

**EMPLOYMENT COMMITTEE**

**THURSDAY 12 SEPTEMBER 2019  
7.00 PM**

**Bourges/Viersen Room - Town Hall**

**AGENDA**

Page No

1. **Apologies for Absence**
2. **Declarations of Interest**

At this point Members must declare whether they have a disclosable pecuniary interest, or other interest, in any of the items on the agenda, unless it is already entered in the register of members' interests or is a "pending notification " that has been disclosed to the Solicitor to the Council.

- |    |  |                |
|----|--|----------------|
| 3. | <b>Minutes of the Meeting Held on 16 August 2019</b> | <b>3 - 4</b>   |
| 4. | <b>Revised Employment Policies</b>                   | <b>5 - 50</b>  |
| 5. | <b>Employment Committee Start Time 2020-2021</b>     | <b>51 - 52</b> |



There is an induction hearing loop system available in all meeting rooms. Some of the systems are infra-red operated, if you wish to use this system then please contact Dan Kalley on 01733 296334 as soon as possible.

**Did you know? All Peterborough City Council's meeting agendas are available online or via the modern.gov app. Help us achieve our environmental protection aspirations and view this agenda online instead of printing it.**

**Emergency Evacuation Procedure – Outside Normal Office Hours**

*In the event of the fire alarm sounding all persons should vacate the building by way of the nearest escape route and proceed directly to the assembly point in front of the Cathedral. The duty Beadle will assume overall control during any evacuation, however in the unlikely event the Beadle is unavailable, this responsibility will be assumed by the Committee Chair. In the event of a continuous alarm sounding remain seated and await instruction from the duty Beadle*

**Recording of Council Meetings**

Any member of the public may film, audio-record, take photographs and use social media to report the proceedings of any meeting that is open to the public. Audio-recordings of meetings may be published on the Council's website. A protocol on this facility is available at:

Committee Members:

Councillors: J Holdich (Vice Chairman), M Jamil, Hemraj, W Fitzgerald, R Brown (Chairman), Yurgutene and Wiggin

Substitutes: Councillors: Hogg, Iqbal, Hussain and J Goodwin

Further information about this meeting can be obtained from Dan Kalley on telephone 01733 296334 or by email – [daniel.kalley@peterborough.gov.uk](mailto:daniel.kalley@peterborough.gov.uk)

**MINUTES OF THE EMPLOYMENT COMMITTEE MEETING  
HELD AT 2:00PM, ON  
16 AUGUST 2019  
STANTON CONFERENCE CENTRE, STANTON WAY, HUNTINGDON**

**Committee Members Present:** Brown (Chairman) Holdich (Vice-Chairman), Councillors Yurgutene, Jamil, and Wiggin

**Officers Present:** Steve Cox Executive Director Place and Economy  
Anna Marsh Senior HR Business Partner  
Dan Kalley Senior Democratic Services Officer

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Hemraj and Fitzgerald.

**2. DECLARATIONS OF INTEREST**

No declarations of interest were received.

**3. MINUTES OF THE MEETING HELD ON:**

**1 MARCH 2019**

The minutes of the meeting held on 1 March 2019 were agreed as a true and accurate record.

**7 MARCH 2019**

The minutes of the meeting held on 1 March 2019 were agreed as a true and accurate record.

**4. EXCLUSION OF PUBLIC AND PRESS**

In accordance with Standing Orders, the Committee was asked to determine whether item 5 'Appointment of Shared Director Highways and Transport' as defined by Paragraph 1, 2 and 4 of Schedule 12A of Part 1 of the Local Government Act 1972, should be exempt and the press and public excluded from the meeting when they were discussed, or whether the public interest in disclosing this information outweighed the public interest in maintaining the exemption.

The Committee unanimously agreed to the exclusion of the press and public for agenda item 5.

**5. APPOINTMENT OF SHARED EXECUTIVE DIRECTOR HIGHWAYS AND TRANSPORT**

As agreed at agenda item 5, the meeting moved into exempt session.

At this point Members from Cambridgeshire County Council's Staffing and Appeals Committee joined the meeting to interview for the position of Shared Executive Director Economy and Place.

**RESOLVED:**

The Employment Committee **RESOLVED** to

1. Appoint a shared Director Highways and Transport by way of secondment arrangements under S113 of the Local Government Act 1972 with Cambridgeshire County Council, and
2. Formally endorse the appointment of Graham Hughes to the shared Director Highways and Transport.

Chairman  
14.00pm – 16:00pm

<b>EMPLOYMENT COMMITTEE</b>	AGENDA ITEM No. 4
<b>12 SEPTEMBER 2019</b>	<b>PUBLIC REPORT</b>

Contact Officer(s):	Mandy Pullen, Assistant Director HR and Organisational Development	Tel. 863628
---------------------	--	-------------

## REVISED EMPLOYMENT POLICIES

R E C O M M E N D A T I O N S	
<b>FROM : Assistant Director of HR and Development</b>	
That Employment Committee approve the updated employment policies. (The policies are the Infection Control Policy, the Overpayments Policy, the Adoption Policy, and the Disciplinary Procedure).	

### 1. ORIGIN OF REPORT

- 1.1 This report follows changes made to the policies after a scheduled review, and after agreement with the trade unions at the Joint Consultative Forum on 13 May 2019 and 31 July 2019.

### 2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of the report is to obtain approval to the changes made to the policies and documents detailed above. Changes that have been made to the policies are clearly indicated on the documents in red text (lighter text).

### 3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If Yes, date for relevant Cabinet Meeting	
---	-----------	---	--

### 4. BACKGROUND

#### 4.1 Infection Control Policy

The HR Reward and Policy team have undertaken an annual review of the policy, taking account of feedback from the Occupational Health and Public Health teams. The comments were considered and, where appropriate, included in the final draft version.

The proposed changes include listing additional infectious and notifiable diseases, ie mumps and measles, and greater clarification regarding the use of sharps bins plus clarifying responsibilities across the organisation.

The updated policy is at Appendix 1.

#### 4.2 Overpayments Policy

This policy was also subject to an annual review and has been changed to include clarification that if, in the unusual circumstance that a debt is not recovered before an employee leaves the council, the debt will be recovered via the debt recovery team process. In addition, a template letter has been created to ensure that the leaver is clear on

the actions that will be taken.

The updated policy is included at Appendix 2.

#### 4.3 Adoption Policy

This policy has been updated to include a separate section on 'Fostering for Adoption' which is in place to ensure that more children can be placed with their potential permanent carers whilst the legal process runs its course. The position on the pay and leave that would apply is included. In addition, reference to ordinary paternity and ordinary parental leave has been removed.

The updated policy is included at Appendix 3.

#### 4.4 Disciplinary Procedure

A thorough review of the policy and guidance document in respect of Disciplinary has been carried out taking full account of feedback from the trade unions, line managers and HR Business Partners. Whilst no changes are proposed to the policy, there are suggested changes to the Disciplinary Procedure in order to add further clarity and improvement to the actual process and make clear the responsibilities of each individual involved in a disciplinary exercise. The main changes are as follows:-

- To ensure that suspensions are carried out consistently, a Suspension Risk Assessment process has been introduced for managers to follow. This is in place to determine whether or not suspension from duties is absolutely necessary
- The informal process has been updated to make clear that the informal stage does not form part of the formal process. As such, the option to issue a verbal warning has been removed, and the manager is advised to clarify any conversations and agreements made in a file note.

Less significant changes to the procedure are detailed at Appendix 4. These are suggested to help ensure that the process flows effectively from start to finish, employees are clear on what the process is and the responsibilities of each individual involved, how the decision will be communicated and various other changes to improve the process overall.

The updated Procedure document is at Appendix 5.

The proposed template Risk Assessment Form is at Appendix 6.

### 5. **PROPOSAL**

To implement the updated policies, guidance and forms from 1 October 2019.

### 6. **IMPLICATIONS**

Financial – None

Human Resources – These changes will increase the guidance available to managers and employees.

Legal - None

## **7. REASONS FOR RECOMMENDATIONS**

The updated documents provide clearer guidance for managers and employees. Improved standardised forms will also assist managers with consistent management of their team members.

## **8. APPENDICES**

**Appendix 1** - Infection Control Policy

**Appendix 2** - Overpayments Policy

**Appendix 3** - Adoption Policy

**Appendix 4** - Detailed proposed changes to the Disciplinary Procedure

**Appendix 5** - Disciplinary Procedure

**Appendix 6** - Template Suspension Risk Assessment Form

# INFECTION CONTROL POLICY



## 1. Introduction

This policy sets the standards by which management and staff of Peterborough City Council (PCC) will control the risk of the spread of infectious diseases, and minimise the risks of occupationally acquired diseases, within their area of control and through the wider community.

Infections can be spread in a number of ways; by direct contact with blood or bodily fluids or contact with items contaminated with blood or bodily fluids or via an airborne route, for example coughs or sneezes or by injection through contaminated sharps, bites, or stings.

It is expected that PCC, or agencies acting on their behalf, will produce and maintain guidelines which set out how these standards are to be met, which also cover at least the basics of infection control guidance issued by the Health and Safety Executive.

It is also expected that individual establishments where care is provided, excluding where domiciliary care is provided in the client's own home, will produce a policy detailing how the infection control policy is to be complied with in that particular establishment.

This policy will be reviewed at least annually or more frequently if required.

## 2. Policy statement

Some of the work conducted by PCC staff can bring them into contact with infectious diseases.

The Council is committed to ensuring that infectious diseases are controlled as effectively as possible to reduce the risk of spread between individuals and into the wider community.

The Council will comply with the Health and Safety at Work Act 1974 and all associated and relevant health and safety legislation including:

- Management Regulations
- COSHH
- The Health and Social Care Act 2008: Code of Practice on the Prevention and Control of infections and related guidance (Department of health, December 2010) (The Code)

Risk assessments will be carried out by a competent person, to assess the risk to clients, employees performing personal care tasks and others who may be at risk of exposure to infection arising from the provision of the care.

Cleanliness and personal hygiene are the most effective measures against infectious diseases. All relevant staff will maintain high standards of cleanliness appropriate to the level of risk, in premises under their control.

Carers working for, or on behalf of PCC will maintain high standards of personal hygiene when caring for all clients, whether it is known that they suffer from, or carry an infectious disease or not.

The Council will provide such training as is necessary to enable staff to work safely to reduce the risk of them contracting or spreading infection.

~~To reduce the spread of infection, staff who are symptomatic of an infectious illness are advised not to attend work.~~

To reduce the spread of infection, staff are advised not to attend work when ill with an infectious disease in line with advice from their doctor or Public Health England.

Infectious waste will be disposed of in compliance with the Environmental Protection Act 1990 and The Hazardous Waste Regulations 2005.

### 3. Risk Groups for possible infection (not exhaustive)

The following list shows those Council employees that may be at risk from infectious diseases:

- Persons coming into contact with sewage and potentially contaminated or hazardous premises
- Healthcare workers, cleaning staff, laundry staff
- Child day care centre staff
- Older people's day service staff
- **Social Care Workers**
- Reablement support workers
- Staff of residential institutions for the mentally and physically disabled
- **Those that have contact with** people whose personal hygiene may be poor
- Carers of patients with acute or chronic Hepatitis B (HBV) infection
- Staff at custodial institutions
- Caretakers
- ~~Pest control workers~~
- Community centre workers
- First Aid personnel
- School personnel
- **Animal handlers**
- **Coroners Team**

Others who may be at risk are those employees who are medically compromised for some reason e.g. those **that are on dialysis**, immunocompromised or who are ~~HIV positive or pregnant~~.

### 4. Roles and responsibilities

4.1 Service Directors will:

- Ensure that systems are in place to effectively manage infectious diseases within all areas of the department for which they have responsibility.
- Ensure Assistant Directors are aware of their responsibility for managing infectious diseases and implementing relevant guidance documents throughout their area of control.
- Maintain their knowledge of infection control to a level commensurate with their responsibilities.

4.2 Assistant Directors will:

- Monitor the performance of their service and sections within their service, with regards to the control of infectious diseases and compliance with the policy.
- Delegate actions to appropriate officers within their service to ensure compliance with the policy.
- Maintain their knowledge of infection control to a level commensurate with their responsibilities.

4.3 Head of Services will:

- Ensure that the departmental procedures and guidelines for managing infectious diseases are

implemented throughout their area of control.

- Monitor the performance of the department as a whole, services within the department and individual establishments as necessary, with regards to the control of infectious diseases and compliance with the policy.
- Act as a source of advice to managers on how to comply with all aspects of the policy.
- Maintain their knowledge of infection control to a level commensurate with their responsibilities.

4.4 Team managers will:

- Carry out risk assessments as necessary to ensure effective measures to control infectious diseases are put in place within the establishment(s) for which they are responsible.
- Monitor the performance of the establishment for which they have responsibility with regards to the control of infection by carrying out relevant audits and providing performance data to the lead officer for infection control **in their area**.
- Produce an action plan in consultation with clients and managers as appropriate.
- Maintain knowledge of infection control to a level commensurate with their responsibilities.
- Ensure all staff are updated on infection control procedures in individual or group meetings, including training on general and disease specific practice as appropriate.
- Ensure the provision of the appropriate work equipment and personal protective equipment for that work activity.
- Ensure all staff are aware of the relevant inoculations available to them, and keep appropriate records.
- **Ensure there is a safe system of work procedure for inoculation injury, ie bite, spit, scratch or sharps injury**
- **Report any inoculation injury on the councils accident reporting system**

4.5 Employees and those working on behalf of PCC will:

- Wear appropriate personal protective equipment for that work activity.
- Use the appropriate work equipment for that work activity.
- Follow all relevant hygiene rules and procedures when washing hands after handling any contaminated clothing or other equipment and before eating, drinking or smoking.
- Follow all procedures for disposal of contaminated clothing or equipment as detailed in departmental procedures.
- Cover any open wounds, cuts or breaks in the skin with a waterproof dressing, even when wearing protective equipment.
- Report any symptoms of infectious diseases, for example flu-like illness or fever, to their line manager and doctor for further investigation.
- Inform their line manager of any diagnosis of an infectious disease.
- Ensure that relevant inoculations are updated and maintained, and records ~~cards~~ are kept of due dates etc.
- **Follow the procedure agreed for inoculation injury.**

4.6 Occupational Health will:

- Provide managers and employees of PCC with advice and guidance as required
- Offer guidance to managers and employees on where the relevant inoculations could be obtained
- **Offer guidance to managers and employees on inoculation injuries**

- Offer advice on reporting to HSE ie, post inoculation injury actions/diseases
- Maintain the employees Occupational Health file with any actions taken.

## 5. Infection

Infection is the name given to the process by which a disease is communicated from one person to another. All diseases communicated in this way are infectious.

### 5.1 Infectious Diseases

Examples of infectious diseases are:

Hepatitis A B C D E	Sickness and diarrhoea outbreaks, e.g. Norovirus
Tuberculosis	Influenza
MRSA	Measles
Food poisoning e.g. salmonella	Mumps
AIDS	Rubella
E.Coli	Chickenpox
Clostridium Difficile	Shingles

This list is not exhaustive. For guidance on specific diseases see the Health and Safety Section on Insite.

For more detailed guidance on specific diseases, follow the link below.

<https://www.gov.uk/topic/health-protection/infectious-diseases>

### 5.2 Notifiable diseases

Some diseases are notifiable to Local Authority Proper Officers (namely Environmental Health Officers and Public Health Local Authority) under the Public Health (Infectious Diseases) Regulations 1988. Responsibility for notifying the authorities' usually lies with the diagnosing medical practitioner.

Some diseases are reportable to the Care Quality Commission (CQC) via a notification to CQC.

The main notifiable diseases relevant to social care work are listed below:

- Viral Hepatitis
- Tuberculosis
- Food poisoning
- Infectious bloody diarrhoea
- Measles
- Mumps
- Rubella

This list is not exhaustive and information on all notifiable diseases can be obtained by following the link below. Follow specific departmental guidance for individual diseases.

<https://www.gov.uk/guidance/notifiable-diseases-and-causative-organisms-how-to-report>

### 5.3 Reportable Diseases

Some diseases and dangerous occurrences are reportable to the Health and Safety Executive (HSE) under the Reporting of Injuries Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR) whether they are infectious or not.

Reportable diseases within social care work may include:

- Hepatitis
- Legionellosis

- Leptospirosis
- Lyme disease
- Tuberculosis
- Needlestick injuries (syringes etc)
- Bites which break the skin.

This list is not exhaustive. More information can be gained from following the link below:

<http://www.hse.gov.uk/pubns/hsis1.pdf>

## 6. Risk Assessments

Risk assessments must be carried out by a competent person, e.g. Line Manager or their deputies as appropriate, to:

- Establish procedures to prevent, detect and control the spread of infection arising from the provision of care.
- Identify and provide appropriate treatment for those affected by an infection.
- Establish and maintain appropriate standards of cleanliness and hygiene of:
  - The premise where the care is being provided.
  - Any equipment and/or materials used to provide the care such as hoists, beds, commodes etc.

## 7. General preventative/control

### 7.1 Hand Hygiene

Hand hygiene is the single most important measure to reduce the spread of infection.

All employees providing personal/direct care for any client(s) will:

- Wash/clean and dry their hands thoroughly using soap and water.
- In community settings and some areas of an establishment, water free sanitizer will be provided where there are no suitable washing facilities.
- Wear appropriate Personal Protective Equipment (PPE) as identified by risk assessment.
- Dispose of the PPE as identified by risk assessment after care has been completed.

The above process must be followed for each episode of personal care provided.

Appropriate PPE and hand washing/cleansing facilities and substances must be made available to all employees as appropriate.

Hand Hygiene Posters must be displayed in appropriate areas in establishments this includes sluice rooms, staff toilets, laundry areas etc.

### 7.2 Personal Protective Equipment (PPE) required as identified by risk assessment:

- Disposable gloves as identified by risk assessment.
- Disposable plastic apron.
- Any other item identified as required by risk assessment.
- Where it is a requirement to wear an overall/uniform, this **must** be a tunic or dress. A tabard **must** only be worn for food preparation and handling.
- Staff **must** wear a clean overall each day.
- Staff **must** change into/out of overalls at the start and end of each shift where there are suitable facilities to do so. In establishments overalls should be laundered on site and washed separately

from other items at 60 degrees.

- In the community it may not be possible to change into/out of overalls between visits. Where this is not possible staff **must** wear a clean set of overall each day. All overalls **must** be washed separately at 60 degrees.
- Further PPE may be provided on recommendation by infection control advisers or medical professional.

Risk assessments must be undertaken to identify if there is any risk to staff who have contact with clients, but who do not provide personal/direct care. For example community mental health workers, care managers, school personnel etc. This assessment must identify appropriate infection control measures.

## 8. Vaccinations to combat infectious diseases

Vaccinations to combat certain infectious diseases will be offered for staff where:

- It has been identified by risk assessment, or advised by an appropriate medical professional e.g. GP, Infection Control Specialist or Occupational Health Advisor, that individual members or groups of staff, as part of their work, are at risk from contracting or carrying an infectious disease and could spread this disease to people in their care or to the wider community.

The list of diseases is not exhaustive and will be guided by the risk assessment of staff groups, taking into account the nature and level of contact with clients.

The most common diseases which some staff may need vaccination for in social care work are:

- Hepatitis B
- Tuberculosis
- **Influenza**

Further guidance on the staff groups at increased risk can be obtained from the Occupational Health Advisor.

At recruitment, individuals will be given information in regards to increased risks related to their job, and are then able to take up the offer of and maintain their immunisation status.

For Seasonal Influenza immunisation, please see separate guidance from Occupational Health or line manager.

## 9. Cleaning

All premises where personal care is provided must maintain appropriate standards of cleanliness and hygiene.

For staff carrying out cleaning activities, appropriate training in infection control techniques will be provided. This should include correct use of the substances to be used, hand washing and drying techniques, wearing/removal of gloves and other PPE etc.

Specific cleaning regimes will have to be followed for certain specified illnesses. More information on this can be found in Departmental Safety Guidance notes.

Each establishment must have a cleaning schedule that covers all parts of the unit and must be readily available for inspection by interested parties.

### 9.1 Day Services

It is the Unit Managers responsibility to ensure premises under the control of Peterborough City Council have a clear plan for cleaning which details:

- The roles and responsibilities of all employees
- The frequency that cleaning takes place for each area.
- The level of cleaning required in each area.

- The substances used for each cleaning activity, including where appropriate assessments carried out in compliance with the Control of Substances Hazardous to Health (COSHH) Regulations (as amended) 2002.
- Instructions for cleaning equipment, including hoists, beds and commodes, and displayed where appropriate.
- Instructions on how to carry out each cleaning activity.

Cleaning plans must also detail actions to be taken in an emergency e.g. spillages, including spillages of body fluids etc. Body fluids **must** always be treated as though they are infectious. This plan must specify the equipment to be used for dealing with body fluids, e.g. colour coded buckets, mops, bags etc. These must be on display in appropriate areas of the unit such as sluices.

Any defects including tears to mattresses, commodes, soft furnishings, etc. must be reported to the Manager on duty immediately to record and take any action.

Refer to the relevant domestic cleaning system manual for general cleaning procedures.

## 9.2 Reablement

For Reablement Services any cleaning activities required must be set out in the Service User Plan.

In most circumstances staff will be expected to use equipment and substances provided by the client/carer.

In extreme circumstances, equipment/substances may be provided by the department e.g. intensive clean. Where this is the case, appropriate assessments carried out in compliance with the Control of Substances Hazardous to Health (COSHH) Regulations (as amended) 2002 will be required.

## 10. Collection and disposal of waste

The health care waste produced within our service, falls into three types:

- Clinical infectious
- Non infectious/offensive
- Sharps

It is important to understand these differences because it affects the method of disposal. Health care waste within the community will be disposed of differently to that in residential settings.

### 10.1 Health care waste could include the following:

#### 10.1.1 Clinical/infectious

- Wound dressings
- Colostomy/catheter bags etc
- Disposable Personal Protective Equipment (PPE) used for providing personal care and cleaning up body fluids
- Nappies.

#### 10.1.2 Non-infectious/offensive waste could include the following:

- Paper hand towels
- Incontinence pads
- Disposable Personal Protective Equipment (PPE) for general personal care use such as washing
- Nappies etc.

Waste bins in toilet, sluice, bathroom areas must be hands free unless a risk assessment identifies where this is not an option.

**10.1.3 Sharps** may include the following:

- Needles
- Broken glass.

## **10.2 Residential and Day Service**

Because it is impossible for managers to be certain that health care waste produced on their premises is not infectious, all health care waste must be treated as infectious and must be collected and disposed of in accordance with the Hazardous Waste Regulations 2005.

Premises disposing of hazardous waste must be registered with the Environment Agency if they produce a cumulative total of more than 500kg of hazardous waste per year. This total includes clinical/infectious waste plus other items such as fluorescent lighting tubes, fridges etc.

### **10.2.1 Procedure for disposal of health care waste in residential/Day Care settings**

- Waste to be placed in, yellow or orange plastic bags provided for this purpose.
- Bags to be sealed using parcel tape or similar.
- Sealed bags to be stored in a suitable receptacle provided for this purpose to prevent access by unauthorised persons or animals.
- Sealed bags to be collected by a licensed waste disposal contractor and taken for incineration.

## **10.3 Home Care**

A medical practitioner/nurse will make an assessment of the health care waste being produced in a person's home and they will classify this accordingly. If the waste is classified as clinical infectious they will make separate arrangements for this to be collected.

### **10.3.1 Procedure for disposal of waste in Home Care settings**

**This section is dependent on waste collection services available for the different local councils therefore the following is best practice guidance.**

**Clinical infectious waste** should be placed in a yellow or orange bag and sealed. This should be collected separately but each area has specific arrangements for the collection of clinical waste which must be included in local infection control procedures.

**Non-infectious/offensive waste** produced in a client's home.

Any waste produced can be double bagged, tied securely and put into the refuse bin.

## **11. Disposal of sharps**

All sharps e.g. syringes, diabetes testers etc, must be placed in a 'sharps' bin.

The bin **must** be brought to the client who should place the sharps into the bin, staff **must never touch a needle**.

When a sharps bin is full **to the indicated line, the bin should be locked and** the assessing medical professional should be informed, who will arrange for collection and disposal **of the bin and contents**.

Full information on the disposal of waste in community settings can be found in the relevant department guidance manual.

## **12. Further Information**

Further information and resources can be located at the Public Health England Website:

<https://www.gov.uk/government/publications/infection-prevention-and-control-in-care-homes-information-resource-published>.



# OVERPAYMENTS POLICY

## 1. Purpose

The purpose of this Policy and the Overpayments Process is to confirm the council's approach to dealing with overpayments made to the salary of existing and ex- employees/workers.

## 2. Responsibility

The Code of Conduct expects that everyone working for the council will perform their duties with honesty, integrity, impartiality and objectivity. As custodians of public money the council will seek to recover all overpayments of salary regardless of how the overpayment has occurred.

- Any employee/worker who believes there may have been an overpayment in their salary must contact the payroll team immediately.
- Failure to do so will result in a referral to the corporate compliance team which may lead to disciplinary action being taken.

## 3. Key Principles

Definition of overpayment – monies that an employee or worker has been paid that is more than they should have received under their contract of employment with the council;

Definition of underpayment – monies that an employee or worker should have paid in respect of pension contributions, income tax, national insurance or other statutory or voluntary deduction. This underpayment by the employee is treated in the same way as an overpayment.

The Employment Rights Act 1996 provides that, where an employer has made an accidental overpayment of wages and makes deductions from the employee's wages or salary to recover the amount overpaid, the employee is not entitled to bring a claim for unlawful deductions from wages.

## 4. Existing employee's / workers - less than £200 owing from a single overpayment

4.1. Where an overpayment has been made, in all normal circumstances, the council will recover the overpayment as soon as it is discovered by **deducting it from the next salary** paid to the employee. This will apply to:

- Single overpayments / underpayments that occurred in one month and
- That are £200 or less.

The process that will be followed is detailed at [para. 8](#). The letter that will be used is at [para. 6](#).

Any balance remaining when the employee / worker leaves the council will be deducted from their final pay wherever possible. Where this is not possible, any outstanding debt will be referred to the council's Accounts Receivable team and the normal procedure for collecting debt applied.

## 5. Existing employee's / workers - more than £200 owing and/or where the

## overpayment has occurred over more than one month

5.1. If the employee / worker is unable to repay the overpayment immediately, then the council will seek to recover the monies by obtaining the employee's agreement to setting up an instalment plan. In most cases the instalment plan will ensure that the balance is taken in equal monthly instalments within the same financial year. No instalment plan will be implemented without the agreement of the Head of Finance.

5.2. Exceptionally, if the employee / worker is able to produce evidence of hardship the instalment plan may be extended to a period of 12 months from the date the overpayment is discovered. Evidence is likely to include bank statements, proof of monthly outgoings etc.

Any balance remaining when the employee / worker leaves the council will be deducted from their final pay wherever possible. **Where this is not possible, any outstanding debt will be referred to the council's Accounts Receivable team and the normal procedure for collecting debt applied.**

5.3 If the overpayment is:-

- more than £200 and/or
- was made over more than one month
- and was a result of a payroll processing error

then the payroll department will discuss with the line manager and/or the HR Business Partner to determine what the instalment plan should be. This must then be agreed by the Head of Finance. The payroll department will then discuss the proposed instalment plan with the employee / worker. Following the discussion the payroll department will write to the employee setting out:-

- how the overpayment occurred
- the sums owing to the council including any documentary evidence which explain the overpayment
- the instalment plan detailing the repayment / deductions schedule

5.4 If the overpayment is:-

- more than £200 and/or
- was made over more than one month
- and was not as a result of a payroll processing error

then the line manager will discuss with payroll and/or the HR Business Partner to determine what the instalment plan should be. This must then be agreed by the Head of Finance. The line manager will then discuss the proposed instalment plan with the employee / worker. Following the discussion the line manager will write to the employee setting out:-

- how the overpayment occurred
- the sums owing to the council including any documentary evidence which explain the overpayment
- the instalment plan detailing the repayment / deductions schedule.

The line manager will then send confirmation of this to the payroll department.

5.5 Each letter will also request the employee's written agreement to the proposed recovery method. The council will seek to reach agreement with the employee in respect of the repayment schedule but if this is not possible then recovery may commence without the employee / worker's agreement, or further recovery action taken.

5.6 In every case where a repayment schedule is agreed the line manager will review the schedule at regular intervals to see if the employee's circumstances have changed and they are able to

repay the money over a shorter period. The HR Business Partner is available to assist with negotiations if required.

To ensure this happens Serco payroll will produce a list by the end of January each year detailing the current outstanding overpayment cases. On receipt of the list the HR Business Partner will write to each line manager and inform them that they should undertake the review before the end of February each year.

The process that will be followed is detailed at [para. 9](#). The letter that will be used is at [para 7](#).

## 6. Template letter to existing employee re automatic deduction

Dear

I am writing to inform you that an error has occurred in your pay and we have identified that you have been overpaid the total sum of XXX£.

Please find enclosed XXXthe relevant payslip, with the error/s highlighted. You will see that the overpayment occurred in the month of MMY. Unfortunately, this overpayment has arisen due to XXXreason. I would like to reassure you that this error has now been resolved.

As the amount of the overpayment was below £200 this will be deducted in a single instalment by way of a deduction from your salary on XXXdate. Please sign and return one copy of this letter to the payroll department by XXXdate(10 working days) to confirm your acceptance of this deduction from your salary. If you fail to respond to this letter, or to contact the undersigned, the council reserves the right to make the deduction from your salary to ensure the overpayment is repaid.

**Should you leave the council before this deduction can be made, any outstanding debt will be referred to the council's Accounts Receivable team and the normal procedure for collecting debt applied.**

This is in accordance with the council's Overpayment Policy.

We would like to apologise for any inconvenience caused. If you wish to discuss any aspect of this letter or if this deduction would cause you exceptional hardship please do not hesitate to contact the payroll department directly or speak to your line manager.

Yours sincerely,

Payroll Officer

I authorise Peterborough City Council to make a deduction of XXX£ from my salary due to be paid on XXXdate.

Name:

Date:

Signed:

## 7. Template letter to existing employee re. Instalment plan

Dear

I am writing to inform you that an error has occurred in your pay and we have identified that you have been overpaid the total sum of XXX£.

Please find enclosed XXXthe relevant payslip/payslips, with the errors highlighted. You will see that the overpayment occurred from DDMMYY to DDMMYY. Unfortunately, this overpayment has arisen due to XXXreason. I would like to reassure you that this error has now been resolved.

EITHER

We met on XXXdate to discuss how best to deal with the overpayment.

OR

We discussed how best to deal with the overpayment on XXXdate

EITHER

Due to the low amount of the overpayment, we agreed that the best way to proceed would be for you to repay the amount in a single instalment by way of a deduction from your salary on XXXdate . Please sign and return one copy of this letter to XXXname to confirm your acceptance of this deduction from your salary as soon as possible and in any event by no later than XXXdate.

OR

The council acknowledges that the overpayment sum is significant and we do not wish to cause you severe financial hardship. We agreed that the sum would be recovered in XXXnumber instalments and are seeking your agreement to deduct XXX£ per month from XXXmonth of first repayment to XXXmonth last repayment. We have set out a repayment schedule below.

This repayment schedule will be reviewed annually by the council and may be amended if your circumstances have changed.

Please sign and return one copy of this letter to the undersigned as soon as possible and in any event by no later than XXXdate10 working days to confirm your acceptance of this deduction from your salary. If you fail to respond to this letter, or to contact the undersigned, the council reserves the right to make the deductions from your salary as outlined below to ensure the overpayment is repaid.

**Should you leave the council before the full amount is retrieved, any outstanding debt will be referred to the council's Accounts Receivable team and the normal procedure for collecting debt applied.**

This is in accordance with the council's Overpayment Policy.

We would like to apologise for any inconvenience caused. If you wish to discuss any aspect of this letter, please do not hesitate to contact the undersigned.

Yours sincerely,

Line Manager

I authorise Peterborough City Council to make a deduction of XXX£ from my salary due to be paid on XXXdate.

OR

I authorise Peterborough City Council to make deductions from my salary in accordance with the instalment schedule below.

### Schedule of [repayments/deductions]

Date of [repayment/deduction]	Sum to be [repaid/deducted]	Total sum [repaid/deducted]

Name:

Date:

Signed:

## 8. PROCESS Existing employees/workers - less than £200 owing from a single overpayment

### STEP ONE

Overpayment / Underpayment identified and amount confirmed by payroll.

### STEP TWO

Payroll sends template letter to employee within three working days.

Payroll sends copy of letter to line manager and to email address:

[CapitalandTreasury@peterborough.gov.uk](mailto:CapitalandTreasury@peterborough.gov.uk)

Payroll records expected return date of acceptance letter (ten working days).

### STEP THREE

Payroll ensures acceptance letter has been returned by stated date.

Payroll carries out deduction from salary.

## **STEP FOUR**

If the employee refuses or chooses not to give their acceptance to the deduction being made then payroll should inform the line manager and the Head of Finance via email address: [CapitalandTreasury@peterborough.gov.uk](mailto:CapitalandTreasury@peterborough.gov.uk) who will confirm what action should be taken.

## **9. PROCESS Existing employees / workers – more than £200 owing (due to payroll error)**

### **STEP ONE**

Overpayment / Underpayment identified and amount confirmed by payroll.

### **STEP TWO**

Payroll sends full details of amounts owing and details of dates to the line manager within five working days of step one.

### **STEP THREE**

Payroll discusses acceptable repayment schedule with line manager and/or the HR Business Partner. Payroll then obtain agreement from the Head of Finance to the instalment plan (via the Capital and Treasury team) within five working days.

### **STEP FOUR**

Payroll contacts employee by telephone to discuss the instalment plan. If agreement is reached then move to step five.

The employee should not be put in a position where they will suffer significant financial hardship – in these cases an alternative plan can be considered. Payroll should have further discussions with the line manager or HR BP. If this results in agreement to a revised instalment plan then payroll should again obtain agreement from the Head of Finance.

### **STEP FIVE**

Payroll issues template letter to employee within three working days.

Payroll records expected return date of acceptance letter.

Payroll ensures acceptance letter has been returned by the stated date.

### **STEP SIX**

If the employee refuses or chooses not to give their acceptance to the deduction being made then Payroll should refer the case to the Capital and Treasury team who will confirm what action should be taken.

### **STEP SEVEN**

The Line Manager should review any longer term instalment plan to see if the employee's circumstances have changed and whether the instalments can be increased accordingly. The HR Business Partner is available to assist as required.

## **10. PROCESS Existing employees / workers – more than £200 owing (not due to payroll error)**

## **STEP ONE**

Overpayment / Underpayment identified and amount confirmed by payroll.

## **STEP TWO**

Payroll sends full details of amounts owing and details of dates to the line manager within five working days of step one.

## **STEP THREE**

Line manager discusses acceptable repayment schedule with payroll and/or the HR Business Partner. The line manager should then obtain agreement from the Head of Finance to the instalment plan (via the Capital and Treasury team) within five working days.

## **STEP FOUR**

Line Manager contacts employee and either discusses issue over the telephone or arranges meeting. If the instalment plan is agreed then move to step five.

The employee should not be put in a position where they will suffer significant financial hardship – in these cases an alternative plan can be considered. The Line Manager should have further discussions with payroll or HR BP. If this results in agreement to a revised instalment plan then the line manager should again obtain agreement from the Head of Finance.

## **STEP FIVE**

Line Manager issues template letter to employee within three working days.

Line Manager records expected return date of acceptance letter.

Line Manager ensures acceptance letter has been returned by stated date.

On receipt of the employee's signed acceptance the Line Manager should confirm with Payroll exactly what has been agreed, amount and length of instalment period. A copy of the letter should be forwarded to payroll to add to the employee's record.

## **STEP SIX**

If the employee refuses or chooses not to give their acceptance to the deduction being made then the Line Manager should refer the case to the Capital and Treasury team who will confirm what action should be taken.

## **STEP SEVEN**

The Line Manager should review any longer term instalment plan to see if the employee's circumstances have changed, and the instalments can be increased accordingly. The HR Business Partner is available to assist as required.

## **11. Ex employees / workers**

The payroll department will inform the Head of Finance and write to the ex-employee / worker as soon as the overpayment is discovered. The letter will state that the amount should be paid to the council in a single payment within one month of the date of the letter being sent. If no repayment is received within this time then the matter will be referred to the council's Accounts Receivable team and the normal procedure for collecting debt applied.

## **12. PROCESS Ex employees / workers**

### **STEP ONE**

Overpayment / Underpayment identified and amount confirmed by payroll.

## STEP TWO

Payroll ~~raises invoice and includes this with the~~ sends template letter notifying the employee of the overpayment / underpayment, within three working days of this being identified. ~~to ex-employee within three working days.~~

Payroll sends copy of letter to email address: [CapitalandTreasury@peterborough.gov.uk](mailto:CapitalandTreasury@peterborough.gov.uk)

~~Payroll raises Invoice and issues to employee.~~

~~Payroll records expected return date of acceptance letter and payment (one month from date letter sent)~~

## STEP THREE

~~Payroll processes payment if cheque received OR checks that invoice has been paid by BACS within a month of issue.~~

## STEP FOUR

If the invoice is not paid within the time limits specified then the recovery process will start automatically.

### 13. Template Letter to Ex employees / workers

Dear

I am writing to inform you that an error has occurred in your Month pay and we have identified that you have been overpaid the total sum of £XX.XX

Unfortunately, this overpayment has arisen due to the payroll system overpaying your XX. I would like to reassure you that this error has now been resolved.

In accordance with Peterborough City Council's overpayment policy, please find enclosed an invoice for the outstanding monies.

Please follow the instructions on the invoice for payment options. If the invoice is not paid within the time limits specified then the recovery process will start automatically through the Accounts Receivable team.

Your P45 will be sent out to you at the end of this month.

Should you have any questions or want to discuss this further please contact the payroll department.

Yours sincerely,

Payroll Officer

# ADOPTION SCHEME

## 1. Purpose

This is to enable employees to understand their entitlements to leave and pay when adopting a child or children from the UK or overseas.

This applies to all employees regardless of their status or length of service.

This document does not form part of any employee's contract of employment. It may be amended from time to time.

## 2. Definitions

Adoption Leave is available where an employee has been notified of being matched with a child on or after 5<sup>th</sup> April 2015 or where a child has been placed with them for adoption on or after this date. Where a couple are adopting jointly they must decide which one of them will take adoption leave and which one will take paternity leave (adoption) or shared paternity leave (adoption).

Provided they meet the eligibility criteria, parents who have a child through surrogacy will be permitted to take ordinary paternity leave and pay; adoption leave and pay and shared parental leave and pay.

Adoption from overseas is the adoption of a child who enters Great Britain (GB) from outside the United Kingdom (UK) in connection with, or for the purpose of adoption. Adoption leave and pay is not available to employees if they have not been assessed and approved (i.e. those who have not received official notification as detailed below).

## 3. Key Principles

To be eligible for Adoption leave (AdL) an employee must:

- Be the child's adopter

In addition, for an adoption of a child from the UK the employee must:

- Have been matched with a child to be placed with them by a UK adoption agency (Including Fostering for Adoption placements under s.22C of the Children Act 1989.)
- have notified the adoption agency that they agree that the child should be placed with them and have agreed on the date of placement
- notify the Council of when they want to take their adoption leave within 7 days of the date on which they are notified of having been matched with the child

In addition, for an adoption of a child from overseas the employee must:

- have received an official notification – i.e. written notification that the authority is prepared to issue a certificate (or has issued a certificate) confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent
- have complied with the notification procedures
- have informed the council of the date official notification was received and the date the child is expected to enter Great Britain. This must be within 28 days of receiving notification of the date
- give notice of the chosen date for the adoption leave to begin – which must be 28 days prior to the start date for the leave
- give notice of the date on which the child enters Great Britain – which must be given no later than 28 days after the date of entry
- Provide the council with a copy of the official notification together with the evidence of the date of entry into Great Britain.

There is an entitlement to only one period of adoption leave for each placement regardless of the number of children placed.

#### 4. Time off for appointments

Where an employee has been notified of being matched with a child on or after 5<sup>th</sup> April 2015 or where a child has been placed with them for adoption on or after this date, the main adopter will be eligible to take paid time off for up to five adoption appointments. The secondary adopter will be entitled to take unpaid time off for up to two appointments.

Parents who have a child through surrogacy will be entitled to take unpaid time off to attend two antenatal appointments with the woman carrying the child.

#### 5. Adoption Leave

An employee who adopts a child through an approved adoption agency is entitled to up to 52 weeks' adoption leave.

The employee's entitlement is to take up to 26 weeks' ordinary adoption leave followed immediately by up to 26 weeks' additional adoption leave.

All employees who take adoption leave have the right to return to work at any time during either ordinary adoption leave or additional adoption leave, subject to their following the correct notification procedures as set out below.

The employee can choose to start their adoption leave on:

- The date the child is placed for adoption, or
- a predetermined date, no more than 14 days before the date the child is expected to be placed, and no later than the expected date of placement. The date may be changed providing 28 days' notice of the change is given to the Council. Where this is not possible, it must be given as soon as is reasonably practicable.

An Adoption Leave Request form is available on InSite for this purpose

To make administration as easy as possible, the employee should discuss the timing of his/her adoption leave with his/her immediate manager as early as possible.

#### 6. Fostering for Adoption

Fostering for Adoption is aimed at ensuring that more children can be placed with their potential permanent carers on a fostering basis, whilst the local authority seeks a placement order from the courts. Approved adopters who are also approved as temporary foster carers will have a baby or child placed with them to provide the day to day care for the child.

Foster for adoption carers will receive a weekly fostering allowance for the child and, if eligible, will be entitled to adoption leave and adoption pay. If the employee elects to take adoption leave during the Fostering for Adoption placement, and the child is consequently placed with them for adoption, they will only be entitled to use any outstanding adoption leave or pay not used when the Fostering for Adoption placement ceased.

#### 7. Adoption Pay

Employees will be eligible for statutory adoption pay (SAP) if:

- they have worked continuously for PCC for at least 26 weeks by the week they were matched with a child
- they earn on average at least £112 a week before tax
- they give the correct notice
- they provide proof of the adoption

SAP is payable at 90% of the employee's normal weekly earnings for the first six weeks, the remaining leave is paid at the prescribed rate which is set by the Government for the relevant tax year or the earnings-related rate if this is lower.

SAP is treated as earnings and is therefore subject to PAYE and national insurance deductions.

SAP entitlement depends on average weekly earnings in the 'relevant period'. The relevant period is the eight weeks before the matching week. The end of the relevant period is the last normal pay day on or before the Saturday of the matching week.

If an employee is not eligible for SAP then form SAP1 will be issued which explains why SAP cannot be paid.

SAP will cease if the employee is taken into legal custody or dies. If the placement of the child is disrupted then the SAP will end 8 weeks after the end of the week in which the disruption occurred.

SAP is not payable in any week in which an employee is entitled to SSP.

## 8. Occupational Adoption Pay (OAP)

Employees who have completed 1 year's continuous local government service at the beginning of the 11<sup>th</sup> week prior to the date of adoption (the matching week) are entitled to additional benefits under the Peterborough City Council OAP scheme.

The total of SAP and OAP should not exceed normal full pay, regardless of the option taken below, or when the payment is made.

Employees can choose from one of the following options in addition to their SAP:-

- **Option A: 12 weeks at half salary paid during Weeks 7-18; OR**
- **Option B: 06 weeks full pay paid in a lump sum on return from adoption leave**

In order to claim OAP the employee must provide written notification of their intention to return to work at Peterborough City Council after their adoption leave. This form will be sent to all qualifying employees by HR Support. Although there is no specified date by which this notification should be given, payment of OAP will only be made when the employee feels able to make an informed decision to return.

OAP shall be paid only on the understanding that the employee will return to employment at the Council for a period of at least three months following their adoption leave.

If an employee decides not to return to work, payments during the subsequent 20 weeks will be paid at the SAP rate only and if any OAP was claimed then the total sum of OAP is refundable to the Council. In such circumstances, the line manager must be informed immediately, and arrangements made to reimburse the sum in full.

Payments made to the employee by way of SAP are not refundable. OAP will not be payable to the partner of the employee where shared parental leave is being taken.

### **Definition of a week's pay:**

- A week's pay for employees whose remuneration for normal working hours does not vary with the amount of work done in the period is the normal week's pay.
- Where there are no normal working hours a week's pay is the average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

If an employee becomes eligible for a pay rise before the end of their adoption leave they will be treated for OAP purposes as if the pay rise had applied throughout the relevant period. This means that OAP will be recalculated and increased retrospectively. In those circumstances arrangements should be made for the employee to be paid a lump sum to make up the difference between any OAP already paid and the amount payable by virtue of the pay rise. Any future OAP payments at the earnings related rate (if any) will also be increased as necessary.

## 9. Notice Requirements

To be entitled to take adoption leave and receive SAP, the employee is required to give the Council written notification of his/her intention to take adoption leave no later than seven days after the date on which notification of the match with the child was provided by the adoption agency. Notice, which must be in writing, must specify the date the child is expected to be placed with the employee for adoption and the date the employee intends his/her adoption leave to start.

The employee is permitted to bring forward his/her adoption leave start date, provided that he/she advises the Council in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone his/her adoption leave start date, provided that he/she advises the Council in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable. The employee must also provide evidence of entitlement to adoption leave and pay by producing a "matching certificate" from the adoption agency.

Within 28 days of receiving the employee's notice of intention to take adoption leave, the Council will write to the employee confirming the latest date on which the employee must return to work after adoption leave.

## 10. Adoption Support Leave

Adoption Support leave is a contractual entitlement, to help your partner or spouse look after a child placed in your care at or around the time the child is placed with the family.

Eligible employees may take one week's paid leave at or around the time of the placement. This will be classed as week one of any ordinary paternity leave (adoption) taken (see paragraph 11).

Requests should be submitted in writing using the [Adoption Support Leave Request Form](#) to the Line Manager at least 28 days before the leave is due to commence.

It is understood that in the event of early, emergency placement it may not be possible to give notice.

## 11. Ordinary Paternity Leave (Adoption)

Ordinary paternity leave (OPL) is also available to adoptive parents where a child is matched or newly placed with them for adoption. Either the adoptive father or the adoptive mother may take ordinary paternity leave where the other adoptive parent has elected to take adoption leave.

The employee must have 26 weeks' continuous service by the week in which the child's adopter is notified of having been matched with the child for adoption.

To qualify for paternity leave, the employee must also have, or expect to have, responsibility for the upbringing of the child and be making the request to help care for the child or to support the child's mother.

Paternity leave is granted in addition to an employee's normal annual leave entitlement. Paternity leave must be taken in a single block of one or two weeks within eight weeks of the adoption of the child. Paternity leave can start either from the date the child is placed for adoption or from a chosen number of days or weeks after that date.

There is an entitlement to only one period of paternity leave regardless of the number of children placed at any one time.

The employee must give written notice of his/her intention to take paternity leave no later than seven days after the date on which notification of the match with the child was given by the adoption agency. The notice must specify the date the child is expected to be placed for adoption, the date the employee intends to start ordinary paternity leave, the length of the intended paternity leave period and the date on which the adopter was notified of having been matched with the child.

If an employee subsequently wishes to change the timing of the paternity leave, he/she must give 28 days' written notice of the new dates. The employee must also, if so requested, complete and sign a self-certificate declaring that he/she is entitled to paternity leave and statutory paternity pay.

Pay during paternity leave will be at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate. However, employees whose average weekly earnings are below the lower earnings limit for national insurance contributions will not be eligible for ordinary statutory paternity pay.

Statutory paternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Statutory paternity pay can start from any day of the week in accordance with the date the employee

starts his/her paternity leave.

The Employee should complete the [Paternity Leave Request form](#) available on the intranet, (further documentary evidence may be requested from your line manager).

If a disruption occurs after the child has been placed the employee will be entitled to paternity leave and SPP as planned.

SPP is not payable in any week in which an employee is entitled to SSP. SPP is not refundable if the employee does not return to work following Adoption leave.

## 12. Ordinary Parental Leave

Ordinary Parental Leave is available where an employee has been notified of being matched with a child on or after 5<sup>th</sup> April 2015 or where a child has been placed with them for adoption on or after this date.

To qualify for parental leave an employee must have completed at least one year's continuous service with the Council.

" Parental leave" should not be confused with shared parental leave.

Qualifying employees will be entitled to a maximum of 18 weeks' parental leave to be taken up until the child's eighteenth birthday.

### Conditions of parental leave

An employee may not exercise any entitlement to parental leave unless he/she has complied with any request made by the Council to produce evidence as to:

- his/her entitlement (eg parental responsibility or expected responsibility for the child in question);
- the child's date of birth or date on which placement for adoption began;
- or, where the employee is exercising a right in relation to a disabled child, details of the child's entitlement to disability living allowance or personal independence payment).

Where the parental leave is in respect of an adopted child and is to begin on the date of the placement, the employee's notice must be given to the Council at least 21 days before the beginning of the week in which the child is to be placed for adoption, or as soon as is reasonably practicable thereafter. It must specify the week in which the placement is expected to occur and the duration of the period of parental leave requested.

The Council may postpone a period of parental leave (other than where parental leave has been requested immediately after placement for adoption) where the Council considers that its business would be unduly disrupted if the employee were to take leave during the period requested. In such a case, the Council will allow the employee to take an equivalent period of parental leave beginning no later than six months after the commencement of the period originally requested. The Council will give notice in writing of the postponement stating the reason for it and specifying suggested dates for the employee to take parental leave. Such notice will be given no more than seven days after the employee's notice was given to the Council.

Employees may not take parental leave in blocks of less than one week (except in relation to a child who is disabled).

Employees may not take more than four weeks' leave in respect of any individual child in any year. For these purposes a year is the period of 12 months beginning when the employee first becomes entitled to parental leave in respect of the child in question, and each successive period of 12 months beginning on the anniversary of that date.

## 13. Disruption to Placement

Where after starting their leave an employee is notified that the child will not be placed, or after the child is placed the child dies or is returned to the Adoption Agency, the employee will not be entitled to the full adoption leave period or SAP if payment is being made. In this situation adoption leave

will end 8 weeks after the end of the week in which the disruption occurred. SAP will end 8 weeks after the end of the week in which the disruption occurred or until the end of the 39 week SAP period if that is sooner. There is no extension to AAL if disruption occurs with less than 8 weeks of the Leave remaining.

#### **14. Rights during all leave mentioned in this policy**

During all leave associated with adoption as mentioned in this policy, all terms and conditions of the employee's contract, except normal pay, will continue. Salary will be replaced by any statutory pay if the employee is eligible for it.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue, and pension contributions will continue to be paid during periods of leave.

During all leave mentioned in this policy, employees will be entitled to the implied obligation of trust and confidence, and any terms and conditions of employment relating to:

- notice of termination;
- redundancy compensation; and
- disciplinary or grievance procedures.

Employees taking any leave mentioned in this policy will be bound by the implied obligation of good faith, and any terms and conditions of employment relating to:

- notice of termination;
- disclosure of confidential information;
- the acceptance of gifts or other benefits; and
- participation in any other business.

#### **15. Contact and Keeping in Touch Days (KIT)**

The council reserves the right to maintain reasonable contact with employees during all leave associated with adoption as mentioned in this policy. This may be to discuss employees' plans for return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

Employees can agree to work for the council (or to attend training) for up to 10 days during their adoption leave without that work bringing their leave to an end and without loss of a week's statutory pay. These are known as "keeping-in-touch" days. Any work carried out on a day shall constitute a day's work for these purposes.

During Shared Parental Leave, an employee can agree to work for the council (or to attend training) for up to 20 days without that work bringing the period of his/her shared parental leave and pay to an end. These are known as "shared-parental-leave-in-touch" (SPLIT) days. If the employee is entitled to receive statutory shared parental pay for any week during which they attend work for SPLIT days, they will still receive this in the usual way. In addition, the council will also pay for each hour that is worked during a SPLIT day at the rate of the employee's hourly payment rate.

The Council has no right to require employees to carry out any work and employees have no right to undertake any work during their adoption or shared parental leave. Any work undertaken, and the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between employees and the Council.

Carrying out Election duties does not form part of the employee's substantive role or contract of employment, and so cannot count as a KIT or SPLIT Days.

Managers may find it helpful to discuss with their employee arrangements for staying in touch with each other before the adoption leave starts. This may include agreement on the way in which contact will happen, how often, and who will initiate it. It could also cover the reasons for making contact and the types of issues which may be discussed. Reasonable contact will vary according to the employee, hence it is sensible to discuss this before the leave commences.

#### **16. Returning to work**

## Returning to work after adoption leave

The employee may return to work at any time during ordinary adoption leave or additional adoption leave, provided that he/she gives the appropriate notification. Alternatively, the employee may take his/her full period of adoption leave entitlement and return to work at the end of this period. If the employee wishes to return before the full period of adoption leave has elapsed, he/she must give at least eight weeks' notice in writing to the Council of the date on which he/she intends to return.

Failure to return to work by the end of any leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the leave period or unless the holiday has requested holiday which has been agreed.

If the employee decides during the leave that he/she does not wish to return to work, he/she should give written notice of resignation to the Council as soon as possible and in accordance with the terms of his/her contract of employment. If the notice period would expire after the leave has ended, the Council may require the employee to return to work for the remainder of the notice period.

The employee has the right to resume working in the same job if returning to work from ordinary adoption leave, ~~ordinary~~ paternity leave or shared parental leave if the period of leave, when added to any other period of shared parental leave, statutory adoption leave or statutory paternity leave taken by the employee in relation to the same child, totals 26 weeks or less.

If the employee returns to work after a period of additional adoption leave, he/she is entitled to return either to the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

If the employee is returning to work from shared parental leave and the period of leave taken is more than 26 weeks, when added to any other period of shared parental leave, statutory adoption or paternity leave taken in relation to the same child, or was the last of two or more consecutive periods of statutory leave that included a period of ~~ordinary~~ parental leave of more than four weeks, or a period of additional adoption leave, the employee has the right to return to the same job unless this is not reasonably practicable. In these circumstances, if it is not reasonably practicable for the Council to permit a return to the same job, the employee has the right to return to another job that is suitable and appropriate for him/her.

At the end of parental leave, the employee will be entitled to return to the same job, provided that the leave was for a period of four weeks or less (and did not follow on immediately from a period of additional adoption leave). If the period of parental leave was longer than four weeks (or followed on immediately from a period of additional adoption leave), then the employee will be entitled to return to the same job or, if that is not practicable, to a similar job that has the same or better status, terms and conditions as the previous job.

## 17. Redundancy during all leave mentioned in this policy

In the event that the employee's post is affected by a proposed restructure or other situation through which their post may become at risk of redundancy during their leave, they should be consulted in accordance with the Managing Change Policy.

Employees on leave shall be given first refusal on any suitable alternative vacancies that are appropriate to their skills. If the employee is offered a suitable alternative vacancy then they are entitled to a four week trial period in which to decide whether the employment is suitable.

## 18. Abbreviations used in this policy

Adoption Leave	AdL	Shared Parental Leave	SPL
Statutory Adoption Pay	SAP	Statutory Shared Parental Pay	ShPP
Ordinary Adoption Leave	OAL	Shared Parental Leave in touch Days	SPLIT
Paternity Leave	PL	Keeping in Touch Days	KIT
Statutory Paternity Pay	SPP	Occupational Adoption Pay	OAP

Statutory Sick Pay

SSP

## Appendix 4 -

### Disciplinary Procedure - Details of changes

1. Responsibilities:
  - 1.1. Clarification of the responsibilities of each individual involved in the disciplinary process has been further clarified throughout the document
  - 1.2. Responsibility Matrix also included in Section 17
2. Repetitions
  - 2.1. Repetitions have been removed throughout the document
3. Re-writing of paragraphs
  - 3.1. Some paragraphs have been re-written to make the meaning more explicit or easier to understand
4. A paragraph setting out the scope of the document has been included
5. Informal Action
  - 5.1. Clarification that informal action does not form part of the formal disciplinary process, but is part of day to day management duties
  - 5.2. The option to issue a verbal warning has been removed
  - 5.3. The process of carrying out an informal discussion has been clarified and Written Management Instruction introduced
6. Suspension
  - 6.1. A Suspension Risk Assessment has been introduced, a link will be inserted to take the manager to the relevant form
  - 6.2. Reasons for suspension have been updated
  - 6.3. Contacts for absence from work and for during the suspension updated
7. Right to be accompanied
  - 7.1. Paragraph re the choice of companion changed in line with the feedback we received after the Capability Policy was reviewed
8. Disciplinary Hearing
  - 8.1. Removed - dismissals must be chaired by a Head of Service
  - 8.2. The meeting format has been updated to a numbered list and now provides clarity on the roles of each person present in the meeting.
  - 8.3. The term Presenting Officer has been removed
  - 8.4. A Points to Note section has been created, including that the Investigatory Officer may not be required to stay in the meeting after witnesses have given their evidence. The Chair will have the final say and review this on a case by case basis.
9. Outcomes
  - 9.1. Verbal warning removed
10. Communicating the decision
  - 10.1. Confirmation included that the outcome will be verbally communicated to the employee, except in exceptional circumstances. Examples of these have been included.

11. Documentation Retention

11.1. Documents to be sent to HR Business Partner rather than HR Support.

Disciplinary letters

The letter sent to an employee who does not attend a hearing has been updated.

# Disciplinary Procedure

These guidelines are to provide helpful information to assist the management of disciplinary issues and are not intended to amount to legal advice.

## 1. Introduction

This Procedure should be read in conjunction with the [Disciplinary Policy](#) available through the intranet.

## 2. Definitions

Improper conduct is any conduct amounting to gross misconduct or misconduct. Examples of improper conduct are contained within [Paragraph 3 Annex 4](#) of the Disciplinary Policy available through the intranet.

The council will delegate authority to take disciplinary action to the appropriate levels of management. Disciplinary hearings that may result in dismissals will normally be chaired by a senior manager, director or head of service unless there are exceptional circumstances. For more information and advice on this please speak with the area HR Business Partner.

For the purposes of this procedure the 'Disciplinary Chair' is defined as the ~~line-manager~~ [chairing a disciplinary hearing and who makes the outcome decision](#), except in cases where this procedure is being applied to a Director or Head of Service (Tier 1 and 2) in which case the 'Disciplinary Chair' will be the Chief Officer.

The Investigatory Officer is defined as the individual carrying out the investigation, either the Line Manager or internal or external investigator.

## 3. Scope

This procedure applies to all City Council employees as far as possible, except where there is a specific local agreement, or a clause within the contract of employment, which is at variance with this procedure. A different procedure may be necessary for certain employees, e.g. those based in schools and who are subject to procedures involving Governing Bodies.

This procedure does not apply to those who are within a probation or extended probation period (refer to the Probation Policy and Probation Procedure as necessary).

Schools are strongly advised to adopt the principles of this policy for non-teaching staff.

## 4. Preliminary considerations

~~In all circumstances where an employee is alleged to have engaged in improper conduct their line-manager ('the Disciplinary Manager') should instigate this Procedure.~~

~~Upon becoming aware of or receiving~~ [When](#) allegations of an employee's improper conduct [are received](#), the [employee's Line](#) Disciplinary Manager is [normally responsible for making](#) should make preliminary enquiries to establish:

- The general nature of the [alleged](#) improper conduct sufficient to determine whether this is likely to give rise to an allegation of gross misconduct, misconduct or both;
- Whether or not the matter can be appropriately dealt with informally;
- [If there is](#) the need to suspend the employee pending the outcome of the Disciplinary Procedure; and

- The form and extent of the investigation required.

## 5. Informal Action

Minor conduct issues should, where appropriate, be resolved informally through discussion between the employee and Line the Disciplinary Manager. This is part of the normal day-to-day management process and does not form part of the formal disciplinary procedure.

These discussions should be held in private and without undue delay whenever there is cause for concern.

~~Where appropriate, the line manager may issue a verbal warning.~~

During this discussion, the line manager will outline how the expected standards are not being met, explore the reasons why, remind the employee of their responsibilities and encourage improved behaviour. The line manager may also wish to set a reasonable time review period during which the employee's conduct will be monitored. Where appropriate, the line manager will need to ensure the employee understands that if there is no improvement in their conduct, the issue is likely to be considered under the formal disciplinary process.

An informal discussion between a line manager and an employee will not result in any formal disciplinary action. However, to avoid any misunderstandings or differences in interpretation, the line manager will confirm the content of their discussion in a file note, provide the employee with a copy and place another copy on the personnel file.

File notes do not constitute a formal written warning and are not part of the formal disciplinary procedure.

### End of the review period - no further breaches of misconduct

The file note will expire after the agreed review period and be removed from the employee's personnel file.

### End of the review period - further breaches of misconduct

If the misconduct continues and formal action is considered, the file note may be referred to in a subsequent disciplinary investigation and hearing.

~~A written record should be kept and forwarded to HR Support in accordance with the Document Retention requirement at part 10 of this procedure.~~

Where informal discussion does not resolve the issue or is not appropriate in the circumstances, the formal procedure should be followed.

## 6. Suspension

In some circumstances it may be necessary to suspend the employee from duty on full pay. ~~for the Disciplinary Manager to suspend the employee from work.~~ Suspension is not a disciplinary penalty and does not imply that any decision has already been made about the allegations of improper conduct.

[A Suspension Risk Assessment](#) must be carried out before the decision to suspend is made.

Suspension should only be considered where there is a serious allegation of misconduct AND one of the following examples apply: ~~The following is a list of non-exhaustive examples of when the need for suspension may arise:~~

- where it is perceived that the employee's continued presence in the workplace could result in a risk to them, other employees, the Council's service users or the delivery of services;
- where the employee's continued presence at the place of work is likely to impede or interfere with the investigation;
- where working relationships have severely broken down;

- ~~where gross misconduct is alleged; or~~
- for some other substantial concern **eg risk to the Council's reputation, or where the employee is the subject of criminal proceedings which may affect whether they can do their job.**

The decision to suspend an employee will be carried out without delay. The employee will be given written confirmation of the suspension as soon as possible. ~~and where possible at the point of suspension.~~

### Alternatives to suspension

~~In exceptional circumstances~~ Consideration may be given to either allowing the employee to continue working, or allowing the employee to return to work in their role **with some restricted duties**, or placing the employee in another role/department/section/division, as an alternative to suspension whilst the investigation is conducted. **Consideration of any move and the location of any move will be sensitive to the needs of the employee. Agile working may also be considered.** This must be authorised by the ~~Head of HR.~~ **Assistant Director HR and Development or designated deputy.**

Throughout the period of suspension from duty, the employee will be paid full contractual remuneration.

When suspended from duty, the employee must not visit or otherwise contact the workplace\*, work colleagues, council members, service users (including the families, carers, and friends of service users) other than in compliance with proper instructions and as necessary for purposes of the investigation. **Contact may of course be made with the Trade Union representative in connection with the case.**

If the employee needs to make contact with a work colleague or witness in order to assist with their case, then contact should be made through their representative or an HR Business Partner.

The employee must make themselves available during normal working hours or at any other reasonable time in order to cooperate with the investigation to include attendance at meetings.

The employee will be required to telephone an appropriate contact at a given time and date at least once every week to ensure that regular contact is maintained. This will normally be ~~a designated HR Business Partner.~~ **the employee's line manager, or another nominated manager dependant on the circumstances of the case.**

Normal leave arrangements may proceed during a period of suspension, **following the normal leave authorisation process and in conjunction with the employee's line manager and the investigatory officer,** ~~subject to prior authorisation by the Disciplinary Manager~~ and provided such arrangements do not in any way jeopardise the investigation.

If an employee falls sick during the period of suspension they must notify their ~~Disciplinary Manager~~ **Line Manager or suspension contact** on the first day of incapacity **no later than their normal starting time.** During any period of sickness the employee must continue to comply with the Attendance and **Absence Management** Policy, available through the intranet.

~~The Disciplinary Manager shall keep~~ Periods of suspension **will be kept** under review and will only continue for as long as is necessary.

**\*It is acknowledged that school based staff may have to attend the workplace if they are the carer of children who attend that school. There may be exceptional circumstances where special arrangements may have to be made to facilitate visits. Decisions will be made on a case by case basis after discussions with the employee, line manager and HR Representative.**

## 7. Investigation

**The Line Manager will determine the most appropriate means of investigation to include conducting**

their own investigation or appointing an internal or external investigator. In all cases guidance should be sought from the relevant HR Business Partner before making this decision, and the following method used for investigations.

### Method

~~The Disciplinary Manager will determine the most appropriate means of investigation to include conducting their own investigation or appointing an internal or external investigator. In all cases guidance should be sought from the relevant HR Business Partner before making this decision.~~

Investigations should be carried out without unreasonable delay and should incorporate both the employee's account as well as that of any relevant witnesses.

The amount of any investigation required will depend on the nature of the allegations and will vary from case to case.

Employees must cooperate fully and promptly in any investigation. This may include providing the names of any witnesses, disclosing relevant documents and attending interviews.

~~Employees may be accompanied at an investigative interview by a work colleague or trade union representative in an observer capacity to provide support, but not in the role of an advocate. The investigating officer may at their discretion allow the employee to bring a companion who is not a work colleague or trade union representative if this will help overcome a disability or if the employee has difficulty understanding English. In allowing this support the investigation must not be unreasonably delayed.~~

In all cases involving children and vulnerable adults, investigatory officers must refer to the [Safeguarding Board Procedures](#) before acting, and contact their HR Business Partner. In cases where there is a conflict between the Safeguarding Board procedures and the Disciplinary Policy/Procedures the Safeguarding Board procedures take precedence.

### Notification

~~When the method of investigation and appropriate investigator has been selected, the Disciplinary Manager must inform the employee either verbally or in writing and explain what will happen next.~~

The employee will be informed on the method of investigation, what is being investigated and the next steps, prior to the investigation starting. This may be done verbally, but must always be confirmed in writing.

### Outcome

At the outcome of the investigation, the **Investigatory Officer** ~~Disciplinary Manager~~ will consider whether on the facts there is a need for the formal procedure to be followed.

If it is decided that no further formal action is necessary the employee must be informed of this and a written record forwarded to HR Support **the relevant HR Business Partner** in accordance with the **council's** Document Retention Policy requirements at part 10 of this Procedure.

### **Grievances**

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance.

Where a grievance triggers a disciplinary investigation the grievance process may be temporarily suspended in order to deal with the disciplinary matter.

In any circumstance where both the grievance and disciplinary procedures apply in relation to the same facts it may be appropriate to deal with both matters together. This decision will be made by the Grievance and/or Disciplinary Chair.

## 8. Right to be accompanied

Employees may bring a companion to any ~~Disciplinary Meeting~~ **investigatory meeting and formal hearing** under this procedure. The companion may be a trade union representative or a work colleague.

The **Investigatory Officer and** Disciplinary Chair may at their discretion allow the employee to bring a companion who is not a work colleague or trade union representative if this will help overcome a disability or if the employee has difficulty understanding English.

Companions may make representations and ask questions but should not answer questions on the employee's behalf. The employee may talk privately with their companion at any time.

Acting as a companion is voluntary and no employee is required to fulfil this role unless they are happy to do so.

If the employee's choice of companion is unreasonable they may be asked to choose someone else for example:

- **If the companions' unavailability will undermine the Disciplinary Chair's ability to call a disciplinary hearing within a reasonable timeframe, for example within five days of the original hearing (unless exceptional circumstances exist).**
- **If the chosen companion is not a trade union representative or a work colleague.**
- ~~If there is a conflict of interest or the companion's attendance may prejudice the Disciplinary Meeting; or~~
- ~~If the companion's unavailability will undermine the Disciplinary Manager's ability to call a Disciplinary Meeting within the prescribed timeframes unless exceptional circumstances exist.~~

## 9. Arranging the disciplinary Hearing

The Disciplinary Hearing will be held as soon as possible after the decision to follow the formal procedure.

**There may be external factors beyond the councils control that affect the timing of hearings, such as police investigations. We will always endeavour to hold hearings as soon as is reasonably practicable.**

Reasonable notice must be given to the employee to enable them to prepare for the hearing, this could be any time between two and seven days.

~~At least 1 week~~ Prior to the Disciplinary Hearing, the employee should be sent a letter requesting their attendance and dealing with the following matters:

- Confirming the date, time and venue;
- Confirming the allegations and a summary of the factual basis for them;
- Providing a copy of any relevant documentation supporting the allegations and a copy of the Disciplinary Policy and this Procedure;
- Asking for details of any witness or companions they intend to bring with them;
- In more detailed or complex matters **or in circumstances that prevent the employee attending within a reasonable timescale**, inviting them to submit written representations
- Informing them of any other persons who will be attending to give evidence e.g. ~~where an investigation has taken place~~, the investigatory officer; and
- Confirming the **potential outcomes of the hearing** ~~likely range of consequences if it is decided after the meeting that the allegations are true.~~

~~If the employee or their companion is unable to attend the meeting they must notify the Disciplinary Manager as soon as possible. They should be asked to suggest an alternative date so long as it is~~

~~reasonable and unless exceptional circumstances exist not more than 1 week after the original date proposed.~~

~~The employee and/or their companion (if any) should make every effort to attend the Disciplinary Meeting.~~

~~If an employee continues to be unable to attend scheduled Disciplinary Meetings, a meeting may take place in their absence and a decision will be made on the evidence available. Where the Disciplinary Manager intends to hold the meeting in the employee's absence, the employee will be notified (where time permits in writing) beforehand.~~

An employee must take all reasonable steps to attend each hearing. Failure to do so without good reason may result in the hearing proceeding in the employee's absence, or may be rearranged dependant on the circumstances. Failure to attend may be treated as misconduct. If an employee or his or her companion is unable to attend at the time specified then they should immediately inform their line manager (or the HR Business Partner) who will aim to agree an alternative time.

A hearing may be adjourned if the Disciplinary Chair or the HR Business Partner is awaiting receipt of information, needs to gather any further information, or needs to give consideration to matters discussed at a previous hearing. An employee will be given a reasonable opportunity to consider any new information obtained before the meeting is reconvened.

If an employee continues to be unable to attend scheduled disciplinary hearings, a hearing may take place in their absence and a decision will be made on the evidence available in their absence.

In this procedure references to employee within the context of a Disciplinary Hearing or Appeal Hearing will be taken to also include references to their companion.

## 10. Disciplinary Hearing

The purpose of the Disciplinary Hearing is to enable the employee an opportunity to respond to the allegations of improper conduct before a decision is taken as to whether any further action is required.

If at any stage it becomes apparent to the Disciplinary Chair that further investigation is required, the Disciplinary Hearing should be adjourned to enable this.

~~Where dismissal is a possible outcome of the meeting, the Disciplinary Manager must be a Head of Service or Director.~~

### Meeting format

1. The hearing will be chaired by the Disciplinary Chair and where appropriate an HR Business Partner will also be present.
2. The Disciplinary Chair will present **open the meeting and outline** the allegations against the employee referring to ~~the evidence that has been gathered,~~ **the invite letter.**
3. ~~Where an~~ The Investigatory Officer has been appointed and is required to attend the Disciplinary Hearing, ~~they will take the role of Presenting Officer and will normally~~ **then present the evidence that has been gathered.** ~~first.~~ The employee, **their representative, and Disciplinary Chair** should be given an opportunity to ask questions at the end of that presentation.
4. Where any other relevant witnesses attend to give evidence, either at the request of the employee or Disciplinary Chair, ~~including those called by the Presenting Officer,~~ the employee, **their representative, Investigatory Officer and Disciplinary Chair** should be given an opportunity to ask them questions at the end of each presentation.
5. The employee will then **have an opportunity to respond to** ~~present their response to~~ the allegations referring to any evidence that has been gathered. **The Disciplinary Chair will have an opportunity to ask questions of the employee at the end of their presentation.**

- ~~6. Where the employee invites witnesses to attend to give evidence, the Disciplinary Chair will have an opportunity to ask them questions at the end of each presentation.~~
7. Once the evidence has been explored, and the employee has been given an opportunity to comment and respond, the hearing should be adjourned for the Disciplinary Chair to reach a decision.
8. The hearing is then reconvened to give the outcome decision, or to explain why this can not be given on the same day

### Points to Note

The Investigatory Officer may not be required to remain in the meeting after any witnesses have given their evidence. The Chair will review this on a case by case basis, and be the decision maker on when participants leave the hearing.

The Disciplinary Hearing should be reconvened on the same day, unless there are matters arising which require further consideration or investigation which will take longer than the remainder of the day to complete.

Where the Disciplinary Hearing cannot be reconvened on the same day, a future date will be arranged without undue delay. In such circumstances the employee should be given written notice of the date, time and venue at the earliest opportunity ~~and not less than 3 days beforehand~~ unless otherwise agreed **or if not appropriate.**

## 11. Reaching a decision

### Potential Outcomes

#### Warnings

##### Verbal Warning

~~This will usually only be appropriate in circumstances where improper conduct is being dealt with informally. Nevertheless, it may also be appropriate at the conclusion of the formal procedure for minor acts of misconduct where the employee has no other active warnings on their disciplinary record.~~

##### First Written Warning

This will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.

**A first written warning will usually expire after 6 months if no further breaches of conduct occur, unless specified at the disciplinary hearing.**

##### Final Written Warning

This will usually be appropriate for:

- Misconduct where there is already an active written warning on the employee's disciplinary record;
- Misconduct which is considered sufficiently serious to warrant a final written warning even though there are no other active warning on the employee's disciplinary record.

**A final written warning will normally expire after 12 months if no further breaches of conduct occur, unless specified at the disciplinary hearing.**

~~In exceptional cases e.g. those verging on gross misconduct, a final written warning may remain active indefinitely.~~

## Dismissal

An employee may be dismissed:

- With notice if they are subject to a final (or first and final) written warning that relates to broadly the same sort of offence and a further act of misconduct is found,
- If the misconduct is so gross that no other action would be deemed reasonable (~~contractual notice may be paid in lieu~~); or
- Without notice (summarily) if gross misconduct is found and there are no mitigating circumstances to justify a lesser penalty.

If an employee is dismissed with notice, payment in lieu of notice may be made.

A letter confirming the outcome of the disciplinary hearing will be sent to the employee within seven working days' of the meeting.

The dismissal letter to an employee who has been dismissed from a post working with children or vulnerable adults, will also confirm that the HR Business Partner will convey the details of the employee's dismissal, i.e. date and reason(s), to the appropriate authorities and professional bodies, for inclusion on the DfES List '99, and the DBS Barred list (formally ISA Barred Lists) as appropriate.

## **Other Action**

The council reserves the right, in exceptional circumstances, to take other action in conjunction with formal disciplinary action, e.g. transfer to another post in cases of harassment. This must be in consultation with the Assistant Director HR and Development, to ensure that any action taken is reasonable in the particular circumstances of the case.

## Content and time limits for warnings

~~Following receipt of a warning an employee should be clear on:-~~

- ~~• the nature of the misconduct;~~
- ~~• the change in behaviour required;~~
- ~~• the period for which the warning will remain active and~~
- ~~• the likely consequences of further misconduct during that period~~

~~A verbal and first written warning will usually remain active for 6 months and a final written warning for 12 months.~~

~~In exceptional cases e.g. those verging on gross misconduct, a final written warning may remain active indefinitely.~~

~~After the active period the warning will remain on the employee's personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.~~

## Dismissal

~~The decision to dismiss an employee can only be taken by a Head of Service, Director (Tier 1 or 2) or above.~~

~~Dismissal will usually only be appropriate for:~~

- ~~• Further misconduct where there is an active final written warning on the employee's disciplinary record. In such circumstances the employee will usually be given notice in accordance with their terms and conditions;~~
- ~~• Any gross misconduct whether or not there are active warnings on the employee's disciplinary record. In such circumstances the dismissal will usually be immediate without notice or payment in lieu of notice (summary dismissal).~~

## Alternatives to Dismissal

~~In some cases and entirely at the Disciplinary Manager's discretion, alternatives to dismissal may be considered and will usually be accompanied by a final written warning. Any such proposals should be permitted by the employee's contract and/or with the employee's agreement.~~

## 12. Communicating the decision

~~The Disciplinary Manager should reconvene the Disciplinary Meeting whether on the same or a different day to explain the decision and the reasons for it.~~

Under normal circumstances, the outcome of the hearing will be verbally communicated to the employee on the same day as the outcome is decided. This will always be followed up with a decision letter.

In appropriate **exceptional** circumstances, and with the agreement of the employee, it may be possible to agree for the decision to be communicated in writing only. ~~but in any event all decisions should be confirmed to the employee in writing within 1 week of the Disciplinary Meeting.~~

Examples of exceptional circumstances include but are not limited to:

- Where the disciplinary hearing takes place in the absence of the employee
- Where the employee becomes unwell or unable to continue to attend the disciplinary hearing
- Where the Disciplinary Chair is unable to reconvene the disciplinary hearing due to their own incapacity

~~Where a decision is confirmed in writing the employee should be contacted by telephone on the day the letter is sent advising of the decision verbally and confirming that a letter is being sent or the letter must be hand delivered directly to the employee or they must be asked to collect the letter.~~

The decision letter should contain the following information:

- The decision made and the reasons for reaching it;
- Any required improvements or agreed actions;
- Confirming the employee's right to appeal and to whom.

If the employee is being dismissed the ~~Disciplinary Manager~~ **letter will confirm** any notice period that will apply and confirm any other relevant termination arrangements.

If the employee is being summarily dismissed, ~~the Disciplinary Manager will make arrangements for the employee to~~ **will** be accompanied to their workstation ~~and to~~ ensure that all Council property, including access cards/keys, mobile telephone and accessories and laptop computer and accessories are returned before they leave the premises. These situations will be handled in a sensitive and respectful manner.

The Disciplinary Chair should immediately notify payroll of an employee's dismissal and any relevant notice period.

## 13. Review progress

The Disciplinary Chair, will ensure that any dates set to review the employee's conduct are followed up and where the required standard is reached the employee should be advised of this.

If, at the review stage, the employee's conduct is not acceptable, the Disciplinary Chair will decide on the appropriate course of action to take.

## 14. Appeal

If the employee is dissatisfied with the outcome of the disciplinary hearing, they may appeal in accordance with the Appeals Policy and Appeals Procedure available through the intranet.

### 15. Disciplinary Process for Chief Officers

When a complaint is received against a Chief Executive, Section 151 Officer or Monitoring Officer, the process as detailed in the [Disciplinary Procedure - Senior Officers](#) should be followed.

### 16. Document retention

~~The Disciplinary Manager or IDC should forward copies of all paperwork relating to the investigation and Disciplinary Meetings to HR Support, Manor Drive. Any such correspondence should be marked as 'Strictly Private and Confidential'~~

All documentation relating to the disciplinary case must be returned to the HR Business Partner for filing.

Any paperwork provided will be stored and/or destroyed in accordance with the Council's records retention and management policies.

### 17. Responsibility Matrix

Description	Awareness of misconduct	Investigation	Hearing	Annual Leave & Sickness notification
Employee	Yes	Yes	Yes	Must follow normal annual leave request and sickness notification processes in addition to the process in this procedure
Line Manager	Yes - responsible for preliminary enquiries; deciding seriousness; deciding if formal / informal; deciding the form and extent of the investigation required; whether to suspend or not.	Yes, unless they decide another person more appropriate should carry this out - this will depend on the seriousness of the case	Yes - if they have carried out the investigation, they present the case at the hearing - they may be the Chair if not involved in the investigation	Normal annual leave request process applies. Normal sickness notification rules apply.
Investigatory Officer		Yes, if it is decided to use another person other than line manager. May be internal or external person.	Yes - if they have carried out the investigation, they present the case at the hearing	Must be consulted before annual leave is authorised. Must be informed of any sickness during an investigation
Disciplinary Chair			Acts as chair and decision maker	
Witnesses		Yes	May attend	
HR Business Partner	Gives advice as required	Gives advice as required	May be in attendance. Always in attendance if gross misconduct	May be contacted re any sickness during an investigation

### 18. Further information

For further advice and/or template letters please discuss with the HR Business Partner for your service area.

## Suspension Risk Assessment - Strictly Private and Confidential

The information obtained from this Risk Assessment process, will form the main basis to deciding whether suspension is necessary, therefore it is in the best interests of all parties (employee, HR and management) that the Risk Assessment form is completed in full and that a full account is given of any matters which have occurred and been discussed.

SECTION 1: EMPLOYEE DETAILS	
To be completed by Manager	
<b>Name of Employee</b>	
<b>Job Title</b>	
<b>Service / Department</b>	
<b>Nature of job and degree of involvement with children/adults</b>	
<b>Date of Risk Assessment</b>	
<b>Risk Assessment undertaken by</b>	

SECTION 2: DETAILS OF INCIDENT	
To be completed by Manager	
<b>Date of alleged incident</b>	
<b>How serious is the allegation or other matter revealed?</b>	
<b>Are the police or the LADO investigating the allegation?</b>	
<b>Have PCC been informed not to advise the individual of the allegation?</b>	
<b>Has the individual accepted that the information provided is correct?</b>	
<b>Has a risk to the individual (the employee) been identified?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe actions required to mitigate risks:
<b>Is the allegation of a safeguarding nature?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, complete rest of section 2. If no go to section / section 3

<b>Does the LADO have objection to the employee continuing to work during the investigation?</b>	
<b>Does the individual have a pattern of behaviour issues or other relevant matters?</b>	
<b>Has the employee potentially breached statutory guidance or behavioural / safeguarding policy?</b>	
<b>Has the employee potentially breached Trust and Confidence with the Council?</b>	
<b>Is the allegation so serious that it might be considered gross misconduct?</b>	

In exceptional circumstances consideration may be given to either allowing the employee to continue working or allowing the employee to return to work in their role, or placing the employee in another role/department/section/division, as an alternative to suspension whilst the investigation is conducted.

SECTION 3: ALTERNATIVES TO SUSPENSION (whilst investigation is conducted)	
To be completed by HR & Manager	
<b>What supervision is available to reduce or remove any risk?</b>	
<b>What is the nature and relevance of the contact that the individual will have with children/vulnerable adults?</b>	
<b>Is an alternative to suspension available?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No  If yes, please give details below (leaving section 4 blank). If no, go to section 4
List the terms of the alternative to suspension here:	
<b>Authorisation:</b> An alternative to suspension must be authorised by the Assistant Director of HR	
<b>Signed by Head of HR</b>	<b>Date:</b>

SECTION 4: DECISION				
To be completed by HR / Manager				
<b>Decision on whether to undertake a precautionary suspension from duty?</b>	<b>Suspend</b> <input type="checkbox"/>		<b>Do not suspend</b> <input type="checkbox"/>	
<b>HR advice from (Name &amp; Position)</b>		<b>Signe d</b>		<b>Date</b>
<b>Manager (Name &amp; Position)</b>		<b>Signe d</b>		<b>Date</b>
<b>Authorisation:</b> A suspension must be authorised by the Head of HR (or nominee)				
<b>Signed by Head of HR</b>	<b>Date:</b>			

### Suspension Checklist

	<b>Who</b>	<b>Completed</b>	<b>Notes</b>
<b>Notify Payroll by email</b>	HRBP		
<b>ID Badge Access terminated and returned</b>	Line Manager		
<b>Laptop and Phone Returned</b>	Line Manager		
<b>Remove Systems Access</b>	Line Manager		
<b>Clarify message that employee wants shared</b>	Employee and Line Manager		
<b>Annual Leave - any pre-booked will be honoured otherwise must be available at all times</b>	Line Manager/HRBP		
<b>Any keys, work related notebooks etc must be returned</b>	Line Manager		

## DATA PROTECTION

Peterborough City Council collects, uses and stores information about employees when it is relevant to employment matters. This includes processing sensitive or special categories of data for the purposes of monitoring the Council's equality and diversity policy. Where the organisation engages third parties to process personal data on its behalf, such parties do so on the basis of written instructions, are under a duty of confidentiality and are obliged to implement appropriate technical and organisational measures to ensure the security of data.

The organisation takes the security of HR-related personal data seriously. Further details about information collected, used and stored by Peterborough City Council in relation to its employees can be found in the [Corporate Privacy Notice](#), and also provides links to how you can find out about your rights under data protection.

This page is intentionally left blank

<b>EMPLOYMENT COMMITTEE</b>	<b>AGENDA ITEM No. 5</b>
<b>12 SEPTEMBER 2019</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and Governance and Monitoring Officer	
Cabinet Member(s) responsible:	Councillor Mohammed Farooq, Cabinet Member for Digital Services and Transformation	
Contact Officer(s):	Dan Kalley, Senior Democratic Services Officer	Tel. 01733 296334

<b>EMPLOYMENT COMMITTEE MEETING START TIME 2020-2021</b>
--

<b>R E C O M M E N D A T I O N S</b>	
<b>FROM:</b> <i>Fiona McMillan, Director of Law and Governance and Monitoring Officer</i>	<b>Deadline date:</b> <i>N/A</i>
It is recommended that the Employment Committee agree the start time for all Employment Committee meetings for the Municipal Year 2020-21.	

**1. ORIGIN OF REPORT**

1.1 This report is submitted to the Employment Committee meeting following the Full Council decision on 24 July 2019 to allow Committees to decide their own start times for the Municipal Year 2020-21.

**2. PURPOSE AND REASON FOR REPORT**

2.1 The purpose of this report is to allow the Employment Committee to discuss and agree the start times for meetings from the beginning of the Municipal Year 2020-21. The draft schedule of meetings will be agreed at Full Council on either 22 January or 4 March 2020.

2.2 This report is for the Employment Committee to consider under Council Standing Order section 4.4.1

*The timings of normal committee meetings will be agreed by the committee for the next municipal year in January of the preceding municipal year (or as near to this time as possible).*

**3. TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	
---	-----------	----------------------------------	--

**4. BACKGROUND AND KEY ISSUES**

4.1 At the Constitution and Ethics Committee on 8 July 2019 the Committee agreed by majority to recommend to Council that all Committees can agree their start times for the Municipal Year 2020-21. This was again agreed by majority at the Full Council meeting on 24 July 2019.

4.2 The Council standing orders have been updated to reflect this decision and gives Committees the opportunity to decide their own start time.

- 4.3 In order for the start times to be incorporated into the draft meeting schedule it is important for the Committee to make a decision on this before the January Full Council meeting.
- 4.4 Council standing orders allow the Committee to agree its start time every Municipal Year, thereby allowing the Committee to change the start times if it is felt that the start time was not suitable.
- 4.5 The Committee will need to decide the best start time and will need to weigh up attendance at meetings and the impact on the Council and members of the public.
- 4.6 The Committee start time over the past three years has been 7pm, before this it used to meet at 3pm. There is generally no public interest in the meetings and there have been no public in attendance recently. In addition, most of the meetings are held in private as there are a number of appointments made by the Committee each year.

**5. CONSULTATION**

- 5.1 Consultation has already taken place with the Constitution and Ethics Committee and all Councillors at Full Council.

**6. ANTICIPATED OUTCOMES OR IMPACT**

- 6.1 It is anticipated that the Committee will agree a start time for meetings for the Municipal Year 2020-21 and this will be proposed as part of the draft meeting schedule.

**7. REASON FOR THE RECOMMENDATION**

- 7.1 The recommendation allows the Employment Committee to debate the start time of the meeting and make recommendations following debate.

**8. ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 N/A

**9. IMPLICATIONS**

**Financial Implications**

- 9.1 There are no financial implications.

**Legal Implications**

- 9.2 There are no legal implications

**Equalities Implications**

- 9.3 There are no equalities implications

**10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 Minutes of the Constitution and Ethics Committee 8 July 2019  
Report to Full Council 24 July 2019

**11. APPENDICES**

- 11.1 There are none.