contact with the organisation.

4 IMMEDIATE RESPONSES TO POTENTIALLY UNACCEPTABLE OR VIOLENT BEHAVIOUR

4.1 If a customer is abusive or threatening whilst in the office or on the telephone members of staff should clearly state that such behaviour will not be tolerated.

If the behaviour continues, the customer should be asked to leave the building and, if safe to do so, the member of staff should remove themselves from the situation.

For telephone calls, members of staff should advise that they are going to disconnect the call if the behaviour continues. Details of how to manage abusive calls can be found in the Council's Abusive Caller Process at <http://intranet/custserv/SitePages/Home.aspx>

For face-to-face situations in the building, staff should be aware of the location of panic alarms and use secure interview rooms where appropriate. Panic alarms must be used if staff feel physically threatened or unable to deal with the level of abuse. The Panic Alarm Procedure can be found at <http://intranet/custserv/SitePages/Home.aspx>

4.2 It is important that staff that only have contact with customers via email or letter are able to identify unreasonable, abusive, or threatening language and follow this policy and procedures.

4.3 For incidents off site:

4.3.1 All members of staff or others lawfully working for the council who work off site, either in the community or visiting customers at home, should be aware of and follow the procedure set out in the Council's Lone Worker Framework and risk assessment. If appropriate, service-specific Lone Worker procedures should be produced and communicated to staff.

4.3.2 It is particularly important that:

- Risk assessments are carried out and that the Unacceptable Behaviour and Violent Persons List is checked before a visit.

- It is the responsibility of the member of staff to inform security if an individual should be seen in a secure interview room to ensure that support is available if required

- Team members are aware of the whereabouts of staff working off-site

- Staff working off-site must have a way of contacting the office and/or assistance in an emergency

4.3.3 In an emergency situation, where staff feel at significant threat all effort must be made to remove themselves from danger and call 999.

5 MANAGING UNACCEPTABLE OR VIOLENT BEHAVIOUR

5.1 The Council recognises that any decision to classify a customer's behaviour as unacceptable or violent could have consequences for them, including in rare circumstances restricting their access to services. It will, therefore, seek to ensure it acts appropriately and proportionately in the application of this policy.

5.2 The Council has a zero-tolerance approach towards violence or threats of violence towards its staff and will always encourage staff to report such incidents to the Police on 101 or 999 in an emergency.

5.3 All customer incidents or intelligence relating to a customer's risk towards staff must in the first instance be reported by the member of staff via the customer incident reporting form available on the council's intranet.

<http://intranet/commsafety/SitePages/Staff%20incident%20reporting%20form.aspx>

5.4 Staff incident reports are directed to the Staff Safety Team. The Staff Safety Team will then review the incident, along with any other intelligence or previous incidents, and decide on any action required in line with the Antisocial Behaviour, Crime and Policing Act 2014 which provides further direction on how the council manages Antisocial Behaviour. The Staff Safety Team will consider the most appropriate form of action to take which may include (this is not an exhaustive list):

- No further action
- A warning letter to the customer to advise them that the behaviour will not be tolerated and the consequences of any similar behaviour in the future
- Addition to the Unacceptable Behaviour and Violent Persons List

5.5 If any action is chosen which restricts the customer's access to council services, it is important to ensure there is an identified and clearly communicated method of contact available for the customer.

5.6 The behaviour of some customers may be due to a specific circumstance or difficulty, such as a mental health condition, substance misuse issue or other disability. Any unacceptable behaviour should be reported via the staff incident reporting form with details of any complex needs.

Where this is the case, staff must also raise any concerns about a customer via the relevant channels e.g., via their line manager or safeguarding processes.

6 ADDITIONS OF CUSTOMERS TO THE UNACCEPTABLE BEHAVIOUR AND VIOLENT PERSONS LIST

6.1 The decision as to whether an individual should be added to the Unacceptable Behaviour and Violent Persons List will be taken by the dedicated Council Staff Safety Team.

6.2 A decision to add a customer to the Unacceptable Behaviour and Violent Persons List must be preceded by the receipt of a staff incident report.

6.3 Once a decision has been made to add a customer to the Unacceptable Behaviour and Violent Persons List, the Staff Safety Team will write to the customer to:

- Detail the action it has taken and why
- Detail consequences of further unacceptable and/or violent behaviour

- Explain what it means for the customer's future contacts with the council

There will be cases where it is believed that informing the customer of their inclusion on the Unacceptable Behaviour and Violent Persons List will not be appropriate, such as:

- Where it is believed that informing the customer would in itself escalate the risk of unacceptable and/or violent behaviour
- Where the information regarding the risk is obtained by the council from a partner agency

In these circumstances the customer will not be informed, but a clear record must be made by the Staff Safety Team as to why this decision has been made.

7 NOTIFYING STAFF AND THIRD PARTIES OF ADDITIONS TO THE UNACCEPTABLE BEHAVIOUR AND VIOLENT PERSONS LIST

7.1 All "need to know staff" will have access to the Unacceptable Behaviour and Violent Persons List and will be updated automatically when customers are added or removed from the list.

7.2 The decision to notify third parties will be taken on a case-by-case basis and will be made by the Staff Safety Team not by individual officers.

7.3 Third parties who may be notified by the Staff Safety Team may include:

- Contractors working on the Council's behalf, although this will depend on the role of the contractor and any likelihood that they may come into contact with the individual
- Other agencies such as Registered Providers
- Neighbouring authorities if, as part of a shared service, staff may be likely to come into contact with the individual
- Co-located partners who may be likely to come into contact with the individual and/or working jointly with staff members with an individual

7.4 Third party information may also provide the basis for an inclusion to the PVP register. The decision to notify third parties should be documented.

7.5 Internal council systems can be flagged to advise officers to check the Unacceptable Behaviour and Violent Persons List for customers on the list, but flags should simply advise to check the Unacceptable Behaviour and Violent Persons List and not contain any details on the marker. If departments elect to flag systems in this manner, they must have a dedicated officer who will keep systems up to date (remove old flags and add new ones in a timely way). It is the responsibility of the department adding the flags to keep them up to date.

8 REVIEWING DECISIONS

8.1 When any restrictions are put in place a review date must be set. This will be based on the circumstances of the case - a minimum period of six months is deemed to be appropriate.

8.2 The status of the customer should be reviewed by the Staff Safety Team and will take into account any future contact or new issues which have been raised.

8.3 Relevant staff and other organisations who were informed of the restrictions should be advised of the outcome of the review.

9.0 MANAGING PERSONAL RISK

9.1 All employees must have completed the appropriate level of Health and Safety training. Training provides the skills and knowledge to help to anticipate and defuse potential incidents, avoid triggering a violent incident and help employees to keep safe during an incident.

9.2 Employees are required to carry out their own risk assessments. Officers should ensure that the Unacceptable Behaviour and Violent Persons List is checked before a visit is carried out or contact is made with a member of the public.

9.3 Employees must arrange for security personnel to be present if the Unacceptable Behaviour and Violent Persons List provides this directive.

9.4 Employees must not persist in trying to defuse an incident when they should be retreating from the situation or summoning help or support.

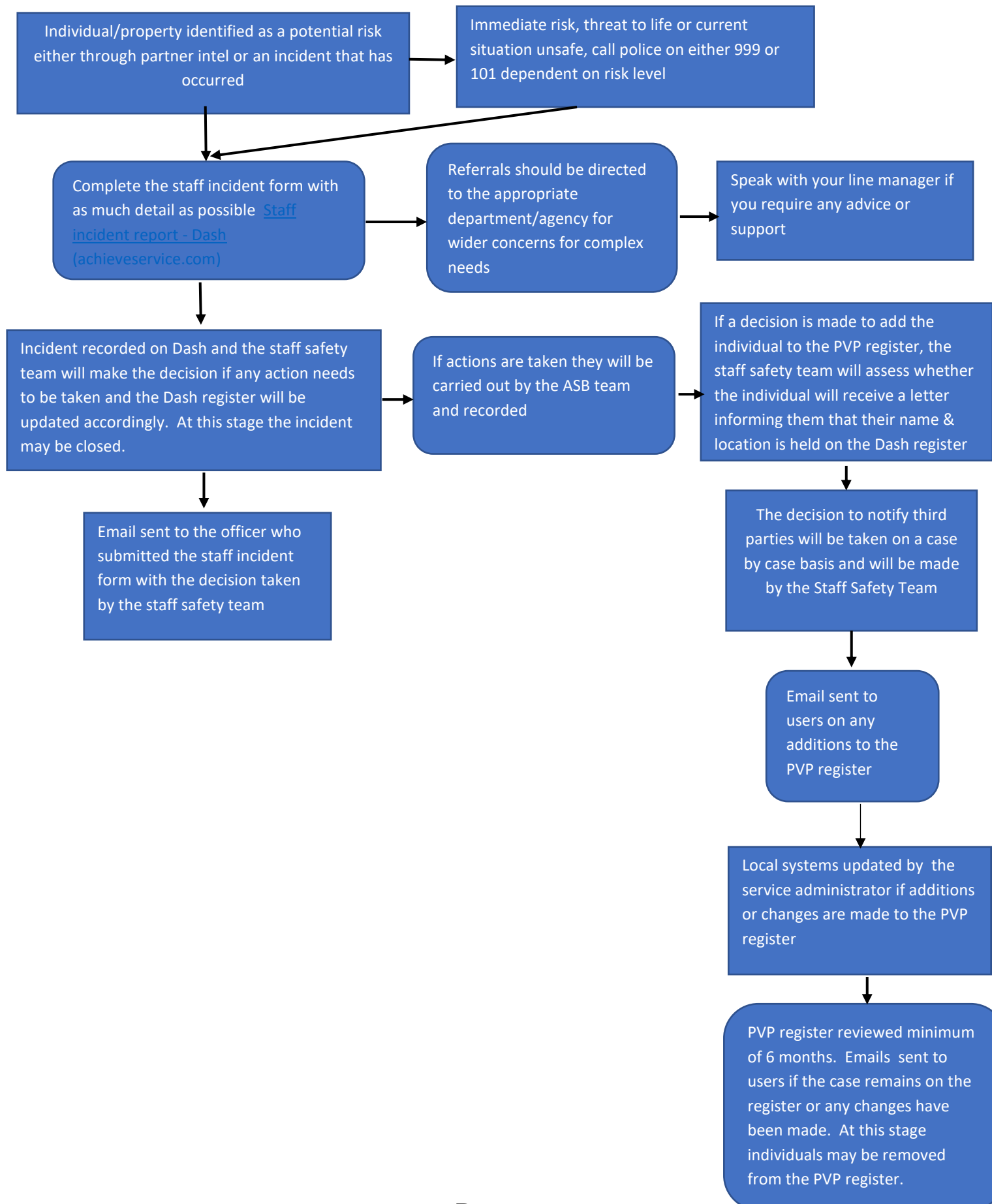
9.5 Risk assessments must be reviewed regularly, and recommended procedures must be adhered to by all employees all the time.

9.6 Everyone who works off-site, or travels must also apply the relevant health and safety guidance and controls.

9.7 Other relevant corporate policies should be adhered to alongside this policy, including: Health and Safety Policies and Framework, Lone Worker Framework, Reception Staff Safety Policy, Abusive Caller Process, Panic Alarm Procedure, Persistent Complainant Policy and Data Protection Policy

9.7.1 Employees can raise a grievance at any time. Please refer to the Grievance Policy and Procedure

FLOWCHART FOR UNACCEPTABLE & VIOLENT CUSTOMER BEHAVIOUR PROCESS



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Hinckley & Bosworth Borough Council

Forward timetable of consultation and decision making

Ethical Governance and Personnel Committee 22 November 2023

Wards affected: All wards

Revision of Disciplinary and Grievance Policy and introduction of a new Capability Policy

Report of Director (Corporate & Streetscene Services).

1. Purpose of report

1.1 To present for approval the following HR policies:

- Updated Disciplinary Policy and Procedure **Appendix 1**
- Updated Grievance Policy and Procedure (to include bullying and harassment complaints) **Appendix 2**
- Capability Policy and Procedure **Appendix 3**

2. Recommendation

1.2 That the policies are approved.

3. Background to the report

- 3.1 A comprehensive review of three policies relating to the management of conduct and performance of staff has been undertaken. Whilst there have been no major legislative changes regarding employment law to drive this review, there has been a requirement for more detailed procedures to underpin each policy to guide our managers.
- 3.2 There have been varying types of issues that have historically arisen during the management of employment cases, which at the time, were dealt with using HR advice and guidance. However, had there been further detailed guidance available, then these issues could have been dealt with by managers with limited support (i.e. how to deal with counter grievances when a grievance is live). Considering the variety of such issues these have now been collated and incorporated into the procedure for each policy. Having

detailed procedures means that in practice, managers and employees follow a specific detailed approach when dealing with employment issues. This will ensure consistency and fairness in the management approach across the organisation and avoid employment risk at tribunal.

- 3.3 As part of the review, all three policies have been updated with a similar structure and format that strategically complement each other. It has also provided opportunity to align to other HR policies that have been introduced over recent years.
- 3.3 The key changes for each policy are set out below:

Disciplinary Policy and Procedure

- Introducing a standalone disciplinary policy and detailed procedure (as previously the Disciplinary and Grievance Policy were merged as one document).
- Changing the lower levels of disciplinary sanctions which have been reduced and brought in line with recent case law (removing verbal warning as these are no longer used). Timelines have also been added to the policy to ensure consistent sanctions across the organisation. There are now five types of sanctions that can be imposed:
 - First written warning – usually active for 6 months.
 - Final written warning – usually active for 12 months.
 - Dismissal with notice – if there is further misconduct after receiving a final written warning
 - Dismissal without notice (gross misconduct cases only)
 - Action Short of Dismissal – the manager may consider an alternative action to dismissal (such as options including redeployment or demotion)
- The process for suspension has detailed guidance for managers when determining a suspension and the key staff who can make that decision. It also recommends that cases of suspension to be reviewed at fortnightly intervals by the manager.
- There is a dedicated section outlining examples of gross misconduct which now align to the Officer code of conduct which was approved in 2021.

Grievance Policy and Procedure

- Introducing a standalone grievance policy and detailed procedure (as previously the Disciplinary and Grievance Policy were merged as one document).
- Removing the council's separate current Bullying and Harassment Procedure (which is out of date) and merging this policy within the revised Grievance Policy
- The grievance policy includes an appendix on bullying and harassment complaints which has been updated to reflect changes in language and recent changes in modern working (i.e. social media).

- Both grievance and bullying and harassment complaints will now follow the same grievance procedure to ensure consistency when dealing with complaints.
- The bullying and harassment appendix has also been updated to include third party harassment to raise awareness of the risk to the council. This is unacceptable behaviour directed at an employee by a third party (such as customers, suppliers, contractors, agency staff, member of the public).
- The grievance policy also has further guidance relating to special circumstances, such as: counter grievances, overlapping grievance and disciplinary cases.

Capability Policy and Procedure

- Introducing a new capability policy and detailed procedure – the council historically followed ACAS guidance then reverting to a disciplinary process to manage formal performance issues.
- This standalone procedure now manages employee performance from informal monitoring up to a disciplinary dismissal.
- The detailed procedures provide guidelines on improvement plans and timescales to keep managers on track.
- Managing performance is one of the hardest areas to pursue therefore the policy sets out detailed support for managers where the case is complex - such as the cause of the under-performance relates to the employee's disability, or work-related stress, or how to manage performance if a counter complaint is raised.

3.4 Following approval refresher training will be arranged for all managers in relation to conduct, performance and handling grievances.

4. Exemptions in accordance with the Access to Information procedure rules

4.1 The report to be taken in open session.

5. Financial implications [DW]

5.1 None

6. Legal implications [MR]

6.1 Set out in the report.

7. Corporate Plan implications

7.1 The introduction of HR policy and procedure meets the Corporate Plan aims 'People' – recognise diversity.

8. Consultation

8.1 The policies have been subject to consultation with staff and the trade unions.

9. Risk implications

- 9.1 It is the council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.
- 9.3 The following significant risks associated with this report/decisions were identified from this assessment:

None.

10. Knowing your community – equality and rural implications

- 10.1 The council's commitment to equality of opportunity will be observed during the operation of all three policies and procedures.

11. Climate implications

- 11.1 N/A

12. Corporate implications

- 12.1 By submitting this report, the report author has taken the following into account:
- Community safety implications
 - Environmental implications
 - ICT implications
 - Asset management implications
 - Procurement implications
 - Human resources implications
 - Planning implications
 - Data protection implications
 - Voluntary sector

Background papers: none.

Contact officer: Julie Stay, 01455 255688
Executive member: Councillor S. Bray

DISCIPLINARY POLICY AND PROCEDURE

Purpose

Disciplinary rules and procedures are necessary so that employees know what is expected of them in terms of the standards required, the conduct expected in carrying out their duties, and the likely consequences of failing to meet those standards. Hinckley and Bosworth Borough Council's procedures including the Employee Code of Conduct set out the expected standards of conduct at work.

This disciplinary policy provides a framework to ensure that these standards are met by all employees and sets out a fair and consistent procedure when dealing with any alleged misconduct.

This policy and procedure will be subject to periodic review and amendments following consultation with the recognised trade unions.

Scope

This policy applies to all employees except for those covered by Chief Officer or Chief Executives Conditions of Service. Separate arrangements covering employees on these conditions of service are available from Human Resources.

Principles

- Procedures will be used to help and encourage employees to improve rather than just a way of imposing a punishment. Consultation at all stages with Human Resources is an essential part of this procedure.
- The council's commitment to equality of opportunity will be observed during the operation of this policy and procedure.
- Line managers should aim to deal with any disciplinary issues as effectively and swiftly as possible.
- No disciplinary action will be taken against an employee before the allegation has been fully investigated and a disciplinary hearing has been held. The employee will be advised in writing of the nature of the allegation and the arrangements for the disciplinary hearing.
- Employees will be given the opportunity to state their case and for this to be considered before any decision is made.
- Employees will have the right to be accompanied by a trade union representative or a work colleague during any investigation interviews, disciplinary hearings, or subsequent appeal hearings.
- The council will make reasonable adjustments for disabled employees. This might mean allowing someone else to attend, for example a support worker or someone with knowledge of the disability and its effects.

- An employee will not be dismissed for a first disciplinary offence unless it is a case of gross misconduct. Only managers at Head of Service and above can dismiss.
- Employees will have the opportunity to appeal against any formal disciplinary sanction issued.
- All stages of the procedure will be treated as confidential.
- Disciplinary action will normally relate to behaviour and conduct at work but may relate to behaviour and conduct outside work where this has a direct bearing on an employee's suitability for employment or the council's reputation. Each case will be considered on its own merits.
- Shortfalls in performance will be dealt with using the council's Capability Policy and Procedure.

Suspension

Where gross misconduct is alleged (i.e. conduct of such a serious nature as to warrant dismissal without notice) then the employee may be suspended on full pay whilst an investigation of the alleged offence takes place. Managers may also consider the transfer of an employee to other duties if deemed appropriate and following a risk assessment.

Suspension is not a disciplinary penalty and does not in itself imply any presumption of guilt on the part of the employee. Suspension should only be considered in cases of gross misconduct or when:

- The employee has been arrested or been charged with a serious criminal offence which potentially conflicts with their position.
- There is a clear concern that the employee or others may be placed at risk by the employee remaining in the workplace.
- It is considered that the employee may seek to influence witnesses or the conduct of the investigation.

Following discussions with Human Resources, if the manager believes that the allegation is so serious that it warrants a suspension, this should be approved by a Head of Service or above.

The employee should be notified setting out the reasons and terms of the suspension as soon as possible. Periods of suspension will be kept as short as possible, and employees will be provided with support throughout the suspension. The case will be reviewed at fortnightly intervals by the manager or, where this is not appropriate, by a nominated manager.

Disciplinary Procedure

Examples of misconduct

Matters that the council views as amounting to disciplinary offences include, but are not limited to:

- persistent poor timekeeping
- unauthorised absence
- minor damage to the council's property
- failure to observe the council's policies and procedures
- abusive behaviour
- refusal to follow reasonable instructions
- dishonesty
- smoking in non-designated areas of the council's premises
- bribery offences under the Bribery Act 2010

Informal Stage

- 1.1 In cases of misconduct, the manager should make initial enquiries about the incident or allegation. This will normally involve a discussion with the employee concerned to find out if there is a simple explanation.
- 1.2 On the basis of the discussion the line manager may decide:
 - That following the initial enquiries, no further action is necessary as the incident or allegation is unsubstantiated.
 - That they are satisfied that they have investigated the incident or allegation sufficiently and that the matter should be dealt with on an informal basis rather than formal disciplinary action. The employee should be advised of the standards which are expected and any remedial action which is required. Although an informal warning will not form part of the disciplinary procedure, it will be recorded by the manager.
 - That further investigation is required and the incident or allegation may warrant formal disciplinary action. The matter would then be referred to the formal stage of the disciplinary policy.

Formal Stage

2. Investigation

- 2.1 No formal disciplinary action will be taken until the matter has been fully investigated and only if the matter is considered serious, will a formal disciplinary hearing be held.
- 2.2 An investigation will be necessary to establish the facts so that the allegation is dealt with consistently and fairly. This should be dealt with as swiftly as possible and the whole process should, in most cases, be completed within 2 months.
- 2.3 The employee will be given the opportunity of attending a formal investigatory interview to put forward their version of events and will have the right to be accompanied by a trade union representative or work colleague.
- 2.4 Investigations may be conducted by the line manager, or another manager appointed by Human Resources. The investigating manager should handle the matter promptly and gather all the relevant facts before memories fade. Statements should be obtained from any witnesses at the earliest opportunity and witnesses

should be given an opportunity to review and agree and sign off any revisions, as this will be required as part of formal evidence.

- 2.5 If the employee is already being investigated as part of the grievance procedure, the disciplinary process will not begin until the grievance has been completed.
- 2.6 Once the investigating manager has completed the investigation, a report will be drafted which will recommend one of the following options:
 - Formal action
 - Informal action or
 - No further action

3. Preparation for Disciplinary Hearing

- 3.1 After completing the investigation and formal action is recommended by the investigation officer, the employee will be required to attend a disciplinary hearing.
- 3.2 In the event of a disciplinary hearing taking place the council will:
 - give the employee a minimum of 5 working days' advance notice of the date of the hearing.
 - advise the employee of the allegations and purpose of the hearing and that it will be conducted in accordance with the disciplinary procedure.
 - explain the employee's right to be accompanied at the hearing by a trade union representative or work colleague.
 - provide the employee all relevant information and evidence (which include statements taken from any fellow employees or other persons that the council intends to rely upon against the employee). This will be issued no less than 5 working days in advance of the hearing.
- 3.3 Where the employee is unable to attend a disciplinary hearing and provides a good reason for failing to attend, the hearing will be rearranged to another day. The council will give a minimum of 5 working days' notice of the rearranged hearing. If the employee is unable to attend the rearranged hearing, this will take place in the employee's absence unless there are special mitigating circumstances that have been given prior to the hearing. The employee's trade union representative or work colleague may attend in such circumstances and may present the employee's case. The employee may also make written submissions in this situation.
- 3.4 Where the trade union representative or work colleague is unavailable on the day scheduled for the meeting, it will be rescheduled, provided that the employee proposes an alternative time within 5 working days of the date originally scheduled.

4. The Disciplinary hearing

- 4.1 The disciplinary hearing will be conducted by the employee's manager (if the investigating manager is the employee's line manager, then the senior manager will conduct the hearing) together with a representative from Human Resources (the panel).

- 4.2 Any member of management responsible for the investigation of the alleged disciplinary offence(s) will not be a member of the panel, although such managers may present any supporting facts and evidence at the disciplinary hearing.
- 4.3 The employee will be given a full explanation of the case against them and be informed of the content of any statements provided by witnesses.
- 4.4 The employee will be able to call witnesses. They will be permitted to set out their case and respond to the allegations. The employee will be given an opportunity to ask questions, present evidence and call relevant witnesses. They will also be given the opportunity to ask questions about any information provided by witnesses. If the council intends to call relevant witnesses, it will give the employee advance notice of this. The employee must also give advance notice to the panel if they intend to call relevant witnesses.
- 4.5 The panel may adjourn the disciplinary hearing if there is a requirement to gather further information or to conduct further investigations. The employee will be informed of the likely timescale of any such adjournment.
- 4.6 If further information is gathered, the employee will be allowed a reasonable time period, together with their trade union representative or work colleague, to consider the new information prior to the reconvening of the disciplinary hearing.
- 4.7 Once all relevant facts have been presented, the disciplinary manager will summarise the facts and an adjournment will take place, to allow the consideration of all the evidence and decide on any relevant action.
- 4.8 The disciplinary manager will consider each case on its own merits, however before deciding on any disciplinary sanction, consideration will be given to the following:
- The seriousness of the offence.
 - Any guidance provided by the disciplinary procedure.
 - Actions taken in similar past cases at the council.
 - The individual's employment record.
 - Any mitigating circumstances (or substantial extenuating circumstances in cases of gross misconduct).
 - Whether the proposed penalty is reasonable in the circumstances.
- 4.9 After the conclusion of the disciplinary hearing and adjournment, the disciplinary manager will convey the decision of the panel to the employee and will inform the employee what disciplinary action, if any, is to be taken. The decision will be confirmed in writing (within 5 working days of the hearing). The employee will be notified of their right of appeal and this procedure.
- 4.10 Only managers at Head of Service or above can dismiss.

5. Disciplinary action

- 5.1 Where, following a disciplinary hearing, the disciplinary manager establishes that the employee has committed a disciplinary offence, the following disciplinary action may be taken:

No case

There may be instances where the disciplinary manager may decide that there is no case to answer (no finding on the disciplinary charges or the findings are so insignificant) and in those circumstances the case will be dismissed without any further action against the employee.

First Written Warning

In the case of a first offence, or if further offences have occurred following an informal warning, the employee will, following a disciplinary hearing, be given a first written warning. A letter confirming the warning will be issued including confirmation of any improvement required and the consequences should the required standard not be met. A record of this will be kept on file for a period of 6 months from the date of the hearing.

Final Written Warning

In the case of a more serious offence, or if a further offence occurs within the timeframe of a first written warning, the employee may be given a final written warning. A letter confirming the warning will be issued 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 but a longer period may be stated in exceptional cases.

Dismissal

In cases where there remains a failure to improve or where there is a further act of misconduct, other than gross misconduct, an employee will be liable to dismissal with notice or pay in lieu of notice.

In cases of gross misconduct, the employee will be dismissed without notice.

Action Short of Dismissal

Where appropriate, the disciplinary manager may consider an alternative action to dismissal. This may include transfer to the same, similar or different job elsewhere in the council, or demotion with no pay protection. A penalty of Action Short of Dismissal will always be accompanied by a Final Written Warning. If the employee chooses not to accept the alternative penalty offered, they will be dismissed.

5.2 Communicating the Decision

All decisions will be verbally communicated at the hearing following an adjournment (unless a written decision has been agreed by both parties). In all circumstances, a letter confirming the decision will be sent within 5 working days of the disciplinary hearing. The letter will state the reason for the decision, confirm the sanction awarded and advise the employee of their right of appeal.

6. Appeal

- 6.1 An employee has the right to appeal against any disciplinary sanction issued to them. The appeal will be heard by a more senior manager who has not been involved in the decision to issue the disciplinary sanction to the employee.
- 6.2 The employee must provide written notice of any appeal within 5 working days of being informed in writing of the disciplinary sanction being issued to them. The notice of appeal should be sent to Human Resources.

When lodging an appeal, the employee should state:

- the grounds of appeal; and
 - whether they are appealing against the finding that they have committed the alleged act or acts of misconduct, or whether they are appealing against the level of disciplinary sanction imposed.
- 6.3 The employee has the right to be accompanied to the appeal hearing by a work colleague or a trade union representative.

The Appeal Hearing

- 6.4 The senior manager conducting the hearing will explain the purpose of the hearing and how it will be conducted. The manager will ask the appellant to present their case in the first instance and why they are appealing. The senior manager may ask further questions. The senior manager will also ask management to present their case.
- 6.5 The senior manager, after hearing the appeal supported by Human Resources, must decide based on both sets of representations together with any subsequent facts that may have come to light, whether to uphold the disciplinary sanction or not.
- 6.6 The senior manager conducting the appeal hearing will convey their decision to the employee. This decision will be confirmed in writing within 5 working days of the hearing. The decision of the senior manager is final and there is no further right of appeal.

Appeal against Gross Misconduct (see below)

- 6.7 Appeals against dismissal on the grounds of gross misconduct will be heard by the Appeal Panel, made up of nominated council members from the Ethical Governance and Personnel Committee. The panel will be advised by the HR Manager (if not already involved in the decision at the disciplinary hearing) or an external adviser. The decision of the Panel is final and there is no further right of appeal. Please contact Human Resources for more details.

7. Gross Misconduct

- 7.1 Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the council. If it is alleged that an employee commits an act of gross misconduct, and this is proven, the council will summarily terminate the employee's contract of employment without notice or pay in lieu of notice.

7.2 Matters that the council views as amounting to gross misconduct include (but are not limited to):

- Unauthorised removal, possession or theft of property
- Fraud, theft or deliberate falsification of records
- Acts of violence
- Malicious damage
- Discrimination and / or harassment or bullying against any employee or member of the public on grounds of gender, marital status, age, race, nationality, disability, sexuality or religious belief
- Making mischievous unfounded allegations of misconduct, harassment, bullying or discrimination about a fellow employee
- Unauthorised use of the council's equipment, material or name.
- Unauthorised disclosure or use of confidential information.
- Acceptance of bribes or other types of corruption.
- Conviction of a criminal offence which affects the employee's ability to do his/her job, or which has serious implications concerning the propriety of them carrying on their job – this may include action for domestic violence and/or anti-social behaviour or offences.
- Conduct inside or outside the workplace which fundamentally breaches the working relationship of trust and confidence.
- Gross negligence in the performance of their duties
- Unauthorised or unlawful use of personal data in contravention of the Data Protection Act 1998.
- Bringing the council into serious disrepute.
- Serious infringement of Health & Safety rules and procedures
- Insubordination
- Breach of the council's ICT Acceptable Usage Policy
- Causing loss, damage or injury through serious negligence
- Breach of the council's Officer Code of Conduct (examples of gross misconduct are set out within the code)
- Serious breaches of the council's Constitution, especially Financial Procedural Rules and ICT policies
- Offences against children or vulnerable adults
- Serious incapability at work due to the misuse by alcohol or drugs (see our Drugs and Alcohol Policy)

7.3 The above list is neither exclusive nor exhaustive but illustrates the type of conduct that the council normally treats as gross misconduct and there may be other offences of a similar gravity, which will also normally constitute gross misconduct.

8. Other considerations

8.1 Overlapping grievance and disciplinary cases

Where an employee raises a grievance whilst undergoing a disciplinary process, dependent upon the circumstances, the grievance may be considered as part of the disciplinary process or both the disciplinary and grievance processes may run concurrently. In exceptional circumstances the disciplinary process may be suspended to allow the grievance to be dealt with separately. Please refer to Human Resources for further guidance and support.

8.2 Disciplinary Action against a Trade Union Official

Although the same disciplinary standards apply to their conduct as employees, no disciplinary action shall be taken against a Trade Union Representative until the circumstances of the case have been discussed with the HR Manager and a full time official of the Trade Union concerned.

8.3 Sickness during the disciplinary process

Being certified as sick does not necessarily prevent an employee participating and assisting with any investigations or attending a disciplinary hearing. However, in such circumstances, the employee's line manager should seek medical advice to ascertain if the employee is well enough to be interviewed or attend any subsequent disciplinary hearing. The employee must be fully aware of the allegations and given every opportunity to respond. If necessary, an interview may be offered at the employee's home, or alternative suitable venue or the employee can be offered the opportunity to submit a written statement.

Being under investigation can be very stressful, so it's important that employers consider the wellbeing and mental health of their employees. Looking out for employees' wellbeing and offering support can help prevent sickness absence, mental health issues arising or existing mental health issues getting worse.

8.4 Anti-Fraud

If the Anti-Fraud Policy applies, the Section 151 Officer may appoint internal audit (or another person/body) to assist in investigations. Full disclosure of the methods used, and the evidence obtained in these circumstances will be provided.

8.5 Criminal Offences

If the allegation appears to involve criminal activity, the line manager will take advice from HR, and the councils Monitoring Officer, to determine whether the matter should be referred to the Police.

The subsequent investigation will be to consider whether the employee may have committed the alleged offence and not to determine if they are guilty of a criminal act. The council is not required to await the outcome of any criminal proceedings before taking any disciplinary action however in some circumstances it may not be possible to undertake an internal investigation if there are criminal investigations pending. Advice from HR is essential when investigating such allegations as each case may need to be considered on its own merits.

Where an employee is convicted of a criminal offence the council will consider if the offence is one that makes the employee unsuitable for their type of work or unacceptable to other employees, partners, or clients of the organisation, and if so, whether there is suitable alternative work available. Following this consideration, the employer may initiate the disciplinary process.

8.6 Surveillance

Any investigation requiring monitoring or surveillance will be in accordance with the Workplace Surveillance Policy.

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GRIEVANCE POLICY AND PROCEDURE

Purpose

This policy and supporting procedure aims to mutually resolve an employee's grievance raised within the workplace at Hinckley and Bosworth Borough Council.

A grievance is defined as a concern or problem about an employee's work, such as their personal terms and conditions of employment, working conditions and working relationships. This policy and procedure can be used for both individual and collective grievances.

The council operates a separate Whistleblowing Policy to enable employees to report issues of concern, illegal activities, wrongdoing or malpractice.

The grievance procedure will also be followed should a complaint regarding bullying and harassment arise. Please refer to Appendix 1 for further information.

This procedure will be subject to periodic review and amendments following consultation with the recognised trade unions.

Scope

This policy applies to employees of the council regardless of their length of service, except grievances against the Chief Executive which will be dealt with under the relevant JNC policies and procedures.

Principles

- Enable an employee to air their grievance fully, openly and honestly, in a safe environment without any detriment, providing the grievance is in good faith.
- Deal with a grievance at an early stage, informally, with their immediate line manager (where possible); pursuing the formal route should be a last resort rather than the first option.
- Both parties to work together to resolve any issues in a timely manner to find a satisfactory solution for both parties. Where a grievance cannot be resolved, a compromise solution should be sought, if possible.
- Mediation is encouraged and may be explored at any time in the procedure.
- Take appropriate action to help prevent recurrence of any problem identified.
- Create and maintain a working environment where people are treated with courtesy, consideration and respect; serious complaints such as bullying and harassment will not be tolerated and immediately investigated.

Raising a Grievance – Informal stage

- 1.1 If an employee has a grievance or complaint relating to their work or the people they work with, they should try to resolve it informally in the first instance. However, whilst the council encourages informal resolution of complaints, it is recognised that this is not always possible or appropriate for example, if the grievance relates to a serious issue such as discrimination. If the informal process does not resolve matters or is not appropriate, then employees should raise a formal grievance under this procedure.

- 1.2 Grievances should be raised as soon as possible after the event or incident complained of. Grievances should be raised within 3 months unless exceptional circumstances exist which justify a departure from this, for example a serious discrimination case or an inability to raise the grievance due to a medical illness (evidence will be required).
- 1.3 This involves talking to the line manager about the problem to ensure that:
 - The line manager fully understands what the concern is;
 - The employee and their line manager can explore possible reasons for the matter which is causing the difficulty;
 - A solution might be found, either because of improved understanding of the issue and the reasons for it, or because of changes or actions which might be taken to resolve the problem.
- 1.4 If an employee feels that they cannot discuss the matter with their line manager they may wish to seek help from their trade union representative, Human Resources, or if necessary, ask to discuss it with their line manager's manager.
- 1.5 An employee may, at any stage in the process, seek advice from their trade union representative. However, they do not have the right to be accompanied at an informal grievance meeting.
- 1.6 The date of the informal discussions and any actions agreed should be recorded, but no formal notes of the meetings are required as these discussions do not form any part of the formal process.
- 1.7 In some cases an independent mediator may help to resolve problems, especially those involving working relationships and if this is the case, the line manager should contact Human Resources for further information. Mediation may be appropriate at any stage. As per section 7.3
- 1.8 If the matter is not resolved informally, then the formal process must be followed.

Raising a grievance - Stage 1 - Formal Process

- 2.1 To raise a formal grievance the employee must put this in writing to their line manager and contain a brief description of the grievance, including any relevant facts, dates and names of individuals involved and the outcome being sought. If the grievance is unclear, employees may be asked to clarify the complaint before any formal grievance meeting takes place. A response will be acknowledged within 5 working days.
- 2.2 Where the grievance concerns the employee's line manager, it may be more appropriate for the employee to address the grievance to Human Resources. A response will be acknowledged within 5 working days.
- 2.3 Before proceeding to a formal grievance meeting, it may be necessary to carry out investigations into any allegations made by the employee. This investigation will be carried out by an appropriate person in consultation with Human Resources. Prior to the grievance meeting, the employee will be provided with all the relevant information and evidence from the investigation (which include statements taken from any fellow employees or other persons). This will be issued no less than 5 working days in advance of the hearing.

- 2.4 The grievance meeting should be planned to be held without a reasonable delay whilst allowing the employee reasonable time to prepare their case.
- 2.5 Employees may bring a workplace colleague or recognised trade union representative to any formal grievance meeting under this procedure.
- 2.6 If an employee's representative is not available at the time proposed by the employer, the employer must postpone the meeting to a time proposed by the employee, provided that the alternative time is both reasonable and not more than 5 working days after the date originally proposed.
- 2.7 If the employee falls ill or other circumstances beyond their control prevent them attending the meeting, then an alternative date should be arranged. The council will consider holding the meeting at a neutral venue if this is helpful. However, it is unlikely that it would be reasonable to defer the meeting more than once.
- 2.8 If the employee is signed off as unfit to work by a General Practitioner during the procedure, they will still be invited to a meeting and various options will be offered to the employee to help them to participate i.e. Microsoft Teams or a neutral location. Advice may be sought from Occupational Health regarding how the council can support the employee to attend any meeting(s).
- 2.9 Where the individual fails to participate in the process, despite reasonable adjustments being made, the council will write to give one month's notice of the withdrawal of the grievance unless participation (even via employee representation) can be arranged.
- 2.10 A meeting will be arranged by the line manager (or another senior manager if relevant) and will be held as soon as is reasonably practicable. This will be subject to any investigations being concluded.

3. Stage 1 Grievance Meeting

- 3.1 The manager conducting the meeting will invite the employee to explain their grievance and how they would like to see it resolved.
- 3.2 The employee will be asked to present any evidence they have to support their grievance, including giving advance notice to the manager of any witnesses who can attend the meeting to support their allegations. Please see further details on witnesses at section 7.5.
- 3.3 The manager should adjourn the meeting prior to taking any decisions to reflect and consider all points raised. Where the line manager considers it necessary, they will investigate further or talk to identified witnesses.
- 3.4 Individuals who are the subject of a grievance will be informed about the nature of the complaint against them and be given an opportunity as part of the process, to put forward their version of events, including identifying witnesses who can be contacted to provide evidence to support their case.
- 3.5 The manager dealing with the grievance should ensure that all affected parties are offered wellbeing support and kept up to date with any developments or outcomes in a timely manner.

- 3.6 The manager should be mindful of any course of action proposed which impacts upon another service of the council and should ensure that this action is agreed by the relevant manager in advance.
- 3.7 The manager should advise the employee of the outcome of the grievance, any action they propose to take and the timescales for that action.
- 3.8 The manager must let the employee know that they may appeal against the outcome of the grievance meeting and progress to the final stage if they consider that the grievance has not been satisfactorily resolved. A copy of the grievance and the relevant notes should be put on the individual's personnel file. The decision letter should contain the decision made and the reasons for reaching it and confirm the employee's right to appeal and to whom.

Raising a grievance – Stage 2 - Appeal

- 4.1 If the employee considers that their grievance has not been satisfactorily resolved at Stage 1, the employee can appeal.
- 4.2 An appeal will be heard by a nominated senior manager (Appeal Manager).
- 4.3 An appeal meeting will be held as soon as possible and where achievable, within 10 working days. The meeting will be chaired by the Appeal Manager, employee and their representative and an HR representative and if applicable, the manager who dealt with the Stage 1 Grievance Meeting.
- 4.4 The purpose of the appeal meeting is to consider the grounds that the employee has submitted and assess whether the conclusion reached in the Stage 1 was appropriate. The appeal is not a re-hearing of the original grievance, but consideration of the specific areas with which the employee is dissatisfied in relation to the original grievance. The Appeal Manager may therefore confine discussion to those specific areas rather than reconsider the whole matter afresh.

5. Stage 2 Appeal Meeting Process

- 5.1 The employee raising the appeal will be asked to present their grounds of appeal and what outcome they are seeking. The Appeal Manager will be able to ask further questions for clarification if appropriate and necessary.
- 5.2 The Appeal Manager will then summarise the main points made.
- 5.3 The meeting will be adjourned prior to taking any decisions to reflect and consider all points raised.
- 5.4 The decisions available to the Appeal Manager are:
 - To uphold the employee's grievance and advise the relevant line manager to take the necessary action or
 - To dismiss the grievance. The decision of the Appeal Manager is final and there is no further right of appeal.

- 5.5 The Appeal Manager should reconvene the meeting on the same or a different day to explain the decision, the reasons for it and any further action proposed to rectify the issues raised.
- 5.6 In appropriate circumstances and with the agreement of the employee, it may be possible to agree for the decision to be communicated in writing only but in any event, all decisions should be confirmed to the employee in writing within five working days of the Appeal Meeting.

6. Collective Grievances

- 6.1 Where an identical grievance is made by two or more employees (collective grievance) and all employees agree, a joint written grievance can be submitted. In such circumstances this should be headed "Formal Collective Grievance" and include:
- detail of the nature of the grievance and the outcome being sought;
 - identify the individuals who wish to raise the grievance;
 - identify any nominated trade union representative or colleague to represent them all;
 - state that all have voluntarily consented to use the collective grievance process;
 - confirm that everyone understands that the grievance will give each of them the right to only one collective grievance meeting and outcome, and (if applicable) appeal meeting and outcome. If it is not agreed, separate grievances will apply.

7. Further guidance

- 7.1 **Timescales** all grievances should be handled in a timely manner without any unreasonable delays. The timescales within this policy are recommended timescales only.
- 7.2 **Reasonable Adjustments** will be made as appropriate and proportionate to enable parties to participate fully.
- 7.3 **Mediation** this is a voluntary process, agreed by both parties, whereby an independent mediator helps two or more people in dispute to attempt to reach an agreement. The agreement comes from those in dispute, not from the mediator. Mediation can be used at any stage of the grievance process. This will mean that any formal procedures are halted whilst the mediation route is pursued. However, this route should be followed with appropriate urgency, bearing in mind the importance of obtaining a resolution to the situation. If mediation is unsuccessful, the process will revert to the stage reached prior to mediation.
- 7.4 **Record Keeping** a written record must be kept of any grievance that is dealt with via the formal process. Documentation kept on file will be removed and destroyed after 12 months or following satisfactory resolution, whichever is sooner.
- 7.5 **Witnesses** whilst witnesses are asked to come forward to provide evidence, this is voluntary. Employees should understand that witnesses are an essential part of most grievance cases, and their cooperation supports an efficient and fair decision-making process. Witnesses do not have the right to be represented under this policy.

- 7.6 **Confidentiality** as far as reasonably practicable, confidentiality will be maintained throughout the grievance procedure, subject to any statutory requirements. Where it is necessary to directly involve others, the importance of confidentiality within the procedure will be made clear to all involved.
- 7.7 **Grievances resulting in disciplinary action** if an employee's grievance results in disciplinary proceedings against another employee, then these will be handled in accordance with the Disciplinary Policy and Procedure. The employee raising the grievance has no right to be informed of the outcome of the disciplinary proceedings although they may be called as a witness to any disciplinary hearings which may subsequently occur.
- 7.8 **Harassment & Bullying Claims (see Appendix 1)** the grievance procedure will be used in all cases of bullying and harassment.
- 7.9 **Overlapping grievance and disciplinary cases** where an employee raises a grievance whilst undergoing a disciplinary process, and dependent upon the circumstances, the grievance may be considered as part of the disciplinary process or both the disciplinary and grievance processes may run concurrently. In exceptional circumstances the disciplinary process may be suspended to allow the grievance to be dealt with separately. Please refer to Human Resources for further guidance and support.
- 7.10 **Counter grievance** a counter grievance is one that is submitted by an individual in response to a grievance against them. Where a counter grievance has been submitted, no decision will be reached until both grievances have been concluded.
- 7.11 **Abuse of the grievance procedure** employees who abuse the grievance policy by making unfounded complaints or operating the procedure vexatiously may be subject to disciplinary action.
- 7.12 **Grievances from employees who leave the council part way through the process** if a grievance is already being progressed and the employee leaves before the process has been completed, the council's procedure should still be followed where practically possible, to try and resolve the issue. Managers should contact HR for further advice.
- 7.13 **Grievances against senior management** -will be dealt with under this policy. HR will seek independent and expert advice where necessary (i.e. through the Local Government Association). Grievances against the Chief Executive however will be dealt with under the relevant JNC policies and procedures.

Appendix 1

The council's Equality Policy recognises the importance of a positive working environment where all employees are treated with dignity and respect and that employees feel valued and safe. Bullying or harassment will not be tolerated and anyone who is found to have harassed or bullied a colleague will be subject to disciplinary action, which could lead to dismissal.

Bullying, harassment and victimisation

- **Bullying** can be defined as offensive, intimidating, malicious or insulting behaviour and/or an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.
- **Harassment** can be defined as unwanted conduct related to a relevant protected characteristic (such as age, disability, gender reassignment, race, religion or belief, sex, sexual orientation) which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.
- **Victimisation** someone is treated unfairly because they made or supported (or perceived to have supported) a complaint of discrimination or harassment.

Unacceptable behaviour does not necessarily have to be face-to-face; it can also be via telephone or written communications. The behaviour can be persistent or an isolated incident.

Employees should report any incidents of bullying or harassment that they have experienced or witnessed so that they can be investigated. The test would be that the conduct, whether unintentional or deliberate, is unacceptable to the recipient and/or witnesses and would be judged as harassment or bullying by any reasonable person.

All complaints must be taken seriously and where appropriate, investigated.

Examples of unacceptable behaviour

- Spreading malicious rumours or insulting someone (particularly on the grounds of age, race, sex, disability, sexual orientation and religion or belief).
- Ridiculing or demeaning someone – picking on them or setting them up to fail.
- Displaying offensive materials (on paper or electronically).
- Abuse through email, text, websites or other electronic media.
- Exclusion or victimisation.
- Unfair treatment.
- Overbearing supervision or the misuse of power or position.
- Unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions based on sexual advances being accepted or rejected.
- Making threats or comments about job security without foundation.
- Deliberately undermining a competent worker by overloading them with work and constant criticism.
- Preventing individuals developing by intentionally blocking promotion or training opportunities.

The council is opposed to any incident or behaviour which could reasonably be classified as unacceptable behaviour, whether explicitly stated within the examples above or not. Incidents involving colleagues that take place outside of the workplace (i.e. work-related social events held either on or off the council's premises or bullying comments made via social media) will also fall within the remit of this policy.

Counter complaints

Managers are responsible for appropriately managing an employee's behaviour or job performance where there are legitimate and justifiable reasons to do so. Carrying out these functions in a fair, firm and consistent manner does not constitute unacceptable behaviour, although it is recognised that some staff may feel stressed or anxious whilst the procedures are ongoing.

Managers who are using council procedures to address an employee's performance, attendance or conduct will not be regarded as demonstrating unacceptable behaviour unless there is evidence to show that they have acted inappropriately. Where a complaint is solely or largely related to the commencement of these procedures, a manager who has had no prior involvement with the instigation of these procedures will meet with the complainant to discuss their concerns. The complaint will only be investigated further under this policy if evidence is provided which suggests that the manager has acted inappropriately, or the concerns raised are not a consequence of the instigation of these procedures. Complaints that relate to disciplinary or performance management proceedings should be raised as part of those proceedings and/or any related appeal process.

Third Party Harassment

This is unacceptable behaviour directed at an employee of the Council by a third party (e.g. customers, suppliers, contractors, agency staff, member of the public) and should be reported immediately to the employee's manager to be investigated further.

The council as an employer, should take reasonable steps to prevent all forms of harassment and should it occur, take appropriate steps to prevent it re-occurring. It is acknowledged that sanctions cannot be applied as is the case with an employee, however dependent upon the third party involved and context of the case, preventative measures (following further investigation) could be put in place by managers such as:

- Ensuring that the policy on Management of Unacceptable or Violent Policy is followed;
- Support any employee who has been subjected to unacceptable behaviour and signpost to employment assistance programme if necessary;
- Address the perpetrator with a view to withdrawing their services if appropriate;
- Where the complainant is likely to remain in contact/close proximity with the alleged perpetrator it may be appropriate to make a request to the contractor / agency / supplier for the alleged perpetrator to be temporarily removed from the workplace if possible / appropriate;
- Only where the employee has requested a transfer or has asked not to deal with the third party again, and the council provides a statutory service to the user, should substitution of staff be considered. Not every case can be covered by such advice and managers must use their discretion in appropriate circumstances. Further advice and support can be obtained from Human Resources.

CAPABILITY POLICY AND PROCEDURE

Purpose

The continued success of Hinckley and Bosworth Borough Council is dependent on employees achieving and maintaining high standards of performance in their roles. The council is committed to provide the necessary support to staff to meet its standards of performance. The Managing Performance Guide (located on the intranet) is a framework for managers to use so that any concerns or issues can be dealt with informally in the first instance.

However, if poor performance is highlighted as a continuing problem, such as an employee lacking in knowledge, skill or ability to the standard required, the Capability Policy and Procedure will be invoked to ensure the council enforces its requirements of performance standards fairly and consistently; managers must ensure accurate records are kept from previous 1:1 meetings and seek further advice from HR.

This policy and procedure is designed to help and encourage employees to achieve and maintain standards of performance. In contrast, where an employee's unsatisfactory job performance is clearly due to the employee's own lack of effort, carelessness or negligence, the issue will be dealt with under the council's Disciplinary Procedure.

This procedure will be subject to periodic review and amendments following consultation with the recognised trade unions.

Scope

This policy applies to all employees except for those covered by Chief Officer or Chief Executives Conditions of Service. Separate arrangements covering employees on these conditions of service are available from Human Resources.

The policy will not apply to employees during the probationary period as this will be dealt with under the Probation Procedure.

Principles

- Problems of poor performance are to be dealt with quickly and equitably.
- Employees have a contractual responsibility to perform to a satisfactory level. Responsibility is also placed on managers to ensure that appropriate support is given to their employees to help them to achieve and sustain this satisfactory level.
- Managers will use this policy and procedure in conjunction with regular individual meetings with their staff, including 1:1 meetings. This procedure should only be adopted if the manager has concerns about an employee's overall performance, such as the quality/quantity of their work or if there are significant aspects of the job that the member of staff needs targeted support to bring their performance up to the required standard.
- An employee has the right to be accompanied to any formal meeting held as part of this procedure by their trade union representative or work colleague.
- Hybrid workers may be required to work at the council offices should a performance issue be identified to ensure full support is given.

- No formal action will be taken against an employee whose performance has fallen below the standards that are regarded as satisfactory until the Stage 2 process below has been exhausted.
- The council's commitment to equality of opportunity will be observed during the operation of this policy and procedure.

Guidance – implementing the policy and procedure

1. Improvement Plans

- 1.1 Improvement Plans are used to document actions to be taken by the employee and the manager to improve the employee's performance. This plan may be used at any time, regardless of whether formal performance procedures have been initiated.
- 1.2 An Improvement Plan will normally cover a period of 4-8 weeks, depending on the circumstances. Progress should be reviewed on a regular basis. The Improvement Plan may be extended at the end of the review period or a further Improvement Plan may be agreed, if required. The manager and employee may review and agree amendments to the Improvement Plan together at any time.
- 1.3 It is expected that Improvement Plans will be put in place in a timely manner unless there is evidence which indicates that an Improvement Plan would not achieve the aim of supporting the employee to improve their performance to a consistently satisfactory standard.
- 1.4 Before agreeing to an action plan employees have the right to discuss and review the action plan with their trade union representative.
- 1.5 The employee can submit a grievance under the grievance procedure if they feel an action plan imposed on them is unfair.

2. Medical or disability related employee performance

- 2.1 Where the cause of an employee's under-performance relates to their state of health, disability or long-term condition, managers must consider supportive measures and reasonable adjustments which could assist the employee to perform at the required standard. If any actions are agreed, following these discussions, they will be set out in writing by the manager and reviewed on a regular basis.
- 2.2 Medical advice may be sought at any stage about an employee's state of health by occupational health or a medical health professional (GP/consultant), with a view to implementing any measures which could assist the employee to improve their performance; this may be requested more than once if required. Managers should discuss the purpose of the referral in detail with the employee and discuss any medical reports received with the employee promptly. If any actions are agreed, following the referral, they will be set out in writing by the manager.

2.3 Where the employee's condition or state of health results in absence from work, it may be necessary to manage this in accordance with the Attendance Management Framework. Depending on the circumstances, management of performance and attendance issues may take place simultaneously or consecutively, as appropriate, but as the two procedures are initiated for different reasons, they must be carefully managed.

2.4 If the employee is absent at all due to workplace stress, the manager will refer them to Occupational Health without delay. Referring employees provides the manager with a better understanding of how they can support the employee through this process. A stress risk assessment will also be required to help identify concerns and consider support.

3. Counter Complaints

3.1 Managers are responsible for appropriately managing an employee's performance. Carrying out this function in a supportive, fair, firm and consistent manner does not constitute unacceptable behaviour, although it is recognised that some staff may feel stressed or anxious whilst the procedures are ongoing. The aim of this policy is that managers and employees work closely and cooperatively together to improve the employee's performance at work.

3.2 Managers who are using council procedures to address an employee's performance, attendance or conduct will not be regarded as demonstrating unacceptable behaviour unless there is evidence to show that they have acted inappropriately. Where a complaint is received from an employee against their manager and the complaint is solely or largely related to the commencement of these procedures, the manager's manager will meet with the complainant to discuss their concerns. The complaint will be investigated further if evidence is provided which suggests that the manager has acted inappropriately or the concerns raised are not a consequence of the instigation of these procedures. If this is the case the grievance procedure will be followed.

4. Alternative Work

4.1 Where it is agreed by both the manager and the employee that suitable alternative employment would be an option to resolve the situation at any stage of the procedure, the manager will provide a reasonable level of support to help the employee gain alternative employment (or consider re-deployment). This support may include coaching, short training sessions and or support in completing job applications or interview skills training as appropriate.

5. Escalation of Cases

5.1 In a small number of serious cases, the circumstances may indicate that escalation directly to a Formal Performance Meeting is appropriate. Managers must be able to justify their decision to escalate a case, for example because there is a clear and significant risk to service users or colleagues.

5.2 Managers should consult with Human Resources before taking steps to escalate directly to a Formal Employee Performance Meeting or Hearing. The

employee must be forewarned that escalation to a Formal Employee Performance Meeting/Hearing is being considered prior to taking this decision.

Procedure for managing unsatisfactory performance

Informal Process – Stage 1

6. Informal meeting and improvement plan

- 6.1 Where concerns about an employee's performance arise, the manager should discuss the matter with the employee without delay, especially where the repercussions could have a significant adverse impact, for example potentially jeopardising the health and safety of colleagues or service users. The employee should be informed that the manager intends to support them to improve their performance in line with the Capability Policy and Procedure.
- 6.2 The manager will engage with the employee to clarify their concerns and their expectations of the employee, and the employee will be given an opportunity to respond. The cause of the unsatisfactory performance should be fully explored.
- 6.3 Unless the circumstances are serious enough to justify progressing directly to the formal stages of the procedure, the employee will be offered support to improve, and the employee will be required to take steps to achieve and sustain performance at a level or performance to the required standard.
- 6.4 All discussions relating to managing the employee's performance must be documented, and any agreed actions including a timeline will be followed up in writing. An improvement plan must be used for this purpose. Managers will arrange review meetings with the employee to discuss their progress, which will take place on a regular basis.
- 6.5 If the employee's performance improves and consistently reaches a satisfactory level during the review period, the manager will confirm with the employee that they have reached a satisfactory level. However, the employee should also be informed that if their performance falls below the required standard, within a reasonable timescale, then it is likely that the formal process will be adopted.
- 6.6 If the employee continues to not meet the required standards or targets during the review period despite the relevant support received, the manager will inform them that the formal procedure will commence.

Formal Process – Stage 2

7. Formal Performance Meeting

- 7.1 The formal procedure for managing an employee's performance should be used where:
 - attempts to improve the employee's performance informally have not resulted in the required improvements or;
 - it is apparent that the employee's performance issues at the outset are sufficiently serious to justify escalation or:

- it is apparent that the employee is not fully engaging with the process in order to make the required improvements to their performance within a reasonable timescale.
- 7.2 Where the employee's performance continues to be unsatisfactory, the manager will hold a Formal Performance Meeting with the employee. Human Resources will attend the meeting to advise and take notes.
- 7.3 The employee will be given at least 5 working days' notice in writing of the Formal Performance Meeting and will have the right to be accompanied by a work colleague or trade union representative. The employee must be made aware of the evidence that will be considered at the meeting and provided with copies in advance. The employee may also submit evidence for consideration in advance of the meeting.
- 7.4 Having carefully considered the evidence, the manager may find that:
- a. The employee's performance is satisfactory. No further action will be taken at this stage. However, the employee's performance will continue to be monitored for a period of 12 months following the Formal Performance Meeting to ensure it is sustainable. Should the employee's performance lapse during this time the formal procedure will be resumed.
 - b. They are satisfied that the employee has been given sufficient opportunity and support to improve their performance, but their performance remains unacceptable. An Improvement Plan will be drawn up and the employee will be made aware that if they fail to reach the required standard by the end of the plan, then their case will be considered at a Final Performance Hearing.
- 7.5 The employee will be notified of the decision, and this will be confirmed in writing within 5 working days.

8. Review period

- 8.1 If performance is unacceptable then the manager and employee will meet to draw up an Improvement Plan as soon as possible following the Formal Performance Meeting. The Improvement Plan will normally cover a period of 4-8 weeks, depending on the circumstances. However, this may be extended for a reasonable timescale to implement any further support mechanisms to enable the employee to reach the required standard of performance.
- 8.2 At the end of the period of the Improvement Plan the manager will meet with the employee and decide whether the employee has reached the required standard of performance. If they have, this will be acknowledged in a positive way by the line manager. However, the employee will be informed that their performance will continue to be monitored for a period of 12 months following the successful completion of the Improvement Plan, to ensure it is sustainable. Should the employee's performance lapse during this time, the formal procedure will be resumed.
- 8.3 Where the employee's performance continues to be unsatisfactory, and as a result dismissal is being considered, the manager will refer the case to a senior manager for a Final Performance Hearing.

Formal Process – Stage 3

9. Final Performance Hearing

- 9.1 If the necessary improvements have not been achieved a Final Performance Hearing should be convened, where a recommendation to dismiss may be made.

Preparation for the hearing

- 9.2 The manager should write a report which summarises the employee's shortfall in performance and the steps taken to address that shortfall and submit it, along with appropriate supporting paperwork, to the senior manager. The report will be presented at the hearing by the manager.
- 9.3 If the employee's performance issues are connected to a disability or long-term condition, the manager must have obtained up to date medical information and have considered and implemented any reasonable adjustments before proceeding to a Final Performance Hearing.
- 9.4 The manager, supported by Human Resources, will arrange for the employee to attend the hearing. The Final Performance Hearing will be chaired by an experienced senior manager, accompanied by Human Resources who will take notes.
- 9.5 The employee will be given at least 5 working days' notice in writing of the hearing and will have the right to be accompanied by a colleague or trade union representative. The employee must be made aware of the evidence that will be considered at the hearing and provided with copies of documentary evidence in advance (at least 5 days before the hearing). The employee may also submit evidence for consideration, and the Chair must receive it in advance of the hearing.
- 9.6 The manager and employee may each call witnesses to attend the Final Performance Hearing to give evidence.
- 9.7 Having carefully considered the case, the Chair may find that:
- a. The employee's performance is satisfactory. No further action will be taken at this stage; however, the employee's performance will continue to be monitored for a period of 12 months following the Formal Performance Hearing to ensure it is sustainable.
 - b. The employee's performance is not satisfactory; however, it is apparent that they could achieve an acceptable standard of performance within a reasonable period of time. The exact duration of the improvement period will be determined by the Chair, taking account of the evidence available, and will not normally exceed three months. The Formal Performance Hearing may be reconvened at any time if the employee's performance does not improve during this period. If the employee achieves a satisfactory standard of performance during this period, their performance will continue to be monitored for a period of 12 months following the reconvened Formal Performance Hearing to ensure it is sustainable. A final written warning will be issued.

- c. They are satisfied that the employee has been given sufficient opportunity and support to improve their performance, however the employee has failed to meet the required levels of performance. It is appropriate in the circumstances to dismiss with notice.

9.8 The employee will be notified of the Chair's decision, and this will be confirmed in writing within 5 working days.

10. Appeal

10.1 The employee has the right to appeal against the Chair's decision. The grounds for the appeal must be submitted in writing to the HR and Transformation Manager to be received within 5 working days of receiving written confirmation of the Chair's decision.

10.2 The Appeal will be considered by another senior manager who will act as Chair supported by Human Resources. Members of the panel will have no prior knowledge of the case.

10.3 Having carefully considered the case, the panel will decide on one of the following:

- a. To uphold the decision; or
- b. Find that the employee's performance is satisfactory. In this case, the employee's performance will continue to be monitored for a period of 12 months following the Formal Performance Hearing to ensure it is sustainable.

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By virtue of paragraph(s) 1, 10 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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