



LEDBURY TOWN COUNCIL

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10 April 2025

TO: Councillors Chowns (chair), Harvey, Hughes and Morris

Dear Member

You are hereby summoned to attend a meeting of the **Resources Committee** which will be held in the **Council Offices, Church Lane, Ledbury**, on **Thursday, 17 April 2025 at 6:00 pm** for the purposes of transacting the business set out below.

Yours faithfully

Angela Price

Town Clerk

FILMING AND RECORDING OF COUNCIL MEETINGS

Members of the public are permitted to film or record meetings to which they are permitted access, in a non-disruptive manner. Whilst those attending meetings are deemed to have consented to the filming, recording or broadcasting of meetings, those exercising the rights to film, record or broadcast must respect the rights of other people attending under the Data Protection Act (GDPR) 2018

A G E N D A

- 1. To receive apologies for absence**
- 2. To receive declarations of interest and written requests for dispensations**
(Members are invited to declare disclosable pecuniary interests and other interests in items on the agenda as required by Ledbury Town Council's Code of Conduct for Members and by the Localism Act 2011)
(Note: Members seeking advice on this item are asked to contact the Monitoring Office at least 72 hours prior to the meeting)
- 3. To approve and sign as a correct record the minutes of a meeting of the Resources Committee held on 27 March 2025 (Pages 486 - 489)**

4. **To review progress to-date on Committee Structure Review**
(Oral update)
5. **To review the following Policies and Procedures** (Pages 490 - 537)
 - **Grievance Policy**
 - **Disciplinary Procedure**
 - **Performance Management Policy (formerly known as Capability Policy)**
6. **To give consideration to Code of Conduct for Local Employees**
(Pages 538 – 557)
7. **Date of next meeting**

To note that the date of the next meeting of the Resources Committee will be held on 1 May 2025
8. **Exclusion of Press and Public**

In accordance with Section 12(2) of the Public Bodies Admission to Meetings) Act 1960, in view of the confidential nature of the business about to be transacted, it is advisable in the public interest that the press and public are excluded from the remainder of the meeting
9. **To consider response in respect of potential compensation offer**
(To Follow if received)
10. **To consider quotes received in respect of Staff Review**
(To follow)
11. **Staffing matters** (To follow)

Distribution: Full agenda to: - Committee members (5)

Agenda front pages to all non-committee members (6)

**MINUTES OF A MEETING OF THE RESOURCES COMMITTEE
HELD ON 27 MARCH 2025**

PRESENT: Councillors Chowns (Town Mayor/Chair), Harvey and Morris

ALSO PRESENT: Angela Price – Town Clerk

R157. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Hughes.

R158. DECLARATIONS OF INTEREST

None received.

R159. NOLAN PRINCIPLES

RESOLVED:

That the Nolan Principles be received and noted.

R160. TO APPROVE AND SIGN AS A CORRECT RECORD THE MINUTES OF A MEETING OF THE RESOURCES COMMITTEE HELD ON 6 MARCH 2025

RESOLVED:

That the minutes of the Resources Committee meeting held on 6 March 2025 be approved and signed as a correct record.

R161. TO REVIEW PROGRESS TO-DATE ON COMMITTEE STRUCTURE REVIEW AND AGREE NEXT STEPS

Members considered that it was important to get the Committee work programmes approved maintain a committee-based view of the Council's activities while the committees remain suspended.

1. That work to review of the Terms of Reference continue ahead of the Council's Annual Meeting.
2. That the Committee Work Programmes be submitted to Full Council for final approval.
3. That the Community Engagement Officer be asked to provide a "wash-up" report for the 2025 World Book Day and project/budget plans for all council events in 2025/26.
4. That the Clerk establish why the World Book Day had not been advertised in the Focus magazine.

R162. **TO REVIEW POLICIES**

RESOLVED:

That the policies and procedures be deferred to the next meeting of the Resources Committee.

R163. **DATE OF NEXT MEETING**

RESOLVED:

That it be noted that the next meeting of the Resources Committee is scheduled for 17 April 2025.

R164. **EXCLUSION OF PRESS AND PUBLIC**

RESOLVED:

That in accordance with section 1(2) of the Public Bodies (Admission to Meetings) Act 1960, in view of the confidential nature of the business about to be transacted, it is advisable in the public interest that the press and public are excluded from the remainder of the meeting.

R165. **TO CONSIDER RESPONSE IN RESPECT OF POTENTIAL COMPENSATION OFFER**

Members were advised that a response to the initial offer is anticipated within the near future.

R167. **STAFFING MATTERS**

RESOLVED

- 1. That the update in respect of current sickness absence be noted.**
- 2. That the Clerk contact Hoople to seek advice in respect of a number of personnel matters.**
- 3. That the Clerk arrange for support from Rialtas in respect of month 11 and 12 and year end close down of the accounts.**
- 4. That it be noted that a temporary member staff has been brought in to help with office cover.**
- 5. That the updates on recent Training be received noted.**

6. That the update in respect of future training be received and noted.
7. That the update on officer TOIL be received and noted.
8. That the update on the staffing review be received and noted.

The meeting ended at 6.59 pm.

Signed Dated

DRAFT

Report prepared by Angela Price – Town Clerk

TO REVIEW THE FOLLOWING POLICIES AND PROCEDURES

Purpose of Report

The purpose of this report is to provide Members of the Resources Committee with a proposed new draft Grievance Policy and Disciplinary Procedure for consideration.

Equality Duty

Under section 149 of the Equality Act 2010, the “general duty” on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to:

- a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c. foster good relations between persons who share a relevant protected characteristic and person who do not share it.

The public sector equality duty (specific duty) requires Ledbury Town Council to consider how it can positively contribute to the advancement of equality and good relations and demonstrate that they are paying ‘due regard’ in their decision making in the design of policies and in the delivery of services.

Detailed Information

Attached are two new proposed draft policies for consideration to replace the current Grievance & Disciplinary policies and procedures.

Members will be aware that recent events have highlighted that the Council’s current procedures do not provide clear guidance and clarification on the processes to deal with grievances and disciplinary matters. Therefore, attached are two new proposed draft policies based on the National Association of Local Councils recommended policies. It is important to ensure that all policies are reviewed periodically and following any use of the policies whereby it has been established that the current policies are not considered fit for purpose. Through recent events both policies have been identified as having areas within them that need improvement to ensure a fair process for all staff going forward.

Also attached are copies of the Council's current policies and procedures in relation to Grievance and Disciplinary for comparison.

Members have also been provided with an amended Capability Policy. The amendments to this policy are as a result of the Clerk asking Hoople to review the policy on the Council's behalf and includes suggestions from Hoople for consideration.

Recommendation

1. That Members of the Resources Committee give consideration to the attached proposed new draft Grievance and Disciplinary policies and procedures in respect of Grievance and Disciplinary and subject to any amendments recommended them to Council for approval.
2. That Members of the Resources Committee give consideration to the suggestions provided by Hoople in respect of the Capability Procedure and subject to any further amendments recommend this policy to Council for approval.
3. That the draft policies and procedures agreed at this meeting be provided to the Unions and Hoople for comments prior to final sign off.



LEDBURY TOWN COUNCIL

GRIEVANCE POLICY AND PROCEDURE

Date Created: 29/06/2023

Next Review: 29/06/2025

LEDBURY TOWN COUNCIL
GRIEVANCE POLICY & PROCEDURE

Equality

In putting this procedure into practice, no aspect of this procedure will discriminate on the grounds of race, sex, sexual orientation, gender reassignment, age, religion, politics, marital status, disability and/or union membership or any other grounds likely to place anyone at a disadvantage, in accordance with the Equality Act 2010.

1. INTRODUCTION

- 1.1 The purpose of this policy is to specify the formal procedure by which employees can raise a grievance, while encouraging employees to use informal discussions to resolve problems in the first instance.
- 1.2 This policy applies to all employees of Ledbury Town Council. This policy does not apply to grievances raised on behalf of two or more employees by a representative of a recognised trade union or other appropriate workplace representative. Such grievances will be dealt with using the council's collective grievance process.
- 1.3 This policy does not apply where an employee has a grievance about a councillor. If it is not possible to resolve a complaint of this nature informally, it must be passed on to the Monitoring Officer at Hereford Council.
- 1.4 This policy does not apply when the council has no control over the matter, although the council will give information and advice where possible, to help an employee resolve the issue.
- 1.5 This policy does not apply where the procedure has been invoked within six months of the completion of any action under the grievance procedure of the same or similar issue, unless the original action agreed to redress the grievance has not been implemented.

2. DEFINITION OF GRIEVANCE

- 2.1 For the purpose of this policy, grievances are defined as concerns, problems or complaints over work-related matters that an employee raises with the council, and have not been resolved informally within a reasonable time.

Examples of grievances include:

- concerns over employment terms and conditions
- contractual or statutory rights
- health and safety

- work relations
- the working environment
- new working practices
- bullying and harassment
- organisational change
- discrimination

For instances of bullying and harassment, employees are also advised to refer to the council's Anti Bullying and Harassment Policy.

3. INFORMAL PROCEDURE

Ledbury Town Council recommends that all employees talk to their manager informally to try to resolve a problem before raising a formal grievance. However, if the informal approach fails to resolve the matter, employees can use the procedure outlined in this document to raise a grievance formally. The grievance should be raised without unreasonable delay and within fourteen days from the date that the attempt was made to resolve the matter informally.

4. PRINCIPLES OF THE GRIEVANCE PROCEDURE

- i. All grievance claims will be treated fairly and objectively.
- ii. Employees will not be dismissed or suffer disadvantage because of raising a genuine grievance.
- iii. If the employee has difficulty reading and writing, or if English is not their first language, any written documentation, e.g. a letter explaining the outcome of a meeting, will also be explained to them orally in their first language. Additional support that may be required at meetings will also be taken into consideration and provided as appropriate.
- iv. Any action taken because of a grievance will be monitored and reviewed, as appropriate, to ensure that issues are dealt with effectively.

5. FORMAL GRIEVANCE PROCEDURE

Stage 1. Write a Letter

- 5.1 The grievance needs to be raised with your line manager/Member (Chair of the Resources Committee) who is not the subject of the grievance, by writing a letter detailing the nature of the grievance.
- 5.2 If the employee has difficulty writing the letter, e.g. if English is not their first language, they are advised to seek help from a trade union representative or colleagues.
- 5.3 The letter must be dated, and the employee should keep a copy for themselves.

Stage 2 Investigation (Optional)

- 5.4 Upon receipt of a grievance it may be necessary to conduct an investigation. If appropriate, an investigatory meeting will be held to gather all relevant facts and evidence.
- 5.5 The employee will be invited to this investigatory meeting as soon as possible, in writing. The model letter in appendix 1 will be used. It will be made clear that the purpose of the meeting is to establish the facts and that the employee may be accompanied by one colleague or trade union representative. Due consideration will be given to whether any reasonable adjustments are necessary for a person who is disabled; this includes colleagues or trade union representatives accompanying the person with a grievance.
- 5.6 The investigatory meeting will usually be conducted by the employee's Line Manager. However, if the Line Manager is the subject of the grievance, the meeting will be conducted by the Town Clerk or Chair of Resources Committee
- 5.7 The investigation will be conducted as soon as possible and will normally be completed within five working days of receiving the grievance. However, if the matter is particularly complex, this can be extended to 15 working days. If it is not possible to complete the investigation within this timeframe, the employee will receive a written explanation of the delay and when the investigation is expected to be completed.
- 5.8 As soon as reasonably practicable after the conclusion of the investigation (usually five working days), the employee will be notified in writing that the investigation has been completed.

Stage 3. Grievance Meeting

- 5.9 A meeting of the Grievance Panel will be held to discuss the grievance with the employee. Wherever possible, the meeting will be arranged within five working days after the grievance is received or within five working days of the conclusion of an investigatory meeting if one has been held. The employee will be notified in writing of the date, time and location of the meeting by the Town Clerk or if the grievance is against the Town Clerk by the Chair of the Grievance Panel, who will conduct the Grievance Meeting and the statutory right of employees to be accompanied at Grievance Meetings. Due consideration will be given to whether any reasonable adjustments are necessary for any person who is disabled; this includes colleagues or trade union representatives accompanying the person with a grievance.
- 5.10 The employee can take one colleague or trade union representative into the meeting. If the employee wishes to be accompanied in this way, they should notify the employer in advance. The employee has the right to call relevant witnesses to the meeting but should notify the employer of their intention to do so in advance of the meeting.

- 5.11 The meeting will be held at a reasonable time and place that suits both parties. The employee, their companion and the employer must make every effort to attend the meeting once a date and time has been agreed. The meeting will be held in private, where there will not be interruptions.
- 5.12 The purpose of the meeting is to establish the facts of the grievance and find a way to resolve the problem. The employee will be given the opportunity to explain their grievance and how they think it should be resolved.
- 5.13 Copies of meeting records will be given to the employee, including any formal minutes. However, Ledbury Town Council may withhold some information in certain circumstances, e.g. to protect a witness.
- 5.14 If deemed necessary, the employer may adjourn the meeting until after further investigation has been conducted. The meeting will be rescheduled as soon as is reasonably practical.

Stage 4. Decision and Notification

- 5.15 The employer will decide what action, if any, to take after the meeting. A letter will be sent to the employee, notifying them of the decision within five working days of the initial meeting. Where appropriate, the letter will set out what action the employer intends to take to resolve the grievance. Where an employee's grievance is not upheld, the reasons for this will be clearly explained. The letter will also specify that the employee can appeal if they are not content with the decision/action taken.

6.0 APPEALS PROCEDURE

- 6.1 If the employee feels that their grievance has not been satisfactorily resolved, they can appeal in writing to the employer, specifying the grounds for their appeal, within five working days of receiving notification of the decision.
- 6.2 An Appeal Hearing will be held, wherever possible, within five working days of receiving notification of the appeal from the employee. The Appeals Panel will consist of three people, two Councillors who were not on the Grievance Panel and one independent person. The employee will be notified in writing of the date and location of the hearing in advance. They will also be informed that they have the right to be accompanied at the hearing. Due consideration will be given to whether any reasonable adjustments are necessary for a person who is disabled; this includes colleagues or trade union representatives accompanying the person with a grievance.
- 6.3 At the hearing, an Appeals Panel will consider any representations made by the employee and/or their companion and those of the investigating Manager/Member and the Manager/Member who conducted the grievance meeting and made the decision. The Appeals Panel will not

include Members or officers who have previously been involved in the case. The appeal will be dealt with impartially.

- 6.4 Copies of meeting records will be given to the employee, including any formal minutes. However, Ledbury Town Council may withhold some information in certain circumstances, e.g. to protect a witness.
- 6.5 The outcome of the appeal will be communicated to the employee in writing within five working days of the hearing. The letter will also specify that there will be no further right of appeal.

7.0 POST-EMPLOYMENT GRIEVANCES

- 7.1 Wherever possible a grievance should be dealt with before an employee leaves their employment with the council. Where an employee has already left employment and the procedure has not been completed, the employee is encouraged to attend any meetings in accordance with this procedure so a final decision can be made. If an employee refuses to attend any meetings, the council will proceed with the meeting in their absence and make a decision based on all the information and evidence available

8.0 DOCUMENTATION

- 8.1 During the grievance process, written records will be kept. These will include: the nature of the grievance, what was decided, and actions taken, the reasons for action taken, whether an appeal was lodged, the outcome of the appeal and any subsequent developments. These will be kept in a secure place.
- 8.2 Records will be treated as confidential and kept no longer than necessary in accordance with current UK Data Protection law.

9.0 OVERLAPPING GRIEVANCE AND DISCIPLINARY CASES

- 9.1 If an employee raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance. However, where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

Appendix 1
Stage 2 Letter template

Dear [EMPLOYEE]

Grievance meeting

Further to your letter dated [DATE] I would like to invite you to a meeting to discuss the concerns you have raised in relation to your employment.

To summarise, in the above-mentioned letter, you raised the following:

[SET OUT DETAILS OF THE GRIEVANCE]

In order to discuss these concerns, I would like you to attend a meeting at [PLACE] on [DATE] at [TIME]. The meeting will be held in accordance with our grievance procedure, which I attach for your attention.

The meeting will be conducted by me and the following people will also be in attendance [PROVIDE DETAILS]. The meeting will help me establish the full details of your concerns before I undertake a thorough investigation.

You are entitled to bring a fellow employee or a trade union representative to the meeting in accordance with our procedures. I would be grateful if you could confirm the details of your companion to me prior to the meeting.

Please confirm receipt of this letter and that you are able to attend the meeting at the time stated above. If you or your companion are unable to attend for any reason, please let me know as soon as possible.

If you have any questions in the meantime, please don't hesitate to contact me.

Yours sincerely,

LEDBURY TOWN COUNCIL

GRIEVANCE POLICY

Introduction

1. This policy is based on and complies with the 2015 ACAS Code of Practice (<http://www.acas.org.uk/index.aspx?articleid=2174>).
2. It also takes account of the ACAS guide on discipline and grievances at work. (https://www.acas.org.uk/media/1043/Discipline-and-grievances-at-work-The-Acas-guide/pdf/DG_Guide_Feb_2019.pdf).
3. It also takes into account relevant law affecting Councils.
4. It aims to encourage and maintain good relationships between the Council and its employees by treating grievances seriously and resolving them as quickly as possible. It sets out the arrangements for employees to raise their concerns, problems or complaints about their employment with the Council. The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.
5. Many problems can be raised and settled during the course of everyday working relationships. Employees should aim to settle most grievances informally with their line manager.
6. This policy confirms:
 - employees have the right to be accompanied or represented at a grievance meeting or appeal by a companion who can be a workplace colleague, a trade union representative or a trade union official. This includes any meeting held with them to hear about, gather facts about, discuss, consider or resolve their grievance. The companion will be permitted to address the grievance/appeal meetings, to present the employee's case for their grievance/appeal and to confer with the employee. The companion cannot answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining their case.
 - the Council will give employees reasonable notice of the date of the grievance/appeal meetings. Employees and their companions must make all reasonable efforts to attend. If the companion is not available for the proposed date of the meeting, the employee can request a postponement and can propose an alternative date that is within five working days of the original meeting date unless it is unreasonable not to propose a later date
 - any changes to specified time limits must be agreed by the employee and the Council
 - an employee has the right to appeal against the decision about their grievance. The appeal decision is final

- information about an employee's grievance will be restricted to those involved in the grievance process. A record of the reason for the grievance, its outcome and action taken is confidential to the employee. The employee's grievance records will be held by the Council in accordance with the General Data Protection Regulation (GDPR)
- audio or video recordings of the proceedings at any stage of the grievance procedure are prohibited, unless agreed by all affected parties as a reasonable adjustment that takes account of an employee's medical condition
- if an employee who is already subject to a disciplinary process raises a grievance, the grievance will normally be heard after completion of the disciplinary procedure
- if a grievance is not upheld, no disciplinary action will be taken against an employee if they raised the grievance in good faith
- the Council may consider mediation at any stage of the grievance procedure where appropriate, (for example where there have been communication breakdowns or allegations of bullying or harassment). Mediation is a dispute resolution process which requires the consent of affected parties
- Employees can only use all stages of the grievance procedure if the complaint is not a code of conduct complaint about a councillor. Employees can use the informal stage of the council's grievance procedure (paragraph 4) to deal with all grievance issues, including a complaint about a councillor. Employees cannot use the formal stages of the council's grievance procedure for a code of conduct complaint about a councillor. If the complaint about the Councillor is not resolved at the informal stage, the employee can contact the monitoring officer of Herefordshire Council who will inform the employee whether or not the complaint can be dealt with under the code of conduct. If it does not concern the code of conduct, the employee can make a formal complaint under the council's grievance procedure (see paragraph 5)
- the Council may engage external investigators, grievance or appeal panels for the purposes of the process.
- If the grievance is a code of conduct complaint against a Councillor, the employee cannot proceed with it beyond the informal stage of the council's grievance procedure. However, whatever the complaint, the council has a duty of care to its employees. It must take all reasonable steps to ensure employees have a safe working environment, for example by undertaking risk assessments, by ensuring staff and Councillors are properly trained and by protecting staff from bullying, harassment and all forms of discrimination
- If an employee considers that the grievance concerns their safety within the working environment, whether or not it also concerns a complaint against a Councillor, the employee should raise these safety concerns with their line manager at the informal stage of the grievance procedure. The council will

consider whether it should take further action in this matter in accordance with any of its employment policies (for example its health and safety policy or its dignity at work policy) and in accordance with the code of conduct regime

Informal grievance procedure

7. The Council and its employees benefit if grievances are resolved informally and as quickly as possible. As soon as a problem arises, the employee should raise it with their manager to see if an informal solution is possible. Both should try to resolve the matter at this stage. If the employee does not want to discuss the grievance with their manager (for example, because it concerns the manager), the employee should contact their Line Manager or the Chairman of the Resources Committee or, if appropriate, another member of the Resources Committee. If the employee's complaint is about a Councillor, it may be appropriate to involve that Councillor at the informal stage. This will require both the employee's and the Councillor's consent.

Formal grievance procedure

8. If it is not possible to resolve the grievance informally and the employee's complaint is not one that should be dealt with as a code of conduct complaint (see above), the employee may submit a formal grievance. It should be submitted in writing to the Town Clerk, or Chair of the Resources Committee if the complaint is in relation to the Clerk.
9. The Resources Committee will appoint a sub-committee of 3 members to hear the grievance in the event that the grievance is raised by or relates to the Clerk. Where the grievance is not raised by or relates to the Clerk, the Committee may appoint the Clerk to hear the Grievance. The sub-committee will appoint a Chairman from one of its members. No Councillor with direct involvement in the matter shall be appointed to the sub-committee.

Investigation

10. If the sub-committee decides that it is appropriate, (e.g. if the grievance is complex), it may appoint an investigator to carry out an investigation before the grievance meeting to establish the facts of the case. The investigator may be an appropriate employee, Councillor or external party. The investigation may include interviews (e.g. the employee submitting the grievance, other employees, Councillors or members of the public).
11. The investigator will summarise their findings (usually within an investigation report) and present their findings to the sub-committee.

Notification

12. Within 14 calendar days of the Council receiving the employee's grievance (this may be longer if there is an investigation), the employee will normally be asked, in writing, to attend a grievance meeting. The written notification will include the following:
- the names of its Chairman and other members
 - the date, time and place for the meeting. The employee will be given reasonable notice of the meeting which will normally be within 35 calendar days of when the Council received the grievance
 - the employee's right to be accompanied by a workplace colleague, a trade union representative or a trade union official
 - a copy of the Council's grievance policy
 - confirmation that, if necessary, witnesses may attend (or submit witness statements) on the employee's behalf and that the employee should provide the names of their witnesses as soon as possible before the meeting
 - confirmation that the employee will provide the Council with any supporting evidence in advance of the meeting, usually with at least two days' notice
 - findings of the investigation if there has been an investigation
 - an invitation for the employee to request any adjustments to be made for the hearing (for example where a person has a health condition).

The grievance meeting

13. At the grievance meeting:
- the Chairman will introduce the members of the sub-committee to the employee
 - the employee (or companion) will set out the grievance and present the evidence
 - the Chairman will ask the employee questions about the information presented and will want to understand what action does they wants the Council to take
 - any member of the sub-committee and the employee (or the companion) may question any witness
 - the employee (or companion) will have the opportunity to sum up the case
 - a grievance meeting may be adjourned to allow matters that were raised during the meeting to be investigated by the sub-committee.

14. The Chairman will provide the employee with the sub-committee's decision, in writing, within 7 calendar days of the meeting though this may be longer e.g. where further investigations are required. The letter will notify the employee of the action, if any, that the Council will take and of the employee's right to appeal.

The appeal

15. If an employee decides that their grievance has not been satisfactorily resolved by the sub-committee, they may submit a written appeal to the Resources Committee. An appeal must be received by the Council within 7 calendar days of the employee receiving the sub-committee's decision and must specify the grounds of appeal.
16. Appeals may be raised on a number of grounds, e.g.:
 - a failure by the Council to follow its grievance policy
 - the decision was not supported by the evidence
 - the action proposed by the sub-committee was inadequate/inappropriate
 - new evidence has come to light since the grievance meeting.
17. The appeal will be heard by a panel of 3 members of the Resources committee who have not previously been involved in the case. There may be insufficient members of the Resources committee who have not previously been involved. If so, the appeal panel will be a committee of three Council members who may include members of the Resources committee. The Council may engage external parties if there are insufficient Councillors to form the panel. The appeal panel will appoint a Chairman from one of its members.
18. The employee will be notified, in writing, within 14 calendar days of receipt of the appeal of the time, date and place of the appeal meeting. The meeting will normally take place within 35 calendar days of the Council's receipt of the appeal. The employee will be advised that they may be accompanied by a workplace colleague, a trade union representative or a trade union official.
19. At the appeal meeting, the Chairman will:
 - introduce the panel members to the employee
 - explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the decision of the staffing sub-committee
 - explain the action that the appeal panel may take.
20. The employee (or companion) will be asked to explain the grounds of appeal.
21. The Chairman will inform the employee that they will receive the decision and the panel's reasons, in writing, and when they are likely to receive the letter. This

may be within 14 calendar days of the appeal meeting, however will be longer where further investigations are required.

22. The appeal panel may decide to uphold the decision of the staffing committee or substitute its own decision.
23. The decision of the appeal panel is final.

Date of policy:

Approving committee:

Date of committee meeting:

Supersedes: [Grievance Policy & Procedure – 29.05.2023]

Policy effective from:

Date for next review:

DRAFT



LEDBURY TOWN COUNCIL

DISCIPLINARY PROCEDURE

Date Adopted: 29/06/2023

Next Review: 28/02/2025

LEDBURY TOWN COUNCIL

DISCIPLINARY PROCEDURE

PURPOSE OF PROCEDURE

This procedure is designed to help and encourage all council employees to achieve and maintain high standards of conduct whilst at work or representing the Council. The aim is to ensure consistent and fair treatment for all. This procedure is prepared in accordance with the dismissal and dispute resolution procedures as set out in the Employment Act 2008 and the ACAS Code of Practice APR 2009.

PRINCIPLES

1. No disciplinary action will be taken against an employee until the case has been fully investigated.
2. At every stage in the procedure the employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.
3. At all formal stages the employee will have the right to be accompanied by a trade union representative or work colleague during the disciplinary interview.
4. No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty of dismissal without notice or payment in lieu of notice may be applied.
5. An employee will have the right to appeal against any disciplinary penalty imposed.
6. The procedure may be implemented at any stage if the employee's alleged misconduct warrants such an action.

Procedure for misconduct and gross misconduct

1. The following list provides examples of **misconduct** which will normally give rise to formal disciplinary action:
 - Unauthorised absence from work
 - Persistent short-term and/or frequent absences from work without a medical reason
 - Lateness for work or poor time keeping
 - Inappropriate standard of dress
 - Minor breaches of Health & Safety or other Council rules or procedures
 - Failure to perform your job to the standard expected or in line with your job description/objectives
 - Time wasting
 - Disruptive behaviour

- Misuse of the council's facilities (e.g., telephone, computers, email, or the internet)
- Excessive use of personal mobile phones
- Refusal to carry out reasonable requests or instructions
- Failure to follow agreed council procedures

This list is not exhaustive and offences of a similar nature will result in disciplinary action being instigated. N.B. persistent or frequent absence on medical grounds and long-term sickness absence will be dealt with using a procedure for incapacity which is described in the Absence Policy.

2. The following list provides examples of offences which are normally regarded as **gross misconduct**:

- Theft, fraud, deliberate falsification of records, or other acts of dishonesty
- Fighting, assault on another person
- Deliberate damage to property of the council, its workers, or members
- Gross incompetence in the conduct of work
- Gross negligence which results in the council or employees being put at risk
- Being under the influence of illegal drugs or excessive alcohol
- Acts of incitement towards or actual acts of discrimination, harassment, or victimisation, including on the grounds of protected characteristics
- Serious acts of insubordination
- Serious breach of duty to keep information of the council, its service providers, and its clients confidential
- Unauthorised entry to computer records
- Serious breach of the council's Health & Safety, confidentiality, or communications policies
- Any action, whether committed on or off the premises, which is likely to or does bring the council into disrepute
- Serious negligence which causes or might cause significant loss, damage, or injury
- Accepting bribes or incentive payments from suppliers
- unauthorised use of council funds or credit
- working with an external agency to provide information which would be detrimental to and cause commercial risk to the council

This list is not exhaustive and other offences of a similar gravity will result in disciplinary action being instigated at Gross Misconduct level which carries a potential penalty of dismissal. Gross Misconduct is generally any conduct which places extreme pressure on the mutual trust which exists in an employment relationship.

3. TYPES OF ACTION

3.1 Informal Action

Minor misconduct will be dealt with informally usually in a confidential one-to-one meeting between the employee and line manager. In the case of the Clerk being the individual against whom there is a complaint or allegation the matter should be handled discreetly by members of the Resources Committee and involve an informal meeting initially. However, where the matter is more serious or informal action has not brought about the necessary improvement the following procedure will be used.

3.2. Formal Action

The level of warning you may receive for misconduct/gross misconduct will depend on how serious the council considers the alleged actions to be and your previous conduct in the circumstances. In the event of alleged gross misconduct, the formal process may commence at Stage 4 (see below).

3.3. Disciplinary Letters

If there is a concern about an employee's conduct or behaviour then a letter will be given to the employee advising them of the allegation(s) and reasons why this is unacceptable. The letter will invite the employee to attend a meeting at which the alleged misconduct will be discussed and will inform the employee of their right to be accompanied to the meeting. The letter will specify at which stage the disciplinary procedure is being invoked (see formal stages below) and if invoked at Stage 4 for Gross Misconduct the letter will warn that a potential outcome could be dismissal. The time, date and venue of the meeting will also be advised. Any documents to be produced at the meeting will also be provided.

3.4 Disciplinary Meetings

The time and location of a disciplinary meeting will be agreed with the employee, and it will be held in a private location with no interruptions. This will normally be without undue delay but allowing the employee to prepare their case e.g., within 5- working days of the letter being sent, where practically possible. At the meeting the manager (or in the case of the Clerk being disciplined the Chair of the Resources Committee) will state the complaint against the employee and go through the evidence which has been gathered. The employee will also be allowed to ask questions, present evidence, and call witnesses if advance notice has been given that they will do so.

If the employee is unable to attend the meeting due to unforeseen reasons out of their control (e.g., illness) then the council will reasonably

rearrange the meeting. However, if the employee fails to attend the meeting without good reason the meeting can be held in their absence.

4. **OUTCOMES AND PENALTIES**

4.1 Stage 1 First Warning

In the instance of a first complaint that conduct does not meet acceptable standards, the employee will normally be given a formal ORAL WARNING. They will be advised of:

- the reason for the warning
- that it is the first stage of the disciplinary procedure
- the improvement that is required and the timescales for achieving this improvement,
- together with a review date and any support available (where applicable) and
- their right of appeal

A record of the first written warning will be kept for 6-months, when subject to satisfactory conduct will be spent.

4.2 Stage 2 - Second Written Warning

If the offence is a serious one, or there is a repetition of the conduct subject to the first written warning, a second written warning will be given to the employee by the Line Manager. This will give details of the complaint, the improvement required and the timescales. It will warn that action under Stage 3 will be considered if there is no satisfactory improvement and will advise of the right of appeal. A copy of this written warning will be kept on file, but it will be disregarded for disciplinary purposes after 12-months subject to satisfactory conduct.

4.3 Stage 3 - Final Written Warning

If there is still a failure to improve and conduct or performance is still unsatisfactory, or the misconduct is sufficiently serious, a final written warning will normally be given to the employee. This will give details of the complaint, will warn that dismissal will result if there is no satisfactory improvement and will advise of the right of appeal. A copy of this final written warning will be kept by the Line Manager (or in the case of the Clerk being disciplined by the Chair of the Resources Committee) but it will be spent after 12-months (in exceptional cases the period may be longer) subject to satisfactory conduct.

4.4 Stage 4 – Dismissal or other sanctions

If conduct is still unsatisfactory and the employee still fails to reach the prescribed standards, or where the Council reasonably believes Gross Misconduct has occurred, dismissal may result. Only the appropriately convened hearing panel can take the decision to dismiss an employee. The employee will be given a written statement of allegations against them, invited to a meeting and then be notified in writing of the reasons for the decision taken at the hearing. Penalties at this stage may include dismissal with notice or summary dismissal (i.e., without any notice), Final Written Warning with/without demotion, loss of pay or loss of seniority. If dismissal is the outcome, the employee will be advised of the date on which employment will terminate. In all cases the employee has a right of appeal.

Very exceptionally, if an offence of Gross Misconduct is extremely serious an employee can be dismissed immediately without a meeting. In this situation a letter setting out reasons for dismissal would be sent to the employee offering the opportunity for an appeal hearing.

5. **SUSPENSION**

If you are accused of an act of gross misconduct, you may be suspended from work on full pay while the council investigates the alleged offence. Only the appropriately convened committee has the power to suspend. This enables a swift and thorough investigation to occur. Whilst suspended pending disciplinary investigation regular contact with a nominated person at the council will be maintained although access to premises, equipment or systems may be denied. The Investigator who compiles evidence for the disciplinary hearing must play no part in the subsequent decision-making to ensure impartiality. Council needs to consider the implications of such arrangements on its hearing and appeal panel plans early on in the disciplinary process.

6. **APPEALS**

The Appeals stage of the disciplinary process is part of the Code of Practice to which an employee has a right. It can be exercised after any of the stages of disciplinary action for Misconduct/Poor Performance or Gross Misconduct.

An employee who wishes to appeal against a disciplinary decision should inform the Clerk (or Chair or Resources Committee) within five working days, in writing and giving reasons for the appeal. An Appeal may be raised if:

- the employee thinks the finding or penalty is unfair
- new evidence has become known
- the employee thinks that the procedure was not applied properly

Where possible the Appeal will be heard by a separate panel of elected members who have not been involved in the original disciplinary hearing, who will view the evidence with impartiality. The employee will have the right to be

accompanied by a colleague or accredited Trade Union official or lay member at the appeal hearing. The outcome of the appeal and reasons for it will be advised to the employee as soon as possible after the meeting and be confirmed in writing. At the Appeal hearing any disciplinary penalty imposed will be reviewed but it cannot be increased. The decision of the Appeal hearing is final.

7. THE RIGHT TO BE ACCOMPANIED

At each formal stage of disciplinary interview an employee has the right to be accompanied and can make a reasonable request to be accompanied. An employee can ask any other employee or trade union representative, or an appropriately accredited official employed by a trade union to accompany them, to give support and help them prepare for the disciplinary interview.

This right is enshrined in the 1999 Employment Relations Act. As this is an internal process there is no provision to have any external person accompany or represent an employee e.g., partner, parent, solicitor etc. The companion can address the hearing, put, and sum up the employee's case, respond on behalf of the worker to any views expressed at the meeting, confer with the employee. The companion cannot however answer questions on the employee's behalf or address the hearing if the employee does not wish them to or prevent the employee explaining their case.

8. HEARING PANELS

The Council will establish a hearing panel to hear disciplinary and grievance hearings as required. This will be done in a timely manner.

9. NOTE-TAKING

A note-taker will be provided at every meeting/hearing which arises as a result of a disciplinary process as Employment Tribunals are particularly keen to view contemporaneous notes of events which have led to an employment dispute. The Council will need to give this requirement careful consideration in order to respect employee confidentiality.

10. GRIEVANCES RAISED DURING DISCIPLINARIES

In some circumstances when a disciplinary process has commenced an employee chooses to exercise their right to raise an internal grievance about the employment relationship with the council or individual Members. If a grievance is raised during the process the disciplinary process will be put on hold until grievances have been aired and actions towards a resolution have been progressed.

11. CRIMINAL CHARGES OR CONVICTIONS

If an employee is charged with or convicted of a criminal offence this does not automatically give rise to a disciplinary situation. Consideration will be given to how a charge or conviction may affect an employee’s ability to undertake the duties of their job and their relationships with the employer, colleagues, subordinates, or customers.

12. GETTING IT WRONG

The Council will follow the ACAS Code of Practice which can be found at www.acas.org.uk.

LEVELS OF RESPONSIBILITY FOR DISCIPLINARY DISMISSALS

MANAGEMENT LEVEL	ACTION	APPEAL
Mayor/Chairman	Dismissal of Town Clerk	Resources Committee
Town Clerk	All Dismissals	Resources Committee

Levels of Responsibility for Disciplinary Warnings

MANAGEMENT LEVEL	ACTION	APPEAL
Mayor/Chairman	Warnings to Town Clerk	Resources Committee
Town Clerk	Warnings to Deputy Clerk, Accounts Clerk	Resources Committee
Deputy Clerk	Warnings to all other staff	Town Clerk

LEDBURY TOWN COUNCIL

DISCIPLINARY POLICY

Introduction

- 1 This policy is based on and complies with the 2015 ACAS Code of Practice (<http://www.acas.org.uk/index.aspx?articleid=2174>).
- 2 It also takes account of the ACAS guide on discipline and grievances at work. https://www.acas.org.uk/media/1043/Discipline-and-grievances-at-work-The-Acas-guide/pdf/DG_Guide_Feb_2019.pdf
- 3 The policy is designed to help Council employees improve unsatisfactory conduct and performance in their job. Wherever possible, the Council will try to resolve its concerns about employees' behaviour informally, without starting the formal procedure set out below.
- 4 The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.
- 5 This policy confirms:
 - informal coaching and supervision will be considered, where appropriate, to improve conduct and/or attendance
 - the Council will fully investigate the facts of each case
 - the Council recognises that misconduct and unsatisfactory work performance are different issues. The disciplinary policy will also apply to work performance issues to ensure that all alleged instances of employees' underperformance are dealt with fairly and in a way that is consistent with required standards. However, the disciplinary policy will only be used when performance management proves ineffective. For more information see ACAS "Performance Management" at: <https://www.acas.org.uk/index.aspx?articleid=6608>
 - employees will be informed in writing about the nature of the complaint against them and given the opportunity to state their case
 - employees will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary hearing
 - employees may be accompanied or represented by a companion – a workplace colleague, a trade union representative or a trade union official - at any investigatory, disciplinary or appeal meeting. The companion is permitted to address such meetings, to put the employee's case and confer with the employee. The companion cannot answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining his/her case

- the Council will give employees reasonable notice of any meetings in this procedure. Employee must make all reasonable efforts to attend. Failure to attend any meeting may result in it going ahead and a decision being taken. An employee who does not attend a meeting will be given the opportunity to be represented and to make written submissions
- if the employee's companion is not available for the proposed date of the meeting, the employee can request a postponement and can propose an alternative date that is within 7 calendar days of the original meeting date unless it is unreasonable not to propose a later date
- any changes to specified time limits in the Council's procedure must be agreed by the employee and the Council
- information about an employee's disciplinary matter will be restricted to those involved in the disciplinary process. A record of the reason for disciplinary action and the action taken by the Council is confidential to the employee. The employee's disciplinary records will be held by the Council in accordance with the General Data Protection Regulation (GDPR)
- audio or video recordings of the proceedings at any stage of the disciplinary procedure are prohibited, unless agreed by all affected parties as a reasonable adjustment that takes account of an employee's medical condition
- employees have the right to appeal against any disciplinary decision. The appeal decision is final
- if an employee who is already subject to the Council's disciplinary procedure raises a grievance, the grievance will normally be heard after the completion of the disciplinary procedure
- disciplinary action taken by the Council can include a written warning, final written warning or dismissal
- this procedure may be implemented at any stage if the employee's alleged misconduct warrants this
- except for gross misconduct when an employee may be dismissed without notice, the Council will not dismiss an employee on the first occasion that it decides there has been misconduct
- if an employee is suspended following allegations of misconduct, it will be on full pay and only for such time as is necessary. Suspension is not a disciplinary sanction. The Council will write to the employee to confirm any period of suspension and the reasons for it,
- the Council may consider mediation at any stage of the disciplinary procedure where appropriate (for example where there have been communication breakdowns or allegations of bullying or harassment). Mediation is a dispute resolution process that requires the consent of affected parties

Examples of misconduct

6 Misconduct is employee behaviour that can lead to the employer taking disciplinary action. The following list contains some examples of misconduct: The list is not exhaustive.

- unauthorised absence
- poor timekeeping
- misuse of the Council's resources and facilities including telephone, email and internet
- inappropriate behaviour
- refusal to follow reasonable instructions
- breach of health and safety rules.

Examples of gross misconduct

7 Gross misconduct is misconduct that is so serious that it is likely to lead to dismissal without notice. The following list contains some examples of gross misconduct: The list is not exhaustive

- bullying, discrimination and harassment
- incapacity at work because of alcohol or drugs
- violent behaviour
- fraud or theft
- gross negligence
- gross insubordination
- serious breaches of council policies and procedures e.g. the Health and Safety Policy, Equality and Diversity Policy, Data Protection Policy and any policies regarding the use of information technology
- serious and deliberate damage to property
- use of the internet or email to access pornographic, obscene or offensive material
- disclosure of confidential information.

Suspension

8 If allegations of gross misconduct or serious misconduct are made, the council may suspend the employee while further investigations are carried out. Suspension will be on full pay. Suspension does not imply any determination of guilt or innocence, as it is merely a measure to enable further investigation.

9 While on suspension, the employee is required to be available during normal hours of work in the event that the council needs to make contact. The employee must not contact or attempt to contact or influence anyone connected with the investigation in any way or to discuss this matter with any other employee or Councillor.

- 10 The employee must not attend work. The council will make arrangements for the employee to access any information or documents required to respond to any allegations.

Examples of unsatisfactory work performance

- 11 The following list contains some examples of unsatisfactory work performance: The list is not exhaustive.
 - inadequate application of management instructions/office procedures
 - inadequate IT skills
 - unsatisfactory management of staff
 - unsatisfactory communication skills.



The Procedure

- 12 Preliminary enquiries - The council may make preliminary enquiries to establish the basic facts of what has happened in order to understand whether there may be a case to answer under the disciplinary procedure.
- 13 If the employee's manager believes there may be a disciplinary case to answer, the council may initiate a more detailed investigation undertaken to establish the facts of a situation or to establish the perspective of others who may have witnessed misconduct.
- 14 Informal Procedures - Where minor concerns about conduct become apparent, it is the manager's responsibility to raise this with the employee and clarify the improvements required. A file note will be made and kept by the manager. The informal discussions are not part of the formal disciplinary procedure. If the conduct fails to improve, or if further matters of conduct become apparent, the manager may decide to formalise the discussions and invite the employee to a first stage disciplinary hearing.

Disciplinary investigation

- 15 A formal disciplinary investigation may sometimes be required to establish the facts and whether there is a disciplinary case to answer.
- 16 If a formal disciplinary investigation is required, the Council's Resources Committee will appoint an Investigator who will be responsible for undertaking a fact-finding exercise to collect all relevant information. The Investigator will be independent and will normally be the Clerk or a Councillor. If the Resources Committee considers that there are one who is independent (for example, because they all have direct involvement in the allegations about the employee), it will appoint someone from outside the Council. The Investigator will be appointed as soon as possible after the allegations have been made. The

Resources Committee will inform the Investigator of the terms of reference of the investigation. The terms of reference should specify:

- the allegations or events that the investigation is required to examine
- whether a recommendation is required
- how the findings should be presented. For example, an investigator will often be required to present the findings in the form of a written report
- who the findings should be reported to and who to contact for further direction if unexpected issues arise or advice is needed.

- 17 The Investigator will be asked to submit their findings usually within 35 Calendar days of appointment where possible. In cases of alleged unsatisfactory performance or of allegations of minor misconduct, the appointment of an investigator may not be necessary, and the Council may decide to commence disciplinary proceedings at the next stage - the disciplinary meeting (see paragraph 22).
- 18 The Clerk will notify the employee in writing of the alleged misconduct and details of the person undertaking the investigation. The employee may be asked to meet an investigator as part of the disciplinary investigation. The employee will be given sufficient notice of the meeting with the Investigator so that they have reasonable time to prepare for it. The letter will explain the investigatory process and that the meeting is part of that process. The employee will be provided with a copy of the Council's disciplinary procedure. The Council will also inform the employee that when they meet with the Investigator, they will have the opportunity to comment on the allegations of misconduct.
- 19 Employees may be accompanied or represented by a workplace colleague, a trade union representative or a trade union official at any investigatory meeting.
- 20 If there are other persons (e.g. employees, Councillors, members of the public or the Council's contractors) who can provide relevant information, the Investigator should try to obtain it from them in advance of the meeting with the employee.
- 21 The Investigator has no authority to take disciplinary action. Their role is to establish the facts of the case as quickly as possible and prepare a report that recommends to the Resources committee whether or not disciplinary action should be considered under the policy.
- 22 The Investigator's report will contain their recommendations and the findings on which they were based. They will recommend either:
 - the employee has no case to answer and there should no further action under the Council's disciplinary procedure

- the matter is not serious enough to justify further use of the disciplinary procedure and can be dealt with informally or
- the employee has a case to answer, and a formal hearing should be convened under the Council's disciplinary procedure.

23 The Investigator will submit the report to the Resources committee which will decide whether further action will be taken.

24 If the Council decides that it will not take disciplinary action, it may consider whether mediation would be appropriate in the circumstances.

The disciplinary meeting

25 If the Resources committee decides that there is a case to answer, it will appoint a staffing sub-committee of 3 Councillors, to formally hear the allegations. The sub-committee will appoint a Chairman from one of its members. The Investigator shall not sit on the sub-committee.

26 No Councillor with direct involvement in the matter shall be appointed to the sub-committee. The employee will be invited, in writing, to attend a disciplinary meeting. The invitation letter will confirm the following:

- the names of its Chairman and other two members
- details of the alleged misconduct, its possible consequences and the employee's statutory right to be accompanied at the meeting
- a copy of the information provided to the sub-committee which may include the investigation report, supporting evidence and a copy of the Council's disciplinary procedure
- the time and place for the meeting. The employee will be given reasonable notice of the hearing so that they have sufficient time to prepare for it
- that witnesses may attend on the employee's and the Council's behalf and that both parties should inform each other of their witnesses' names at least 2 working days before the meeting
 - that the employee may be accompanied by a companion - a workplace colleague, a trade union representative or a trade union official

27 The purpose of the disciplinary meeting hearing is for the allegations to be put to the employee and then for the employee to give their perspective. It will be conducted as follows:

- the Chairman will introduce the members of the sub-committee to the employee and explain the arrangements for the hearing
- the Chairman will set out the allegations and invite the Investigator to present the findings of the investigation report (if there has been a previous investigation)
- the Chairman will invite the employee to present their account

- the employee (or the companion) will set out their case and present evidence (including any witnesses and/or witness statements)
- any member of the sub-committee and the employee (or the companion) may question the Investigator and any witness
- the employee (or companion) will have the opportunity to sum up

28 The Chairman will provide the employee with the sub-committee's decision with reasons, in writing, within 7 calendar days of the meeting. The Chairman will also notify the employee of the right to appeal the decision.

29 The disciplinary meeting may be adjourned to allow matters that were raised during the meeting to be further investigated by the sub-committee.

Disciplinary action

30 If the sub-committee decides that there should be disciplinary action, it may be any of the following:

First written warning

31 If the employee's conduct has fallen beneath acceptable standards, a first written warning will be issued. A first written warning will set out:

- the reason for the written warning, the improvement required (if appropriate) and the time period for improvement
- that further misconduct/failure to improve will result in more serious disciplinary action
- the employee's right of appeal
- that a note confirming the written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for a specified period of time (e.g. 12 months).

Final written warning

32 If the offence is sufficiently serious, or if there is further misconduct or a failure to improve sufficiently during the currency of a prior warning, the employee will be given a final written warning. A final written warning will set out:

- the reason for the final written warning, the improvement required (if appropriate) and the time period for improvement
- that further misconduct/failure to improve will result in more serious disciplinary action up to and including dismissal
- the employee's right of appeal
- that a note confirming the final written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and

that the warning will remain in force for a specified period of time (e.g. 12 months).

Dismissal

- 33 The Council may dismiss:
- for gross misconduct
 - if there is no improvement within the specified time period, in the conduct which has been the subject of a final written warning
 - if another instance of misconduct has occurred and a final written warning has already been issued and remains in force.
- 34 The Council will consider very carefully a decision to dismiss. If an employee is dismissed, they will receive a written statement of the reasons for their dismissal, the date on which the employment will end and details of their right of appeal. If the sub-committee decides to take no disciplinary action, no record of the matter will be retained on the employee's personnel file. Action taken as a result of the disciplinary meeting will remain in force unless it is modified as a result of an appeal.

The appeal

- 35 An employee who is the subject of disciplinary action will be notified of the right of appeal. Their written notice of appeal must be received by the Council within 7 calendar days of the employee receiving written notice of the disciplinary action and must specify the grounds for appeal.
- 36 The grounds for appeal include;
- a failure by the Council to follow its disciplinary policy
 - the sub-committee's disciplinary decision was not supported by the evidence
 - the disciplinary action was too severe in the circumstances of the case
 - new evidence has come to light since the disciplinary meeting.
- 37 Where possible, the appeal will be heard by a panel of 3 members of the Resources Committee who have not previously been involved in the case. This includes the Investigator. There may be insufficient members of the Resources Committee who have not previously been involved. If so, the appeal panel will be a committee of 3 members of the Council who may include members of the staff committee. The appeal panel will appoint a Chairman from one of its members.

- 38 The employee will be notified, in writing, within 14 calendar days of receipt of the notice of appeal of the time, date and place of the appeal meeting. The employee will be advised that they may be accompanied by a companion - a workplace colleague, a trade union representative or a trade union official.
- 39 At the appeal meeting, the Chairman will:
- introduce the panel members to the employee
 - explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the disciplinary decision
 - explain the action that the appeal panel may take.
- 40 The employee (or companion) will be asked to explain the grounds for appeal.
- 41 The Chairman will inform the employee that they will receive the decision and the panel's reasons, in writing, usually within five working days of the appeal hearing.
- 42 The appeal panel may decide to uphold the disciplinary decision of the staffing committee, substitute a less serious sanction or decide that no disciplinary action is necessary. If it decides to take no disciplinary action, no record of the matter will be retained on the employee's personnel file.
- 43 If an appeal against dismissal is upheld, the employee will be paid in full for the period from the date of dismissal and continuity of service will be preserved.
- 44 The appeal panel's decision is final.

Date of policy:

Approving committee:

Date of committee meeting:

Policy version reference:

Supersedes: [Disciplinary Procedure – 29.06.2023]

Policy effective from:

Date for next review:



LEDBURY TOWN COUNCIL

PERFORMANCE MANAGEMENT

Date Adopted: 29/06/2023

Next Review: 26/06/2025



LEDBURY
TOWN COUNCIL

Ledbury Town Council Performance Management

Policy Statement

This policy has been prepared considering prevailing legislation and recognised good practice. New legislation requirements or changes in current legislation may necessitate the review of this policy document. The Council will continue to review and amend all or part of this policy on a regular basis.

Equality

In putting this procedure into practice, no aspect of this procedure will discriminate on the grounds of race, sex, sexual orientation, gender reassignment, age, religion, politics, marital status, disability and/or union membership or any other grounds likely to place anyone at a disadvantage, in accordance with the Equality Act 2010.

Introduction

The aim of this procedure is to ensure that employees whose performance is unsatisfactory due to lack of skill, knowledge, experience or aptitude are treated fairly, whilst maintaining the high operating standards of Ledbury Town Council.

The Performance Management policy **MUST** be followed when problems arise which call into question the capability of an employee to perform duties which they were employed to undertake.

A clear distinction needs to be made between sub-standard performance, which is due to negligence, and that which is due to the lack of ability, skill, knowledge, experience or aptitude. Negligence will usually involve some measure of personal responsibility in that the employee is capable of doing their job, but the level of performance is inadequate. Issues of this nature should be handled through the stages of the disciplinary procedure. Lack of skill, knowledge, experience or aptitude should be treated from a different viewpoint.

The Performance Management policy is intended to complement Ledbury Town Council's Appraisal Scheme, Sickness Absence Procedure and be used as part of its' Performance Management Responsibility.

Responsibility

Ledbury Town Council requires high standards from its employees in order to provide an efficient and effective service to its clients/customers etc.

Managers have a responsibility to make clear to employees the standards required of them in terms of work performance and objectives. Employees have the responsibility to achieve and maintain these standards.

Ledbury Town Council will endeavour to ensure that all employees are adequately trained and competent to undertake their duties. Where these standards are not satisfied, support will be offered to achieve the appropriate standards where informal methods are not successful.

The procedure provides a framework for dealing with lack of capability related to an individual's competence to meet the required standards of performance, on a fair and consistent basis, and aims to improve individual effectiveness using a problem-solving approach. Help, advice, opportunity, and time will be given to the employee in order for them to improve their performance and meet the standards required.

The Procedure applies to all staff directly employed by Ledbury Town Council.

Unacceptable performance arising from deliberate or wilful lack of care, attention, or negligence rather than as a result of the lack of necessary skills or aptitude will be addressed appropriately through Ledbury Town Council's Disciplinary Procedure.

Causes of Poor Performance

Unacceptable performance may be due to lack of skill, aptitude, experience, knowledge, poor health (physical and mental health) all of which can affect the capability of the individual to perform their job satisfactorily. Such problems can occur through:

- Unsatisfactory application of the recruitment and selection process
- Lack of proper training and development, to allow the employee to achieve the required standards. This should be reviewed regularly, at least annually, as part of the Appraisal Scheme to meet changing demands.
- Insufficient understanding of the role the employee is expected to perform due to poor or inadequate guidance or induction.
- The employee not having the range of experience, skills, or knowledge necessary to perform effectively in their role.
- The employee's working conditions and/or access to equipment/information which may be such as to impair the efficient performance of their duties.
- Inadequate staffing levels and skill mix.
- Issues associated with an individual's domestic situation. Employees should be supported appropriately and sensitively depending on the issues.
- Harassment or bullying. Action will be taken under the appropriate Ledbury Town Council Policy(s).

(This list is not exhaustive)

Informal Stage

Before resorting to the formal procedure, the manager will ensure that proper guidance, advice and, where appropriate, training has been given and that adequate time has been allowed for the employee to overcome the difficulties that they have been experiencing.

Where an employee's ability to perform the duties of their post satisfactorily is in question, their manager will discuss the matter first informally at a 1:1 meeting (either a Let's Talk, a Supervision, or an Appraisal).

Commented [SW(L1): Conversations should not wait until the next appraisal comes round as the regular appraisal process should not be the first time an employee is informed of poor performance. However, it should still be discussed at the appraisal meeting if currently on a PIP.

The nature of the problem will be described, and reasons explored. The employee will be given an opportunity to give an explanation for the unsatisfactory performance. An action plan to address unsatisfactory performance will be developed and agreed jointly with the employee. The action plan will address the causes and will include the following:

- Make the employee aware of the standards to be addressed.
- Clarify tasks to be completed.
- Set a realistic timescale for improvement.
- Identify necessary training and/or supervision.
- Include regular monitoring meetings.
- Clarify the appropriate method of monitoring performance.

A Performance Improvement Plan template is below:

Commented [SW(L2): Have added a template form at the back that can be used as a substitute for this section.

Define the Task, skill or competence that needs to be reviewed or improved	Improvement needed and the standard expected	Monitoring period and date for review	Additional information, support or training required, by whom, by when

Signed by employee: _____ Date: _____

Signed by line manager: _____ Date: _____

The broad content of the meeting and all the actions required to take will be confirmed in writing, either through notes or email follow up. The employee will also be informed of the possible implications of not achieving the required standards. A record will also be kept of any monitoring meetings as they may need to be referred to at a later stage.

A review meeting will be held at the end of the agreed timescale. If satisfactory improvement is achieved and maintained, no further action will be taken, and performance will continue to be monitored as part of the usual 6-month and 12-month Appraisal Scheme.

Commented [SW(L3): Provide an example of a typical timescale such as 6 weeks? With regular meetings in between

If standards have not been achieved and/or maintained, the reasons will be explored and consideration given to extending the time period, if appropriate. Otherwise, the employee will be invited to attend a formal Capacity Hearing.

Rights of the Employee

The employee will have full access to a copy of the Performance Management Policy at the informal stage.

- Senior Managers/Chair of Resources will manage and chair any formal meetings from this point on.
- Employees have the right to be accompanied at formal hearings by a Trade Union Representative, colleague or friend who is not acting in a legal capacity. It is the employee's responsibility to obtain representation, colleague or friend.
- The employee will be given reasonable written notice of the hearing, setting out the date, time, venue, nature of unsatisfactory performance being considered and their right to representation. At least five working days' notice will be given to enable the employee to prepare their case and to arrange representation.
- The employee will be given copies of written statements, and relevant documents.
- The employee has the right of appeal against formal warnings imposed.

Commented [SW(L4)]: Stated 5 days in the next sentence so would suggest keeping to the same. State the process if failure to attend without notice. (Rearrange and hold in absence if fail to attend 2nd rearranged. If absence is the reason, pause and manage absence first, process continues on return to work).

Formal Performance Management

While the principal objective of the Performance Management is to help an employee overcome their difficulties, it is nevertheless essential that they are made fully aware of the consequences of not achieving and maintaining the standards set.

The formal Performance Management will comprise of the following stage:

- Stage 1 – First written warning (letter – live for 6 months)
- Stage 2 – Second Written warning (kept live on file for 6 months)
- Stage 3 – Final Written warning (kept live on file for 12 months)
- Stage 4 – Dismissal

Consideration will be given to the causes of unacceptable performance together with what help, and support has been offered in the past and what more the employee can reasonably expect in order to overcome their difficulties and in what timescales.

Commented [SW(L5)]: Consider the flow of the policy so that the process is clear from a step by step point of view.

In handling unacceptable performance any warnings will normally be issued progressively, however depending on the circumstances a written warning or a final written warning may be issued without any previous action having been taken under the Performance Management. This will most commonly occur where the unacceptable performance is likely to have serious consequences on service delivery or the financial security of Ledbury Town Council is at risk and the level of performance cannot be remedied by training in a reasonable period.

Commented [SW(L6)]: If health related or disability concerns have been raised, consider OH referral.

Refer to how LTC will manage failing to achieve a formal qualification if required. Must demonstrate that the formal qualification is an essential requirement of the job role before a sanction can be placed.

Suspension from duty or temporary transfer to other duties, or redeployment or demotion may be required in such exceptional circumstances.

Outcomes

Any warning given will be by a Senior Manager/Chair of Resources.

Any warning given will normally last three months to allow sufficient time for improvement. However, these periods may be longer or shorter depending on the circumstances.

Commented [SW(L7)]: Does not tally with above. Needs to be consistent.

In circumstances where a warning has proved ineffective and an improvement in performance seems unlikely, the employee should be encouraged to seek alternative employment where it is both suitable and available.

Where alternative employment is offered within Ledbury Town Council, the employee will receive a formal written offer giving details of the alternative employment and the duties required in it for consideration, before either party commit themselves to the new job contractually. It will be made clear that they are expected to reach the required standard of performance within an agreed period otherwise the Performance Management will be once again invoked.

Alternative employment, if offered as an alternative to dismissal, does not have to be equivalent to the current post nor be at the employee's current level/pay. There will be no right for the employee to have their current earnings level protected.

Refusal of redeployment or demotion will result in termination of employment in line with provision of notice periods contained within the employees contract.

All decisions will be confirmed in writing to the employee within 3 working days of the hearing.

Copies must be retained by the Manager for the agreed review period as well as being placed on the personnel file.

No employee will be dismissed for the first discussion about their performance.

Review and Monitoring Period

The Senior Manager who issued the warning will ensure that the terms of the review and monitoring period are adhered to. They need to undertake this themselves or delegate it to the employee's manager.

The Review will be conducted in a manner which encourages the employee to improve. The employee will be encouraged to discuss areas of concern as they arise during the course of the review period.

At the end of the review and monitoring period, if the manager is satisfied that the employee has reached the required standard of performance, then they will confirm this in writing to the employee, their representative (if applicable) and retain a copy on the employee's personnel file. The letter will contain a reminder that the performance level reached **MUST** be maintained.

In the event that the employee fails to reach the required standard of performance at the end of the review period, then a further formal hearing will be arranged under the terms of the Performance Management.

In exceptional circumstances, where the manager gathers evidence to show that in spite of warnings and counselling, the employee is failing to reach the required standard of performance, then the review date may be brought forward.

Any records relating to warnings in a personnel file will not be viewed as current after a period of 1 year from the date that they were imposed.

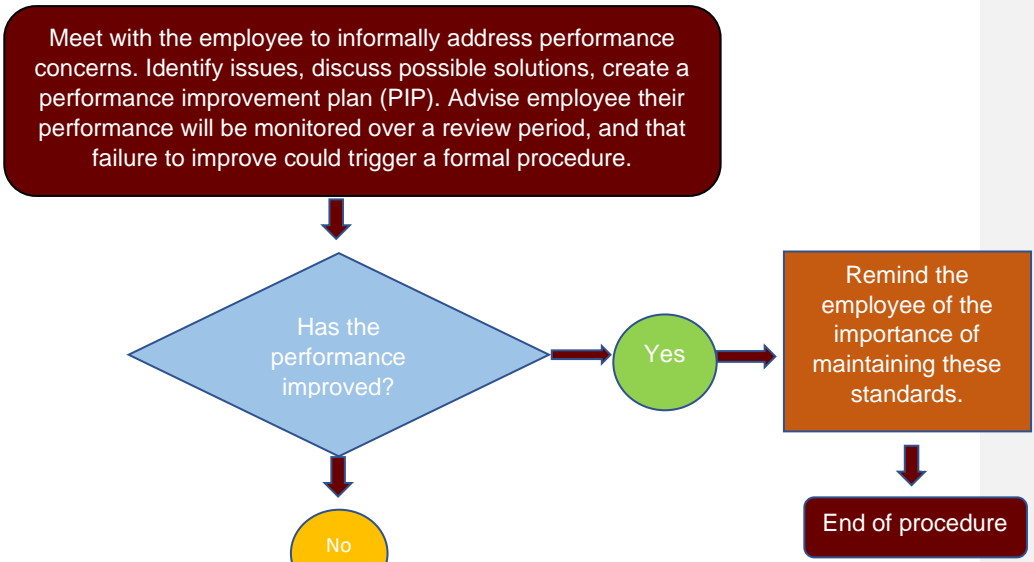
Commented [SW(L8): This would not be appropriate. It is ok to offer redeployment opportunities at the end of the process as an alternative to dismissal if the process has reached that stage. However, you would not want to suggest to the employee that they look for a new job which is how I have interpreted this.

Commented [SW(L9): Needs to be relevant to level of warning

Appeals

All employees have the right of appeal against all warnings.

Commented [SW(L10): Detail the appeal process. How to appeal and how it proceeds



Meet with the employee to discuss why performance has not improved. Confirm formal procedure will now begin.

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Invite employee, in writing, to a meeting. Provide sufficient information about the performance problem including written notes from the recent review meeting. The letter will state that the Performance Management is being followed and that they have the right to be accompanied.

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Deleted: capability procedure

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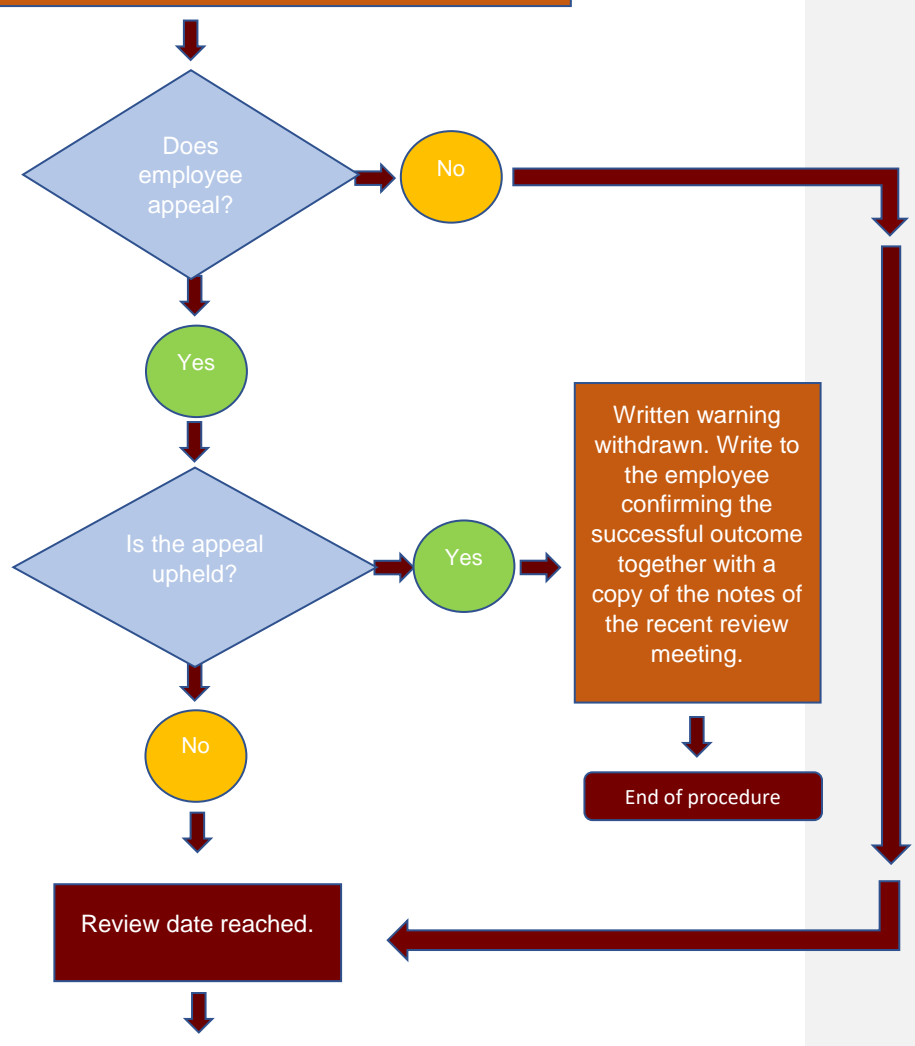
At meeting, explain the reasons for the meeting. Give the employee the opportunity to discuss the issues and highlight any extenuating circumstances. Any support requirements should be discussed and agreed.

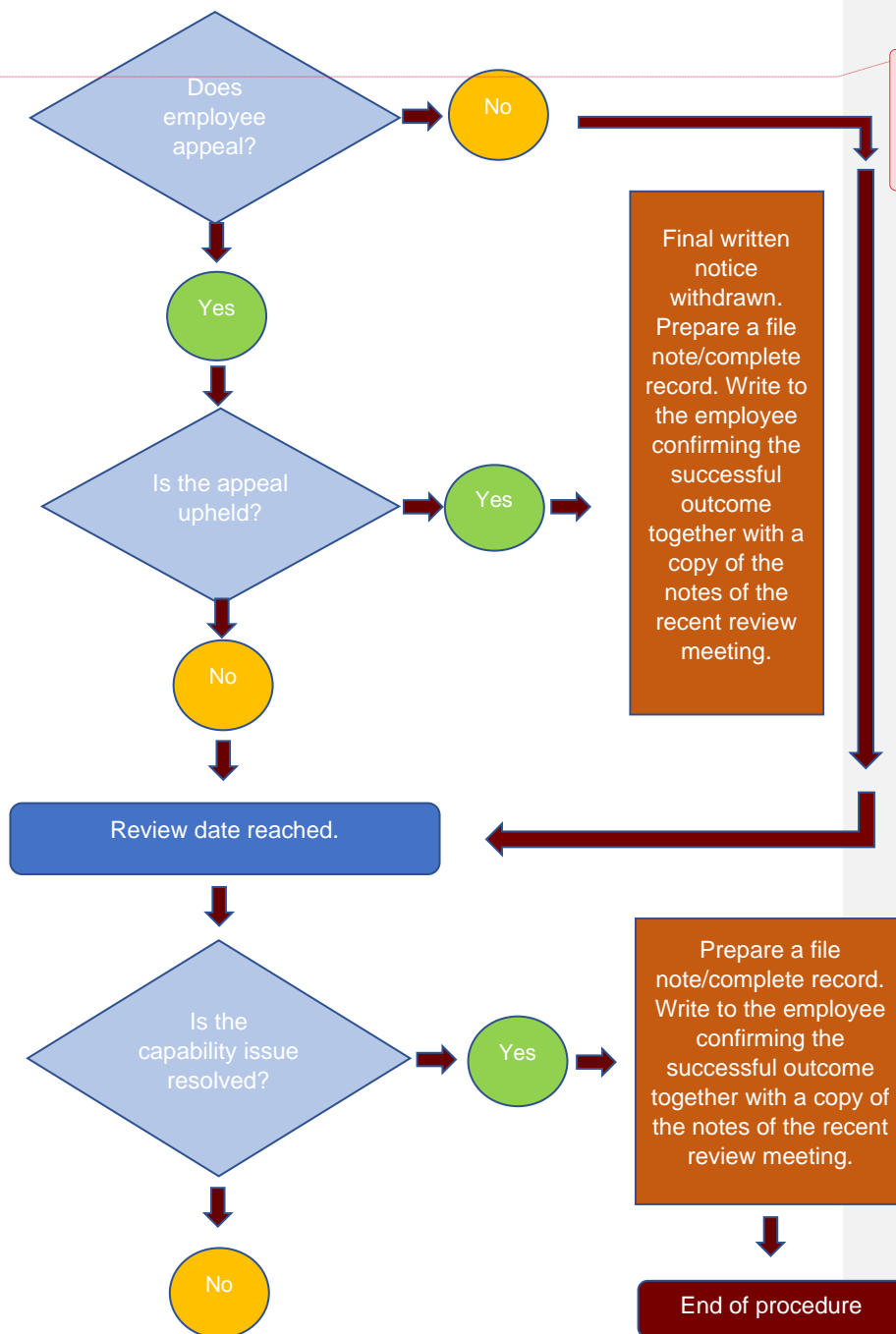
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- Issue written warning. This sets out:
- The continuing capability difficulties
 - The improvement required where this may be possible
 - Timescale for improvement
 - Consequences of failure to improve
 - Any assistance to be provided
 - A review date
 - The right to appeal





Commented [SW(L11)]: Missing a few steps such as those above that I have changed to blue writing should be repeated here before the appeal process again. A further meeting should be arranged at the review date. If performance has improved, confirm in writing and end process if not consider a next stage warning.

Invite employee, in writing, to a meeting. Provide sufficient information about the continued performance issue and include written notes from the recent review to allow them to prepare for the meeting. The employee has the right to be accompanied.



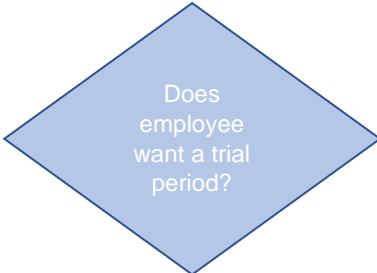
At meeting, explain reasons for the meeting. Give the employee the opportunity to discuss the issues and highlight any extenuating circumstances. Any support requirements provided during the process should be discussed.



No



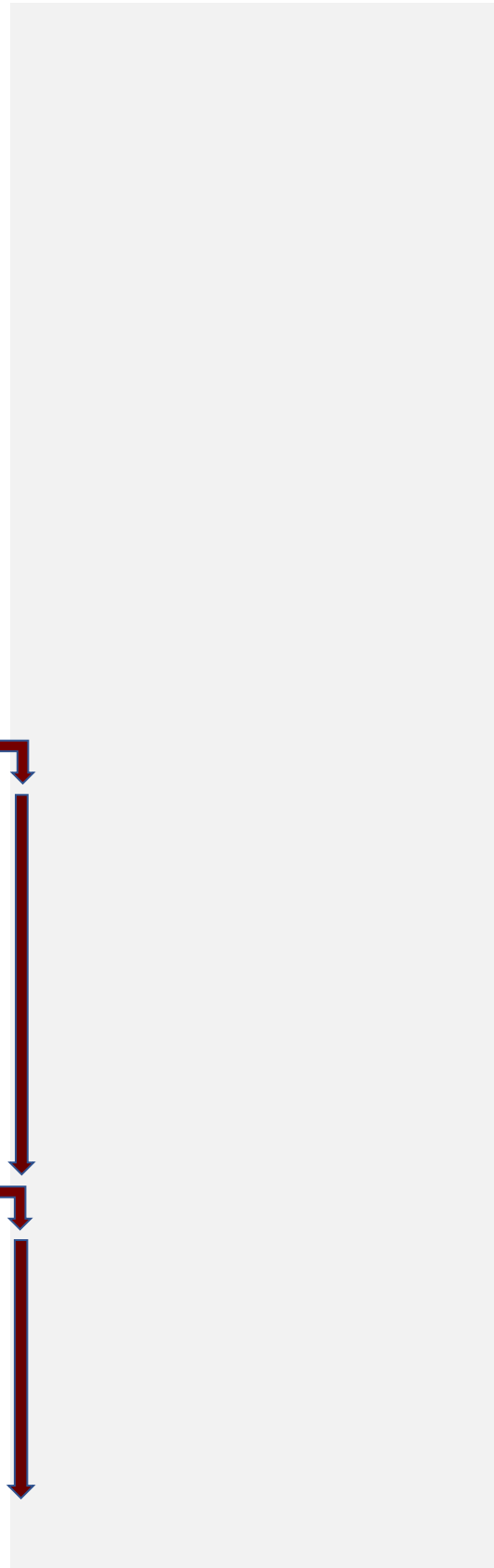
Yes

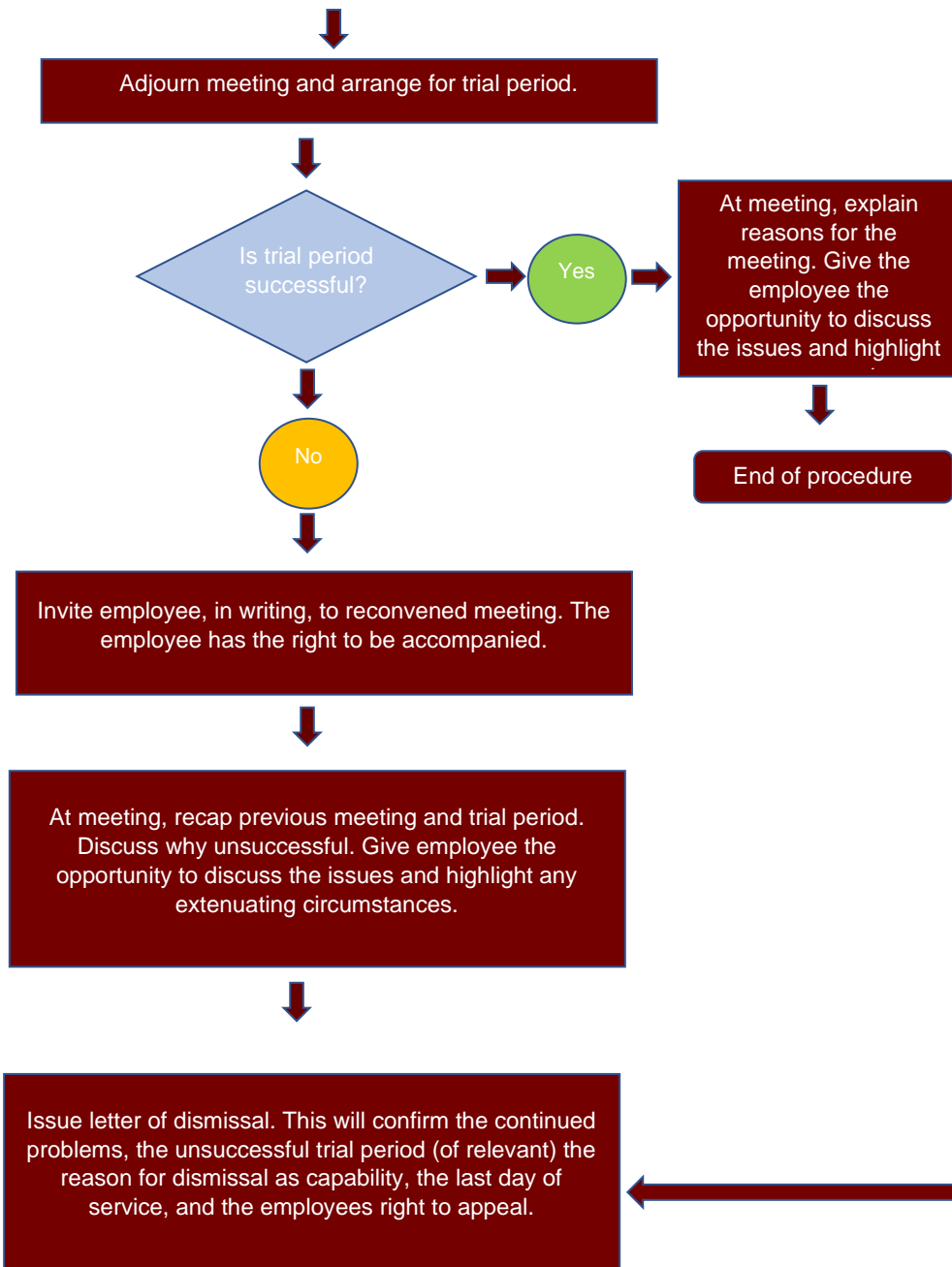


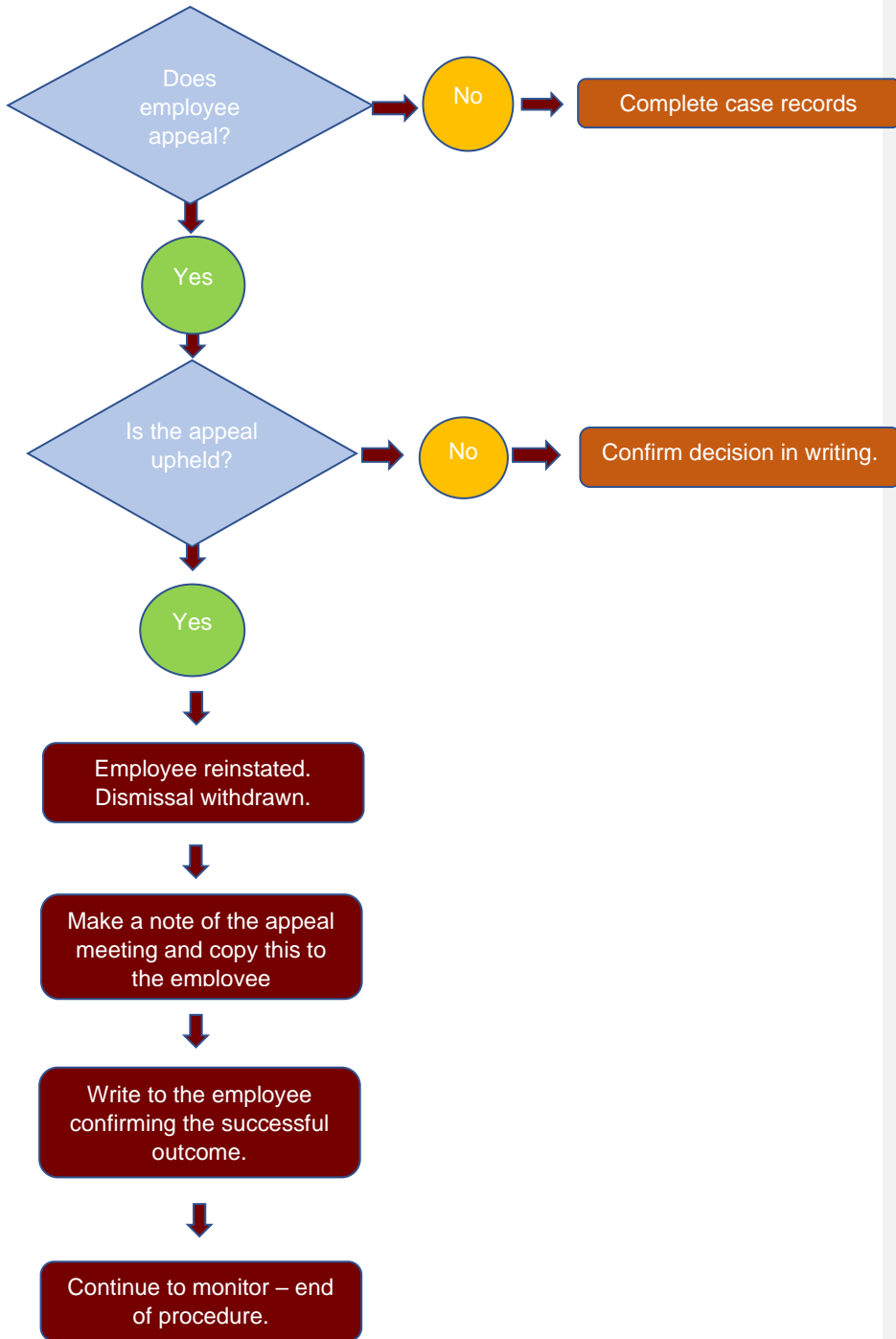
No



Yes







PERFORMANCE IMPROVEMENT AND SUPPORT PLAN TEMPLATE

PERFORMANCE IMPROVEMENT & SUPPORT PLAN

<u>EMPLOYEE</u>	<u>JOB TITLE</u>	<u>DATE OF DISCUSSION</u>
-----------------	------------------	---------------------------

<u>Area requiring support</u>	<u>Improvement Required</u>	<u>Support, training to be given, other actions to be taken by manager and employee, including dates</u>	<u>Timescale for tasks to be completed</u>	<u>Review dates including final monitoring meeting</u>	<u>Progress</u>

<u>Manager signature</u>	<u>Employee signature</u>
<u>Manager name</u>	<u>Employee name</u>

<u>Employee signature</u>	<u>Employee name</u>
<u>Manager signature</u>	<u>Manager name</u>

CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES

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CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES

1.0 INTRODUCTION

1.1 Status of the Code

Under Section 40(4)(cc) of the Local Government Act (NI) 1972, the functions of the Local Government Staff Commission include:

“establishing and issuing a code of recommended practice as regards conduct of officers of councils”.

This Code has been drafted by a working group comprising officers from local government, the Department for Communities, the Local Government Staff Commission and the Trade Unions. It has been agreed by the Local Government Staff Commission and is promulgated under the authority of the Local Government Staff Commission under Section 40(4)(f) of the Local Government Act (NI) 1972.

It is therefore issued by the Local Government Staff Commission as a statutory recommendation for adoption by all councils and the Staff Commission from 1 April 2021.

It is desirable for the protection of the public and the protection of the employees that guidance be given to local government employees as to the conduct expected of them. This Code provides guidance to assist councils and their employees in their day-to-day work and sets out the minimum standards of behaviour expected.

The aim of the Code is to set guidelines for council employees which will help maintain and improve standards and protect employees from criticism or misunderstanding.

The Code, in its application, will be cognisant of an employee’s job role and grade.

2.0 FRAMEWORK FOR THE CODE

The public is entitled to expect the highest standards of conduct from all employees who work for local government and this Code has been developed in line with best practice, existing legislation and the following guidance. The provisions of this Code apply to all staff employed by councils in Northern Ireland, arc21 and the Local Government Staff Commission for NI in the performance of their duties on a day-to-day basis including any additional offices to which they may be appointed in their capacity as a local government employee (see Appendix 1, page 23 for a definition of employee/member of staff).

2.1 National Agreement on Pay and Conditions of Service (the National Agreement)

The basic principle is stated in Part 2 paragraph 2, Key National Provisions of the National Joint Council for Local Government Services, National Agreement on Pay and Conditions of Service (the National Agreement):

Official Conduct

Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained.

Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers.

Similar provisions are incorporated in the National Conditions of Service of Chief Executive and Chief Officers.

2.2 Principles of Conduct

This Code builds on, and is keeping with, the seven principles of public life articulated by the Nolan Committee on Standards in Public Life (established in October 1994) and the four further principles of conduct that have been adopted by the Northern Ireland Assembly, both emphasise that those in public life should practice:

- **Selflessness** – Officers should act solely in terms of the public interest.
- **Integrity** – Officers must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- **Objectivity** – Officers must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- **Accountability** – Officers are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- **Openness** – Officers should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- **Honesty** – Officers should be truthful.
- **Leadership** – Officers should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

- **Equality** – Officers should promote equality of opportunity and not discriminate against any person, treating people with respect regardless of race, age, religion, gender, sexual orientation, disability, political opinion, marital status and whether or not a person has dependants.
- **Promoting Good Relations** – Officers should act in a way that is conducive to promoting good relations by tackling prejudice, promoting understanding and respect and encouraging participation between people on the grounds of different religion, political opinion, race, gender, age, sexual orientation and disability.
- **Respect** – Officers should show respect and consideration for others at all times.
- **Good Working Relationships** – Officers should work responsibly with other officers and Elected Members for the benefit of the whole community. Officers’ working relationships should at all times be professional, courteous and based on mutual respect.

3.0 CONSULTATION AND IMPLEMENTATION

The Code was drafted and agreed by a working group comprising officers from local government, the Department for Communities, the Local Government Staff Commission and the Trade Unions.

The Code was issued for consultation in February 2020. The Code will be finally revised and issued for implementation with effect from 1 April 2021.

4.0 MODEL CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES

4.1 Standards of Behaviour, Impartiality and Conflicts of Interest

Council employees (see Appendix 1, page 23 for a definition of employee/member of staff) are expected to conduct themselves with integrity and honesty in carrying out their duties and must provide the highest possible standard of service to the public. Where it is part of their duties to provide appropriate advice to councillors and fellow employees this must always be done with impartiality.

Employees will be expected, without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service or illegal or unethical conduct (see paragraph 4.14, page 19 – *Raising Concerns* which provides more detail about an employee’s responsibilities in this regard).

Responsibility is placed on every member of staff to disclose to an appropriate manager or officer of the council every potential conflict of interest in which they may be involved. Employees must adhere to the requirements regarding declaration of interests which are set out in their

Council policy on Conflicts of Interests (currently in draft format) and must declare any new interests to the Designated Manager as soon as they become aware of them. They also have a responsibility to advise their new line manager if they change their role/position in the Council. For further information, employees should also refer to the NIAO 'Conflicts of Interest: A Good Practice Guide' and the SOLACE Local Public Services Senior Managers: Code of Ethics.

In general employees' private interests must not have the potential for allegations of impropriety or partiality which might bring the Council into disrepute. This includes standards of behaviour outside the working environment where the employee is known to be an employee of the Council. This also extends to the use of social media outside of work, for example, some councils do not allow their employees to state that they work for the council on their personal Facebook profile. Further information can be found in the Councils Social Media Usage policy and Council ICT Acceptable Use policy.

Employees should not use their official position, or information acquired in their official duties, to further their private interest or those of others.

Employees must report to the appropriate manager any impropriety or breach of the terms of this Code.

4.2 Disclosure of Information

The law requires that certain types of information must be available to members, auditors, government departments, service users and the public (see Appendix 1), page 20 for examples). The Council itself may also decide to be open about other types of information.

The Council should therefore make clear to employees:

- The types of information which must be made available, and to whom;
- The types of information which the Council has voluntarily made open, and to whom;
- The types of information which the Council does not wish to be disclosed without specific permission.

The law also requires that personal information held about individuals must be treated in accordance with the General Data Protection Regulation 2016 (GDPR) and the Data Protection Act 2018. Employees must ensure that they process data lawfully in accordance with the data protection principles. The Freedom of Information Act 2000 also gives a right of access to information held by public authorities in accordance with the provisions of the Council's publication scheme.

Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. This could be a potentially criminal or fraudulent act.

Any particular information received by an employee from an individual, (including a councillor) which is personal to the individual should be kept confidential, except where such disclosure is required or sanctioned by law, for example, where an individual shares information which may be a safeguarding issue, this must be shared with the Council Safeguarding Officer and passed on to the relevant agency, or where the individual provides their permission to disclose the information.

4.3 Political Neutrality

Employees serve the Council as a whole. They must serve all councillors equally, and not just those of a particular group, for example the majority/main party, and must ensure that the individual rights of all councillors are respected.

Some employees may be required to advise political groups. In providing this advice, employees should not compromise their political neutrality. Any advice given should be available to all political groups, if requested.

All employees must not let their own personal or political opinions interfere with their work. While the Council recognises and respects the rights of all employees to hold personal or political opinions; employees should ensure that the expression of those opinions does not constitute a conflict of interest for their role within the Council. This does not compromise an officer's rights in relation to collective trade union representation and engagement, and lawful trade union activity.

An employee of a council cannot stand, be elected or co-opted as a councillor for the council in which they are employed. An employee may stand and be elected as a councillor in a council different to that which they are employed by (provided they do not hold one of the prescribed offices or employments outlined in the Local Government (Disqualification) (Prescribed Offices and Employments) Regulations (Northern Ireland) 2014).

4.4 Potential Conflict of Interest Situations

As specified in paragraph 4.1, page 8 – *Standards of Behaviour, Impartiality and Conflicts of Interest*, staff are expected to conduct themselves with integrity, impartiality and honesty and their private interests should not have the potential for allegations of impropriety or partiality to be sustained thereby bringing the Council into disrepute.

Appendix 2 on page 24 sets out a model Declaration of Interest Form, extracted from the NI Audit Office Guidance. Councils can use this model form or their own form for staff to declare their interests.

In particular, attention is drawn to the following examples of situations where potential conflicts of interest can occur:

Relationships with Councillors

Employees are responsible to the Council through its senior managers and in many cases in carrying out their duties they also give advice to councillors. Mutual respect between employees and councillors is essential to good local government.

Employees should deal with councillors in a polite, professional and efficient manner. They should not approach or attempt to influence councillors in relation to personal or contractual matters, for example, a potential regrading of their post but should use the existing employment procedures within the Council, for example, the Grievance Procedure.

Employees should not report any issues or concerns regarding the operation of the council, which have come to their attention in the course of carrying out their duties, to a councillor. These should be raised with their line manager, or by following the whistleblowing procedures if appropriate.

This does not compromise an employee's right as a ratepayer to access and/or question the provision of Council services to them through open and transparent Council procedures, for example, in relation to a planning or refuse collection issue.

Employees should report to an appropriate manager if a councillor attempts to pressurise them to deal with a matter which is not in accordance with Council procedure or policy.

Employees who have concerns about whether there is a potential conflict of interest should raise the matter with an appropriate manager.

For further advice and guidance, refer to the Local Government Employee and Councillor Working Relationship Protocol attached at Appendix 3, page 27.

Contact with the Community and Service Users

The community and service users have a right to expect a high standard of professional service from the Council. Employees have a responsibility to the community they serve and should ensure courteous, effective and

impartial service delivery to all groups and individuals within the community. Employees should always try to be positive, constructive and inclusive. This may require reasonable adjustments for effective communication with people with disabilities in accordance with the provisions of the Disability Discrimination Act 1995. In addition, the language needs of someone whose first language is not English need to be considered.

Employees also have a right not to be verbally or physically abused by the community and service users. Any incidents should be reported immediately to the employee's line manager.

Relationships with Contractors, Planning Applicants and those applying for Council Grant

All relationships with external contractors or potential contractors or applicants for planning consent or grant must be made known to the appropriate manager. Similarly, any beneficial interest or licence in respect of land which is affected by a planning application must be made known to the appropriate manager.

Employees who are employed within the Planning Department, and who are members of the Royal Town Planning Institute (RTPI), must also adhere to their Code of Professional Conduct (RTPI Code of Professional Conduct).

Orders and contracts, grants and planning decisions must be decided on merit and no special favour should be shown in the procurement process to any businesses or potential suppliers particularly those run by, for example, friends, persons to whom the employee owes (or is owed) an obligation, partners or persons where a family relationship is deemed to exist (see Appendix 1, page 20 for a definition of family relationship).

Employees who deal with, engage or supervise contractors or process or determine applications under delegated powers with whom they have previously had, or currently have, a relationship in a private or domestic capacity, should declare that relationship to the appropriate manager as soon as they are aware and a decision on their suitability to be part of the process should be made and recorded.

Employees must not accept money or any other reward from any organisation, body or individual who may benefit from work or funding provided by the council. To do so would, in law, be corrupt.

Bribery and Corruption

Under the Bribery Act 2010 it is a serious criminal offence to:

- Offer, promise or give someone a reward to induce them to perform their functions or activities improperly.
- Accept, agree to accept or request a reward in return for performing a relevant function or activity improperly.
- Bribe a foreign public official in order to win business, keep business or gain business advantage for the organisation.

4.5 Appointments and Other Employment Matters

Employees involved in appointments should at all times act in accordance with the Local Government Staff Commission's Code of Procedures on Recruitment and Selection (Code of Procedures).

The Code of Procedures at Part D, Stage 2 – Conflict of Interest, page D:52 states:

“Responsibility is placed on every panel member to disclose to an appropriate manager or officer of the council where potential conflict of interest may be present, for example partners or persons where a family relationship is deemed to exist, or if an individual has agreed to act as a referee for an applicant” and

“Where a potential conflict of interest exists, the issue is not about satisfying the conscience of the individual. Public perceptions and also those of other candidates must be considered and, in such cases, it may be appropriate for the individual to withdraw from the recruitment exercise.”

Similarly, employees should not be involved in decision in relation to discipline, promotion or any pay adjustments for any other employee with whom they have a close personal relationship, a person to whom the employee owes (or is owed) an obligation, partner or person where a family relationship is deemed to exist (see Appendix 1, page 20 for a definition of family relationship). For further examples of Potential Categories of Interests see Appendix 1, page 20.

Employees should declare an interest and, if appropriate, remove themselves from discussions or meetings where they personally could potentially be a beneficiary and/or be impacted by decisions made.

4.6 Outside Commitments

4.7

Employees must not have any external business, external employment or external appointment without advising their line manager. Employees should adhere to the requirements regarding declaration of interests (seeking clarification from their line manager if required) if any of the following apply to the business, employment or appointment, and engagement in it would, in the Council's view:

- Not be in the Council's interests
- Put the employee in a position where duty to the Council and external interests would conflict, or are likely to conflict
- Weaken public confidence in the impartiality of the Council or in the effective conduct of the Council's work.

Engagement in any external business, employment or appointment will be deemed to act detrimentally to the Council's interests where it may give rise to or contribute to an employee's sickness absence, or deterioration in performance.

Employees should follow the Council's rules on the use of Council facilities including administrative or technical support, ownership of intellectual property or copyright created during their employment.

Employers and employees of councils should be aware of their responsibilities under The Working Time Regulations (NI) 2016.

4.7 Personal Interests

Employees should review regularly their personal circumstances and take steps to deal with any potential conflict of interest (refer to paragraph 4.1, page 8). As soon as they become aware of a potential conflict, employees must declare to an appropriate manager any financial or non-financial interests that they consider could bring about conflict with the Council's interests, for instance:

- Membership of an organisation receiving grant aid from the council.
- Membership of an organisation or pressure group which may seek to influence the Council's policies.
- Membership of an organisation which may seek to influence the performance of an employee in carrying out their duties.
- Having a beneficial interest in land which is within the Council's district and is subject to any planning application.
- Having a beneficial interest in a company which is seeking to, or doing business with the council.

Employees who have an interest, financial or non-financial, should not involve themselves in any decision or allocation of Council services or resources from which they, their friends, persons to whom they owe (or are owed) an obligation, or family might benefit and should ensure that the matter is referred immediately to their line manager.

The Council recognises and respects the right of all employees to become members of organisations. However, employees must declare personal interests where there is, or could be perceived to be, a conflict of interest between their duties as an employee and their membership of the organisation.

4.8 Equality Issues

All members of the community, customers and employees have a right to be treated with fairness and equity.

In this regard employees must:

- Be made aware of their obligations under Section 75 of the Northern Ireland Act 1998, other relevant equality law and the Human Rights Act 1998 (see Appendix 1, paragraph 4, page 21);
- Co-operate with the Council in ensuring a neutral working environment and in the application of any policies agreed by the Council relating to equality issues;
- Not take discriminatory action or decisions or encourage or put pressure on fellow employees to take discriminatory action or decisions;
- Report any concerns about discriminatory conduct to their line manager or other appropriate employee.

4.9 Separation of Roles During Procurement

Employees involved in funding applications, the procurement process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. All employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors. Employees who are privy to confidential information relating to the tendering process should not disclose that information to any unauthorised party or organisation.

Employee contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding process.

Employees should ensure that, in awarding contracts, no special favour is shown to current or former employees or someone with whom they have a close personal relationship, partners or persons where a family relationship is deemed to exist (see Appendix 1, page 20 for a definition of family relationship) or to businesses run by them or employing them in a senior or relevant managerial capacity. If any such relationship exists, a decision on the suitability of an employee to be part of the process should be made and recorded.

4.10 Fraud and Corruption

Employees must be aware that, under the Bribery Act 2010, it is a serious criminal offence for them to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in his/her official capacity (see paragraph 4.12, page 17 for guidance on *Hospitality and Gifts*).

Employees must adhere to the highest principles of integrity and must comply with all relevant policies in relation to expenses, travelling and mileage allowances.

Employees should also be aware of the Fraud Act 2006 and should refer to the Councils Fraud Policy.

4.11 Use of Financial and other Council Resources

Employees must ensure that they use public funds entrusted to them in a responsible manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

An employee who, in their role in the Council, is responsible for a budget and becomes insolvent or bankrupt, must inform their line manager promptly.

4.12 Hospitality and Gifts

Employees should only accept offers of hospitality or invitations to attend social or sporting functions where the Council should be seen to be represented. They must be properly authorised and recorded in accordance with the Council's policy.

If an employee is in any doubt about the propriety of accepting any hospitality, they should take advice from their line manager.

When hospitality has to be declined, those making the offer should be courteously advised of the procedures and standards operating within the Council. Offers of hospitality which are declined should also be recorded in the Gifts and Hospitality register.

Employees should not receive personal gifts from contractors, members of the public, outside suppliers and organisations or groups in receipt of funding from the Council, although the Council may wish to allow employees to keep items of token value such as pens, diaries etc in line with the Council's Gift and Hospitality policy.

When considering whether or not to accept authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality, for instance during a tendering period of a contract for which the provider may be bidding.

Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where:

- It is clear that the hospitality is corporate rather than personal;
- Any offers of hospitality are reported and agreed by the employee's line manager in advance, or
- Where the Council is satisfied that any procurement decisions are not compromised.

Where a visit is necessary, to inspect equipment for example, the Council should consider meeting the cost of the visit to avoid jeopardising the integrity of the Council in subsequent procurement decisions.

4.13 Sponsorship – Giving and Receiving

Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

Where the Council wishes to sponsor an event or service neither an employee nor any friends, partners or persons where a family relationship is deemed to exist (see Appendix 1, page 20 for a definition of family relationship) must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest.

Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

4.14 Raising Concerns

If an employee becomes aware of activities which they believe to be illegal, improper, unethical, dangerous or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under The Public Interest Disclosure (Northern Ireland) Order 1998, in line with the Council's Raising Concerns Policy ([insert hyperlink](#)) and Health and Safety Policies [Council's Corporate Health and Safety Policy](#).

Any employee raising such concerns need have no fear of recrimination. They will be properly supported and the Council will do everything possible to keep the matter confidential.

4.15 Breaches of the Code of Conduct

Any breach by an employee of any part of the Code of Conduct or its supporting policies and guidance may be a disciplinary matter, which could lead to loss of employment. Some breaches of the Code could result in referral of the matter to the PSNI, which could lead to criminal prosecution.

LEGAL AND OTHER PROVISIONS RELATING TO THE CODE OF CONDUCT

1. Disclosure of Information (paragraph 4.2, page 9)

Data Protection Act 2018

Freedom of Information Act 2000

Part 8, sections 42-52 of the Local Government Act (Northern Ireland) 2014 deals with access to meetings and documents

Obligations of Discovery in connection with litigation

Human Rights Act 1998

General Data Protection Regulation 2016

2. Potential Conflict of Interest Situations (paragraph 4.4, page 10)

Persons who owe you an obligation, or to whom you owe an obligation – this might include a debtor, creditor, fellow member of an organisation.

Very close personal relationships may also create a conflict, eg, a good friend.

Family Relationship

For the purposes of the Code of Conduct, a relevant family relationship shall be deemed to exist between an officer and another person if they are:

- Married
- Civil Partners
- Cohabiting as if they were married
- Cohabiting as if they were civil partners (partners)

Or the other person is a biological, adopted, foster or step relative to an officer or of that officer's married partner, civil partner, or partner under one of the following categories:

- Child
- Parent
- Sibling
- Son in law or Daughter in law
- Mother in law or Father in law
- Sister in law or Brother in law
- Uncle or Aunt
- Nephew or Niece
- Grandson or Granddaughter
- Grandparent

For the avoidance of doubt, a personal relationship for the purposes of the Code of Conduct includes:

- A family relationship other than that specified above
- A business/commercial/financial relationship
- A sexual/romantic relationship
- A friendship

Potential Categories of interest relating to Additional Employment

The following guidelines have been adapted from the NI Civil Service conflict of interest guidelines relating to additional employment

The Following extract¹ deals with mitigating the conflict of interest of ‘being an employee, director, partner of another business or organisation, or pursuing a business opportunity’:

“If an employee wishes to undertake any work (paid or unpaid) with another employer they must first advise their line manager/the Council.

No remunerative private work of the following description may be undertaken:

- a. Work which would occupy your time or attention or render you unavailable for duty during normal official hours;*
- b. Work identified in any way with the activities of a political party, group or organisation;*
- c. Work of an educational, literary or scientific nature involving the use of information acquired by you in your official capacity or from official sources, except where it has previously been published, unless you received the permission of your employing department to undertake such work;*
- d. Work of a nature conflicting with your duty to the Council;*
- e. Work which may ultimately have to be reviewed by you or any member of the Council acting in an official capacity;*
- f. Work, related to your function, which an employee of the Council might otherwise justifiably undertake, but which is of such a scale as to involve unfair competition with persons wholly dependent on such work for a livelihood;*
- g. Work which would involve the use of the property, tools, equipment or materials of the Council; and*
- h. Work which is, or might be, inconsistent with your position as a public servant and may expose you or the Council to public criticism.”*

3. Appointments and Other Employment Matters (paragraph 4.5, page 13)

Code of Procedures on Recruitment and Selection

Part B – General Principles Underpinning the Code (on page 4) recommends actions to ensure that appointments are made under the merit principle. Section 41 of Local Government Act (NI) 1972 deals with appointments to councils.

¹ NICS Staff Handbook, Section 6.01, paragraph 6.1 and 6.2

4. Equality Issues (paragraph 4.8, page 15)

Legislation

- The Employment Equality (Sexual Orientation) Regulations (NI) 2003
- The Employment Equality Age Regulations (NI) 2006
- Sex Discrimination (NI) Order 1976
- Fair Employment and Treatment (NI) Order 1998
- Disability Discrimination Act 1995
- Race Relations (NI) Order 1997
- Rehabilitation of Offenders (NI) Order 1978 and Exceptions Order 1979
- Equal Pay Act (Northern Ireland) 1970
- Part-Time Workers (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2000
- Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002
- Parental Rights and Flexible Working under the Employment Rights (Northern Ireland) Order 1996
- Northern Ireland Act 1998
- Human Rights Act 1998
- General Data Protection Regulation 2016
- Environmental Information Regulations 2004
-

5. Fraud and Corruption (paragraph 4.10, page 16)

Section 46 of Local Government Act (NI) 1972 deals with the declaration of interest where an employee has a pecuniary interest and with recording of such interests. Not to do so will be an offence.

Section 47 of the Local Government Act (NI) 1972 forbids employees to accept payment apart from their salary/wage.

KEY TERMS USED IN THE CODE OF CONDUCT

Employee/s or Member/s of Staff

The term employee/s or member/s of staff should be taken to mean any individual/s employed by a council including those working both full time and part time on a permanent, temporary, fixed term or inward secondment basis. The Code also applies to seasonal and casual staff, agency workers and volunteers while they are engaged in carrying out duties for the council.

Model Declaration of Interest Form

(extracted from the NI Audit Office 'Conflicts of Interest: A Good Practice Guide')

* Councils can use this model form or their own form for staff to declare their interests.

Register of Interests:

Declaration by Member of Staff

Period: 1 January 20xx to 31 December 20xx

Surname	
Forename	
Title	
Department	
Job Title	
Date of Appointment to Current Position	
Date of Appointment to Council (if different)	

Please include dates and role

1. Company interests – any relationship with a company or commercial organisation; Directorships, paid employment, consultancy, close family connection.

2. Self employment

3. Land or Property Holdings – see page 6 of NIAO Guidelines on Conflicts of Interest and Representation on Outside Bodies.

4. Charities - trusteeships, governorships or employment with any charities or voluntary organisations.

5. Public Appointments - remunerated or unremunerated.

6. Memberships – including membership of professional or external bodies, trade or other associations.

7. Close Family Links – specific close family interest in any of the above.

8. Other interests – any other interests held by you or your close family.

I confirm that the above declaration is complete and correct to the best of my knowledge and belief. The interests I have declared include both direct and indirect interests (ie, those of a partner, spouse or close relative) and any specific financial interests are shown.

Signature: _____

Date:

Print: _____

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DRAFT