



Organisational Development Committee

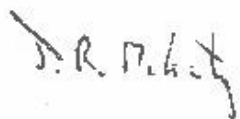
Meeting: Monday, 21st March 2016 at 6.00 pm in Civic Suite, North Warehouse, The Docks, Gloucester, GL1 2EP

Membership:	Cllrs. James (Chair), Dallimore (Vice-Chair), Haigh, Hilton and D. Norman
Contact:	Tanya Davies Democratic and Electoral Services Manager 01452 396125 tanya.davies@gloucester.gov.uk

AGENDA

1.	APOLOGIES To receive any apologies for absence.
2.	DECLARATIONS OF INTEREST To receive from Members, declarations of the existence of any disclosable pecuniary, or non-pecuniary, interests and the nature of those interests in relation to any agenda item. Please see Agenda Notes.
3.	MINUTES (Pages 5 - 8) 2To approve as a correct record the minutes of the meeting held on 21 December 2015.
4.	PUBLIC QUESTION TIME (15 MINUTES) To receive any questions from members of the public provided that a question does not relate to: <ul style="list-style-type: none"> • Matters which are the subject of current or pending legal proceedings, or • Matters relating to employees or former employees of the Council or comments in respect of individual Council Officers
5.	PETITIONS AND DEPUTATIONS (15 MINUTES) To receive any petitions and deputations provided that no such petition or deputaions is in relation to: <ul style="list-style-type: none"> • Matters relating to individual Council Officers, or • Matters relating to current or pending legal proceedings
6.	UPDATED HR POLICIES (Pages 9 - 68) To receive revised performance policies presented by the HR Business Partner for managing Absence, Capability, Disciplinary/Dismissal and Grievance matters.

7.	DATE OF NEXT MEETING 4 July 2016 at 18.00 hours.
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Jon McGinty
Managing Director

Date of Publication: Friday, 11 March 2016

NOTES

Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<u>Interest</u>	<u>Prescribed description</u>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the previous 12 months (up to and including the date of notification of the interest) in respect of any expenses incurred by you carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between you, your spouse or civil partner or person with whom you are living as a spouse or civil partner (or a body in which you or they have a beneficial interest) and the Council (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged
Land	Any beneficial interest in land which is within the Council's area. For this purpose "land" includes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner or person with whom you are living as a spouse or civil partner (alone or jointly with another) to occupy the land or to receive income.
Licences	Any licence (alone or jointly with others) to occupy land in the Council's area for a month or longer.
Corporate tenancies	Any tenancy where (to your knowledge) – (a) the landlord is the Council; and (b) the tenant is a body in which you, your spouse or civil partner or a person you are living with as a spouse or civil partner has a beneficial interest
Securities	Any beneficial interest in securities of a body where – (a) that body (to your knowledge) has a place of business or land in the Council's area and (b) either – i. The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or ii. If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, your spouse or civil partner or person with

whom you are living as a spouse or civil partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose, “securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

NOTE: the requirements in respect of the registration and disclosure of Disclosable Pecuniary Interests and withdrawing from participating in respect of any matter where you have a Disclosable Pecuniary Interest apply to your interests and those of your spouse or civil partner or person with whom you are living as a spouse or civil partner where you are aware of their interest.

Access to Information

Agendas and reports can be viewed on the Gloucester City Council website: www.gloucester.gov.uk and are available to view five working days prior to the meeting date.

For further details and enquiries about this meeting please contact Tanya Davies, 01452 396125, tanya.davies@gloucester.gov.uk.

For general enquiries about Gloucester City Council’s meetings please contact Democratic Services, 01452 396126, democratic.services@gloucester.gov.uk.

If you, or someone you know cannot understand English and need help with this information, or if you would like a large print, Braille, or audio version of this information please call 01452 396396.

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Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the Public and Press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

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- You should proceed calmly; do not run and do not use the lifts;
- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building; gather at the assembly point in the car park and await further instructions;
- Do not re-enter the building until told by a member of staff or the fire brigade that it is safe to do so.



ORGANISATIONAL DEVELOPMENT COMMITTEE

MEETING : Monday, 21st December 2015

PRESENT : Cllrs. Dallimore (Vice-Chair), Haigh and D. Norman

Others in Attendance

Jon McGinty, Managing Director

Colin Parkin, HR representative

Tanya Davies, Democratic and Electoral Services Manager

APOLOGIES : Cllrs. Hilton

11. DECLARATIONS OF INTEREST

11.1 There were no declarations of interest.

12. MINUTES

12.1 **RESOLVED** – That the minutes of the following meetings be approved as a correct record and signed by the Chair:

- Ordinary meeting, 24 November 2014
- Special meeting, 17 December 2014
- Special meeting, 17 June 2015
- Special meeting, 29 October 2015
- Special meeting, 25 November 2015

13. PUBLIC QUESTION TIME (15 MINUTES)

13.1 There were no public questions.

14. PETITIONS AND DEPUTATIONS (15 MINUTES)

14.1 There were no petitions or deputations.

15. DELIVERING A DYNAMIC CORPORATE SUPPORT SERVICE

15.1 The Committee considered a report of the Managing Director concerning proposals to review the structure and working arrangements for the Corporate Support Team (CST).

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- 15.2 The Democratic and Electoral Services Manager (DESM) summarised the main features of the proposals and explained that the intention was to increase the service from 2.6 FTE to 3 FTE to ensure sufficient support across the working week and to create a Team Leader position reporting directly to the Managing Director with line management responsibility to the Corporate Support Officers (CSOs); support for the civic function would remain with the Democratic and Electoral Services Team (DEST), allowing the CST to focus on support for the Council's strategic functions. She reported that the proposals have been amended as a result of the consultation feedback to allow the Team Leader post to be undertaken on a part-time or job-share basis.
- 15.3 Councillor Haigh asked whether the DEST had sufficient capacity to lead on the civic function and asked which additional members of the Senior Management Team would receive support as a result of the changes to the CST.
- 15.4 The DESM confirmed that the DEST had the capacity to take on the civic function and that there would be a lead point of contact with the rest of the team providing support as required. She advised that within the new structure there may be capacity for the team to provide support to other senior managers, expanding on the adhoc support already provided.
- 15.5 Councillor Dallimore noted that the report touched briefly on support for Cabinet Members and stated that building this in to the team's remit would be of significant help to herself and her Cabinet colleagues.
- 15.6 Councillors D. Norman and Haigh agreed that the CST should provide much-needed administrative support to Members of the Cabinet.
- 15.7 Councillor D. Norman noted that an additional £3,000 was required to fund to the new structure; he highlighted the financial challenges facing the Council and sought confirmation that the proposals could be achieved within existing budgets. He also noted the importance of ensuring that new posts were evaluated prior to finalising the proposals in order for an accurate budget to be confirmed.
- 15.8 The DESM confirmed that the proposals could be achieved within existing budgets and that the Team Leader had been evaluated prior to the final report being published.
- 15.9 **RESOLVED** – that the proposed structure for the Corporate Support team, set out in Appendix 2 to the report, be agreed.

16. MUSEUMS SERVICE REVIEW

- 16.1 The Committee considered a report of the Corporate Director concerning the review of the Museums Service.
- 16.2 The Managing Director (MD) explained that the proposals represented an interim measure while awaiting the outcome of the cultural services review.

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- 16.3 Councillor Dallimore noted that the report did not mention the role of volunteers and questioned why the utilisation of local knowledge and expertise through the use of volunteers was not highlighted within the proposals.
- 16.4 Councillor Haigh stated the report was about the staffing structure, not the roles of those who gave their time voluntarily.
- 16.5 The HR representative advised that reference to the management of volunteers could be included in the relevant job descriptions.
- 16.6 Councillor D. Norman stated that Members required more information on the budget required for the changes and confirmation of the grade for the post that was subject to job evaluation. He added that it may be preferable to retain the current arrangements until the outcome of the cultural services review was published.
- 16.7 The Chair noted that an additional £13,000 was required to fund the proposals and that, although this would come from existing budgets, he would like to have further details about how it would be achieved. He stated that, except for the annualised hours, it wasn't clear how the service would benefit from the proposed changes to the structure and working arrangements.
- 16.8 Councillor Haigh highlighted her opposition to zero hours contracts for staff working regular hours and questioned how where the zero hours staff featured within the proposals. She also sought clarity on how the annualised hours would operate.
- 16.9 The MD explained that the annualised hours were the main benefit of the proposal as it would give the Council the flexibility to staff the museums at the times when the greatest footfall was expected. He recommended that, if Members were minded to delay the changes, the annualised hours element should be progressed.
- 16.10 Councillor Dallimore stated that assumptions should not be made that all staff on zero hours contracts were dissatisfied with their working arrangements.
- 16.11 The Chair noted that the Cabinet Member for Culture and Leisure was supportive of the proposals and suggested that they be presented to the Committee with the additional detail requested early in the New Year to prevent a lengthy delay.
- 16.12 **RESOLVED** – That a decision on the Museums service review be deferred and a Special Meeting be convened in January 2016 to reconsider the proposals.

17. DATE OF NEXT MEETING

Monday 21 March 2016 at 6.00pm.

Time of commencement: 6.00 pm hours

Time of conclusion: 6.25 pm hours

Chair

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Meeting:	Organisational Development Committee	Date:	21 March 2016
Subject:	HR Policies		
Report Of:	HR Business Partner		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
Contact Officer:	Colin Parkin		
	Email:	colin.parkin@gloucestershire.gov.uk	Tel: 324297
Appendices:	4. Absence procedure Capability procedure Disciplinary dismissal procedure Grievance procedure		

FOR GENERAL RELEASE

1.0 Purpose of Report

1.1 To brief OD Committee on the revised performance policies for managing Absence, Capability, Disciplinary and Grievance.

2.0 Recommendations

2.1 Organisational Development Committee are asked to **RESOLVE** that the HR policies appended to this report be approved.

3.0 Background and Key Issues

3.1 As part of the transition of the Human Resources service to the County Council, Senior Managers worked alongside HR to identify priority areas that needed support. Access to up-to-date and easy to follow policies was identified as a priority. As well as up-dating policies, the County have launched a web based set of pages to host policies, advice and guidance. Once these policies have been agreed they will be made available to all staff via these pages.

3.2 The style of the policies have been amended to make them easy to follow and minor amendments have been discussed with both the General Management Team and the Trade Unions.

4.0 Asset Based Community Development (ABCD) Considerations

4.1 The policies relate to internal staffing matters, therefore there are no ABCD implications.

5.0 Alternative Options Considered

5.1 There are no alternative options.

6.0 Reasons for Recommendations

6.1 To provide up-to-date and easy to follow policies that support managers and employees.

7.0 Future Work and Conclusions

7.1 If approved, the policies will be uploaded to the City StaffNet pages.

8.0 Financial Implications

8.1 There are no financial implications.

(Financial Services have been consulted in the preparation this report.)

9.0 Legal Implications

9.1 Relevant employment legislation has been

(One Legal have been consulted in the preparation this report.)

10.0 Risk & Opportunity Management Implications

10.1 No significant risks have been identified.

11.0 People Impact Assessment (PIA):

11.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

12.0 Other Corporate Implications

Community Safety

12.1 There are no community safety implications.

Sustainability

12.2 There are no sustainability implications.

Staffing & Trade Union

12.3 The policies have been considered by both the Trade Union Consultation Meeting and the Employee Forum

Background Documents: None

Absence Procedure

Summary

Gloucester City Council recognises that sickness absence can arise in different ways, from short intermittent periods of sickness to long-term absence, and for different reasons, for example: injuries, recurring conditions; surgery or a serious illness requiring lengthy treatment. It is recognised that absence has an impact on the delivery of our services, the individual themselves and colleagues.

The council is committed to maintaining the health, safety and welfare of its workforce, and will seek to adopt policies, procedures and practices, which establish a positive attendance culture and promote employee welfare. In the interest of the well-being of its employees and in order to operate in an efficient, productive and cost effective way, the council recognises its statutory duty to ensure its employees are both physically and mentally fit to undertake their duties within the workplace. This duty also extends to employees, who are obliged to inform their line manager of any ill health problem that has the potential to prevent them from working in a safe manner.

The council wishes to ensure that the reasons for sickness absence are understood in each case, investigated where necessary and that, where needed, measures are taken to assist those who have been absent by reason of sickness to return to work. Therefore, to achieve these aims it is essential that the council has clear policies and procedures which include arrangements for monitoring and ensuring the effective day to day management of ill health issues and sickness absence.

Managers are responsible for the successful operation of this procedure within the service areas for which they are responsible, supported and advised by the council's human resources service as appropriate.

To support these aspirations, this procedure is established on three key principles:

Employees are to make every effort to attend work for their contracted hours. Managers are to manage absence fairly and consistently.

The council invests in the health and wellbeing of all employees.

It is based on the principles of the ACAS Code of Practice on 'Disciplinary and Grievance Procedures' and aims to be clear, consistent and fair to all.

This Sickness and Absence Procedure does not form part of any employee's contract of employment and is entirely non-contractual. It may be amended, withdrawn, suspended or departed from at the discretion of the council at anytime. Everyone should ensure that they take the time to read and understand the content of this procedure and act in accordance with its aims and objectives. If you need support reading and/or understanding this procedure, please speak with your line manager.

Absence Procedure

Quick Glance	<u>Who does this procedure apply to?</u>
	<u>What will happen if an employee fails to follow this procedure?</u>
	<u>What does the council expect of its managers?</u>
	<u>What does the council expect of its employees?</u>
	<u>What happens if an employee has a warning under another procedure?</u>
	<u>What is 'frequent, short-term absence', as referred to in this procedure?</u>
	<u>What is 'long-term absence', as referred to in this procedure?</u>
	<u>What should an employee do if sick and not able to come to work?</u>
	<u>How does an employee self-certify?</u>
	<u>What if an employee physically cannot call in?</u>
	<u>Does an employee need to regularly update their manager of continued absence?</u>
	<u>Does an employee on sick leave need a Fit Note?</u>
	<u>Can an employee be asked for a Fit Note for any period of absence?</u>
	<u>What should an employee do if their Fit Note says they may be fit for work?</u>
	<u>What if an employee feels they are fit to return to work before the end of a doctor's Fit Note?</u>
	<u>What if an employee has a planned operation and knows in advance how long they will be off sick?</u>
	<u>Will employees be paid when they are on sick leave? What is a 'return to work' RTW) meeting?</u>
	<u>When will an employee have to attend a RTW?</u>
	<u>Why might an employee be referred to Occupational Health (OH)?</u>
	<u>Does an employee have to attend an OH appointment when referred?</u>
	<u>What is the OH appointment for?</u>
	<u>Can an employee's manager contact them when they are off sick?</u>
	<u>Can a manager undertake a welfare visit when an employee is off sick?</u>
	<u>What happens if an employee is ill when on annual leave?</u>
	<u>What happens to an employee's annual leave when they are sick for a period of time?</u>
	<u>Can an employee go away on holiday whilst on sick leave?</u>
	<u>What should an employee do if they are not sick but need time off for an emergency?</u>
	<u>Can an employee have surgery that is not medically required e.g. cosmetic surgery and receive occupational sick pay?</u>
	<u>What happens if an employee has to take time off as a result of an accident for which a third party is held liable?</u>
	<u>Are there restrictions placed on an employee whilst they are on sick leave?</u>
	<u>What will happen if an employee does not follow the reporting procedure or cooperate with an OH referral?</u>
	<u>When is suspension or a temporary transfer appropriate?</u>

Absence Procedure

- [Can an employee be offered alternative employment/ redeployment?](#)
- [What action should be taken if an employee remains absent from work for 3 days or more without any contact?](#)
- [What does an employee need to do if they have an infectious disease which could affect them undertaking their role?](#)
- [What happens if an employee has an industrial disease or accident?](#)
- [What happens if an employee is unwell during pregnancy?](#)
- [Will an employee's disability be taken into account when dealing with their sickness absence?](#)
- [Is there support available for an employee with a disability?](#)
- [What happens if an employee's disability means they cannot do their job?](#)
- [Can someone lose pay for being sick?](#)
- [Can the council suspend sick pay?](#)
- [Can someone be issued with a warning or be dismissed for being absent?](#)
- [In cases of short-term absence, what if absence continues to cause management concern?](#)
- [What is the short-term sickness absence management hearing for?](#)
- [How is long-term absence managed?](#)
- [What is the long-term sickness absence management hearing for?](#)
- [How should long-term absence management hearings be arranged?](#)
- [What will happen at the final long term sickness absence management hearing?](#)
- [What's Ill Health Retirement?](#)
- [How should sickness absence meetings be recorded](#)
- [How much notice does an employee need to be given to be called to a formal absence hearing?](#)
- [Can the employee be represented during the absence process?](#)
- [Can the employee have an appeal against the outcome of a formal warning?](#)

Absence Procedure

Who does this procedure apply to?

It applies to all City Council employees

What will happen if an employee fails to follow this procedure?

Employees are required to follow this procedure. Failure to do so or submission of false statements, or information may be treated as a disciplinary matter under the [Disciplinary and Dismissals Procedure](#).

What does the council expect of its managers?

With respect to this procedure, the council expects managers to:

- Ensure they take action to keep sickness absence levels to a minimum.
- Record, monitor and manage all absence whether authorised and unauthorised.
- Deal with individual sickness cases and ensure they are handled with sensitivity and confidentiality, whilst being frank about the need to resolve any problems that absence is causing.
- Ensure that a Sickness Absence is entered and updated via MSS in a timely basis.
- Ensure that Absence Declaration Forms and any medical certificates along with the form are stored confidentially and sent in a batch to the BSC at the end of the absence to be stored electronically.
- Have due regard to factors which may impact on employees' wellbeing.

Line managers must ensure that employees who report to them are aware of their obligations under this procedure.

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What does the council expect of its employees?

With respect to this procedure, the council; expects its employees to:

- Make every effort to attend work, arrive on time and to work their contracted hours.
- Inform their manager of absence in accordance with this procedure. This applies equally to both physical and mental health and with the Authorised Special Leave Policy.
- Follow the advice of healthcare professionals with respect to their own health and wellbeing.
- Keep their manager informed of any prognosis or workplace factors which may affect their attendance at work or wellbeing.

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Absence Procedure

What happens if an employee has a warning under another procedure?

The council has three inter-related procedures through which concerns about an employee's performance may be formally addressed. These policies and procedures cover three areas of employee performance:

- [Disciplinary and Dismissals Procedure](#).
- [Capability Procedure](#).
- [Sickness and Absence Procedure](#) (this covers both short-term and long-term sickness absence).

There are up to three formal levels of warnings in each procedure:

- First written warning.
- Final written warning.
- Dismissal with notice (or payment in lieu of notice) – or summary dismissal in the case of gross misconduct.

Additional there may be situations where an employee is formally cautioned which may lead to formal action being taken under the appropriate procedure.

Under each procedure, a formal warning remains in force for 12 months (or, in exceptional cases only, for a specified longer period). Any 'live' warning(s) issued in respect of one procedure may be taken into account in determining the subsequent level of warning if other concerns arise but in respect of a different performance area. For example if an employee has a 'live' first written warning for poor work performance they may subsequently receive a final written warning for an unsatisfactory sickness record.

Where this type of situation arises, the formal hearing and any subsequent warning (or dismissal) will be carried out through the [Disciplinary and Dismissals Procedure](#), which operates as the default procedure where the concerns relate to a combination of two or more areas of the employees performance (i.e. a mixture of conduct, capability and/or sickness absence).

In the event that any concerns relate solely to capability or sickness absence, the employee may receive a first written warning, final written warning and/or be dismissed under the [Capability Procedure](#) or Sickness and Absence Procedure (i.e. the matter will not 'default' to the Disciplinary and Dismissal Procedure in such circumstances).

What is 'frequent, short term absence', as referred to in this procedure?

Any amount of absence amounting to at least eight days' absence over 3 occasions in the last twelve months, of which no absence lasts longer than four calendar weeks, or other patterns of absence of less than eight days which are a cause of concern for the manager.

Absence Procedure

What is 'long-term absence', as referred to in this procedure?

Long-term absence is any continuous period of absence that lasts, or at any point is reasonably expected to last, longer than four calendar weeks.

What should an employee do if sick and not able to come to work?

On the first day of absence, the employee must inform their manager as soon as possible, no later than 9.30 am or before their normal start time, whichever is soonest, indicating the reason for absence and likely return.

The employee must have a telephone conversation with their manager or, if unavailable, another manager in the same service area. No other means of contact is permitted e.g. by text, letter or email

If someone is physically incapable of calling in, a friend, relative or medical professional can call in on their behalf but, as soon as possible, the employee must call in person and provide evidence – in the form of a doctor's letter or Fit Note – of their circumstances.

How does an employee self-certify?

Employees can self-certify for up to seven calendar days sickness. When employees return to work, they must complete the Sickness Absence Declaration Form as part of the return to work process

What if an employee physically cannot call in?

Absence without self-certification will be treated as unauthorised, and pay may be withheld. However, if the manager is subsequently satisfied that the absence was legitimate and for reasons of sickness, the council may agree that contractual sick pay will be paid in arrears.

Does an employee need to regularly update their manager of continued absence?

Yes. Employees must ensure that they keep their manager updated on a regular basis by an agreed means of communication.

Does an employee on sick leave need a Fit Note?

A Fit Note is required to certify sickness from the eighth day of continuous sickness and should be sent to the employee's line manager. Failure to submit a Fit Note may lead to the absence being treated as unauthorised, and sick pay may be withheld.

Can an employee be asked for a Fit Note for any period of absence?

Yes. An employee may be asked to submit a medical certificate at any time in the case of any absence including repeated short-term absence.

Absence Procedure

What should an employee do if their Fit Note says they may be fit for work?

If an employee's doctor believes they may be fit for work, the doctor will provide guidance on the Fit Note. Employees should send Fit Notes to their manager as normal and ring them to discuss the details. Employees' managers will discuss with them whether or not the advice on the doctor's Fit Note can be accommodated, bearing in mind the needs of the service. If for any reason it is not possible to accommodate an employee's return to work at this stage, they will remain off sick. If they are on long-term absence they must contact their manager at least two working days prior to any return date in order to allow work programming arrangements to be accommodated.

What if an employee feels they are fit to return to work before the end of a doctor's Fit Note?

Where a doctor's Fit Note says an employee is not fit but, during the period of the Fit Note, the employee feels they have recovered sufficiently and wants to return to work, the employee must contact their manager to discuss their potential return to work. The manager may wish to contact OH to discuss the employee's potential return to work. The manager has the option to decline a return to work until the end of the Fit Note or to ask the employee to return to their GP for an amended Fit Note.

Employees are not normally required to return to work before the given end date of their most current Fit Note.

What if an employee has a planned operation and knows in advance how long they will be off sick?

If an employee has an appointment for a planned, medically-justified operation that has an expected recovery period of more than seven days, the council will need to see a doctor's letter to this effect that states the expected recovery period for the operation in question.

Employees may take this time off as sickness absence or annual leave or a combination of both. If they are still going to be absent after the expected recovery period for reasons arising from the operation or other sickness, employees will need to follow sickness reporting procedures as described above from the end of their projected recovery period onwards.

Absence Procedure

Will employees be paid when they are on sick leave?

Employees complying with the reporting procedures described above will be paid contractual sickness pay, up to their entitlement, for the duration of any sickness absence.

The amount of sickness benefit depends on their length of service as follows:

	Full Pay	Half Pay
First year	1 month	2 months ¹
Second year	2 months	2 months
Third year	4 months	4 months
Fourth and fifth year	5 months	5 months
Sixth year onward	6 months	6 months

¹ After completing four months' service.

This entitlement is calculated with reference to attendance in the 12 months preceding the current absence rather than on a fixed calendar year (so, for example, if the employee had already received a week of sick pay in the preceding 12 months, a week of sick pay would be deducted from their entitlement for the current period of sickness absence).

What is a 'return to work' (RTW) meeting?

Return to work (RTW) meetings are an important and integral part of monitoring occupational health issues within the work place to ensure the well-being of employees and maintain an efficient working environment.

Managers must ensure that appropriate procedures are in place to meet with employees as soon as possible after their return, which would normally be the day of their return or before where this might facilitate an earlier return to work. The aims of the meetings are as follows:

- Welcome an employee back to work.
- Ensure they are fit to return, particularly if they have been absent for a prolonged period of time.
- Identify the cause of the absence.
- To consider any problem that may be causing or contributing to the absence
- Agree priorities for the post-absence period.
- Agree any initial support that may be needed when the employee returns.

In certain circumstances, it may be appropriate for the employee to work reduced hours over an agreed period of time (also known as a phased return). The phased return would normally be up to 4 weeks in duration and in exceptional cases up to 6 weeks.

Absence Procedure

When will an employee have to attend a RTW?

Following some absences, rehabilitation in to the workplace is essential to the recovery process. Where appropriate, suitable and adequate risk assessment should be undertaken by the manager and the employee.

Guidance should be sought from Occupational Health or the City Health and Safety Adviser if necessary.

An employee's manager will ask them to attend an RTW after every period of absence. However, a more detailed meeting may be necessary when:

- An employee has taken a total of eight days' absence over three separate occasions during the last 12 months; or
- They have taken a single period of absence of more than 14 consecutive calendar days; or
- The manager has a concern for an employee's health, such as when adjustments have been made to accommodate a return to work.

Why might an employee be referred to Occupational Health (OH)?

An employee's manager will refer them to OH when:

- The manager has any concerns about the effects of the employee's health on work and work on health even if they are not off sick
- The employee has had a total of at least eight days' absence over at least three separate occasions during the last 12 months.
- An absence is related to mental health illness. An absence is related to musculoskeletal issues.
- The manager is aware that an absence is expected to continue for a period of four weeks or more.

Does an employee have to attend an OH appointment when referred?

Yes. Non-attendance or a failure to cooperate with an Occupational Health referral, without good reason, may result in disciplinary action in accordance with the disciplinary and dismissal procedure and, if the employee is currently on sick leave, could mean their sick pay being suspended. An employee may also be required to pay the full costs incurred if they fail to attend any appointments without informing their manager in advance and providing a good reason

Absence Procedure

What is the OH appointment for?

First, it's for the benefit of the employee, as OH can provide a more detailed assessment of their needs, helpful interventions and advice on how to manage a successful return to work.

Second, managers will use the advice and guidance from OH as a basis to talk to employees about their return to work and to help them make informed decisions about how the council can respond appropriately to the needs of its employees.

To make sure that the advice is as complete as possible, OH may ask employees for permission to contact their doctor or other appropriate medical practitioner. Employees are entitled to refuse, but OH can only provide information to the manager based on what they know, and the manager can only make decisions about their employees based on the information available, including that provided by OH.

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Is there an employee assistance programme an employee can access?

The Employee Assistance Programme (EAP) is an independent advisory service and anyone can contact them for support. Freephone 0800 174319 or visit <http://www.carefirst-lifestyle.co.uk/>. This service is available 24 hours a day, seven days a week. (**Username and password tba**)

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Can an employee's manager contact them when they are off sick?

Yes. Managers are encouraged to keep in regular contact with employees during any period of sickness absence to enquire about the employee's well-being.

Can a manager undertake a welfare visit when an employee is off sick?

Yes. A manager is entitled to propose a welfare visit as appropriate. Advice may be sought from the ContactUs on 42(5888)

What happens if an employee is ill when on annual leave?

Employees can ask to take sick leave instead of annual leave but only if they have met the normal reporting procedures explained above. They will also be required to make themselves available, as in other sickness absence instances, for a referral to OH.

Absence Procedure

What happens to an employee's annual leave when they are sick for a period of time?

When an employee is on sick leave, their annual leave entitlement accrues at the same rate as if they were performing their normal hours of work.

If a period of sick leave will run over the end of the current leave year, the employee will automatically carry over any statutory leave entitlement not taken. If the total leave, both statutory and contractual, is five days (pro rata) or less, then the manager may exercise discretion and allow this to be carried over. Any remaining contractual leave over this total will be lost, other than in exceptional circumstances

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Can an employee go away on holiday whilst on sick leave?

Yes, provided that this arrangement is agreed in advance with their manager. This will normally be recorded as annual leave. In exceptional cases, a holiday taken on medical advice may be eligible to be treated as sick leave.

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What should an employee do if they are not sick but need time off for an emergency?

In such situations, employees should speak to their manager to see if they can take leave, under the '[Authorised Special Leave Policy](#)', which covers compassionate leave and family care leave.

Can an employee have surgery that is not medically required e.g. cosmetic surgery and receive occupational sick pay?

No, occupational sick pay will not be paid for non-essential surgery such as cosmetic surgery unless it is deemed necessary on medical grounds by Occupational Health or a GP or other medical practitioner. Evidence of this is required before occupational sick pay will be issued. Types of evidence that would be acceptable would be a letter from a GP outlining the surgery is due to medical grounds or confirmation of NHS funding. Statutory sick pay will be issued if a fit note is provided regardless of the reason for the cosmetic surgery. Consideration to grant annual leave or unpaid leave should be given by the manager when the surgery is not due to medical grounds. Statutory sick pay and annual leave cannot be paid in conjunction with each other. In the unfortunate event that there are complications after the cosmetic surgery resulting in the member of staff being unfit for work for longer than normal (i.e. post surgery infection) then normal occupational sick pay will apply for the excess recovery period.

Absence Procedure

What happens if an employee has to take time off as a result of an accident for which a third party is held liable?

Where an employee is absent from work because of a crime of violence or an injury in respect of which a claim will lie with the Criminal Injuries Compensation Authority, other party or their insurers and the employee is otherwise qualified to receive sick pay, any compensation received relating to earnings for which the council has already paid the employee as sick pay shall be repaid to the council. Where compensation has been made the council shall be free to discount wholly or partly the period of sick leave in calculating the employee's future entitlement to sick pay, as it may see fit on consideration of all the material circumstances.

Are there restrictions placed on an employee whilst they are on sick leave?

If an employee is absent from work they will be expected to behave in a manner appropriate to the illness or condition from which they are suffering. The employee will not be entitled to undertake any other form of paid or unpaid employment or participate in any activity (of a sporting nature or otherwise) that could have an adverse effect on the speed or success of their recovery. If in doubt, please discuss this with your line manager.

The council reserves the right to make contact with an employee during any period of absence.

What will happen if an employee does not follow the reporting procedure or cooperate with an OH referral?

Not following the reporting procedure will lead to the absence being regarded as unauthorised, and may be dealt with as a disciplinary matter under the disciplinary and dismissal procedure. The employee will not receive sick pay, unless there are strong mitigating factors present which are considered as sufficient to justify payment being made as an exception to the usual rule.

Where an employee has not notified their absence within the specified time, the manager will make every effort to contact the employee including calling contact telephone numbers and if appropriate undertake a home visit after contacting ContactUs. A written record of all calls and visits must be kept.

When is suspension or a temporary transfer appropriate?

Suspension or temporary transfer is only appropriate in very exceptionally circumstances, in cases of short-term absence, in cases, for example, relating to health protection. No decision on suspension or temporary transfer should be taken without advice from Occupational Health.

Can an employee be offered alternative employment/redeployment?

Yes, should it be appropriate to redeploy a member of staff due to health problems the council's redeployment procedure will be followed. Redeployment, in all cases, due to ill health, does not attract pay protection under the council's pay protection policy.

Absence Procedure

What action should be taken if an employee remains absent from work for 3 days or more without any contact?

Where contact cannot be made and the employee remains absent for 3 or more days the manager must ensure that a letter is sent requesting them to make contact urgently and inform the employee that as the employee has not complied with the reporting requirements set out, the manager may consider the absence to be unauthorised. This letter must be hand delivered or sent recorded delivery. Contact must be made with ContactUs before any letter is sent as they are able to provide appropriate wording.

In cases of unauthorised absences, the manager must discuss the matter with the employee concerned immediately on return to duty to ascertain the reason for the absence. If the manager considers there is a good reason for the lack of notification, then the employee will be granted sick or other appropriate leave in retrospect.

If, however, the manager is not satisfied with the reason given, pay will be deducted and the manager will decide whether the matter is to be considered under the disciplinary and dismissal procedure.

What does an employee need to do if they have an infectious disease which could affect them undertaking their role?

If an employee is suffering from an infectious disease the employee must notify their manager and take such precautions as may be advised. The employee may be asked not to attend work where there is a risk that this could spread the infection.

What happens if an employee has an industrial disease or accident?

Where an employee is absent from work as a result of industrial disease or accident (out of and in the normal course of employment, but not attributable to an employee's own misconduct), please contact HR on how this may be covered by National Conditions of Service and other policies.

What happens if an employee is unwell during pregnancy?

Where an employee is absent from work as a result of pregnancy related illness, they will be entitled to the provision of the sickness pay scheme, provided that they comply with the conditions of this procedure, and will not be included in the monitoring of the trigger calculations. If, however, they are absent from work for a pregnancy related reason at any time after the start of the 4th week before the expected week of childbirth, their Ordinary Maternity Leave will commence automatically on the day following the first day for such absence, as in accordance with the council's [Maternity Leave Policy](#). Absence, for any reason, following a period of maternity leave will be managed as normal sickness absence.

Absence Procedure

Will an employee's disability be taken into account when dealing with their sickness?

Yes, managers are required at all times to have due regard to an employee's known disability when operating this procedure. In accordance with The Equality Act 2010, managers will seek to make reasonable adjustments to support employees to do their job with assistance from OH and HR where appropriate.

Employees do not need to be registered disabled to qualify as having a disability, so the council may not be aware that an employee has a disability. Employees must bring any disability to the council's attention as soon as they feel it may impact upon their ability to perform their role.

Is there support available for an employee with a disability?

Yes. The Access to Work Service offers financial and practical assistance to people with a disability to try to enable them to continue in work. Again, employees do not have to be registered disabled to qualify for assistance. More information can be found on this website: <http://disabilityrightsuk.org/access-work>.

Contact the Access to Work Service through the Jobcentreplus, tel 02920 423291.

What happens if an employee's disability means they cannot do their job?

If an employee cannot do their current job after reasonable adjustments have been fully explored the council may seek to redeploy them in the first instance

If an employee is permanently disabled, their manager may seek advice from OH in respect of ill health retirement. Dismissal on the grounds of capability due to sickness absence is an option, but not one that will be taken until all other reasonable options have been exhausted.

Can an employee lose pay for being sick?

As long as absence is authorised, the employee follows the notification procedures in accordance with this procedure and they attend appointments as required, sick pay will continue as described above.

However, if an employee receives a formal warning, the employee will normally fail to qualify for the next salary progression scheme increment or be reduced by one increment if they are at the top of the salary band. Once an employee returns to work, qualification for the salary increment may be reviewed after 6 months, subject to an acceptable improvement in attendance.

Can the council suspend sick pay?

Yes. If the council believes after an appropriate investigation that the reason for an employee's absence is due to their misconduct or they have not observed the provisions of this procedure or they have slowed their recovery by their behaviour, they may no longer be entitled to sick pay.

Absence Procedure

Can someone be issued with a warning or be dismissed for being absent?

Yes. Being absent leaves work for colleagues to pick-up and frequent or extended absence affects the service to customers and places a burden on the organisation that cannot be sustained indefinitely.

An employee may be issued with a first or final written warning and may also be dismissed under this procedure. If a decision is made to issue a first or final written warning or to dismiss, the employee will have the chance to request an appeal against the decision, which will be heard by a manager not involved in the original decision.

In cases of short-term absence, what if absence continues to cause management concern?

The manager should assess the absence pattern, the reasons for absence and have due regard to any other known factors influencing the employee's absence. A sickness absence management hearing may be convened to examine the issue (note that this is a different and more formal step than a return to work interview).

What is the short-term sickness absence management hearing for?

The sickness absence management hearing is an opportunity for the organisation to formally note the employee's frequent short-term absences and to refer to the impact their absences are having. The employee will have the opportunity to make the manager aware of any underlying condition(s), personal circumstances or working conditions that are contributing to the employee's absence from work.

The manager may, having given appropriate consideration to the facts and circumstances give the employee a first or final warning under this procedure at the hearing.

The warning cautions the employee that if their absence record does not improve, it may be necessary to consider further formal warnings, up to and including dismissal.

How is long-term absence managed?

If a period of sickness absence reaches or is thought likely to reach four calendar weeks a referral should be made to OH. If a long-term sickness absence reaches or is thought likely to reach eight calendar weeks, an assessment of the case, its impact and implications for the council and the employee should be made, and a management hearing convened to examine the issue. The case assessment will include the employee's absence record, OH advice, and any correspondence with the employee or the employee's GP or specialist consultant.

Absence Procedure

What is the long-term sickness absence management hearing for?

The sickness absence management hearing is an opportunity for the manager to note the employee's long-term absence and to explain the impact their absence is having on the service. The employee should make their manager aware of their prognosis, any workplace factors that should be taken into account, any reasonable adjustments to their employment that may be desirable or necessary to assist their return to work, taking into account the case assessment.

At a first sickness absence management hearing written notice will normally also be given of the date by which the manager will review the findings of the first hearing. This review will normally take place four calendar weeks after the first hearing.

A sickness absence management hearing has the option of issuing a first or final written warning. A Final Written Warning will usually only be considered when a First Written Warning has been given under this procedure. This will usually be accompanied by the employee either failing to qualify for their next salary progression scheme increment or reduction to a lower point on the scale if they are at the top of the band.

Further management hearings should be convened every four weeks up to a total of four management hearings, or a total absence of 20 calendar weeks.

If a decision is made to issue the employee with a first or final written warning they will have the chance to appeal against the decision, which will be heard by a manager uninvolved in the original decision.

How should long-term sickness absence management hearings be arranged?

Sickness absence management hearings for long-term sickness absence should be convened bearing in mind the needs of the employee, including the possible desirability of alternative venues, allowing the employee to be represented by a trade union representative or a workplace colleague, or allowing the employee to attend remotely. Exceptionally, where the employee cannot participate, or does not wish to be represented by a third party, the meeting can be convened without their direct input. In such a case the employee can send something in writing to be considered at the hearing.

Absence Procedure

What will happen at the final long term sickness absence management hearing?

When the final sickness absence management hearing is convened, no other acceptable way ahead has been discovered and there is no realistic prospect of the employee returning to work in the very near future, the employee will be dismissed with notice on the grounds of incapability due to sickness and absence under this procedure.

The employee has the right to appeal against a decision to dismiss, to a manager not involved in the original dismissal decision.

For other options and alternatives to dismissal, the manager can seek advice from ContactUs on 42(5888).

What's Ill Health Retirement?

Ill Health Retirement (IHR) allows a person suffering from a long-term or terminal medical condition or disability that prevents them from continuing in their role to retire early with enhanced benefits. An employee must be a member of the Local Government Pension Scheme (LGPS) to be considered for IHR, and there are regulations within the LGPS that must be complied with in respect of decisions concerning ill-health retirement.

The potential for IHR must be explored with medical advice from OH, as there are very specific criteria around IHR which only the OH doctor can adjudicate.

How should sickness absence meetings be recorded?

Meetings will only be fully minuted or audio recorded in exceptional or complex cases. In all cases a note will be produced detailing key points in the decision making process. In cases where a formal sanction may be issued the employee must be notified in writing of the outcome of the hearing. Similarly, in formal cases, a note of the hearing should be kept and where dismissal could be involved, consideration should be given to having a note-taker present or using recording equipment. Employees are not permitted to make their own audio recording of a sickness absence meeting without the knowledge of those present.

How much notice does an employee need to be given to be called to a formal absence hearing?

The employee should be given at least seven calendar days notice of the hearing.

Can the employee be represented during the absence process?

Yes, employees are free to seek advice at any time and can be represented / accompanied by a trade union representative or work place colleague at any formal absence management hearings under this procedure.

Absence Procedure

Can the employee have an appeal against the outcome of a formal warning?

An employee may appeal against the reasonableness of a formal absence management warning imposed on them as the result of a formal hearing. There is no right to appeal against any informal action that may be taken.

An appeal will be heard by another senior manager not previously involved with the case, and the employee can be represented by a workplace colleague or a trade union representative.

Any appeal must be made in writing within 14 calendar days of receiving the warning letter stating the reason(s) for the appeal. The warning or dismissal will remain in force pending the outcome of the appeal.

Capability Procedure

Summary

The Council recognises that its employees are its most important asset and that as an organisation it is only as good as the people it employs. We believe that the vast majority of employees meet or exceed the expectations of the roles they are assigned. When an employee is not meeting the performance standards of their role, or is not doing so consistently, this procedure will ensure that the issue is dealt with in a fair, equitable, consistent and supportive manner. Managers are responsible for the successful operation of this procedure within the service areas for which they are responsible, supported and advised by the Council's HR service as appropriate.

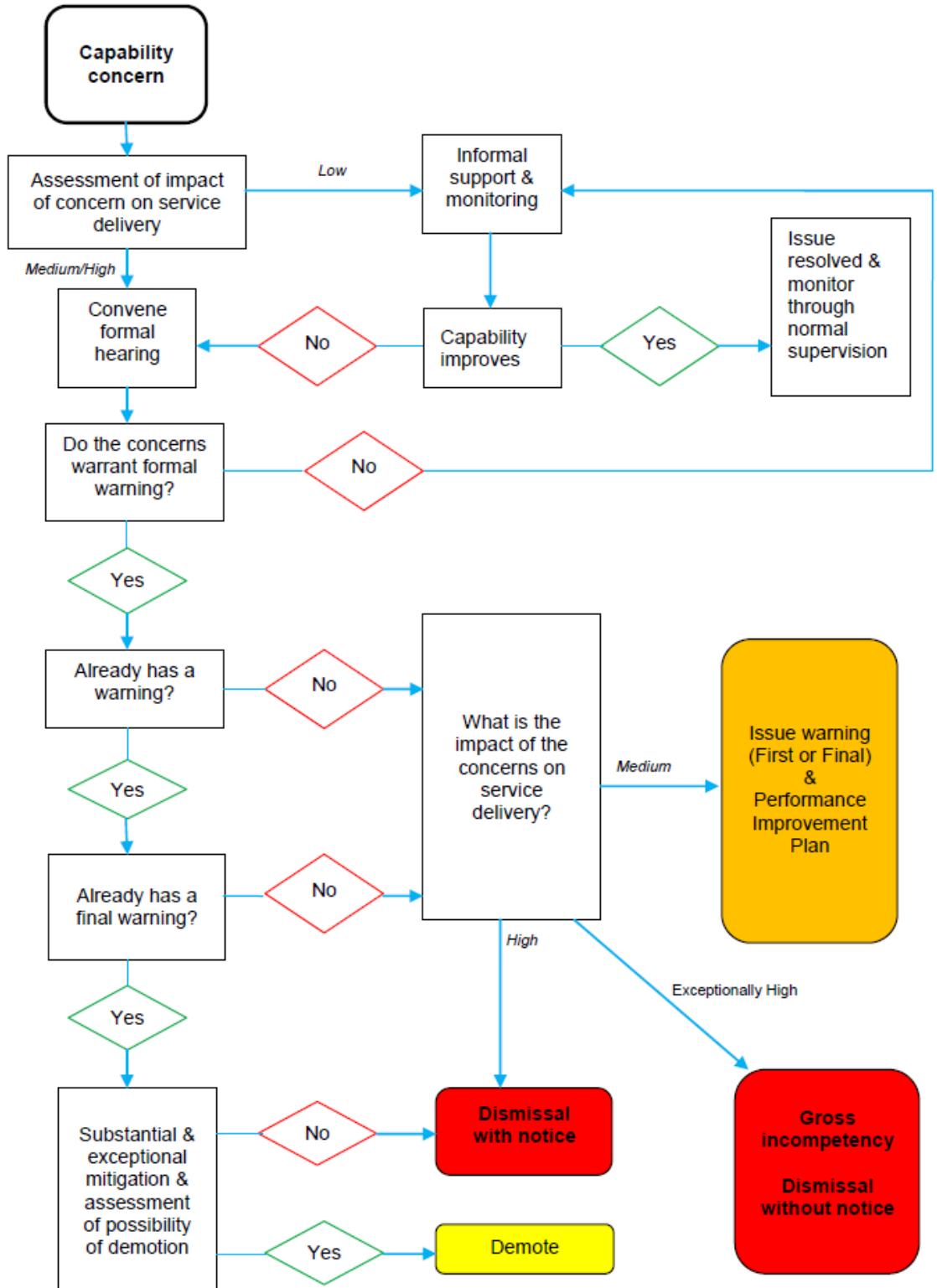
This procedure sets out the measures available to managers in these cases and, where a structured approach is necessary, what pattern it should follow. Correct application of this procedure ensures that an employee is given every reasonable opportunity to improve and, where this is not possible, that proper consideration is given to the alternatives before dismissal is considered.

It is based on the principles of the ACAS Code of Practice (No 1) on "Disciplinary and grievance procedures" and on the Council's Code of Conduct. The procedure is intended to cover any potential dismissals not explicitly covered by this or any other Council policy.

This procedure does not form any part of any employee's contract of employment and it is entirely non-contractual. It may be amended, withdrawn, suspended or departed from at the discretion of the Council at anytime. Everyone should ensure that they take the time to read and understand the content of this procedure and act in accordance with its aims and objectives. If you need support reading and/or understanding this procedure, please speak with your line manager.

Capability Procedure

Capability Management Flowchart



NOTE: Warning under other policies may be taken into consideration.
A right to request an appeal also follows the issuing of a warning or a decision to dismiss.

Capability Procedure

Quick Glance

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[Can someone be given a final warning without having received a first written warning?](#)

[Can the employee request an appeal against the outcome of a capability performance management hearing?](#)

How will I be notified of any decision?

Capability Procedure

Who does this procedure apply to?

The policy applies to all employees at Gloucester City Council except Statutory Officers. The rules relating to suspension and disciplinary action in respect of the Head of Paid Service, Monitoring Officer and Chief Finance Officer are contained in the Council's Constitution. The procedure is governed by statutory regulations

If an employee is on probation and there are performance issues will they be dealt with under this procedure?

No. For all new employees and existing employees to whom a probationary period applies, any measures to deal with performance should be dealt with under the council's probationary procedure.

What happens if an employee has a disability or difficulty in understanding English?

If the employee has a difficulty at any stage of the procedure because of a disability or understanding English, he/she should raise this with their manager in the first instance so they may assist as appropriate.

What happens if an employee has a warning under another procedure?

The council has three inter-related procedures through which concerns about an employee's performance may be formally addressed. These policies and procedures cover three areas of employee performance:

[Disciplinary and Dismissals Procedure](#) (conduct). Capability Procedure (standards of work performance).

[Sickness and Absence Procedure](#) (this covers both short-term and long-term sickness absence).

There are up to three formal levels of sanction in each procedure:

First written warning. Final written warning.
Dismissal with notice (or payment in lieu of notice) – or summary dismissal in the case of gross misconduct.

Under each procedure, a formal warning remains in force for 12 months (or, in exceptional cases only, for a specified longer period). Any 'live' warning(s) issued in respect of one procedure may be taken into account in determining the subsequent level

Under each procedure, a formal warning remains in force for 12 months (or, in exceptional cases only, for a specified longer period). Any 'live' warning(s) issued in respect of one procedure may be taken into account in determining the subsequent level of sanction if other concerns arise but in respect of a different performance area. For example, if an employee has a 'live' first written warning for poor work performance they may subsequently receive a final written warning for an unsatisfactory sickness record.

Capability Procedure

Where this type of situation arises, the formal hearing and any subsequent warning (or dismissal) will be carried out through the [Disciplinary and Dismissals Procedure](#), which operates as the default procedure where the concerns relate to a combination of two or more areas of the employees performance (i.e. a mixture of conduct, capability and/or sickness absence).

In the event that any concerns relate solely to capability or sickness absence, the employee may, having given appropriate consideration to the facts and circumstance, receive a first written warning, final written warning and/or be dismissed under the Performance Management Capability Procedure or [Sickness and Absence Procedure](#) (i.e. the matter will not 'default' to the Disciplinary and Dismissal Procedure in such circumstances).

What does the council expect of its managers?

With respect to this procedure the council expects managers to:

- Carefully select, provide induction and continuously develop their employees.
- Make sure employees are clear about the policies, procedures and standards that apply and what is expected of them.
- Regularly review the performance of employees and respond to any situations where an employee's performance is unsatisfactory or otherwise gives cause for concern.
- Give employees regular feedback on their work performance.
- Have early discussions with the employee on problems, possible causes and solutions.
- Managing employees' performance informally and formally if required.
- Preparing documentation to be presented at performance management review meetings/hearings,
- e.g. details of unsatisfactory performance. Conducting performance management review meetings/hearings.

What does the council expect of its employees?

The council expects its employees to:

- Maintain satisfactory job performance.
- Be responsible for their own development.
- Raise with their manager any problems that are affecting their work.
- Accept responsibility for their own work performance
- Respond constructively to advice, guidance and development provided by their manager
- Be flexible and cooperate with changing work requirements.

Capability Procedure

What is a capability or performance concern?

A capability concern is where an employee is thought to lack skills or knowledge necessary to effectively perform their role, or to do so consistently. Employee underperformance may originate in a lack of capability or it may be a conduct issue. It is the *former* which this procedure is designed to address; the latter is covered by the [Disciplinary and Dismissals Procedure](#).

Can the concerned employee be represented?

Employees who are the subject of action under this procedure have the right to advice and guidance and to be accompanied/ represented by a trade union representative or work place colleague at any stage of the formal procedure. This does not extend to representation at day to day management/supervision meetings, or any informal action. In exceptional circumstances, a representative who is neither a work place colleague nor a trade union representative may be permitted, for example, if there are medical reasons or as a reasonable adjustment. This will be at the sole discretion of the officer conducting the meeting (i.e. the Manager for performance management review meetings and the Hearing Chair for performance management review hearings). Legal representation, specialist employment law Advisors and similar, will not be allowed.

Is there an employee assistance programme an employee can access?

Yes, the **Employee Assistance Programme (EAP)** which is independent of the council and any employee can contact them for support. Freephone 0800 174319 or visit <http://www.carefirst-lifestyle.co.uk/>. This service is available 24 hours a day, seven days a week. (**Username: and Password: tbc**”).

Are there links with other procedures?

A distinction should be drawn between the need to take action under this procedure and other action due to:

[Sickness and Absence Procedure](#).
[Disciplinary and Dismissals Procedure](#).

Capability Procedure

How is individual performance concerns managed?

When a manager first becomes aware of a performance capability concern, they should address it in discussion with the employee to explore the situation and potential solutions. If the employee's performance doesn't improve quickly enough, the manager may do some more fact-finding (an investigation) and assess the situation to get a full grasp of the nature and degree of the under-performance, as well as potential reasons for it.

If the manager's assessment indicates that a more structured approach would be appropriate, then a performance management hearing may be convened.

Will fact finding (an investigation) take place?

If it is deemed by the manager that it is appropriate to carry out an investigation then an investigating officer will be appointed.

If an investigation is to take place who will it be undertaken by?

The investigating officer will usually be the employee's manager, although the council has the right to appoint any suitable employee, or in exceptional cases, a suitably qualified third party. Employees are required to co-operate with any investigation and, if requested to do so, to attend an investigation meeting. The employee who is subject to the performance concern may at the manager's discretion be represented by a trade union representative or work place colleague.

What is the purpose of fact finding (an investigation)?

The purpose of the investigation is to establish: The nature of the alleged concern; The employee's response; Any supporting evidence and; Any other relevant circumstances. The outcome of the investigation will be a recommendation both that there are specific issues to be addressed and should be dealt with at a formal performance management hearing, or that there should be no formal action.

Does an employee have to co-operate in the performance management process?

All parties to the proceedings have an obligation to co-operate in ensuring that processes and timescales are followed without delay.

What happens if an employee achieves the required improvements?

If the employee subsequently achieves the required improvements, then this should be acknowledged and the employee should be informed of the need to maintain that improvement. A copy should be placed on their Personal file. The employee may comment on the content of the note if he or she wishes, and this should also be placed on the Personal file..

Capability Procedure

When might suspension be appropriate?

Suspension is rarely necessary in a capability situation. However, if it isn't clear whether a matter is a capability or a disciplinary issue, it may sometimes be appropriate for an employee to be suspended for the shortest possible time while an assessment of the case is made. In addition, where an employee's underperformance presents a risk to themselves or to others, suspension may be appropriate.

In such serious cases, wherever reasonably possible, a temporary transfer to other duties should be considered as an alternative, whilst further consideration is given to the situation.

What if the incapability/unsatisfactory performance may involve harm or the risk of harm to children, young people or vulnerable adults?

An allegation may indicate that an employee behaved in a way that: has or may have harmed or abused a child or vulnerable adult; possibly committed a criminal offence against or that is related to a child or vulnerable adult or; behaved towards a child or vulnerable adult in a way that indicates they are unsuitable to work with children or vulnerable adults.

If the allegation covers any of the above then any immediate further risk must be addressed and then advice must be sought quickly from HR, the Local Authority Designated Officer for Children's Services 01452 426994 or the Local Authority Head of Safeguarding Adults 01452 427556. The employee should not be informed and the manager should not take any further steps until this advice been obtained.

What is the purpose of the performance management hearing?

The performance management hearing is an opportunity for the organisation to formally note its concern about the employee's capability or performance and to state explicitly the impact the alleged underperformance is having; the employee can say if they disagree with the manager's view, and explain any other factors that might be affecting their performance that haven't yet been recognised.

If, after representations and evidence have been considered, it is still considered that the employee's performance requires improvement, the Chair of the hearing will give the employee a warning that the individual's work performance needs to improve.

The warning may be at one of two levels:

- A first written warning
- A final written warning

In addition, the first time an employee receives a warning, they automatically lose their next point of incremental progression or be reduced down the increment scale if they are at the top of the salary band. The warning will remain in place for 12 months, even if their performance improves during that period.

Capability Procedure

An employee under a warning must be given a clearly-structured and supervised plan for improvement which may be done immediately or in a separate discussion, after the performance management hearing. More details on the use of the warning and the performance management plan are given in the relevant guide.

How much notice does an employee need to be given to be called to a performance management hearing?

The employee should be given at least seven calendar days notice of the hearing

Can the employee be represented during the performance management process?

Yes, employees are free to seek advice at any time and can be represented / accompanied by a trade union representative or work place colleague at any formal performance management hearings under this procedure.

Does the employee have to attend a hearing?

Yes, the employee must make every effort to attend the hearing and their absence will only be considered acceptable in exceptional circumstances. If the employee does not attend the performance management hearing, the hearing may either proceed in their absence or be adjourned, taking into account the reasons for the non-attendance.

If non-attendance is due to a medical reason, the employee must inform the hearing officer as soon as possible. Written confirmation together with a Fit note must be submitted, stating specifically the reasons why the employee is unable to attend the performance management hearing (a Fit Note which merely states that the employee is unfit for work is not sufficient; the certificate must relate specifically to the employee's ability to attend the performance management hearing). The employee may also be referred to Occupational Health to ascertain whether they are fit to attend the hearing.

If it is decided to adjourn the performance management hearing, the hearing will be rearranged. If the employee again fails to attend, the hearing will normally go ahead in their absence after considering all the circumstances of the case. Where an employee is unable to attend, they may arrange for representation at the hearing in their absence, or make written submissions.

Capability Procedure

What are the potential outcomes of a performance management hearing?

A performance management hearing will normally have one or more outcomes:

1. No further action.
2. Take action up to but not including a written warning i.e. informal warning/a letter of caution.
3. A final opportunity to improve performance.
4. A formal warning - issue a first written warning.
5. A final written warning.
6. Increment withheld or reduced by one scale point if at the top of grade.

A combination of 3 to 6 above

Where considered appropriate an outcome could also be:

7. Demotion and/or transfer as an alternative to dismissal to a similar or lower graded post if a role is available.
8. Dismiss the employee, with notice.
9. Dismiss the employee, without notice (summary dismissal)

What if one warning has already been issued?

When an employee receives a warning whilst subject to a prior warning, the performance warning will normally be one step higher than it would have otherwise been.

Can someone be given a final warning without having received a first written warning?

Yes. An employee can be given a first or final warning without having been previously been subject to any informal action or previous formal warning. However, this measure is reserved for cases where urgent and serious performance concerns are considered to impact substantially on service delivery for example, or for cases where underperformance puts the safety and well being of service users or other employees at risk.

Can the employee have an appeal against the outcome of a performance management warning?

An employee may appeal against the reasonableness of a formal performance management warning imposed on them as the result of a formal hearing. There is no right to appeal against any informal action that may be taken.

An appeal will be heard by another senior manager not previously involved with the case, and the employee can be represented by a workplace colleague or a trade union representative.

Any appeal must be made in writing within 14 calendar days of receiving the warning letter stating the reason(s) for the appeal. The warning or dismissal will remain in force pending the outcome of the appeal.

Capability Procedure

How will I be notified of any decision?

Meetings will only be fully minuted or audio recorded in exceptional or complex cases. In all cases a note will be produced detailing key points in the decision making process. In cases where a formal sanction may be issued the employee must be notified in writing of the outcome of the hearing. Similarly, in formal cases, a note of the hearing should be kept and where dismissal could be involved, consideration should be given to having a note-taker present or using recording equipment. Employees are not permitted to make their own audio recording of a capability meeting without the knowledge of those present.

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Disciplinary & Dismissal Procedure

Summary

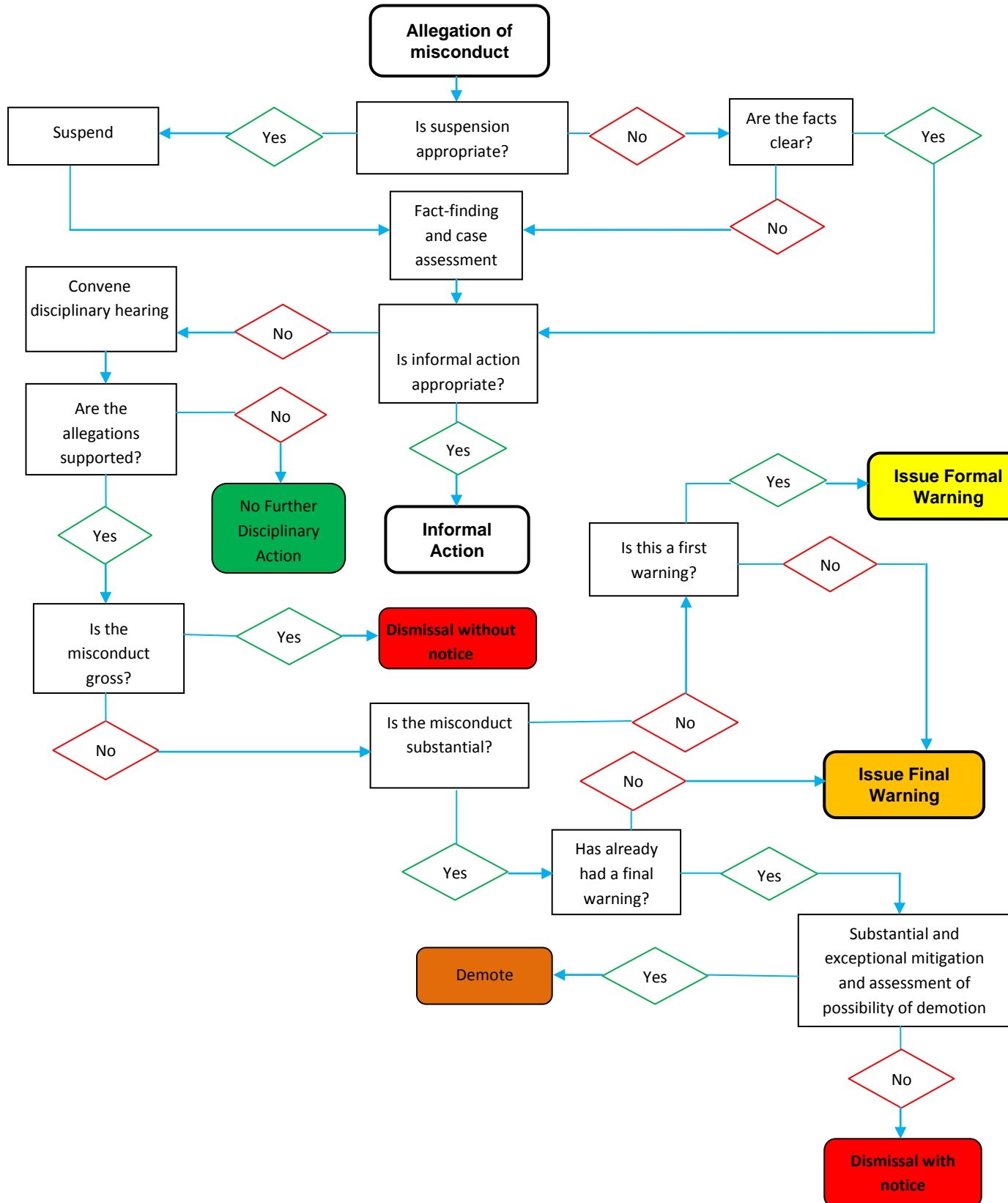
Gloucester City Council expects good standards of Behaviour from all its employees, and where standards of conduct are found to be less than satisfactory it will take action with the aim of restoring an acceptable situation. This Disciplinary and Dismissal Procedure provides a framework for instances where employees are alleged to have fallen short of the required standards of conduct. The aim is to ensure prompt, fair, equitable and consistent treatment for all employees, and a shared, clear understanding of expectations. Managers are responsible for the successful operation of this procedure within the service areas for which they are responsible supported and advised by the HR service as appropriate.

It is based on the principles of the ACAS Code of Practice (No.1) on “Disciplinary and Grievance procedures” and on the Council’s Code of Conduct. The procedure is intended to cover any potential dismissals not explicitly covered by this or any other council policy.

This procedure does not form part of any employee’s contract of employment and is entirely non-contractual. It may be amended, withdrawn, suspended or departed from at the discretion of the Council at any time. Everyone should ensure that they take the time to read and understand the content of this procedure and act in accordance with its aims and objectives. If you need support reading and/or understanding this procedure please speaking with your line manager.

Disciplinary & Dismissal Procedure

Misconduct Management Flowchart



NOTE: A right of appeal follows the imposition of any formal disciplinary sanction.

Disciplinary & Dismissal Procedure

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Disciplinary & Dismissal Procedure

Who does this procedure apply to?

The policy applies to all Gloucester City Employees except Statutory Officers. The rules relating to suspension and disciplinary action in respect of the Head of Paid Service, Monitoring Officer and Chief Finance Officer are contained in the Council's Constitution. The procedure is governed by statutory regulations.

What is meant by "misconduct"?

Misconduct is an employee's act or failure to act that undermines the good and orderly running of the organisation. It should not be confused with poor performance where an employee wants to perform well but, for some reason can't.

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What is meant by "gross misconduct"?

Gross misconduct is an employee's act or failure to act that is so far from the expected standards of conduct that the employee simply cannot be trusted or allowed to remain an employee of the council. Examples of gross misconduct include, but are not limited to, acts of violence or other abuse, theft or gross insubordination.

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What happens if the employee has a disability or difficulty in understanding English?

If an employee has a difficulty at any stage of the procedure because of a disability or understanding English, he/she should raise this with their manager in the first instances so they may assist as appropriate.

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What does the council expect of its managers?

With respect to this procedure the council expects managers to:

- Carefully select, provide induction and continuously develop their employees
- Make sure employees are clear about the policies, procedures and standards that apply and what is expected of them
- Regularly review the performance of employees and respond to any situations where an employee's conduct is unsatisfactory or otherwise gives cause for concern
- Give employees regular constructive feedback
- Have early discussions with the employee on problems, possible causes and solutions
- Managing employees' conduct informally and formally if required
- Holding and preparing documentation to be presented at conduct meetings/hearings, e.g. details of unsatisfactory conduct.

What does the council expect of its employees?

With respect to this procedure the council expects employees to:

- Adhere to the council's Officers' Code of Conduct
- Perform their duties diligently, effectively and to the required standards
- Conduct themselves appropriately in carrying out their duties and in their dealings with others
- Carry out management instructions
- Co-operate with their managers, colleagues and customers to

Disciplinary & Dismissal Procedure

What happens if an employee has a warning under another procedure?

ensure the effective delivery of the service

- Respond positively to guidance, direction and constructive criticism from their manager
- Acts honestly, in good faith and in the best interests of the council and, as appropriate, its partners
- Maintain satisfactory job performance
- Be responsible for their own development
- Raise with their manager and through appropriate management structures any problems that are affecting their work
- Accept responsibility for their own conduct
Be flexible and co-operate with changing work requirements

The council has three inter-related procedures through which concerns about an employee's performance may be formally addressed. These policies and procedures cover three areas of employee performance:

- Disciplinary and Dismissal Procedure (conduct)
- Performance Management Capability Procedure
- Sickness and Absence Procedure (this covers both short-term and long-term sickness absence)

There are up to three formal levels of sanction in each procedure:

- First written warning
- Final written warning
- Dismissal with notice (or payment in lieu of notice) or Summary Dismissal in the case of gross misconduct

Under each procedure, a formal warning remains in force for 12 months (or, in exceptional cases only, for a specified longer period). Any "live" warning(s) issues in respect of one procedure may be taken into account in determining the subsequent level of sanction if other concerns arise but in respect of a different performance area. For example, if an employee has a "live" first written warning for poor work performance, they may subsequently receive a final written warning for an unsatisfactory sickness record.

Where this type of situation arises, the formal hearing and any subsequent warning (or dismissal) will be carried out through the Disciplinary and Dismissal Procedure, which operates as the default procedure where the concerns relate to a combination of two or more areas of the employees performance (i.e. a mixture of conduct, capability and/or sickness absence).

In the event that any concerns relate solely to capability or sickness absence, the employee may, having given appropriate consideration to the facts and circumstance, receive a first written warning, final written warning and/or be dismissed under the **Performance Management Capability Procedure** or **Sickness Absence Procedure** (i.e. the matter will not "default" to the Disciplinary and Dismissal Procedure in such circumstances). [Back to top](#)

Disciplinary & Dismissal Procedure

How is minor misconduct dealt with?

Managers may deal with conduct below the expected standards informally, making sure that employees understand their misconduct. For example, re-stating the standards of behaviour that are expected, which may also involve training and counselling? Cases of minor misconduct (e.g. recurrent lateness) should be dealt with by the employee's manager without delay. The manager should speak to the employee in private and seek an explanation. The manager should draw their attention to both the required standards of behaviour, any review period and over what timescales along with the potential consequences of continuing to fail to meet these standards.

The manager should make a note of incidents of minor misconduct, including the time and date of the occurrence, and of the fact that the employee has been advised as to their future course of conduct. In exceptional circumstances, a trade union representative or work colleague may attend with the employee although this will be solely at the discretion of the manager.

What happens if an employee achieves the required improvements?

If the employee subsequently achieves the required improvements, then the employee should be informed of the need to maintain that improvement. A copy of the notes should be placed on their personal file. The employee may comment on the content of the note if he or she wishes, and this should also be placed on the personal file.

What happens if during an informal meeting it is clear that the matter is serious?

If during an informal meeting it becomes clear that the matter is more serious than first thought, the meeting should be adjourned and a decision made as to whether the formal stages of the procedure should be involved. Managers should contact HR for advice at this stage. The employee should be kept informed of any decisions and advised of any timescales.

What if misconduct from the same person occurs more than once?

Depending upon the seriousness of the misconduct, a first or subsequent incident may be dealt with informally as above but, if it is felt that the misconduct is more serious or that behavior continues to be below the expected standards, the employee should be referred to the formal disciplinary process.

What if the alleged misconduct is more serious?

If the alleged misconduct is more serious, then the manager should consider a more formal approach to dealing with the situation. The manager should arrange for the relevant facts to be obtained (an investigation) including speaking to both the employee and, as appropriate, other people who, in the view of the manager, may have information relevant to the situation.

The manager should make a note of the allegation(s), including the time and date of the occurrence(s), a summary of events, individuals involved and a record of action taken. If a formal disciplinary sanction is contemplated, then the employee should be invited to a disciplinary hearing.

Disciplinary & Dismissal Procedure

What if there is doubt about whether a misconduct incident happened?

It is essential that managers make notes of incidents of misconduct as quickly as possible after they become aware of them, as described above.

If they were not personally witness to the incident or if there is otherwise any doubt about whether an incident took place as described and the manager believes that a disciplinary hearing may be warranted, then it may be appropriate to undertake or commission a fact-finding exercise (an investigation) and case assessment before making any decision.

What if the alleged misconduct may involve harm or risk of harm to children, young people or vulnerable adults?

An allegation may indicate that an employee behaved in a way that:

- Has or may have harmed or abused a child or vulnerable adult;
- Possibly committed a criminal offence against or that is related to a child or vulnerable adult, or;
- Behaved towards a child or vulnerable adult in a way that indicates they are unsuitable to work with children or vulnerable adults.

If the allegation covers any of the above then any immediate further risk must be addressed and then advice must be sought quickly from HR, the local Authority Designated officer for Children's Services 01452 426884 or the Local Authority Head of Safeguarding Adults 01452 427556. The employee should not be informed and the manager should not take any further steps until this advice been obtained

What if the facts are in dispute?

Where the relevant facts are in dispute, then a fact-finding (an investigation) exercise should be undertaken or commissioned before the disciplinary hearing.

In cases where the misconduct is in dispute, the management decision should be on "the balance of probabilities", meaning that, if the convening manager thinks the circumstances suggest it more likely that the events occurred than that they did not, they will proceed on the assumption that they did.

Will an investigation take place?

If it is deemed appropriate to carry out an investigation then an investigating officer will be appointed.

If an investigation is to take place, who will it be undertaken by?

The investigating officer will usually be the employee's manager (or a more senior manager), although the council has the right to appoint any suitable employee, or in exceptional cases, a suitably qualified third party. Employees are required to co-operate with any investigation and, if requested to do so, to attend an investigation meeting. At the manager's discretion, the employee who is subject to the allegation may be accompanied/represented by a trade union representative or work place colleague.

The purpose of the investigation is to establish;

Disciplinary & Dismissal Procedure

What is the purpose of an investigation?

- The nature of the alleged misconduct;
- The employee's response;
- Any supporting evidence, and;
- Any other relevant circumstances

The investigating officer will make a recommendation to the manager who commissioned the investigation either that specific allegations should be dealt with at a formal hearing (disciplinary hearing) or that there should be no formal disciplinary action.

Does an employee have to co-operate in the disciplinary process, including any proceedings?

All parties to the proceedings have an obligation to co-operate in ensuring that processes and timescales set out in this procedure are followed without delay. When the handling of the case would be compromised by the need to comply with the timescales and in the event more time is needed, the timescales may be extended. In this case, the employee must be informed in writing and given the reasons for the extension, together with details of any steps to be taken to resolve the disciplinary cases within this period.

What is the purpose of a disciplinary hearing?

The disciplinary hearing will enable the employee to have the allegations restated, hearing the evidence against them, present their own evidence and make representations to management. The manager considering the matter should carefully consider all they have been told and seen during the hearing, and reach a decision about whether the allegation(s) have substance and weight. If they do, the manager hearing the case may impose a disciplinary sanction as described in this procedure.

How much notice does an employee need to be given to be called to a disciplinary hearing?

The employee should be given at least seven calendar days notice of the hearing

Can the employee be represented during the disciplinary process?

Employees are free to seek advice at any time and can be represented by a trade union representative or work place colleague at any formal disciplinary hearing under this procedure held to consider an allegation made against them.

Must an employee attend a disciplinary hearing?

Yes, the employee must make every effort to attend the hearing and their absence will only be considered acceptable in exceptional circumstances.

Is there any flexibility in the procedure?

If the employee does not attend the disciplinary hearing, the hearing may either proceed in their absence or be adjourned, taking into account the reasons for the non-attendance.

What happens if an employee

If non-attendance is due to a medical reason, the employee must

Disciplinary & Dismissal Procedure

has a disability or difficulty in understanding English?

inform the hearing officer as soon as possible. Written confirmation together with a Fit Note must be submitted, stating specifically the reasons why the employee is unable to attend the disciplinary hearing (a Fit Note which merely states that the employee is unfit for work is not sufficient; the Fit Note must relate specifically to the employee's ability to attend the disciplinary hearing). The employee may also be referred to Occupational Health to ascertain whether they are fit to attend the hearing.

If it is decided to adjourn the disciplinary hearing, the hearing will be rearranged. If the employee again fails to attend, the hearing will normally go ahead in their absence after considering all the circumstances of the case. Where an employee is unable to attend they may arrange for a representative at the hearing in their absence or make written submissions.

Is there an employee assistance program that can be accessed?

Yes, the Employee Assistance Program (EAP) which is independent of the council and can be contacted for support. Freephone 0800 174319 or visit <http://www.carefirst-lifestyle.co.uk/>. This service is available 24 hours a day, seven days a week. (Username and Password:tba)

How should a disciplinary meeting be recorded

Meetings will only be fully minuted or audio recorded in exceptional or complex cases. In all cases a note will be produced detailing key points in the decision making process. In cases where a formal sanction may be issued the employee must be notified in writing of the outcome of the hearing. Similarly, in formal cases, a note of the hearing should be kept and where dismissal could be involved, considerations should be given to having a note-taker present or using recording equipment. Employees are not permitted to make their own audio recording of a disciplinary meeting without the knowledge of those present.

What are the potential outcomes of a disciplinary hearing?

A disciplinary hearing can have a number of outcomes, including:

1. Dismissal of the allegation;
2. Take action up to but not including a written warning, i.e. informal warning/a letter of caution;
3. Issue of a first written warning;
4. Issue of a final written warning;
5. Increment withheld or reduced by one scale point if at the top of grade;

A combination of 3 to 5 above.

6. When considered appropriate, demotion and/or transfer as alternative to dismissal to a similar or lower graded post if a role is available;
7. Dismissal of the employee, with notice;
8. Dismissal of the employee, without notice (summary dismissal in the case of gross misconduct).

Disciplinary & Dismissal Procedure

If misconduct is not considered to have occurred, no further disciplinary action will be taken in this case.

If an allegation is found to be true but there are substantial mitigating circumstances or it is considered to be insufficiently serious to warrant a written warning the disciplinary hearing may apply an informal sanction, such as a reprimand or a note/letter of caution to lie on the employee's personal file together with advice about future conduct.

A warning may be issued which can be taken into account if further acts of misconduct occur. A warning will typically last for 12 months, after which it will not be considered in determining the level of sanction in the event of future misconduct, but may still be considered for performance management and assessment purposes.

Issuing a first warning or a final written warning will also lead to the withholding of the next due annual salary increment

Typically two warnings – “first” and “final” – are issued before dismissal is considered. However, in serious cases it is possible to issue a final warning without having previously issued a “first” warning, or to dismiss an employee who has received a “first” warning but not a “final” warning in cases of gross misconduct.

Increment Withheld or Reduction of One Increment if at the Top of the Employee's Grade

Where the allegation has been upheld, but there are deemed to be mitigating circumstances to justify disciplinary action short of dismissal, this will usually be accompanied with a final written warning.

Demotion and/or Transfer as an Alternative to Dismissal to a Similar or Lower Graded Post

A transfer may be considered appropriate in circumstances where it would not be appropriate to allow the employee to return to their former work area. In cases of gross misconduct, this would only be appropriate if there is substantial mitigation.

Dismissal

A dismissal may be issued with or without notice, depending upon the seriousness of the misconduct. For gross misconduct dismissal will be without either notice or payment of lieu of notice.

Suspension or temporary transfer pending the outcome of an investigation is not a punishment. They are neutral actions to enable an effective management assessment to be undertaken, and to prevent any interference by or with an employee accused of serious or gross misconduct. Any suspension should be as brief as possible, kept under regular review and regular contact kept with the suspended employee by their manager.

When might someone be suspended or temporarily transferred?

Disciplinary & Dismissal Procedure

How is gross misconduct handled differently?

When an employee is considered to have committed gross misconduct, they may be summarily dismissed; that is, they may be dismissed at the first disciplinary hearing, even without having previously received a written warning.

Can an employee have an appeal against a sanction imposed at a disciplinary hearing?

An employee may appeal against the reasonableness of a formal disciplinary warning imposed on them as the result of a disciplinary hearing. There is no formal right to appeal against any informal action that may be taken.

An appeal will be heard by another senior manager not previously involved with the case, and the employee can be represented by a workplace colleague or a trade union representative.

Any appeal must be made in writing within 14 calendar days of receiving the warning letter stating the reason(s) for the appeal.

The warning or dismissal will remain in force pending the outcome of the appeal.

If an employee is dismissed, will they be kept as an employee until any appeal is completed?

No, the dismissal is effective from the date given in the dismissal letter. Reinstatement or re-engagement will be considered, together with any appropriate alternative disciplinary sanction, in the event that a dismissal is overturned at appeal.

Are there links with other procedures?

A distinction should be drawn between the need to take action under this procedure and other action which may result in termination of employment including:

- Capability
- Sickness absence
- Redundancy, or the ending of a fixed term contract
- A failed probationary period

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Grievance Procedure

Summary

Gloucester City Council recognises the importance of good working relationships with its employees and seeks to ensure that grievances are resolved as quickly as possible. Managers are responsible for the successful operation of this procedure within the service areas for which they are responsible, supported and advised by the Council's HR service as appropriate.

A grievance is a concern, problem or complaint that employees can raise with the council involving their working circumstances. This Procedure is to ensure that employees are treated fairly when raising a grievance, their concerns are properly considered, and that grievances are dealt with as early and as informally as is reasonable in the circumstances.

The procedure aims to facilitate the promotion of natural justice and resolution of problems at the lowest appropriate level with minimal delay and conflict. It provides a means by which an employee or employees can seek redress for a perceived grievance without fear of recrimination.

Matters pertaining to an employee's performance at work, their conduct, pay and sickness record may more appropriately be dealt with under separate procedures. This procedure applies the principles of the ACAS Code of Practice (No.1) on 'Disciplinary and Grievance Procedures'.

The main purpose of this procedure is to resolve issues not to apportion blame. All participants are, therefore, expected to behave in a way that will contribute to a satisfactory resolution.

This Grievance Procedure does not form part of any employee's contract of employment and is entirely non-contractual. It may be amended, withdrawn, suspended or departed from at the discretion of the council at any time. Everyone should ensure that they take the time to read and understand the content of this procedure and act in accordance with its aims and objectives. If you need support reading and/or understating this procedure, please speak with your line manager.

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Who does this procedure apply to?

It applies to all Gloucester City Employees.
Member level hearings apply only to the Council's designated Statutory officers

What is a grievance?

A grievance is an employment-related concern, a problem or a complaint raised by an individual with their employer.

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Is this the right procedure to use?

Separate procedures exist to deal with matters relating to employee performance, conduct, pay and absence. The council also has procedures for dealing with issues that may or may not involve the employee's work, including policies dealing with financial irregularities, whistle-blowing, and the safeguarding of young people, children and vulnerable adults.

Further advice is available on Extranet for these procedures, and the HR advice line can offer advice on which procedure is the most appropriate in the particular circumstances.

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What should someone with a concern do first?

If a concern has arisen, it is in everyone's best interests to address it as early as possible and to give some thought as to how it could be constructively resolved.

If the concern involves a colleague or the employee's line manager, then the employee should consider raising it with them informally in the first instance. Otherwise, concerns should be raised with the line manager. In circumstances where this would be inappropriate, the complaint is about the line manager or where the manager has failed to take action the employee may informally approach the line manager's own manager instead.

Grievance Procedure

- Informing a manager of a grievance or concern can be done verbally in the first instance (and if appropriate followed up in writing using the grievance notification form (appendix 2) or
- In writing using the grievance notification form (appendix 2), and in doing so the employee should explain the grounds for their concern. The employee may seek the advice and support of their trade union.

The written grievance should contain a description of the nature of the complaint including any relevant facts, dates, names of individuals involved. In some situations the employee may be asked to provide further information.

Both the employee and the manager should approach a grievance with a view to problem-solving, rather than negatively or defensively, though this can be a natural first reaction. Demonstrating an open and positive approach provides the best chance of resolving a grievance informally, constructively and at an early stage.

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Is there an employee assistance program that can be accessed?

Yes, the Employee Assistance Program (EAP) which is independent of the council and can be contacted for support. Freephone 0800 174319 or visit <http://www.carefirst-lifestyle.co.uk/>. This service is available 24 hours a day, seven days a week. (Username and Password tbc)

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Is there any flexibility in the procedure?

The council will follow a fair and open procedure and in the event that the employee raises a grievance there may be occasions when the council considers it appropriate to change or omit parts of the procedure.

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What happens if an employee has a disability or difficulty in understanding English?

If an employee has difficulty at any stage of the procedure because of a disability or difficulty in understanding English, they should raise this with their manager in the first instance so they may assist as appropriate.

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What happens next?

The manager may need to do some initial fact finding in order to form an initial view of the concern, how much substance it might have, and how it may effectively be resolved. If the concern relates to another procedure which is underway, or would otherwise be more appropriately dealt with under another procedure, this should be explained to the employee.

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Grievance Procedure

Will a full investigation be carried out?

If the manager thinks there may be grounds for the employee's concern, then consideration should be given to how the situation is to be redressed, and any solution or outcome communicated to the employee. If there are no grounds for concern, then the reasons for this management view should be carefully explained to the employee and perhaps followed up in writing.

In some cases it may be necessary for an investigation into the employee's complaint/concerns to be undertaken. The degree of any investigation required will depend on the nature of the concerns and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/ or reviewing relevant documents. Members of staff may be asked to remain away from the office/ workplace for a period of time to allow for an investigation to be completed. Suspension on full pay could be enacted, where alternatives (e.g. temporary transfer to another location) are not reasonably practicable. Suspension will not be viewed as a disciplinary or other sanction, nor does it imply a view on the part of management of the "rights and wrongs" of the situation.

The investigation may be carried out by the line manager or someone else appointed by the council.

The employee must co-operate fully and promptly in any investigation. This may include informing the council of the names of any relevant witnesses, disclosing any relevant documents and attending investigative interviews if required.

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What if the employee is not content with the response?

The council may initiate an investigation before holding a stage 1 grievance hearing where the council considers this appropriate. In other cases a grievance meeting may be held before deciding what investigation (if any) to carry out. In such cases a further grievance meeting will be held with the employee before a decision is reached.

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What is management facilitation?

Most concerns should be resolved through discussion with the line manager. The line manager should consider and seek to facilitate a resolution of the concern. Where this hasn't resolved matters, the line manager can involve a third party, such as another or more senior manager to facilitate a resolution.

Management may propose many types of informal solution dependent on the concern, examples including workplace adjustments, corrective action or advice, a conversation with involved parties, or mediation. Facilitation should be followed by a conversation with the employee who raised the grievance, to check that they feel that the matter has been reasonably resolved.

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Grievance Procedure

What is mediation?

Mediation helps people who are having relationship difficulties at work to sort out their differences as soon as possible. The council can provide ACAS-trained mediators to manage the mediation process and act as impartial facilitators. Mediation is a voluntary process and enables parties who are not seeing eye to eye to work through their issues and find solutions.

If further information is needed about mediation and how this can be arranged, please contact HR.

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If informal action does not resolve the issue, what happens next?

The majority of grievances are resolved informally, but if not there are two formal stages potentially available, a stage 1 grievance hearing, which may be followed by a stage 2 - appeal hearing.

The employee who has not managed to achieve an informal resolution of their grievance should put their grievance in writing by using the grievance notification form (appendix 2) and submitting it to their manager with a copy for information to the council's HR Service.

The form should:

- Explain the problem (a description of the issue).
- State the actions taken to try to resolve the matter informally.
- Say what they want to happen or what they think will help constructively resolve the grievance (outcomes).

Where the grievance is against the line manager, the grievance should be submitted in writing by using the grievance notification form (appendix 2) to the manager's manager.

The manager (or his / her manager) will then write to the employee within seven calendar days detailing the arrangements made for the grievance hearing.

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Can the concerned employee be represented?

Employees may seek advice at any point, and can be represented by a trade union representative or a workplace colleague if the grievance reaches a formal stage.

Acting as a companion is voluntary and work colleagues are under no obligation to do so. A work colleague will be allowed reasonable time off from duties without loss of pay to act as a companion but they must provide their line manager with adequate notice of their intentions. If the employee's choice of companion is unreasonable as their attendance may prejudice the hearing; or they are unable to attend at the time and date allocated; and are not available within the next five working days; or they are from a remote geographical location; the council may use its discretion and ask the employee to choose someone else.

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Grievance Procedure

How much notice is given of a grievance hearing?

The employee should receive at least seven calendar days' notice of a formal grievance hearing or appeal, and is required to attend, unless the council agrees otherwise.

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What's the purpose of a formal grievance hearing?

The purpose of a grievance hearing is to enable the employee to explain their grievance and how they think it should be resolved, and assist the council to reach a decision based on the available evidence and the representations the employee has made. We may ask the other people involved to attend the hearing with a view to obtaining a resolution.

After an initial grievance hearing the council may carry out further investigations and hold further grievance meetings as considered appropriate. Such meetings will be arranged without unreasonable delay.

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Who will attend a formal stage 1 grievance hearing?

The hearing will be conducted by an appropriate manager who has had no direct prior involvement in the grievance; this will often be the line manager's manager. The employee who has raised a grievance, their TU Representative /workplace colleague and the line manager and/or person who has investigated the grievance will attend the formal stage 1 hearing.

Will there be a record of the hearing?

Yes, notes may be taken and a summary of the outcome of the hearing will be provided to the aggrieved employee and any other relevant parties within seven calendar days of the hearing. Employees are not permitted to make their own recording of a meeting without the knowledge of those present.

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Will the outcome letter be retained?

Yes, a copy of the outcome letter will be retained and placed on all the relevant employees' personnel file.

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What if the employee does not accept the proposed outcome?

Where an employee wishes to appeal against the decision reached at a stage 1 formal grievance hearing, they should notify their intention of appeal in writing (using the grievance appeal notification form, appendix 3), within 5 working days of the date of the stage 1 grievance hearing written response to the manager who issued the decision and copy in HR.

The employee should submit the **full** grounds for the appeal by completing the Grievance Appeal Notification Form within 14 calendar days of the grievance hearing, clearly stating why they feel the decision was wrong and why they continue to be aggrieved.

Grievance Procedure

This should include a copy of the Grievance Notification Form, the written response and copies of all relevant documentation.

The appeal must relate to the original grievance and no new matters may be introduced. The manager hearing the grievance appeal meeting will acknowledge receipt of the appeal notification within 7 calendar days and arrange to meet with the employee.

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Who will attend a grievance stage 2 appeal hearing?

The hearing will be conducted by an appropriate senior manager who has had no direct prior involvement in the grievance. The employee who has raised the grievance appeal, their TU Representative /workplace colleague and the manager who conducted the formal stage 1 meeting and produced the outcome letter will attend the meeting.

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Can the outcome be changed on appeal?

If an appeal meeting considers that either the finding or the resolution offered were unreasonable then it may change either or both. The appeal is conducted as a review of the reasonableness of the outcome following the first management hearing, but it is not a rehearing of the case. The decision at appeal will be final and there is no further right of appeal.

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What happens if several employees notify the same concern?

This is known as a 'collective grievance'. As with individual grievances, management should attempt to resolve collective grievances informally. It is important to note that participants in a collective grievance may have the same concern, but they may want it to be dealt with in different ways.

Employees submitting a collective grievance should nominate one of their number to act on behalf of them all. The employee will attend meetings and inform their colleagues of what transpires, though at the informal stage management may choose to involve more of the group as appropriate.

If it is not possible to resolve the matter informally the same process applies as for an individual grievance. This means there will be a management meeting and (if necessary) an appeal. The same rights to advice and representation apply as for an individual grievance.

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Grievance Procedure

Is there a different way to deal with a 'collective grievance'?

Yes. If the aggrieved parties prefer, they may request their trade union representative to take up the matter with the council on their behalf, rather than using this procedure. This would require the agreement of the trade union, who will discuss the matter with the appropriate manager (advised by HR) in the first instance. Management, in consultation with the union, will then determine how to take the matter forward.

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If the employee leaves before the grievance is resolved, what happens?

If the concern is one that could continue to affect council employees now or in the future then management may choose to pursue the matter. If not, it may be more appropriate to conclude the matter through an exchange of correspondence. In any case, the council will inform the (ex-) employee of the outcome. Individuals who have left the council have no right of appeal under this procedure.

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Can an individual raise a grievance after leaving the council?

There is no right to raise a grievance under this procedure after leaving the council's employment. However, if someone has a concern they wish to bring to the council's attention, they should put this in writing to their former line manager or to the council's HR service within one month of their leaving date. The council may consider the matter further at its discretion.

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Can an employee withdraw a grievance?

This will depend on the nature of the grievance and whether or not the Council believes that the matter still needs to be investigated.

An appeal against a grievance outcome may be withdrawn at any time

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Exclusions:

A grievance will be excluded from this procedure if management considers the matter is already being, or will be, dealt with more appropriately through other council procedures, and also in the following specific circumstances:

1. The grievance concerns the employee's grade or pension.
2. It concerns the substance (rather than the application) of national or local conditions of service or an express term of the contract of employment.
3. It is the same, or a broadly similar, grievance from the employee that has already been heard under this procedure.

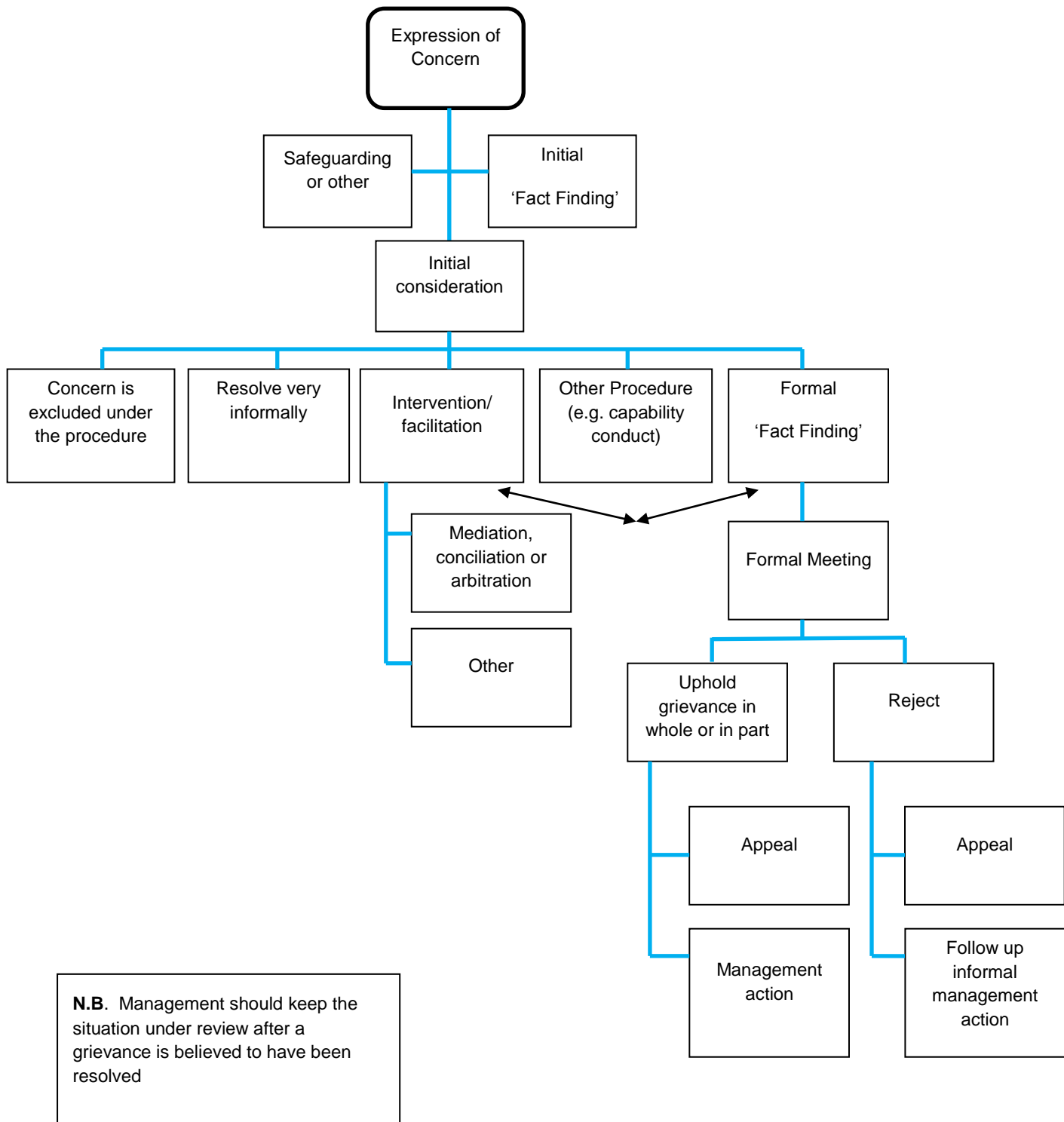
Grievance Procedure

4. The employee does not comply with time scales specified in the procedure, unless management has agreed to this.
5. It is the subject of a dispute between the council and the trade union(s).
6. The subject of the grievance, or the outcome an employee is seeking, is outside the control of the council.
7. The grievance is considered to be frivolous, vexatious or malicious. The Head of Human Resources may decide to exclude a grievance from this procedure if it is considered vexatious, malicious or not to have been raised in good faith and if this is considered to be amount to misconduct, the individual or individuals concerned may be subject to action under the disciplinary and dismissal procedure.

Grievance Procedure

Flowchart of grievance procedure

APPENDIX 1



Grievance Procedure

APPENDIX 2

Formal Grievance Notification Form

An employee and or their representative should use this form to raise a formal, stage 1 grievance under the council's Grievance Procedure. The form is designed to ensure the grievance is clearly understood at the outset and to assist in it being dealt with speedily and effectively.

1. EMPLOYEE DETAILS

First name:		Surname:	
Job title:		Location:	
Service:	Area:	Team:	
Email:		Telephone:	
Name of Line Manager:			

2. REPRESENTATIVE DETAILS

Please state clearly the name and contact details of any representative to be included as a point of contact for further information.

First name:		Surname:	
Email:		Telephone:	
Name of Trade Union (if applicable) or area/team of representative:			
Please identify any dates when you or your representative are not available to meet to discuss the grievance:			

3. THE FORMAL GRIEVANCE

Note: Please state clearly the full nature of your grievance in as much detail as necessary to assist the manager concerned reach a resolution. Describe the situation. If referring to specific incidents, please include (so far as you are able) details of dates, times places, witnesses and any other people involved in or adversely affected by the situation. State fully how you are, or will be, affected by the issue. State why you disagree with the Council's actions or intentions in the matter. If referring to specific incidents, please include (so far as you are able) details of dates, times, places and the people involved. If referring to documents please attach copies if possible or supply details for the council to be able to identify and locate a copy of the document mentioned. Please note the council may seek further information from you if it is considered necessary.

Grievance Procedure

Please continue on another sheet if necessary.

4. INFORMAL APPROACH

Have you attempted to resolve the matter informally? Y / N

If YES, what was the outcome and why you are not satisfied with the informal response.
If NO, please explain why you did not firstly use informal measures.

Please continue on another sheet if necessary.

5. OUTCOMES OR REMEDY SOUGHT

What resolution / outcomes are you seeking?

Please continue on another sheet if necessary.

Note: This will be the basis of your grievance throughout the formal procedure. Therefore, you may wish to seek advice from your representative prior to completion. It is important that the council knows at the outset what your complaint is, the reason that you believe the complaint is justified and the outcome you are seeking. The council may, at its discretion agree to amend the grounds of your grievance but reserves the right to decline to do so in any particular case.

Grievance Procedure

6. EMPLOYEE STATEMENT:

I have read the Council's Grievance Procedure and set out this grievance in accordance with its provisions.

Signature:	Date:
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On completion, please return this form to your line manager (in cases where the grievance is against the manager, to that person's manager) with a copy to be sent to HR for information. Please retain a copy for your own records

FOR COMPLETION BY THE RECEIVING MANAGER

Date form received:	
Manager's signature:	
Signed:	Date:

Grievance Procedure

APPENDIX 2

Formal Grievance Appeal Notification form

An employee and/or their representative should use this form to appeal a formal grievance under the council's Grievance Procedure. The form is designed to ensure the appeal is clearly understood at the outset and dealt with speedily and effectively.

1. EMPLOYEE DETAILS

First name:		Surname:	
Job title:		Location:	
Service:	Area:	Team:	
Email:		Telephone:	
Name of line manager:			

2. REPRESENTATIVE DETAILS

Please state clearly the name and contact details of any representative to be included as a point of contact for further information

First name:		Surname:	
Name of Trade Union (if applicable) or area/team of representative:			
Telephone:		Email:	
Please identify any dates when you or your representative are not available to meet to discuss the grievance appeal:			

3. REASONS FOR APPEAL

Date of Stage 1 grievance meeting:	Date response received:
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Note: Please state clearly the reasons why you are dissatisfied with the stage 1 grievance outcome in as much detail as necessary to assist the manager concerned to reach a resolution, continuing on a separate sheet if necessary. Describe in detail why you feel the decision was wrong and why you continue to be aggrieved. Please attach copies of all the documentation from the stage 1 grievance process.

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Grievance Procedure

Please continue on another sheet if necessary.

4. REMEDY OR OUTCOMES SOUGHT

What resolution / outcomes are you seeking?

Please continue on another sheet if necessary.

Note: This will be the basis of your appeal. Therefore, you may wish to seek advice from your representative prior to completion.

6. EMPLOYEE STATEMENT:

I have read the council's Grievance Procedure and wish to set out this appeal against the Stage 1 grievance outcome in accordance with its provisions.

Signature:

Date:

On completion, please return this form to your line manager (in cases where the grievance is against the manager, to that person's manager) with a copy to be sent to HR for information. Please retain a copy for your own records.

FOR COMPLETION BY THE RECEIVING MANAGER

Date form received:

Manager's signature:

Signed:

Date:

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