

# Public Document Pack



**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Committee:** Personnel Committee  
**Date:** Thursday 17 November 2022  
**Time:** 2.00 pm  
**Venue** Bodicote House, Bodicote, Banbury, OX15 4AA

## Membership

<b>Councillor Jason Slaymaker (Chairman)</b>	<b>Councillor Simon Holland (Vice-Chairman)</b>
Councillor Andrew Beere	Councillor Ian Corkin
Councillor Gemma Coton	Councillor Fiona Mawson
Councillor Lynn Pratt	Councillor Chris Pruden
Councillor Les Sibley	Councillor Amanda Watkins
Councillor Douglas Webb	Councillor Barry Wood

## AGENDA

### 1. Apologies for Absence and Notification of Substitute Members

### 2. Declarations of Interest

Members are asked to declare any interest and the nature of that interest which they may have in any of the items under consideration at this meeting.

### 3. Petitions and Requests to Address the Meeting

The Chairman to report on any requests to submit petitions or to address the meeting.

### 4. Urgent Business

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

5. **Minutes** (Pages 5 - 10)

To confirm as a correct record the Minutes of the meeting of the Committee held on 17 October 2022.

6. **Chairman's Announcements**

To receive communications from the Chairman.

7. **Policy Updates** (Pages 11 - 138)

Report of Chief Executive

**Purpose of report**

To seek approval from the Personnel Committee (PC) on proposed changes to existing HR policies.

**Recommendations**

The meeting is recommended:

1.1 to review and approve the following policies for implementation:

- Time Off for Dependents
- Capability Policy
- Disciplinary and Dismissal Policy
- Grievance Policy
- Organisational Change Policy
- Sickness Absence Policy

8. **Workforce Profile Statistics** (Pages 139 - 156)

Report of Chief Executive

**Purpose of report**

To provide the Personnel Committee with an update on Cherwell District Council's workforce including Key Performance Indicators for measuring staff well-being and to highlight the actions officers are taking to address any issues

**Recommendations**

The meeting is recommended to:

1.1 Review and note the workforce data for Quarter 2 of 2022/23 (Appendix one).

**Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.**

## **Information about this Meeting**

### **Apologies for Absence**

Apologies for absence should be notified to [democracy@cherwell-dc.gov.uk](mailto:democracy@cherwell-dc.gov.uk) or 01295 221534 prior to the start of the meeting.

### **Declarations of Interest**

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

### **Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates**

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

### **Evacuation Procedure**

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

### **Access to Meetings**

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

### **Mobile Phones**

Please ensure that any device is switched to silent operation or switched off.

### **Queries Regarding this Agenda**

Please contact Natasha Clark, Democratic and Elections [democracy@cherwell-dc.gov.uk](mailto:democracy@cherwell-dc.gov.uk), 01295 221534

**Yvonne Rees**  
**Chief Executive**

Published on Wednesday 9 November 2022

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## **Cherwell District Council**

### **Personnel Committee**

Minutes of a meeting of the Personnel Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 17 October 2022 at 4.00 pm

#### Present:

Councillor Jason Slaymaker (Chairman)  
Councillor Simon Holland (Vice-Chairman)  
Councillor Andrew Beere  
Councillor Ian Corkin  
Councillor Gemma Coton  
Councillor Fiona Mawson  
Councillor Lynn Pratt  
Councillor Chris Pruden  
Councillor Les Sibley  
Councillor Douglas Webb  
Councillor Barry Wood

#### Substitute Members:

Councillor Sean Woodcock (In place of Councillor Amanda Watkins)

#### Apologies for absence:

Councillor Amanda Watkins

#### Officers:

Claire Cox, Assistant Director Human Resources & Organisational Development Interim  
Susan Blunsden, Interim HR Manager  
Ian Boll, Corporate Director Communities  
Andrew Low, Assistant Director Property Interim  
Aaron Hetherington, Democratic and Elections Team Leader

#### Officers (virtual):

Yvonne Rees, Chief Executive  
Natasha Clark, Governance and Elections Manager

## 10 **Declarations of Interest**

There were no declarations of interests.

11 **Petitions and Requests to Address the Meeting**

There were no petitions or requests to address the meeting.

12 **Urgent Business**

There were no items of urgent business.

13 **Minutes**

The Minutes of the meeting of the Committee held on 30 May 2022 were agreed as a correct record and signed by the Chairman.

14 **Chairman's Announcements**

The Chairman advised that agenda items 9, Workforce Profile Statistics, and 10, Senior Management Team Structure, had originally been published as exempt reports. Following advice from the Monitoring Officer they were republished as public reports and the Committee would therefore consider them in public.

15 **Policy Updates**

The Chief Executive submitted a report which sought review and authorisation of HR policies, in line with the Terms of Reference of the Personnel Committee which set out that all new policies and changes to policies affecting staff must be reviewed and approved by the Committee prior to implementation.

In introducing the report to Assistant Director Human Resources and Organisational Development explained that CDC staff policies had not been reviewed for some time but were now on a rolling programme to ensure regular review. The policies for review had been prioritised based on changes in legislation and / or work practices.

**Resolved**

(1) That, having given due consideration, the following policies be approved and implemented:

- Family Friendly Policies:
  - Maternity
  - Paternity
  - Adoption Leave
  - Shared Parental Leave
  - Parental Leave
  - Time Off for Dependents
- Pension and Retirement Policy Statement

16 **Workforce Profile Statistics**

The Chief Executive submitted a report which provided the Cherwell District Council workforce profile statistics for information and review.

In introducing the report the Assistant Director Human Resources and Organisational Development explained that the introduction and development of the council's new HR and payroll system facilitated the production of workforce data. This was a starting point for the data and it was planned to include comparative data in the Quarter 2 report.

In response to Members' comments regarding if there were any reports regarding lessons learned and the impact on the employees of the pandemic that could be circulated to Members, the Chief Executive explained that no specific reviews had been undertaken due to capacity issues associated with decoupling from Oxfordshire County Council. A national review was being undertaken which CDC was monitoring. Going forward, there would

In response to Members' comments regarding the Assistant Director Human Resources and Organisational Development advised that this section fell under "sensitive data" which employees completed themselves and could respond "prefer not to say". Whilst employees were strongly encouraged to complete the information, it could not be mandated. The Chief Executive advised the Committee that going forward Personnel Committee meetings would be scheduled quarterly and each meeting would include an update on workforce statistics.

The Chairman reminded the Committee that this was a new report they would be receiving on a quarterly basis going forward. If there was any aspects they would like to see in the future they could advise him or the Assistant Director Human Resources and Organisational Development.

**Resolved**

- (1) That, having given due consideration, the workforce profile information and statistics be noted and it be recognised that this was a 'new start point' and the data provided would evolve over future reports.

17 **Permanent Senior Management Team Structure**

The Chief Executive submitted a report which sought approval to establish the permanent structural arrangements for the senior management team following the finalisation of the decoupling of the strategic partnership arrangements with Oxfordshire County Council (OCC). This report was further to the report to the Personnel Committee on 28 February 2022 which had set out the interim arrangement for the decoupling of the partnership between Cherwell District Council (CDC) and OCC.

**Resolved**

- (1) That the senior management team structure for the Council be approved.

18 **Exclusion of the Public and Press**

**Resolved**

That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business, on the grounds that they could involve the likely disclosure of exempt information as defined in paragraphs 1, 2, 3 and 4 of Schedule 12A of that Act.

19 **Proposed Restructure of the Growth & Economy Service**

The Corporate Director Communities submitted an exempt report which explained that in light of the decoupling of Cherwell District Council and Oxfordshire County Council, it had been necessary to review the needs of the Growth and Economy Service. The report outlined a proposed new structure for the Growth and Economy Service to ensure that it is in the best possible position and shape to tackle the challenges and opportunities in the future. The proposed restructure would be dealt with in accordance with the Council's Organisational Change policy.

**Resolved**

- (1) That the business cases be noted.
- (2) That progression to consultation be approved.

20 **Proposed Restructure of the Property Service**

The Corporate Director Resources submitted an exempt report which explained that in light of the decoupling of Cherwell District Council and Oxfordshire County Council, it had been necessary to review the needs of the Property Team. The report outlined a proposed new structure for the Property Team in order to ensure that it was fit for purpose and able to meet the needs of the business. The proposed restructure would be dealt with in accordance with the Council's Organisational Change policy.

**Resolved**

- (1) That the business cases be noted.
- (2) That progression to consultation be approved.



The meeting ended at 4.55 pm

Chairman:

Date:

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## **Cherwell District Council**

### **Personnel Committee**

**17 November 2022**

### **Policy Updates**

### **Report of Chief Executive**

This report is public

### **Purpose of report**

To seek approval from the Personnel Committee (PC) on proposed changes to existing HR policies.

### **1.0 Recommendations**

The meeting is recommended:

1.1 to review and approve the following policies for implementation:

- Time Off for Dependents
- Capability Policy
- Disciplinary and Dismissal Policy
- Grievance Policy
- Organisational Change Policy
- Sickness Absence Policy

### **2.0 Introduction**

- 2.1 The policies outlined above are the second tranche of policies officers are bringing to Personnel Committee for approval as HR systematically work through and refresh all HR-related policies.
- 2.2 UNISON are also provided with these documents for review and comment. Any feedback received will be shared at the PC ahead of these policies being approved.

### **3.0 Report Details**

- 3.1 The approach officers are taking to review all HR policies is to prioritise those needed to reflect changes in legislation and or work practices.
- 3.2 The Time off for Dependents Policy was approved by Personnel Committee in October 2022. However immediately following its implementation, a situation arose

that prompted the need to review the policy to include up to 5 days paid emergency family leave in extenuating circumstances such as if a dependent has a terminal or life-threatening illness.

- 3.3 The other policies are heavily legislative, so we sought external legal advice to ensure the Council was fulfilling its legal obligations in these areas and that the policies were sound.
- 3.3 The aim of the review was to simplify the content where possible, removing any unnecessary information and ultimately making them more user friendly for managers and employees to understand and follow them.
- 3.4 The table in Appendix 1 gives an overview of all the proposed changes for each policy.

## **4.0 Conclusion and Reasons for Recommendations**

- 4.1 Officers have updated the policies attached to this report to reflect current legislation and good practice but also to make them much more user friendly and attractive for existing and potential employees. For these reasons officers recommend the Committee approves the revised policies.

## **5.0 Consultation**

Unions are being consulted on the policies.

## **6.0 Alternative Options and Reasons for Rejection**

- 6.1 The alternative option would be to continue with the existing policies however officers have rejected this as the policies would not reflect current legislation or the Council's objectives of being an attractive, modern employer.

## **7.0 Implications**

### **Financial and Resource Implications**

- 7.1 In order to mitigate risk it is important that the Council operate with up-to-date policies. The update to these policies are anticipated to be minor and will be managed within existing budgets, as is currently the case.

Comments checked by:

Joanne Kaye, Deputy S151 and Strategic Finance Business Partner,  
[Joanne.kaye@cherwell-dc.gov.uk](mailto:Joanne.kaye@cherwell-dc.gov.uk), 01295 221545

### **Legal Implications**

- 7.2 This is in accordance with the programme for reviewing policies. There are no legal implications.

Comments checked by:  
Shiraz Sheikh, Assistant Director of Law, Governance and Democratic Services and  
Monitoring Officer, Shiraz.Sheikh@cherwell-dc.gov.uk

### **Risk Implications**

- 7.3 There are no risk management implications arising directly from this report. Any arising risks will be managed by the relevant service operational risk register and escalated to the leadership risk register as and when necessary.

Comments checked by:  
Shona Ware, Assistant Director – Customer Focus, 01295 221652  
[shona.ware@cherwell-dc.gov.uk](mailto:shona.ware@cherwell-dc.gov.uk)

### **Equalities and Inclusion Implications**

- 7.4 There are no EDI implications arising from this report. Officers have considered EDI implications in suggesting changes to the policies to ensure the council meets its statutory responsibilities under the Equality Act and the commitments in its equalities framework 'Including Everyone'. The policies also allow for some flex so they can be adapted to suit the situation and specific circumstances. Furthermore, the policies are regularly reviewed and updated to ensure they remain fit for purpose so any future EDI implications can be captured and mitigated against.

Comments checked by:  
Shona Ware, Assistant Director – Customer Focus, 01295 221652  
[shona.ware@cherwell-dc.gov.uk](mailto:shona.ware@cherwell-dc.gov.uk)

## **8.0 Decision Information**

### **Key Decision**

**Financial Threshold Met:** N/A

**Community Impact Threshold Met:** N/A

### **Wards Affected**

N/A

### **Links to Corporate Plan and Policy Framework**

N/A

## **Document Information**

### **Appendix Number and Title**

- Appendix 1 – Overview of changes to each policy
- Appendix 2 – Capability Policy
- Appendix 3 - Disciplinary and Dismissal Policy
- Appendix 4 - Grievance Policy
- Appendix 5 - Organisational Change Policy

- Appendix 6 - Sickness Absence Policy
- Appendix 7 - Time Off for Dependents

**Background papers**

None

**Report Author and contact details**

Claire Cox, Assistant Director of Human Resources

[Claire.cox@cherwell-dc.gov.uk](mailto:Claire.cox@cherwell-dc.gov.uk)

01295 221549

Document	Outline of changes
<p>Staff disciplinary and dismissal policy and procedures</p>	<p>General tidying up</p> <p>1.2 replaced the previous 1.2 and explains the purpose of the policy</p> <p>Added at 1.4 the procedure does not form part of any contract of employment</p> <p>Remove the original 1.4 as not needed.</p> <p>Removed 3. Rules</p> <p>Potential removal of Principals.</p> <p>Tighten up under Suspension, the line manager should provide updates on the case not the investigation officer.</p> <p>Additional information provided under 15.1.5 relating to ‘alternatives to dismissal’</p> <p>‘warnings’ moved within policy</p> <p>Remove Interview type questions to be in a different document or appendix</p>
<p>Disciplinary and Dismissal policy and procedure for statutory officers</p>	<p>General tidying up</p> <p>Update to Committee references</p> <p>Removal of reference to settlement agreements</p> <p>Review of references to relevant documentation</p>
<p>Capability Policy</p>	<p>Removal of section 1.1 however 1.3 is a much more detailed explanation on the purpose of the policy.</p> <p>Added this policy does not apply to agency staff workers, etc.</p>

	<p>Under stage two, more thorough explanation on process and what will happen.</p> <p>Proposal made to issue warnings for six months and remove existing timeframe.</p> <p>Overhaul of appeal process (prior to dismissal).</p>
Sickness Absence Policy	<p>17.1 Progression to Stage 2 may occur where: there has been a failure to meet the targets set out in Stage 1, an employee has two Stage 1 discussions within the previous 3 year period or where the total period of absence in any 2 year period exceeds 6 months</p> <p>14.9 Added a phased return will be over a four week period and if more it will be paid for the hours worked. The remaining hours would be unpaid or the employee can use annual leave, where available.</p> <p>Increased the time from 2 years to 3 years to cover when there has been two stage ones in a period.</p>
Grievance Policy	<p>General tidy up, simplifying it.</p> <p>Removal of grievance against Chief Executive – not needed,</p> <p>Removal of natural justice,</p> <p>Removal of 'After the investigation is complete'</p> <p>Too much detail, a lot of the deletions are because there was far too much detail in this policy.</p>
Employee code of conduct	<p>General tidying up</p> <p>References to other related documentation added, specifically the Constitution.</p>
Organisational Change	<p>General tidying up, minimal changes</p>
Time off For Dependents	<p>Addition of the following:</p>



	<p><b>Special Paid Leave</b></p> <p>In exceptional cases, Special Paid Leave of up to five days may be granted in any one leave year by the line manager to enable an employee to face an emergency situation or to cope with a critical situation involving a dependant / close family member / someone who depends on them.</p> <p>An example could be:</p> <ul style="list-style-type: none"><li>• Employees whose partner or close family member have a terminal/life threatening illness</li></ul> <p>Special paid leave is not suitable for situations where advance notice is given (i.e. to take a dependant to hospital for an appointment or planned school inset days).</p>
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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

# Capability Policy

**DOCUMENT CONTROL**

<b>Organisation(s)</b>	Cherwell District Council (CDC)
<b>Policy title</b>	Capability Policy
<b>Owner</b>	Human Resources
<b>Version</b>	1.0
<b>Date of implementation</b>	1 December 2022

**DOCUMENT APPROVALS**

This document requires the following committee approvals:

<b>Committee</b>	<b>Date of meeting pending approval</b>
Personnel Committee	17 November 2022

**DOCUMENT DISTRIBUTION**

This document will be distributed to all employees of Cherwell District

**DATE FOR REVIEW**

No later than 1<sup>st</sup> November 2025 but sooner if impacted by legislative changes.

**REVISION HISTORY**

<b>Version</b>	<b>Revision date</b>	<b>Summary of revision</b>

**CONTENTS**

1	Introduction	4
2	Exclusions	4
3	Principles	5
4	Responsibilities	5
5	Day to day management	6
6	Informal Stage	6
7	Formal Stage	7
8	First Stage	7
9	Second Stage	8
10	Third Stage	9
11	Formal Capability Hearing	9
12	Time Limit	10
13	Appeal	11
Appendix 1	Action Plan Template	
Appendix 2	Hearing order of proceedings	

### 1. Introduction

- 1.2 The Capability Policy provides a framework for dealing with cases where employees fail to achieve the performance standards expected of them due to lack of ability and where there is no evidence of deliberate misconduct by the employee.
- 1.3 The purpose of this procedure is to provide a framework within which managers can work with employees to maintain satisfactory performance standards and to encourage improvement where necessary. It provides employees with the opportunity to improve through a series of informal and formal stages. Failure to improve in a required timeframe could result in dismissal. Employees will not normally be dismissed for performance reasons without previous formal warnings. However, in serious cases of gross negligence, or in any case involving an employee who has not yet completed their probationary period, dismissal without previous warnings may be appropriate.
- 1.4 This procedure does not form part of any contract of employment or other contract to provide services and it may be amended at any time following consultation with trade union and subject to agreement from the Personnel Committee.

### 2. Exclusions

- 2.1 This policy applies to all employees of Cherwell District Council. However, the Council may depart from this procedure where appropriate (including but not limited to during an employee's probationary period). It does not apply to agency workers, consultants, self-employed contractors, volunteers or interns.
- 2.2 Those who are covered by a separate policy include:
- Chief Executive
  - Monitoring Officer
  - Section 151 Officer
- 2.3 The Capability Policy does not apply in the following circumstances:
- Cases of gross negligence will be dealt with in accordance with the Disciplinary Policy and Procedure.
  - Staff within their probation period will be subject to the Probationary Policy.
  - Cases of ill health should be dealt with in accordance with the Sickness Absence Policy.
  - Cases where the lack of capability may be due to disability or pregnancy, in which case advice should be sought from Human Resources.
- 2.4 Consideration should be made by managers as to whether an employee's poor performance might be health and/or disability related and whether reasonable adjustments should be made in accordance with the Equality Act 2010 to the employee's working arrangements, including changing their duties or providing additional equipment or training. The Council may also consider making adjustments to this procedure in appropriate cases.

### 3. Principles

- 3.1 All employees have a contractual duty to be competent and to perform their role in an acceptable way.
- 3.2 Where this is not happening, employers are entitled to intervene with a view to:
  - Improving the performance of the employee informally first.
  - Invoking the formal process if no satisfactory improvement is made or where the matter is deemed very serious.
- 3.3 If an employee fails to reach the required performance standards as a result of carelessness, negligence or idleness this will not constitute a capability issue but will be managed through the Council's Disciplinary Policy and Procedures.
- 3.4 The timescales adopted for the various stages of this policy will vary in accordance with the seriousness of the problem, and the nature of the work carried out by the post holder.
- 3.5 If following formal capability action, the employee's performance improves to a satisfactory standard they will no longer be monitored in accordance with the Capability Policy. However, if further unsatisfactory performance occurs whilst the warning is still live this Policy will be re-invoked at the next stage.
- 3.6 Employees will have the right to be accompanied at all formal meetings by a trade union representative or colleague.
- 3.7 Employees will be made aware of their right of appeal against any formal action taken in this procedure.
- 3.8 Under the Equalities Act 2010 managers are required to consider, and where practicable, make reasonable adjustments for employees with a disability.
- 3.9 The Council will deal with performance matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with a matter which is subject to this capability procedure.

### 4. Responsibilities

#### 4.1 Managers are responsible for:

- ensuring that performance issues are addressed promptly, fairly, and consistently.
- clearly explaining the shortfall between the employee's performance and the required standards.
- providing regular feedback on work performance.
- establishing the cause of the poor performance and any action which can be taken to help improve the situation.
- making reasonable adjustments in cases where the employee is not performing their duties satisfactorily due to health reasons.

- identifying any support services which might be required (e.g. the identification of a mentor, training or coaching, referral to Occupational Health or Counselling).
- ensuring that reasonable time limits and clear and measurable targets are agreed with employees to achieve the required standard of performance. During these time periods, performance must be closely monitored and recorded, and employees advised of any shortcomings and the degree to which performance must be improved. This may include reviewing the amount of supervision needed.
- maintaining clear records of difficulties encountered, assistance given, and any actions taken.
- setting a date for a review meeting.

### 4.2 **Employees are responsible for:**

- ensuring that they are aware of their responsibilities in their role.
- performing their duties to the required standard.
- engaging in any training and development that will enable them to reach the required standard.
- responding to corrective measures that are identified.
- familiarising themselves with the Council's policies and procedures.
- informing their manager of any issues which could be affecting their work.

### 5. **Day to day management**

- 5.1 Employees have a contractual responsibility to perform to a satisfactory level and should be given every help and encouragement to do so as part of day-to-day management. Supervision should include opportunities for the manager to provide training, support and feedback to the employee about their performance against the job role and targets.
- 5.2 Where under-performance is identified the manager should seek to provide appropriate training and support to assist the employee to rectify this.

### 6. **Informal stage**

- 6.1 Wherever possible, managers should seek to address any individual or minor performance problems as they occur on an informal basis. Only in serious cases should the informal action stage be omitted.
- 6.2 The manager should record their own notes of informal meetings held with the employee to ensure that there is evidence of discussions taken place and actions agreed as a result of the meeting. Notes of any such informal discussions will be ignored for the purposes of any future capability hearings.
- 6.3 Where performance continues to be unsatisfactory after day-to-day management, then the manager should seek to agree an informal action plan (appendix 1) of performance improvements. This may be incorporated in the employee's appraisal or can be in a separate document. If following a review of the action plan the manager feels that the employee's performance is still below standard it will be appropriate to proceed with the formal stages of this policy. The manager should seek advice from Human Resources.



### 7. Formal Stage

#### 7.1 Stage One

#### 7.2 First Stage - formal capability meeting

7.3 If following informal assistance, the employee's performance hasn't satisfactorily improved, or where the matter is serious, the Council will undertake an assessment or investigation to decide if there are grounds for taking formal action under this policy. If so, the employee will be invited in writing to attend a first stage formal meeting, where a HR representative will also be present. The employee will be offered the right to be accompanied and should be given five working days' notice of the meeting and its purpose in writing. The letter must include full details of the areas of under-performance identified by the line manager and the reasons for those concerns so that the employee can prepare for the meeting.

7.4 During the meeting the performance against any previous informal action plan will be discussed. Any additional capability issues must also be fully discussed and considered. The manager and employee should agree an action plan based on SMART objectives (Specific, Measurable, Achievable, Realistic, Time bound).

7.5 The line manager will chair the meeting and will explore whether there are any reasons for the under-performance. If necessary, consideration should be given to carrying out a referral to Occupational Health in parallel to the monitoring period. Only in exceptional circumstances will the process be halted pending the results of an Occupational Health referral.

7.6 Following the meeting, the line manager must write to the employee within five working days, notifying them of the outcome. If it is decided that the employee's performance is unsatisfactory, the Council will give the employee a first written warning setting out the areas in which the employee has not met the required performance standards, targets for improvement, measures to be implemented (such as training required), a period of review and the consequences of failing to improve within the review period. After the active period, the warning will remain permanently on the employee's personnel file but will be disregarded in deciding the outcome of future capability proceedings.

7.7 The employee must also be given a date for a review meeting so that they are aware how and when their performance will be reviewed.

7.8 The line manager will monitor and assess the employee's performance for an appropriate period of time (long enough to overcome any barriers previously identified). The line manager will arrange regular feedback / 1-2-1 sessions, in private, and not wait until the end of the review period.

#### 7.9 First Stage - formal capability review meeting

7.10 At the end of the first stage monitoring period, the manager and a HR representative will meet with the employee to review progress. The employee will be offered the right to be accompanied and should be given five working days' notice of the meeting and its purpose in writing. The line manager will give a clear indication of the outcomes of the monitoring

process, and identify any progress made and any further improvements needed. The employee should be allowed to respond to the outcomes of the monitoring process and have the opportunity to ask questions.

7.11 The line manager must decide based on the discussions and progress what action is appropriate. Available options include:

- No further formal monitoring under the Capability Policy as the employee's performance has improved sufficiently. In this situation a record of the first stage capability action will be held on the employee file for a period of one year and if performance becomes unacceptable during this time then the second stage of the policy will be invoked.
- Progression to the second stage of the Capability Policy if no significant improvement is evident.
- An extension of the review period

7.12 The line manager must write to the employee informing them of the decision. If the second stage of the policy is to be invoked the letter should provide details of the further improvements in performance required and also set a date for the second stage review meeting. The letter should also warn the employee that if the required improvement in their performance is not achieved then following a stage two review they may progress to a formal hearing where one outcome could be dismissal.

7.14 The employee has the right of appeal against this decision; however, the second stage will commence immediately, and will only be halted in circumstances where an appeal is received.

## 8.0 **Stage Two**

### 8.1 **Second Stage - capability review meeting**

8.2 If the employee's performance does not improve within the review period set out in a first written warning / improvement note, or if there is further evidence of poor performance while the employee's improvement note is still active, the Council may decide to hold a Stage 2 capability meeting.

8.3 At the end of the second stage monitoring period the line manager and a HR representative will meet with the employee to review progress. The senior manager (line manager's manager) not involved in the first stage should chair the meeting. The employee will be offered the right to be accompanied and should be given five working days' notice of the meeting and its purpose in writing.

8.4 If the line manager decides that the employee's performance is unsatisfactory, the employee will be given a final written warning setting out the areas in which the employee has not met the required performance standards, targets for improvement, measures to be implemented (such as training required), a period of review and the consequences of failing to improve within the review period. A final written warning will normally remain active for 12 months. After the active period, the warning will remain permanently on the employee's

personnel file but will be disregarded in deciding the outcome of future capability proceedings.

8.5 The employees performance will be monitored during the review period and the line manager will then decide based on the discussions and progress what actions are appropriate. Available options are:

- No further formal monitoring under the Capability Policy but a record of the Second Stage Capability Action will be held on the employee file for a 12 month period and if performance becomes unacceptable during this time then the Third Stage will be invoked.
- To extend the monitoring period, only in exceptional cases, where good improvement is evident, but the employee has just fallen short of the required performance standards.
- Progress to the Third Stage of the Capability Policy if no significant improvement is evident.

### 9.0 **Stage Three**

#### 9.1 **Formal Capability Hearing**

9.2 Where an employee has failed to reach the required standards of performance or conduct required for their position after previous stages of the Capability Policy, they should be invited to a formal capability hearing.

9.3 The Council may decide to hold a Stage 3 formal capability hearing if it has reason to believe:

- (a) the employee's performance has not improved sufficiently within the review period set out in a final written warning.
- (b) the employee's performance is unsatisfactory while a final written warning is still active, or
- (c) the employee's performance has been grossly negligent such as to warrant dismissal without the need for a final written warning.

9.4 The employee should be invited in writing to attend the capability hearing and be given five working days' notice of the hearing. The letter should state the reasons why they have fallen short of the required standards, the reasons for the concerns and should advise them that a possible outcome of the capability hearing could be dismissal.

9.5 Any documents or other evidence which will be considered during the capability hearing must be provided to the designated hearing manager and the employee at least five working days prior to the hearing. The employee will also be provided with, where appropriate: a summary of the relevant information gathered as part of any assessment or investigation and/or a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case the employee will be given as much information as possible while confidentiality is maintained.

- 9.6 The employee will have a right to be accompanied at the meeting by a work colleague or trade union representative. The employee's companion may make representations, ask questions and sum up the employee's case, but will not be permitted to answer questions behalf of the employee.
- 9.7 If the employees' companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days, the Council may require the employee to choose someone else.
- 9.8 The Council may, at its discretion, allow the employee to bring a companion who is not a colleague or trade union representative (for example, a member of the employee's family) where this will help overcome a particular difficulty caused by a disability, or where the employee has difficulty understanding English.
- 9.9 The hearing will be chaired by an independent designated manager who will be assisted by an HR representative. Neither should have been involved in previous stages of the process.
- 9.10 The employee may ask relevant witnesses to appear at the hearing, provided the employee provides the Council with sufficient advance notice to arrange the attendance of the witnesses. The employee will be given the opportunity to respond to any information given by a witness.
- 9.11 If it is found that the employees' performance is unsatisfactory the Council may consider a range of options including:
- (a) dismissal (with full notice unless performance has been so negligent as to amount to gross misconduct)
  - (b) demotion or redeployment into another suitable job at the same grade
  - (c) extending an active final written warning and setting a further review period (in exceptional cases where the Council believe a substantial improvement is likely within the review period); or
  - (d) a final written warning (where no final written warning is currently active).
- 9.12 If there are reasons for conducting any capability hearing remotely (for example, by using remote working platforms or technologies), the Council will provide those reasons to the employee and notify the employee of the relevant arrangements and instructions for joining the capability hearing. The use of remote working platforms or technologies may not be appropriate (for example, where an employee has a hearing condition or does not have access to relevant equipment or software). In these cases, the capability hearing will take place in person where possible.
- 9.13 If the employee, or their witnesses, are unable to attend the capability hearing, they should inform the Council immediately so that an alternative date and time for the hearing can be arranged. An employee must make every effort to attend the capability hearing, and failure to attend without good reason may be treated as misconduct. If the employee fails to attend without good reason or are persistently unable to do so (for example, for health reasons), the Council may have to take a decision at the capability hearing based on the available evidence including any written representations the employee has made.

### 10. Time Limits

10.1 Copies of formal capability action will be held on an employee's personal file and will be marked as 'spent' after the following periods:

- Stage One - Capability action 6 months
- Stage Two - Capability action 12 month

### 11. Appeals

#### 11.1 Appeals against the first and second stages

11.2 Employees will be advised in writing about their right to appeal against the outcome of the first or second stage of the process. The letter will detail who the appeal should be addressed to. If the employee considers that a decision about poor performance under this policy and procedure is wrong or unjust, they should appeal in writing stating their full grounds of appeal to the Assistant Director – Human Resources. The employee's notice of appeal shall include a statement in writing of the grounds on which they wish to challenge the decision and must be made within five working days of receipt of the outcome.

11.3 Appeals against warnings shall be considered by the Assistant Director – Human Resources and assigned to an independent Manager.

11.4 Appeal hearings for warnings will normally take place within fifteen working days of receipt of the employee's written notice of appeal where possible.

11.5 If the outcome of the second stage is that the manager recommends the disciplinary policy is invoked, during the disciplinary process the employees will not be able to appeal in respect of this outcome. However, the employee will be able to appeal against any decision or sanction made at the disciplinary hearing.

#### 11.6 Appeals against the third stage formal hearing

11.7 Employees will be advised in writing about their right to appeal against the outcome of the third stage of the process. The letter will detail who the appeal should be addressed to. If the employee considers that a decision about poor performance under this policy and procedure is wrong or unjust they should appeal in writing stating their full grounds of appeal to Assistant Director - HR. The employee's notice of appeal shall include a statement in writing of the grounds on which they wish to challenge the decision and must be made within five working days of receipt of the outcome.

11.8 Appeals against dismissal shall be considered by elected members (in accordance with the Council's Disciplinary Policy). The date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the employee's appeal is successful, the employee will be reinstated with no loss of continuity or pay.

11.9 Appeals against any other outcome of the third stage will be heard in accordance with the procedures for Stages One and Two.

- 11.10 If the employee raises any new matters in their appeal, the Council may need to carry out further investigation. If any new information comes to light, the Council will provide the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing.
- 11.11 The Council will give the employee written notice of the date, time and place of the appeal hearing. This will normally be two to seven days after the employee receives the written notice.
- 11.12 The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the Council's discretion depending on the circumstances of the employee's case. In any event, the appeal will be dealt with as impartially as possible.
- 11.13 Where practicable, the appeal hearing will be conducted by a senior manager who has not been previously involved in the case. A member of the HR team and manager who conducted the capability hearing will also usually be present.
- 11.14 A hearing may be adjourned if the Council need to gather any further information or give consideration to matters discussed at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 11.15 Following the appeal hearing the Council may:
- (a) confirm the original decision.
  - (b) revoke the original decision; or
  - (c) substitute a different penalty.
- 11.16 The Council will inform the employee in writing of the final decision as soon as possible, usually within one week of the appeal hearing. We will aim to inform you of the final decision in person where possible. There will be no further right of appeal.

Appendix 1 Action Plan

Development area	Specific requirement	Measure of success	Timeframe	Progress/comments

Page 31

Employee signature:

Date:

Manager signature:

Date:

## Appendix 2

### Hearing Order of Proceedings

#### Opening

The designated officer should begin by explaining how the hearing will be carried out.

#### The Capability issue

At the hearing the line manager will explain the capability issues and the outcomes of the formal monitoring process.

#### Right to reply

The employee will be invited to respond to the management presentation and state their case. The employee should also be given a reasonable opportunity to ask questions and seek clarification.

#### Summing up

After questioning is completed the designated officer will summarise the main points of the discussion and will ask the employee to sum up and add anything further they wish to say.

#### Adjournment

The designated officer will then adjourn the hearing before a decision is taken about whether a sanction is appropriate. This allows time for reflection and proper consideration.

#### More matters come to light

If new matters come to light in the course of a hearing, not being matters which could have been previously raised by the employee, the hearing shall be adjourned if requested by either the management or the employee side to investigate the new facts and the hearing will be reconvened when this has been done. The employee will be given a reasonable opportunity to consider any new information obtained before the capability hearing is reconvened.

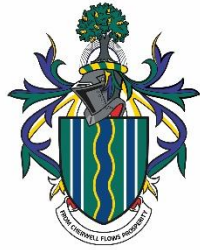
#### Penalty/Sanction

The designated officer will consider why any measures previously taken have not led to improvement and may identify whether there are measures that could be taken which may improve the employee's performance. If it is decided that, on the balance of probability, the employee's performance has been poor and is unlikely to reach an acceptable standard the appropriate sanction will be considered.

If dismissal is a possibility, the designated manager should also establish whether there is any likelihood of a significant improvement being made by the employee within a reasonable time and whether there is any practical alternative to dismissal, such as redeployment.

At the end of the hearing the designated officer should inform the employee of the outcome. The outcome of the capability hearing should then be confirmed in writing to the employee.





# Disciplinary Policy and Procedure

**DOCUMENT CONTROL**

<b>Organisation(s)</b>	Cherwell District Council (CDC)
<b>Policy title</b>	Disciplinary Policy and Procedure
<b>Owner</b>	Human Resources
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**DOCUMENT APPROVALS**

This document requires the following committee approvals:

<b>Committee</b>	<b>Date of meeting pending approval</b>
Personnel Committee	17 November 2022

**DOCUMENT DISTRIBUTION**

This document will be distributed to all employees of Cherwell District Council.

**DATE FOR REVIEW**

No later than 1<sup>st</sup> December 2025 but sooner if impacted by legislative changes.

**REVISION HISTORY**

<b>Version</b>	<b>Revision date</b>	<b>Summary of revision</b>

<b>Contents</b>	<b>Page</b>
1 Introduction	5
1.2 Rules	5
2 Scope	6
3 Employee's responsibilities	7
4 Support for employees and managers	7
5 The policy stages	7
6 Informal action	8
7 Suspension	8
8 Formal stage	10
8.2 Adjustments to the Procedure	10
9 Investigation	10
9.2 Investigations relating to staff other than Directors	10
9.4 Investigations relating to Directors	10
9.6 The investigation process	11
10 The disciplinary hearing	12
11 The disciplinary panel	13
11.1 The disciplinary panel relating to staff other than Directors	13
11.2 The disciplinary panel relating to Directors	13
11.3 Roles of all parties involved in a disciplinary hearing	13
12 The disciplinary hearing process	14
13 Disciplinary sanctions	15
13.2 Warnings	17
13.4 Examples of misconduct	17
13.5 Examples of gross misconduct	17

14	Disciplinary action of Trade Union representatives	18
15	Raising a Grievance during disciplinary action	19
16	Suspicion of criminal behaviour	19
17	Criminal proceedings during disciplinary action	19
18	Criminal charges or convictions / Inappropriate actions outside of work	19
19	Fraud and investigations	19
20	Right of appeal	19
21	Appeal outcomes	21
22	Disciplinary records	22
	<b>Appendix 1: Guidance to conducting a disciplinary investigation</b>	24
	<b>Appendix 2: Guidance to reaching a disciplinary outcome</b>	26
	<b>Appendix 3: Disciplinary appeal form</b>	28

### 1 Introduction

Cherwell District Council's Disciplinary Policy and Procedure applies to employees only. It does not apply to agency workers, consultants, self-employed contractors, volunteers or interns.

Disciplinary rules and procedures are necessary for encouraging fairness and consistency in the treatment of people at work. It is recognised that effective performance monitoring and managerial support should reduce the need for formal disciplinary action.

- 1.1 The purpose of this policy and procedures is to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and the aim of both informal and formal disciplinary measures is to improve the performance of an employee with a view to helping them to fulfil their duties and responsibilities successfully. The standards of conduct expected of all employees are set out in the Employee Code of Conduct Policy which is available from the intranet and the Council's corporate rules are contained in the contract of employment and in employment policies and procedures.

#### 1.2 Rules

Rules are needed to set standards of conduct for employees to follow. At the Council corporate rules are contained in the contract of employment and in employment policies and procedures. They may be supplemented by other rules or requirements particular to a service area. Rules will kept to a minimum but will include (not an exhaustive list):

- Attendance or timekeeping
- Absence
- Damage to Council property
- Discrimination
- Harassment or bullying
- Health and Safety
- Smoking on Council property, including vehicles (except for designated smoking areas)
- Unreasonable failure to follow an instruction issued by a manager or supervisor
- Unsatisfactory work performance (where this isn't classified as capability).

- 1.3 The procedures are designed to help the Council deal consistently with disciplinary issues and to give employees the opportunity to respond before any formal action is taken.

- 1.4 These procedures do not form part of any contract of employment or other contract to provide services, and the Council may review and this document from time to time following consultation with UNISON and subject to agreement with the Personnel Committee may make changes to the content. Changes may result from employee, management and UNISON feedback and/or from changes in employment legislation.

- 1.5 Employees will be advised of the nature of any complaint against them, and they will have the opportunity to explain.
- 1.6 Employees will be given the opportunity to state their case and be represented or accompanied by a colleague or Trade Union representative of their choice.
- 1.7 Employees will not normally be dismissed for a first breach of discipline except in the case of gross misconduct.
- 1.8 Employees will have a right of appeal against any disciplinary penalty or action taken.
- 1.9 The level of warning issued by a manager (or committee in the case of Senior Officers) will depend on the severity of the misconduct. The sanction for gross misconduct will normally be dismissal without notice and without pay in lieu of notice.
- 1.10 Where an employee's record shows a pattern of recorded disciplinary issues, e.g. repeated misconduct occurring once a live warning has lapsed, the Council may consider extending the duration of any warning or escalating any new action against the employee to the next stage of the policy (i.e. as if the prior live warning had not lapsed).
- 1.11 Timescales for meetings, appeals etc, may be varied by mutual agreement. The intention is to avoid unreasonable delay but to allow for reasonable flexibility.
- 1.12 All matters relating to this procedure must be treated as confidential.

## **2 Scope**

This policy, the procedures and the accompanying guidelines apply to all employees of Cherwell District Council. The policy and procedures do not apply to casual workers, agency workers, consultants, self-employed contractors, volunteers or interns. Neither do they apply to those which hold the statutory roles of Chief Executive, Monitoring Officer and Finance Section 151 Officer for which separate statutory procedures apply.

- 2.1 This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases, reference should be made to the appropriate policy or procedure.
- 2.2 The Council will consider disciplinary action against an employee for actions inside or outside of work which may have a bearing on an employee's continued employment or on the reputation of the Council. Employees must notify their managers immediately of any charge or conviction.
- 2.3 The day-to-day supervision of employees is part of the normal managerial process and is outside the scope of this procedure. Any shortcomings should be brought to the employee's attention as soon as possible in an effort to achieve an improvement in an informal way. Minor conduct issues can often be resolved between the employee and their line manager. Issues arising as a result of misconduct/negligence will be dealt with

under this policy and procedures. Issues which relate to poor performance as a result of a lack of capability will generally be dealt with under the Council's Capability Policy.

- 2.4 Disciplinary matters are dealt with sensitively by the Council and all employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

### 3 Employee's responsibilities

All employees have a responsibility to:

- Take full accountability for their actions and inactions
- Maintain expected and reasonable levels of attendance and performance at work
- Respect and work in line with the Council's Code of Conduct
- Attend and participate in relevant meetings
- Comply with the Council's policies
- Conform with any Council or statutory rules or agreements applicable to their role
- Maintain a reasonable standard of behaviour acceptable to management and other employees including behaviour as outlined in the Code of Conduct and in line with the Equal Opportunities policies.

### 4 Support for employees and managers

- 4.1 Employees may contact HR for support and guidance about the disciplinary procedure.
- 4.2 UNISON is also able to offer support and guidance to employees who are members of the union and who are facing potential disciplinary action.
- 4.3 Our Employee Assistance Programme provide a 24/7 counselling and information service to assist employees with personal or work-related problems.
- 4.4 If an employee has difficulty at any stage of the procedure because of a disability, they should discuss the situation with their manager or HR as soon as possible.
- 4.5 Managers should contact HR in respect of all potential disciplinary action.

### 5 The policy stages

- 5.1 The possible stages of the disciplinary procedure are as follows:

- Informal action
- Suspension
- Formal stage, including:
  - Stage 1 Oral recorded warning
  - Stage 2 Written warning
  - Stage 3 Final written warning
  - Stage 4a Dismissal with pay or with pay in lieu of notice
  - Stage 4b Summary dismissal

5.2 In exceptional circumstances as part of the Formal stage, alternatives to dismissal may also be considered, at the Council's discretion.

### **6 Informal action**

6.1 In the course of day-to-day activities there will be occasions when managers will need to advise employees informally of minor breaches of discipline. Minor conduct issues can often be resolved informally between the employee and their manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Managers should record any such informal action for their own reference as information will not be placed on the employee's personal file. In some cases, an informal verbal warning may be given. An informal warning will not form part of the employee's disciplinary records. Formal steps will then be taken under this policy and procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

6.2 Mediation may be used as an alternative way of managing a situation informally. This does not preclude the use of formal disciplinary procedures.

### **7 Suspension**

7.1 The Council may decide to suspend an employee pending an investigation. The suspension will be for no longer than is necessary to investigate any allegations of misconduct against the employee or so long as is otherwise reasonable while any disciplinary proceedings against the employee are outstanding. A manager or supervisor may, in exceptional circumstances, send an employee home pending a decision about suspension rather than suspend immediately.

7.2 The Council will confirm the arrangements of the suspension to the employee in writing. While suspended the employee should not visit Council premises or contact any of the Council's clients, customers, suppliers, contractors or staff, unless the employee has been authorised to do so by manager.

7.3 Suspension is not a disciplinary measure, and is not pre-judging the allegations, the outcome of a disciplinary investigation or possible disciplinary hearing. It is a means by which the Council can protect its interests, and those of its employees, while an investigation takes place. Any such suspension will be with full basic pay.

7.4 The decision to suspend an employee will normally be the responsibility of the Director of HR (or delegated other HR representative) and/or the Monitoring Officer, in conjunction with the employee's manager.

7.5 The duration of the suspension will vary according to the situation, but timescales will be as short as reasonably possible, and the employee will be given weekly updates by their manager. A log should be kept by the manager of any communications made between the employee and the Council.



- 7.6 The suspension of an employee should take place on a face-to-face basis at a meeting. Where it is not possible to meet with the employee face-to-face, ideally a conversation with the employee should be held via telephone or video conference call to inform them of their suspension. Written confirmation should then be given to the employee concerned as soon as is reasonably possible either at the meeting or immediately afterwards confirming the suspension is on full pay and the review date.
- 7.7 If suspension of an employee is contemplated, alternatives should always be considered, such as a temporary relocation or reallocation of duties, or a short 'cooling off period' (e.g. the remainder of the working day), or, if repetition of the offence is possible, enhanced supervision or monitoring of the employee. Where suspension has taken place, it should be reviewed at regular intervals during the investigation to see if it is appropriate to keep it in place. Any decision to end a suspension before an agreed end date will be made by the manager who actioned the suspension and should be done in consultation with HR.
- 7.8 Suspension should be considered on the following grounds:
- 7.8.1 The allegations could constitute gross misconduct.
  - 7.8.2 The continued presence at work of one or more of the employees involved would impede a full and impartial investigation (e.g. they may have access to certain records, contact with other employees who may be associated with the investigation or may be likely to sabotage the investigation deliberately).
  - 7.8.3 There is considered to be a chance of a recurrence of the alleged offence.
- 7.9 During the period of suspension, the employee remains employed by the Council, but they are not required to attend work. They are not otherwise required to carry out any of their normal duties and should not attend the workplace unless authorised by their manager to do so or invited to attend meetings in line with the disciplinary process. They must, however, be contactable and available to attend work if required and should not undertake any outside work of any nature during normal working hours including out of hours/standby rota duties or overtime. They must also be available to participate in the investigatory process.
- 7.10 Where the Investigation Officer has reason to believe that the employee concerned has committed a criminal offence, they will immediately inform the Monitoring Officer who will decide whether to report the matter to the police.
- 8 Formal stage**
- 8.1 Where a manager feels that an allegation about an employee's attitude/conduct or performance is serious enough to warrant an investigation s/he should follow the formal disciplinary procedure as outlined within this policy.

### 8.2 **Adjustments to the Procedure**

When following the formal disciplinary procedure managers are required under the Equalities Act 2010 to make reasonable adjustments for employees with a disability. Where a manager is already aware that an employee has a disability or believes this to be the case they should work closely with HR before taking any disciplinary action, seeking advice from the Council's occupational health advisers if necessary.

## 9 **Investigation**

9.1 Prior to any potential disciplinary action, an investigation will be conducted into the allegations of misconduct by an appointed Investigation Officer. The matter must be investigated in order to ascertain, so far as is reasonably practicable in the circumstances, a fair and balanced view of the facts relating to any disciplinary allegations against the employee, before deciding whether to proceed with a disciplinary hearing.

Investigation meetings are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

### 9.2 **Investigations relating to staff other than Directors**

For all posts other than Directors, the Investigation Officer will be appointed by the Assistant Director of HR or the Monitoring Officer (if the investigation implicates members of the HR team and independence is required). All Investigation Officers will have been trained in undertaking investigations.

9.3 The Investigation Officer should be at a level either equivalent to or higher than the employee being investigated. The Investigation Officer will usually be an employee of the Council who will not have a conflict of interest that might prejudice a fair hearing. An external workplace investigator may be appointed where it is considered necessary.

### 9.4 **Investigations relating to Directors**

The decision to conduct an investigation into the alleged misconduct of a Director must be made by a special meeting of the Personnel Committee.

9.5 The investigation should be undertaken by the Monitoring Officer or an external Independent Investigation Officer appointed by the Personnel Committee. Investigation Officers will be supported by a member of HR to ensure the process is followed correctly and to provide any advice.

### 9.6 **The investigation process**

Generally employees will be informed that an investigation is to take place, however in some circumstances (e.g. potential fraud), it may be appropriate not to inform the employee at the commencement of the investigation. If necessary, covert surveillance may be used subject to consultation with the Monitoring Officer, Governance team and following the completion of a privacy impact assessment in accordance with the

Information Commissioner's guidance on the monitoring of employees. In exceptional circumstances, the use of surveillance will be sanctioned by the Monitoring Officer (in consultation with the Governance team and HR) giving reasons why its use is necessary.

- 9.7 Where the alleged disciplinary matter is straightforward, the investigation may be brief and ideally take no longer than 28 working days. In more complex situations, investigations are likely to take longer and employees will be kept apprised of progress by their manager or the Investigation Officer on a weekly basis. The employee will be advised in writing should any additional allegations arise during an investigation.
- 9.8 The Investigation Officer will interview the employee(s) and any witnesses. The employee and witnesses do not normally have the right to bring a companion to an investigation meeting. However, the Council may allow a companion to accompany the employee if it is considered suitable and reasonable in the circumstances, for example to help the employee overcome any disability or any difficulty in understanding English.
- 9.9 In conducting the investigation, the Investigation Officer should ensure that they have spoken to the employee and all relevant witnesses. The employee and all witnesses will be given an opportunity to review their interview notes. They will also be able to provide documentation that they consider is relevant to the matters being investigated.
- 9.10 Once the investigation is complete the Investigation Officer will write a report on his/her findings and present it to the employee's Director or Monitoring Officer (if appropriate). This person may, upon seeing the results of the investigation, decide that there is no case to answer and therefore no reason to convene a disciplinary hearing. Alternatively, it may be decided that a disciplinary hearing should be convened.
- 9.11 The Employee and witnesses should be made aware that a record of their interview note will form part of the overall investigation report and that the report might also be used in internal and external reporting and processes. They will also be informed that they may be called to attend any subsequent disciplinary hearing and the full investigation report may be made available to all involved in the disciplinary procedure.
- 9.12 It is not the role of the Investigation Officer to recommend any level of disciplinary action, but they should present full findings to enable the manager receiving the investigation report to decide whether any further action should follow as a result of the investigation.
- 9.13 The manager who has reviewed the investigation report will deliver the outcome to the employee at a meeting if it is deemed appropriate, but any outcome will also be confirmed in writing to the employee. A copy of the investigation report may be attached.

## 10 Disciplinary hearing

- 10.1 Should a disciplinary hearing be required the employee will be informed in writing of the following:
- 10.1.1 Details of the allegations made, and whether they are being considered as gross misconduct.
  - 10.1.2 The basis for the allegations.
  - 10.1.3 What the likely range of consequences will be if the Council decide after the disciplinary hearing that the allegations are well-founded.
  - 10.1.4 The date, time and place of the disciplinary hearing (giving the employee at least five working days' notice).
  - 10.1.5 The name of who will chair the hearing and the individuals that will form part of the panel or committee.
  - 10.1.6 Their right to be accompanied to the hearing by a work colleague or trained trade union representative.
  - 10.1.7 A summary of relevant information gathered during the investigation.
  - 10.1.8 That they will be supplied with copies of any documents to be referred to in the hearing at least two working days in advance of the hearing OR at the time of Committee agenda publication.
  - 10.1.9 That they will receive a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case the Council will provide as much information as possible to the employee while maintaining confidentiality.
  - 10.1.10 That they must submit any documents supporting their response to the allegations to the relevant member of the HR team at least two working days in advance of the hearing OR prior to Committee agenda publication, so that these documents can be referred to in the hearing.
  - 10.1.11 Reminding the employee about the disciplinary policy by providing a copy of the document.
  - 10.1.12 Their right to bring their own witnesses, providing that the Council has been told of the names of the witnesses in advance of the hearing. The witnesses should be given at least two days' notice of the requirement to attend the hearing.
  - 10.1.13 That is the employee is found to have committed misconduct, the Council may decide to issue them with either a written warning, a final written

warning or dismiss them (with notice, pay in lieu of notice or without notice if gross misconduct has been committed).

10.1.14 That the employee has the right to appeal the outcome of the disciplinary hearing.

10.2 The hearing should be held as soon as possible after the investigation. The purpose of a disciplinary hearing is to establish the facts of the case, and to decide what further action (if any) should be taken.

10.3 If the hearing needs to be held remotely, the Council will provide the reason why and notify the employee of the relevant arrangements to join the hearing virtually.

## 11 The disciplinary panel

### 11.1 The disciplinary panel relating to staff other than Directors

The disciplinary panel will consist of two officers: a Chair and a HR Business Partner.

### 11.2 The disciplinary panel relating to Directors

The disciplinary panel will be members of the Personnel Committee.

### 11.3 Roles of all parties involved in a disciplinary hearing

**Chair** – a manager authorised to hear the case, possibly from a different service team and more senior in position than the employee.

Whoever is intending to chair the hearing must have been appropriately trained in discipline handling and must have delegated authority as defined in the Constitution of the employing authority to determine the appropriate sanction if action is considered necessary.

The person who chairs the hearing will not be a person who will have been involved in any previous investigation or disciplinary hearing concerning the employee.

**Employee** – opportunity to state their case, answer the allegations, call any relevant witnesses and ask questions of any witnesses.

**Investigation Officer** – appointed by Human Resources and appropriately trained, they will present their investigation findings to the Chair as part of the management case.

For Directors the Investigation Officer will be determined by Personnel Committee who may nominate an external Independent Investigation Officer.

**Witness** – a person invited by the employee or the Investigation Officer to give their statement of events relating to the allegations of the case.

**HR Business Partner** – proactively supports the Chair on the panel and ensures that the employee and Chair have copies of all documents relating to the hearing and advises all parties on disciplinary procedures where necessary.

**Colleague/Trained Trade Union Representative** - may present the case on behalf of the employee, which could include making opening and closing statements, presenting the case, and asking questions of any witnesses.

**Note taker** – takes notes of the hearing and circulates final version to employee, Chair, HR and Committee if appropriate. Audio and video recording of the hearing will only be used with the agreement of all parties.

### 12 The disciplinary hearing process

- 12.1 A disciplinary hearing can be a very traumatic and stressful experience for any employee, regardless of whether they are the employee against whom the allegations are made, or a witness to either side. It is therefore the role and responsibility of the Chair of the hearing to ensure that arguments and unpleasantness are avoided. If the hearing shows any signs of getting out of control, it is advisable to call an adjournment for a few minutes to allow the situation to calm down.
- 12.2 A disciplinary hearing should usually follow the following format:
- 12.2.1 Introductions of all parties.
  - 12.2.2 The management case will normally be presented by the Investigating Officer, calling witnesses as necessary.
  - 12.2.3 The employee (and their representative, if present) will then have the opportunity to state their case, again with the provision to call witnesses as necessary.
  - 12.2.4 Each side will have the opportunity to ask relevant questions of the other side, including their witnesses.
  - 12.2.5 The Investigation Officer will summarise, followed by the employee.
  - 12.2.6 At the end of the hearing both sides will withdraw while the panel or Committee (and any advisers) consider their decision.
- 12.3 If witnesses are called, they will attend the hearing solely to make their statement / present their evidence and to answer questions. They will then withdraw.
- 12.4 If, during the hearing, substantial documentary evidence which has not previously been disclosed is produced by either side, the other party shall have the right to request an adjournment in order to allow sufficient time to examine the evidence.

- 12.5 Other than when parties are summing up, the panel or Committee can ask questions of either side.
- 12.6 At the end of the decision-making adjournment, the employee (and their representative, if present) and the person presenting the management case will be recalled and given the decision, which will be confirmed in writing, normally within five working days. If the decision is to apply a disciplinary sanction, the employee must also be informed of their right of appeal.
- 12.7 In circumstances where it is considered necessary to delay making a decision, the employee will be informed of this decision, and advised when and how they will be notified of the decision in respect of the disciplinary hearing. This will be done as soon as possible and normally no later than five working days after the date of the hearing.
- 12.8 If at any stage during the course of the hearing the Chair believes it necessary to obtain additional advice, the proceedings will be adjourned whilst this advice is sought.
- 12.9 Employees will be provided with a copy of the notes from the hearing (or a recording of the hearing in some circumstances).

### **13 Disciplinary sanctions**

- 13.1 Following a disciplinary hearing, and having heard all the evidence, the Chair (or appropriate Committee) will need to decide whether or not disciplinary action is warranted and, if so, at what level. The following sanctions may apply:

#### **13.1.1 Stage 1 - Oral recorded warning**

If it is decided that an employee's conduct or performance is unsatisfactory, the employee will be issued with an oral recorded warning. This will be a 'live warning' for a duration of three months, after which it will be disregarded for disciplinary purposes, subject to no further misconduct by the employee during this period. A copy of the note of warning will remain on the employee's personal file for the duration of the oral warning. Managers will hold regular review meetings with employees who have a 'live' warning.

#### **13.1.2 Stage 2 - Written warning**

This may be issued if the first offence by the employee is serious enough to warrant action at this level. Alternatively, it may be issued after an oral recorded warning, if there is no improvement in standards by the employee, or if a further offence has occurred. A copy of this written warning will be kept on the employee's file but will be disregarded for disciplinary purposes after six months, subject to satisfactory conduct and/or performance during this period. Managers will hold regular review meetings with employees who have a 'live' warning.

### 13.1.3 **Stage 3 - Final written warning**

This may be issued if the first offence by the employee is serious enough to warrant action at this level. Alternatively, it may be issued after an oral recorded warning, or a written warning, depending on the severity of any subsequent misconduct or the failure to achieve required standards of performance / conduct. A copy of the warning will be kept on the employees file but will be disregarded for disciplinary purposes after 12 months subject to satisfactory conduct and/or performance during this period.

In exceptional cases the period of the final written warning may be extended to 24 months. Managers will hold regular review meetings with employees who have a 'live' warning.

### 13.1.4 **Stage 4a - Dismissal with pay**

If there is no satisfactory improvement or if further serious misconduct occurs following previous warnings, after a consideration of the facts and circumstances of the case, an employee may be dismissed with notice or with pay in lieu of notice.

### 13.1.5 **Stage 4b – Summary dismissal**

If, after investigation, an employee is found to have committed an act of gross misconduct, the normal consequence will be summary dismissal without any notice or pay in lieu of notice. While the alleged gross misconduct is being investigated, employees may be suspended with pay.

In exceptional circumstances, alternatives to dismissal may also be considered, at the Council's discretion. These would be authorised by a Director and be accompanied by a final written warning. Examples include:

- Demotion
- Transfer to another department
- A period of suspension without pay
- Loss of seniority
- Reduction in pay / benefits
- Loss of future pay increment or bonus
- Loss of overtime

## 13.2 **Warnings**

If issued with a warning, an employee will receive written confirmation of this within five working days of the disciplinary hearing. The letter will include:

13.2.1 The reason for and duration of the warning.

13.2.2 The consequences of failure to improve and sustain any improvement for at least the duration of the warning, including the possibility of further disciplinary action up to and including dismissal.



13.2.3 Relevant details and timescales relating to the employee's right of appeal.

13.3 Employees should also be written to in the event of no further action being taken.

### 13.4 **Examples of misconduct**

The following list indicates the type of conduct which would normally constitute misconduct. This list is neither exclusive nor exhaustive.

13.4.1 Disregard of safety practices, procedures and rules.

13.4.2 Unsatisfactory job performance (for reasons other than incapability).

13.4.3 Poor timekeeping: late starting, early finishing, excessive break periods.

13.4.4 Excessive and/or unauthorised absence.

13.4.5 Leaving the workplace without permission during working hours.

13.4.6 Undertaking activities detrimental to recovery whilst on sick leave.

13.4.7 Failure to follow Council procedures.

13.4.8 Misuse of Council facilities or equipment.

13.4.9 Insubordination or refusal to obey a reasonable instruction.

13.4.10 Smoking in prohibited areas.

### 13.5 **Examples of gross misconduct**

The following list indicates the type of conduct which would normally constitute gross misconduct. This list is neither exclusive nor exhaustive.

13.5.1 Serious abuse.

13.5.2 Corrupt practices.

13.5.3 Where an employee is charged with a criminal offence inconsistent with their position.

13.5.4 Theft, fraud and deliberate falsification of records (e.g. expenses claims, time sheets).

13.5.5 Physical violence, threats, fighting, assault on another person.

13.5.6 Serious bullying, harassment or discrimination.

13.5.7 Deliberate damage to Council property or an employee's property.

13.5.8 Removal or disposal of any Council property without management permission.

13.5.9 Serious insubordination.

13.5.10 Interference with safety devices or equipment putting other employees or visitors at risk.

- 13.5.11 Serious misuse of the Council's property or name.
- 13.5.12 Bringing the Council into serious disrepute.
- 13.5.13 Serious incapability whilst on duty brought on by alcohol or illegal drugs, the misuse of drugs or the possession of illegal drugs whilst at work.
- 13.5.14 The supply and trafficking of drugs, money laundering activities, or the use, sale or distribution of illegal substances.
- 13.5.15 Serious negligence which causes or might cause unacceptable loss, damage or injury.
- 13.5.16 Serious infringement of health and safety rules.
- 13.5.17 Serious breach of duty of confidence (subject to the Public Interest Disclosure Act and Confidential Reporting Policy).
- 13.5.18 Deliberate or reckless damage, mis-use or interference with or unauthorised use of Council IT equipment and/or software. Unauthorised entry to electronic records.
- 13.5.19 Serious misuse of electronic systems.
- 13.5.20 Conviction of a criminal offence that is relevant to the employee's employment.
- 13.5.21 Deliberate falsification of a qualification that is a stated requirement of the employee's employment or results in financial gain to the employee.
- 13.5.22 Undertaking private work on Council premises and/or in working hours without express prior permission.
- 13.5.23 Serious breach of trust or confidence.

### **14 Disciplinary action of Trade Union representatives**

Although normal disciplinary standards will apply to the conduct and performance of trade union representatives, no disciplinary action will be taken until the circumstances of the case have been discussed with the individual concerned, a senior trade union representative or full time official and in consultation with HR. This arrangement is in place to avoid the action being misconstrued as an attack on the union itself or on its representation and negotiating role and is in accordance with the ACAS Code of Practice.

### **15 Raising a Grievance during disciplinary action**

The decision to suspend or continue with disciplinary action pending the investigation of a grievance will depend upon the circumstances of each individual case. This decision will be made by Human Resources (or Monitoring Officer if applicable).

### **16 Suspicion of criminal behaviour**

If criminal behaviour is suspected or alleged the Investigation Officer and Human Resources (and Chief Executive or Monitoring Officer, if the allegation is against a Director) will discuss the situation and a decision will be taken over notifying the police.

### **17 Criminal proceedings during disciplinary action**

Where criminal proceedings are pending against an employee, the Council will determine whether disciplinary action is appropriate. The disciplinary procedure will not normally be delayed or deferred because of any such proceedings unless it would be prejudicial (in the view of the Council) to those investigations to proceed. Managers / Investigation Officers should liaise with HR for further guidance.

### **18 Criminal charges or convictions / Inappropriate actions outside of work**

18.1 Criminal charges or convictions may result in disciplinary proceedings being taken against the employee up to and including summary dismissal. This will occur where, in the opinion of the Council the charge or conviction is such as to affect, or be likely to affect, the suitability of the employee for the position in which they are employed, or the business or reputation of the Council, or where the existence of the charge or conviction could, in the opinion of the Council, otherwise seriously undermine the trust and confidence that the Council has in the employee.

18.2 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to your employment.

### **19 Fraud and investigations**

Where there is any suspicion of theft or fraud the employee's manager must contact the Section 151 Officer who will refer the matter immediately to Audit and/or Fraud Investigation, and the Director of HR.

### **20 Right of appeal**

20.1 Employees have the right to appeal against any disciplinary action. Reasons for appeal may include:

- that the sanction is unfair/inconsistent under the circumstances (i.e. judgement)
- new evidence has arisen which was not considered at the original disciplinary hearing and which may have a bearing on the outcome (i.e. facts)
- that the policy and procedure have not been applied correctly (i.e. process)

20.2 When lodging an appeal, the employee should state the grounds of their appeal, and provide any supporting evidence.

20.3 The employee must provide notice of their appeal in writing within five working days of being informed in writing of the disciplinary sanction being imposed against them. All appeal notifications should be sent to the Director of HR. A template appeal form is included at Appendix 3.

20.4 Appeal hearings will take place as soon as reasonably possible upon receipt of the employee's written notice of appeal. Appeals Committees are likely to take longer to set up but will be done so as expediently as possible.

20.5 **Delegated authority to hear appeals**  
Appeal hearings will be made up as follows:

<b>Employee appealing / reason</b>	<b>Who will hear the appeal</b>
Directors	Appeals committee
Employee who is dismissed	Appeals committee
Employee who is not dismissed	Director (independent and trained) plus HR rep

\* No members of the appeals committee will have been involved previously in the investigation or disciplinary hearing.

20.6 For an appeals committee there will be a Democratic and Elections Officer plus both Legal and HR Advisors in attendance (who will all previously have not been involved in the case – these may therefore be external advisors if appropriate). The advisors will brief the Committee prior to the appeal hearing taking place. The advisors may at any point during the appeal seek clarification on any issue with regard to the appeal and will provide procedural guidance to the Committee.

20.7 The employee shall be given notice in writing at least five working days in advance of the time and place of the appeal hearing and they will be allowed to be represented or accompanied and shall be entitled to call witnesses (but those witnesses are not entitled to representation). This notice may be extended to allow an employee to be adequately represented.

20.8 The failure of a party to attend an appeal shall not prevent the appeal from being considered in their absence. In such circumstances the appellant will be notified in writing of the decision.

20.9 The management side will be presented by the Chair of the disciplinary hearing who will be able to call witnesses (who are not entitled to representation).

20.10 In advance of the hearing, the panel or Committee will be provided with a copy of all the documents presented to the original disciplinary hearing. They will also have a copy of the record of the disciplinary hearing, the letter confirming the outcome of the disciplinary hearing, the letter of appeal and all other relevant information. The employee and the management side will also be allowed to submit additional evidence that relates to the reasons for the appeal. The panel or Committee should make their findings based on the documentation and the submissions at the appeal hearing.

20.11 The employee and management side will provide any documentation they wish the panel or Committee to consider prior to the deadline for agenda publication as notified

by Law and Governance (for Committees) or no later than five working days before an appeal hearing. Supplementary documentation produced after this time will only be admitted at the discretion of the panel or committee.

- 20.12 During the appeal hearing both parties will be admitted to the room. The Chair will introduce those present, the procedure will be outlined by either the Democratic and Elections Officer or the Chair of the panel (if not a Committee) and questions on the procedure will be invited.
- 20.13 The employee and their representative will make their case. The employee may be questioned by the management side and then the panel or Committee.
- 20.14 The Council will then make its case and may be questioned by the employee and then the panel or Committee. In making their case witnesses may be called by the employee or the Council. Witnesses must be notified to the Democratic and Elections Officer (for Committees) or to HR (for panels). This must be done by the deadline notified by the Democratic and Elections Officer (for Committees) or to HR (for panels) at least five days before the appeal hearing. The Council and employee will be responsible for ensuring their witnesses are aware of the time, date and place of the hearing. Witnesses may be questioned by all parties and then the panel or Committee. Witnesses will only be admitted to the appeal hearing for the duration of their evidence.
- 20.15 Where the panel or Committee considers that further information or discussion is required the meeting will be adjourned for a period. The length of the adjournment being decided by the Chair.
- 20.16 At the end of the appeal hearing the Council will have opportunity to sum up and then the employee will have opportunity to sum up. Both parties will then be asked to adjourn. The panel or Committee will then decide whether to ask the parties to wait whilst a decision is reached or confirm that a letter will be sent confirming the outcome. The Appeals Committee or panel will then make their decision. A formal letter will be sent to the employee confirming the decision of the Appeals Committee or panel within five working days of the appeal hearing. A copy of appeals information will be retained on the employee's personal file.

## **21 Appeal outcomes**

21.1 The outcome of the appeal will be either:

- 21.1.1 The appeal is successful in whole or in part, known as upheld (e.g. could be a lesser sanction imposed or the sanction could be removed altogether).
- 21.1.2 The appeal is unsuccessful, known as rejected- the original decision stands.

- 21.2 The appeal panel or committee's decision is final. No further internal right of appeal exists.
- 21.3 Where an appeal against dismissal fails, the effective date of termination of employment will be the date on which the employee was originally dismissed, not the date of appeal.

### **22 Disciplinary records**

- 22.1 Documents relating to a disciplinary process may be kept on file in accordance with the Employment Practices Data Protection Code and Data Protection legislation.
- 22.2 Disciplinary records will be kept for 6 months.

**Appendices**

- Appendix 1 – Guidance to conducting a disciplinary investigation
- Appendix 2 – Guidance to reaching a disciplinary outcome
- Appendix 3 – Disciplinary appeal form

### Appendix 1 - Guidance to conducting a disciplinary investigation

It should be made clear the difference between an investigatory meeting (the purpose of which is to establish the facts and not to make any decisions based on these facts) and a disciplinary hearing (the purpose of which is to determine whether there are any grounds to impose a disciplinary sanction on the employee).

Those involved in undertaking investigations should take care:

- not to jump to conclusions prematurely
- investigate fully
- not to say or do anything that implies judgement of the employee's actions or behaviour.

#### Investigatory interviews

When interviews are deemed appropriate by the Investigation Officer as part of an investigation the following guidance should be used.

##### 1. Interview preparation

Before an interview takes place the Investigation Officer should decide who, if anyone will need to be interviewed and in what order and this may involve asking the employee under investigation or other witnesses whether anyone important to establishing the facts should be interviewed. The Investigation Officer should give reasonable advance notice to the employee and witnesses in writing of the interviews being required.

Careful thought should be given to further relevant documentation that may be required, and of any facts that will need to be confirmed in writing such as the evidence of witnesses.

The Investigation Officer should prepare an outline of issues and questions that need to be explored in order to establish the facts – what, when, where and how.

##### 2. The interview

The Investigation Officer should ensure they have all of the relevant facts and documentation available to them at the interview meeting.

The Investigation Officer should ensure a formal but polite and open approach is used that will encourage individuals to talk freely in order to establish the facts. It is important that nothing is prejudged, and that individuals do not feel that blame is being apportioned. The Investigation Officer should try and distinguish between hearsay and speculation from facts.

Hearsay evidence which is defined as “evidence offered by a witness, based upon what someone else has told him/her” and not upon personal knowledge or observation should not generally be admitted. However, if admitted, it should be dealt with very cautiously and little weight should be given to it.



Anonymous evidence should not normally be used and is given little weight. Exceptions to this may be:

- where the allegations are serious and can be verified through independent investigation, or
- if a potential witness had a real fear, reasonably held, that they would suffer substantial detriment if they were to sign their statement.

### **3. Interview style**

Focus on the evidence and facts relevant to the investigation i.e. what, where, when and how.

Pace the interview so that it can be easily followed by the interviewee and the note taker.

The interviewer should be impartial and non-judgemental.

Do not speculate and predict outcomes.

The interview can be stopped at any time to allow a comfort break or request for a break.

It may be helpful to follow a date order approach to the interview – this will allow the Investigation Officer to see the order of events.

### **4. Recording the interview**

The Investigation Officer should decide how to record the interview. Interviews that are likely to be lengthy and complex and particularly when interviewing the employee under investigation, voice recording is often the easiest and most efficient method, however this needs to be agreed by both the employee and Investigation Officer. Some employees may feel uncomfortable being voice recorded and no one should feel pressurised into doing so.

There may be instances where voice recording is not deemed appropriate, for example, where a simple statement of fact is required or a prewritten statement is used ad verbatim and can be submitted or the minute taker is able to work on a lap top and type notes during an interview.

The key is to choose the most efficient and effective way to record information in the circumstances having regard to the interviewee and the nature of the interview.

### Appendix 2 - Guidance to reaching a disciplinary outcome

A disciplinary hearing is not the same as a court of law, where the defendant has to be proved guilty. The judgement to be made after hearing all the evidence is whether or not, on the balance of probabilities, the misconduct occurred.

In arriving at the decision, the following questions should be considered:

- Have all the relevant facts been ascertained?
- Was the individual given a chance to put his/her case?
- On the balance of probabilities is it reasonable to believe that the misconduct has occurred?

Unless the answer to all 3 questions is yes, a disciplinary sanction should not be imposed upon the employee.

Having decided that the misconduct has taken place, the Chair of the hearing, or in the case of Directors, the appropriate Committee, should then decide upon an appropriate sanction.

The following questions will need to be considered:

- What sanctions have been imposed in similar cases in the past?
- Does the disciplinary procedure give any guidance as to whether or not this type of misconduct normally constitutes misconduct or gross misconduct?
- What is the employee's disciplinary record: is he/she already in receipt of some kind of disciplinary warning?
- Are there any extenuating circumstances, for example provocation, justifiable ignorance of the rules, lack of experience, etc?

The Chair will also need to take into account the level of sanction he/she is authorised to take under the terms of the Disciplinary Procedure and in accordance with the relevant Constitution (see below).

Once all the above have been considered and a tentative decision reached, the following three questions should be considered:

- Is the misconduct sufficiently serious to warrant the proposed level of sanction?
- Is it consistent with good practice?
- Is the proposed sanction reasonable given all the circumstances?

Unless the answer to all 3 of the above is yes, the proposed sanction should be

## Appendix 3

reconsidered.

It is possible to take disciplinary action at any level for a first disciplinary offence dependent on the circumstances. The table below sets out the levels of delegated authority to take disciplinary action at the various stages, and reflects the Constitution of the Council:

EMPLOYEE GROUP	STAGE	ACTION	RESPONSIBILITY (HR to be consulted about process and consistency of proposed action)	APPEALS	DURATION OF WARNINGS
<b>All staff (except Directors)</b>	<b>1</b>	Oral Warning	Line Manager or above	Director	3 months
	<b>2</b>	Written Warning	Line Manager or above (or nominated other from another service area)	Director	6 months
	<b>3</b>	Final Written Warning	Line Manager or above (or nominated other from another service area)	Director	12 months (or may be longer in exceptional circumstances)
	<b>4 (A)</b>	Dismissal	Director or delegated other HR representative	Appeals Panel	N/A
	<b>4 (B)</b>	Summary Dismissal	Director or delegated other HR representative	Appeals Panel	N/A
<b>Directors</b>	<b>ALL</b>	Any formal action	Personnel Committee	Appeals Panel	N/A

## Appendix 3

### Appendix 3 - Disciplinary Appeal Form

Please send this form to the Director of HR within five working days of receiving your disciplinary hearing outcome letter

Your Name	
Your Job Title	
Your Service Area	
Your Manager	

#### Details of your appeal (please continue on separate sheet if required)

Please explain the reasons for the appeal (refer to the policy) and attach any supporting evidence.

#### Individuals involved in the appeal

Please provide the names and contact details of any people involved in your appeal, including witnesses you wish to call during the appeal.

#### Outcome requested from the appeal

Please set out what outcome you would like to see from your appeal.

Name of trade union/other representative (if appropriate)	
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Signature	
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## Appendix 3

Date	
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# Grievance Policy and Procedure

**DOCUMENT CONTROL**

<b>Organisation(s)</b>	Cherwell District Council (CDC)
<b>Policy title</b>	Grievance Policy and Procedure
<b>Owner</b>	Human Resources
<b>Version</b>	1.0
<b>Date of implementation</b>	1 November 2022

**DOCUMENT APPROVALS**

This document requires the following committee approvals:

<b>Committee</b>	<b>Date of meeting pending approval</b>
<b>CDC</b> Personnel Committee	17 October 2022 (16:00)

**DOCUMENT DISTRIBUTION**

This document will be distributed to all employees of Cherwell District

**DATE FOR REVIEW**

No later than 1 November 2025 but sooner if impacted by legislative changes

**REVISION HISTORY**

<b>Version</b>	<b>Revision date</b>	<b>Summary of revision</b>



<b>Contents</b>		<b>Page</b>
<b>1</b>	Policy Statement	4
<b>2</b>	Introduction	4
<b>3</b>	Confidentiality	4
<b>4</b>	Types of Grievance	4
<b>5</b>	Collective Grievances	5
<b>6</b>	Raising Grievances Informally	5
<b>7</b>	Formal Written Grievances	5
<b>8</b>	Representation	6
<b>9</b>	Timing	6
<b>10</b>	Grievance Meetings	6
<b>11</b>	Investigation	7
<b>12</b>	Stage Three - Appeal	7
<b>Appendix 1</b>	Staff Grievance Form	8
<b>Appendix 2</b>	Appeal Statement	10

### 1. Policy Statement

- 1.1 The purpose of the Staff Grievance Policy and Procedure is to give all employees access to a procedure to help deal with any grievances relating to their employment fairly, whatever their nature, and promptly.
- 1.2 In practice this means we aim to investigate any formal grievance you raise, hold a meeting to discuss it with you, inform you in writing of the outcome, and give you a right of appeal if you are not satisfied. The purpose of this procedure is to set out how employees can raise a grievance and how we will investigate and deal with grievances.

### 2. Introduction

- 2.1 This policy will apply to the Cherwell District Council Senior Chief and/or Deputy Chief Officers including the Chief Executive and all employees at Cherwell District Council, and will apply whenever grievances are raised. It does not apply to agency workers, consultants, self-employed contractors, volunteers or interns. This policy will also not apply to third party or partner organisations where employees are not employed directly by the Council.
- 2.2 This policy does not form part of any contract of employment or other contract to provide services, and we may amend it at any time.
- 2.3 Human Resources has responsibility for advising managers on all aspects of the operation of this policy. Therefore, HR should be consulted when a grievance is raised by an employee or in respect of any grievance that is being dealt with.

### 3. Confidentiality

- 3.1 Strict confidentiality must be maintained when dealing with grievances. **All those involved in the grievance** including managers, the employee, colleagues, witnesses and representatives must maintain strict confidentiality **at all times** in order to ensure the integrity of the investigation process.
- 3.2 Records should be kept detailing the nature of the grievance raised, the response, any action taken, and the reasons for it.

### 4. Types Of Grievance

- 4.1 There are many forms of grievance that staff may have. They can range from work related issues, to concerns about an employee's fellow worker's or a client's actions that affect them. They can also cover terms and conditions of employment, health and safety, relationships at work, new working practices, organisational change and equal opportunities. Whilst not exhaustive, the following list identifies

the main grievances that can be brought under this procedure. Types of grievance may include:

- (a) Discrimination
- (b) Terms and conditions of employment
- (c) Unfair application of Council policy
- (d) Health & Safety complaints
- (e) Work relations
- (f) Bullying and harassment;
- (g) New working practices;
- (h) Working environment; and
- (i) Organisational change.

4.2 This procedure covers all types of grievances **except** those relating to grading, pensions or disciplinary issues for which separate procedures exist. (See separate Council policies as appropriate.)

### 5. Collective Grievances

5.1 If a collective grievance arises involving a group of employees within the same or different departments, but relating to the same issue, it may be dealt with through this policy, and the group of staff may nominate a spokesperson to represent their case.

## PROCEDURE

### 6. Raising grievances informally

6.1 Most grievances can be resolved quickly and informally through discussion with your line manager. All employees may choose and are encouraged to discuss the grievance with their line manager (or their line manager's manager where the grievance concerns the line manager) to see if the matter can be resolved informally and without invoking the formal grievance procedure.

6.2 Informal procedures concentrate on conciliation, not sanctions. For example, asking someone to stop doing something or to apologise. Managers must take any issue raised with them seriously.

6.3 If this does not resolve the issue, you should follow the formal procedure below.

6.4 Mediation may potentially be an option available to the employee, in appropriate circumstances, as an alternative way of resolving a grievance.

### 7. Formal written grievances

7.1 If your grievance process cannot be resolved informally you should put it in writing. The written grievance should contain a brief description of the nature of your complaint, including any relevant facts, dates, and names of individuals involved. The employee should complete a staff grievance form (which can be found at

Appendix 1). The staff member making the grievance should send the grievance form to their HR Business Partner.

### **8. Representation**

- 8.1 If the employee is invited to a grievance hearing or appeal meeting under this procedure, they may bring a companion who may be either a trade union representative or a colleague.
- 8.2 The representative must be permitted to make representations and ask questions, and to confer with the person they are representing during the hearing in order to clarify issues. However, the representative is not entitled to answer questions on behalf of that person.
- 8.3 The hearing must be postponed if the representative is unavailable, but they must propose a reasonable alternative date and time within five working days from the postponed hearing date. If the chosen companion will not be available for more than five working days afterwards, we may ask the employee to choose someone else.

### **9. Timing**

- 9.1 A key and essential feature of the Staff Grievance Procedure is dealing with grievances promptly.
- 9.2 The actual timescale may often depend on the nature of the grievance and the circumstances.
- 9.3 Dependent upon the nature of the grievance, it may be appropriate to take immediate steps to assist the employee. For example, it may be necessary to take immediate steps to ensure the safety of the employee making the grievance. Such action could include reorganising or relocating work to avoid close or regular contact with a particular individual.

### **10. Grievance meetings**

- 10.1 Following receipt of the grievance form (Appendix 1), we will arrange a grievance meeting, normally to take place within one week of receiving your written grievance. You and your companion (if any) should make every effort to attend grievance meetings. If you or your companion cannot attend at the time specified, you should inform us immediately and we will try, within reason, to agree an alternative time.
- 10.2 The purpose of a grievance meeting is to enable you to explain your grievance and how you think it should be resolved, and to assist us to reach a decision based on the available evidence and the representations you have made.

- 10.3 After an initial grievance meeting we may carry out further investigations and hold further grievance meetings as we consider appropriate. Such meetings will be arranged without unreasonable delay.
- 10.4 We will write to you, usually within one week of the final grievance meeting, to inform you of the outcome of your grievance and any further action that we intend to take to resolve the grievance. We will also remind you of your right of appeal. Where appropriate we may hold a meeting to give you this information in person.

### **11. Investigation**

- 11.1 It may be necessary for us to carry out an investigation into your grievance. The amount of any investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents.
- 11.2 You must co-operate fully and promptly in any investigation. This may include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending interviews, as part of our investigation.
- 11.3 We may initiate an investigation before holding a grievance meeting where we consider this appropriate. In other cases we may hold a grievance meeting before deciding what investigation (if any) to carry out. In those cases we will hold a further grievance meeting with you after our investigation and before we reach a decision.

### **12. Stage Three - Appeal**

- 12.1 The complainant can appeal against the decision/outcome if the grievance has not been resolved to their satisfaction. This appeal must be made to the Assistant Director – HR in writing on the form found at Appendix 2 within 5 working days of receiving the decision in writing.
- 12.2 An appeal meeting will be held, normally within five working days of receiving the written appeal. The appeal will be heard by the Appeals Panel. They may ask anyone previously involved to be present. The complainant has the right to bring a colleague or trade union representative to the meeting.
- 12.3 The Appeals Panel will confirm their decision in writing, usually within 5 working days of the appeal hearing. This decision is final and there is no further appeal.



--

Did you speak informally to your line manager about your grievance?	
If so, why are you dissatisfied with the response?	

Signature	
Date	

Please send or give this form to Human Resources.





## Appendix 4

Signature	
Date	

Please send this form to the Assistant Director – HR, OD & Payroll **within 5 working days** of receiving your grievance decision in writing.

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# Organisational Change Policy

**DOCUMENT CONTROL**

<b>Organisation(s)</b>	Cherwell District Council (CDC)
<b>Policy title</b>	Organisational Change Policy
<b>Owner</b>	Human Resources
<b>Version</b>	1.0
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**DOCUMENT APPROVALS**

This document requires the following committee approvals:

<b>Committee</b>	<b>Date of meeting pending approval</b>
Personnel Committee	17 November 2022

**DOCUMENT DISTRIBUTION**

This document will be distributed to all employees of Cherwell District Council.

**DATE FOR REVIEW**

No later than 1<sup>st</sup> November 2025 but sooner if impacted by legislative changes.

**REVISION HISTORY**

<b>Version</b>	<b>Revision date</b>	<b>Summary of revision</b>

<b>Contents</b>	<b>Page</b>
1 Introduction	5
2 The Purpose	5
3 General Principles	5
4 Equality of Opportunity	6
	7
<b>RESTRUCTURING PROCEDURE</b>	
1 Introduction	7
2 Stage 1: Development of A Business Case	8
3 Stage 2: Communication and Consultation	9
3.1 The principles of effective consultation	9
3.2 The formal consultation process	10
3.3 The consultation log	11
4 Stage 3: Final in Principle Approval	12
5 Stage 4: Consideration of Proposed Business Case by Elected Members	12
6 Stage 5: Implementation	12
6.1 The 'at risk' process	13
6.2 Appointments to new posts within a restructure	13
6.3 Matching (assimilation) and ring-fence recruitment	13
6.4 Assimilation	14
6.5 Ring fenced recruitment	14
7 Stage 6: Appeals	14
<b>Appendix A - Shared Service Business Case</b>	<b>15-16</b>
<b>Appendix B – Restructure Process/ Implementation Phase Flow chart</b>	<b>17-18</b>
<b>Appendix C - Employee Preference Form</b>	<b>19-21</b>
<b>REDEPLOYMENT PROCEDURE</b>	<b>22</b>

## Appendix 5

1	Introduction	22
2	Redeployment	22
3	The Redeployment Register	22
4	Suitable Alternative Employment	23
5	Trial Periods	24
6	Pay Protection	26
	<b>Appendix A - Skills Audit Form</b>	<b>27-29</b>
	<b>REDUNDANCY PROCEDURE</b>	<b>31</b>
1	Introduction	31
2	Redundancy Payments and Pensions	32
3	Consultation	32
4	Outcome	33
5	Collective Consultation	33
6	Appeals Process	33
	Rights on return to work after AAL / parental leave	12

### 1 Introduction

The strategic vision of the Council is to ensure on-going efficiency and value for money. The Council need to remain flexible and responsive to changing national and local priorities and consider stakeholder needs. They must also make the most efficient use of all resources and as such it is likely that organisational change will be required. The Council will seek to minimise the negative effects of any organisational change through the application of fair and equitable procedures that include restructuring, redeployment and redundancy.

The Council is committed to the principle of working in partnership with employees and trade unions in managing organisational change and will seek to achieve changes through appropriate involvement and consultation. Any final decisions will however remain with each Council.

The Council will ensure compliance with all related aspects of employment law and will also offer all reasonable support, in circumstances such as where there are job changes in redundancy situations, through the provision of robust redeployment processes and active case management.

This policy applies to all employees of Cherwell District Council. It does not apply to staff retained on agency contracts or consultancy agreements, self-employed contractors, volunteers or interns. This policy will not apply to other third party or partner organisations where employees are not employed directly by the employing Council.

This policy does not form part of any contract of employment or other contract to provide services, and we may amend it at any time following consultation with the trade union and agreement from the personnel committee

### 2 The Purpose

The purpose of the Organisational Change policy and its related procedures (Restructuring, Redeployment and Redundancy) is to establish the fair, robust, and transparent principles, and processes to be followed so that the Council's interests are protected, and staff are treated fairly throughout organisational change.

### 3 General Principles

All documents reflect the requirements of current employment legislation.

The Council will consider all realistic alternatives to compulsory redundancies and will discuss and consult upon alternatives with staff and their trade union representatives where appropriate. This may mean changes to final business cases following a consultation period to cover alternatives such as:

- reducing or eliminating overtime
- reducing or changing employee allowances
- reviewing the use of temporary, fixed term, casual and agency contracts

- seeking employee requests for early retirement, voluntary redundancy and reduction of hours
- restricting or freezing recruitment
- reducing expenditure in other ways (or increasing income) wherever possible
- considering retraining and/or redeployment.

Any measures adopted must not adversely affect the Council's business and the Council's ability to serve its customers/clients.

The appropriate manager will receive support and advice in relation to a restructuring process by Human Resources, exploring all of the available options, before any change process starts. This will provide a positive and consistent approach for any organisational change.

#### **4 Equality of Opportunity**

The Council is fully committed to equal opportunities in employment and opposes any form of unfair discrimination on grounds of gender, sexual orientation, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, religion or belief, disability or age. Part-time employees and those working under fixed-term contracts will not be treated differently to permanent, full-time comparators.

Where appropriate, equality impact assessments will be carried out for all business cases.





## RESTRUCTURING PROCEDURE

### 1 Introduction

This procedure should be read in conjunction with the Organisational Change policy and related procedures of Redeployment and Redundancy.

The Restructuring procedure provides fair, robust and transparent processes during restructuring, whilst seeking to avoid compulsory redundancies where staffing reductions are required.

The procedure will apply primarily where the Council identify a need to undertake a formal and strategic review to address the long-term financials and efficiency, including departmental and teams or other strategic reviews, of the Council and where there may be the need to reduce staffing levels or create some other significant change to the employment contract.

The following stages outlined below will assist in managing the organisational change process:

- Stage 1: Development of a business case to propose service or structure changes (see Appendix A) and approval by Senior Manager.
- Stage 2: Communication and consultation with the affected staff and the trade unions. The purpose of the consultation is to provide as early an opportunity as practical for all concerned to engage in the change and explore options.
- Stage 3: Final approval of "in principle" business case by CLT if substantial changes are proposed during the consultation period.
- Stage 4: Approval through the specified democratic process.
- Stage 5: Implementation (if the proposals have been approved).
- Stage 6: Appeals process (the considerations for this stage are given in the redundancy procedures).

For a brief outline of the restructuring stages and timescales please refer to the organisational change flow chart (see Appendix B).

### **2 Stage 1: Development of A Business Case**

Prior to any business case being written, the Assistant Director should take advice and guidance from their HR team and discuss their proposals with either the Leader of the Council (or the appropriate lead member/portfolio holder) and the relevant senior member of the management team. Proposals will then be taken to the Senior Management team for consideration, and standard committees reporting process for the Council concerned.

The development of the business case will include the following for consideration:

- The current structure and the rationale for the proposed changes.
- The proposed new structure and the proposed outcomes.
- Careful identification of the posts and people in scope and impacted by the proposed change.
- The merits of retaining or designing career grade posts.
- A financial assessment of the potential redundancy and pension costs and any proposed financial savings.
- The consultation timetable.
- Job evaluation results.
- The target implementation date.

The business case should include a draft revised structure and costing based on provisional proposed grades.

Draft person specifications, job descriptions and job description questionnaires (where appropriate) must be prepared for each proposed new post. This will ensure that job evaluation can take place at each Council before consultation begins. Appropriate time should be set aside to allow for this to be achieved and the business case lead officer should discuss this with HR.

All proposed new posts will be subject to job evaluation.

In circumstances where the internal HR function is the subject of review the appropriate Director may put in place alternative arrangements as they deem relevant to facilitate the delivery / implementation of this policy without creating a conflict of interest for the individual employees affected.

### 3 Stage 2: Communication and Consultation

#### 3.1 The principles of effective consultation

The Council places great emphasis upon the value of stable and positive industrial relations, and as such take their responsibility for ensuring an effective and meaningful period of consultation seriously.

The Council recognises the benefits of consulting and communicating clearly and early with staff who may be affected by any proposals for change so as to minimise rumour and misunderstanding, and ultimately to help develop greater trust by involving and engaging with employees and the trade unions during the change process. It is also recognised that communication may need to be extended wider than to those directly affected.

Consequently, in circumstances where elected members are responsible for making decisions relating to organisational change, consultation with the affected staff and their trade unions will usually take place prior to the formal democratic decision making process, so that elected members may have due regard to the views and representations of staff and the trade unions before making their final decisions on any such proposals.

This stage defines the responsibilities of key staff involved in the restructure for communication, and sets out communication methods, both collectively and individually.

Assistant Director (or delegated other for restructure where Senior Manager or others are in scope) in conjunction with the nominated HR lead will review current roles with proposed roles. Staff affected by the restructure should be given an indication of which posts they could be ring-fenced to, as part of the restructure (*a delegated other is a person with the ability to make decisions on behalf of and, in accordance with the constitution of the council*).

All consultation with the affected staff and trade unions will be led by the relevant Assistant, or delegated other, supported by the nominated HR lead and can take the form of any or all of:

- One to one consultation
- Group consultation
- Consultation with the trade union representatives
- Written consultation
- A consultation log

The scope and method of communication will be driven by the scope and size of the restructure.

Regular communication will take place with staff during both the consultation process and throughout the democratic decision-making process as this will

provide staff and the trade unions with reassurance and they will feel engaged in the process.

Individual and collective consultation sessions will be arranged as well as the following communication with staff and the trade unions during consultation:

- A specific email address for staff questions to be submitted for the consultation log. Staff will be made aware of when and how they will receive responses for the consultation log.
- Distribution of the business case.
- External support and advice given if / where appropriate (for example for Senior Management restructuring).
- Use of a consultation log.
- 1-2-1 and group meetings which will be recorded on a separate confidential consultation log.

Absent staff for whatever reason e.g., due to sickness, paternity, maternity or unpaid leave will be kept informed during the consultation process by their line manager.

### 3.2 The formal consultation process

The Assistant Director, or delegated other, will outline the proposed changes to all staff in scope, in person, as outlined in the business case and in doing so will inform all of the affected employees of the organisational change process so that they understand the need for the proposed changes and have a clear understanding of the process to be followed from the outset.

The length and processes involved in each stage of consultation will depend on the complexity of the proposed change and the number of staff involved, but as a general principle, a minimum period of three weeks (or a period of time in line with statutory requirements) is recommended. Should it be deemed necessary to extend a consultation period for any reason the staff and trade unions will be kept informed.

The formal consultation stage will be used to consider further options that may not have been considered to deliver the service.

At the beginning of the consultation process the affected employees and the trade unions will be provided with the following personal information pack:

- A personal letter of consultation which will include details of which proposed new post(s) they are to be ring-fenced for, or whether it is proposed that they would be assimilated into a proposed new post.
- A copy of the draft business case, including the proposed new staffing structure.
- A copy of the consultation timetable.
- A copy of the democratic decision-making timetable.
- A copy of the organisational change policy.

- The job description and person specification for all proposed new posts.
- Details of the salary grades of all proposed new posts.
- An employee preference form.

### 3.3 The consultation log

In order to facilitate an effective process of consultation with staff and the trade unions a consultation log will be maintained.

The consultation log will enable views, concerns and questions raised by affected staff and their trade union representatives to be answered regularly, shared openly with all of the affected staff (unless the issue relates to an individual's specific circumstances and they wish it to be private). This helps to ensure regular communication between management and any affected staff. A dedicated member of the HR team and the Assistant Director of the business case will administer the log throughout the whole consultation process.

The process for operating and managing the consultation log will be communicated to staff prior to the start of the consultation process to ensure expectations are clear about when employees will receive responses to questions, issues, or concerns raised during the consultation process.

The relevant Assistant Director or delegated other will ensure that they provide regular updates to staff, even if there is nothing significant to communicate so that channels of communication remain open.

The recognised trade unions will be invited to be involved in all stages of the formal consultation process. If, as a consequence of responses to the consultation process, the lead Assistant Director or delegated other considers that it is appropriate to change the draft business case the affected staff and trade unions will be notified at the appropriate time.

There may be occasions when it becomes necessary to extend the consultation period, or to conduct a **supplementary process of formal consultation**. This may be used where there are significant changes or outstanding issues once the initial formal consultation has been completed. Where deemed necessary, this second stage will include the same stages as above but will be based on any further changes to the business case or proposed structure arising from the first consultation. Any changes will be communicated to the relevant trade union representatives.

The Council will ensure they maintain the skills, knowledge and experience required for future service delivery, whilst recognising that some employees may have different personal aspirations.

The Employee Preference Form (see Appendix C) will be found in the personal information pack and will be distributed to all affected staff as part of the consultation process. Allowing time, and the opportunity to consider and

discuss potential alternatives, all requests will be considered carefully on a case-by-case basis.

Employee preference requests will be considered on the grounds of:

- Whether there is suitable alternative employment
- Whether the proposal will help to avoid a compulsory redundancy
- Future skill needs of the council
- Financial effects / impact
- Potential efficiency gains
- Extenuating personal circumstances presented by the applicant

The employee preference requests will not apply in cases where a temporary secondment is arranged e.g., to take account of fluctuating workloads. It will not normally be used where an employee is being considered for redeployment on health grounds (i.e., medical redeployment) or where action is being taken on the grounds of capability or in cases where the employees themselves request a transfer.

#### **4 Stage 3: Final in Principle Approval**

If substantial changes are generated by the consultation period, the proposed business case should be re-submitted to the Senior Management team for consideration.

Affected staff will be informed once “in principle” final agreement has been given of any changes to the final business case, so the process is clear and transparent and helps maintain motivation and continued service delivery and performance levels from the service affected.

#### **5 Stage 4: Consideration of Proposed Business Case by Elected Members**

Following a process of consultation with the affected staff and trade unions the business case and associated consultation log will be presented to members of the Council for consideration as part of the standard committee reporting process.

Employees and trade unions will be briefed specifically upon any changes to the final business case by the Lead Officer in advance of the report being submitted for approval by the appropriate Council committees.

#### **6 Stage 5: Implementation**

Once final approval of the business case has been granted by the Council then implementation can commence. The agreed implementation plan should be used to ensure timescales and tasks are undertaken as agreed.

The following stages of the process should be considered although not all will be applicable:

### **6.1 The 'at risk' process**

Following approval of a business case, the affected staff will be placed formally 'at risk' of redundancy. Please refer to the Council's Redundancy Procedure

### **6.2 Appointments to new posts within a restructure**

Wherever permanent employees are displaced by a restructuring process the first stage of the appointment process will generally involve an assimilation or ring-fenced recruitment exercise.

Where appropriate, the Council will retain the right to recruit externally to ensure that the best possible candidate for the post is appointed. Where this is deemed necessary the lead officer should endeavour to notify the trade unions.

### **6.3 Matching (assimilation) and ring-fence recruitment**

Jobs in the new structure should normally be filled on a top down basis and lower level placements should be started once this has been achieved. This should enable any potentially displaced employees to register an interest in a lower level post, although this will not mean they have any priority over lower grade staff.

Matching criteria will be considered using any employee requests, and relevant data including current employment status, current hours of work, salary, job description and person specifications. Staff will be advised if they are a total match to the new role and can therefore be "slotted" into the new role without a further process being required.

Where there are a number of employees identified as total matches, but the new structure does not have sufficient new posts to accommodate all the matched staff, a ring fenced selection process will take place to determine those staff with the best match for skills, experience and fit into the new role.

Either the Assistant Director or appropriate lead officer will arrange, lead and conduct the matching/ assimilation review and ring fence process in conjunction with the HR lead.

For employee(s) whose role has not changed from their current role to that of the new role then a total match will take place.

### 6.4 Assimilation

For an employee to qualify for assimilation the following must be met: -

- The same or less number of employees to match to roles.
- The current job description and person specification of the employee's current role meet the required criteria of a 75% match for the new position, except where a task within the essential criteria is deemed to be mandatory from day one and will therefore sit outside of the 75% match (e.g., an ability to travel between sites, specific qualification).
- There are no other employees who have a comparable claim to the post by reason of assimilation.

Assimilation may occur where the grade for the old and new posts is the same, or the new post is not more than one grade lower.

If there are other employees with a comparable claim to the post, then a ring fence process will apply.

### 6.5 Ring fenced recruitment

If there are more employees in scope than potential matched roles a candidate pool will be identified, and a ring fence determined as part of the consultation process. If the ring-fence remains unchanged as a result of the consultation process, and the business case is approved, interviews will be carried out for those who have been ring-fenced for the new posts.

All employees who have been ring-fenced for one or more jobs will be asked to complete an internal application form to outline how their skills, competencies and experience matches the post(s) in the new structure. One application form must be completed for each post for which they have been ring-fenced.

Candidates who meet the essential person specification criteria will be interviewed by an appropriate interview panel which will include the relevant Assistant Director and supported by a HR representative.

If the new posts are not filled after ring-fence interview(s) then the recruitment will be open to employees who are "at risk" of redundancy within the Council. If the position(s) remain unfilled then normal recruitment procedures will apply.



**7 Stage 6: Appeals**

Please refer to the redundancy procedure for full details of the appeals process.

Appendix A

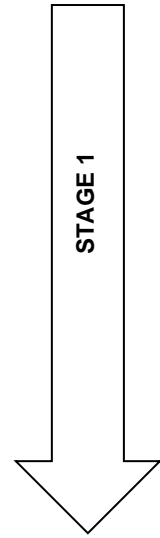
**Shared Service Business Case**

<b>Service area and Directorate:</b>	
<b>Team:</b>	
<b>Case prepared by:</b>	
<b>Date:</b>	

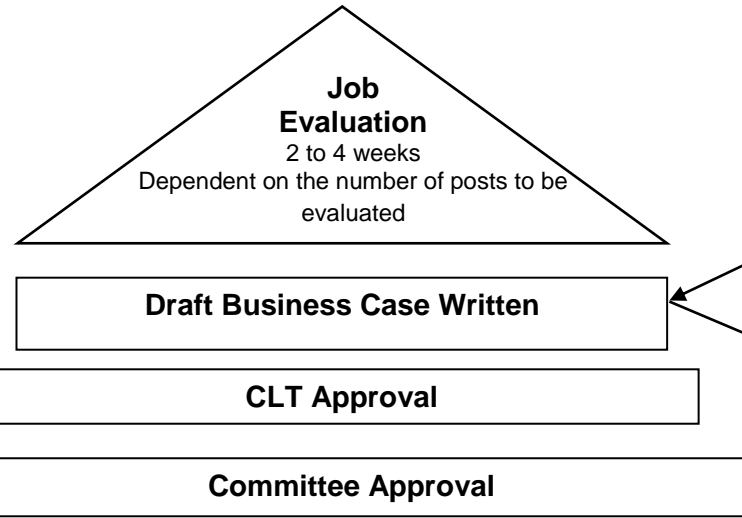
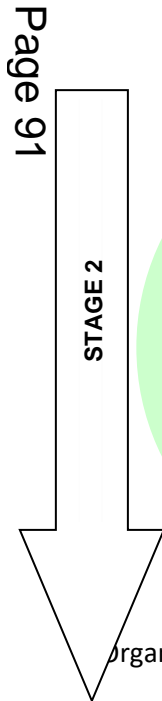
Business cases should be prepared in consultation with HR and presented to the Personnel Committee by the Director in the first instance.

<p><b>Background</b> This section should provide information on the service/teams and outline any issues which may affect the team in the future (including changes to funding, priorities etc.)</p>
<p><b>Proposed changes</b> This section should provide an overview of the changes proposed and any other options that have been considered.</p>
<p><b>Business Case</b> Outline here the case for making changes, including how current duties, responsibilities etc. will be covered once changes are in place, benefits, risk to service delivery and any other impact.</p>
<p><b>Changes to posts/JDs</b> Outline here a summary of all changes to posts/JDs include indicative structure and grades.</p>

<b>Financial Effects</b> This section should summarise the costs and savings associated with any changes, including redundancy and capital costs of pensions. Detailed figures will be provided by finance and should be appended to this business case.
<b>Approval Process</b> Outline the committee process for approval
<b>Summary and Recommendations</b>
<b>Finance Comments</b>
<b>HR Comments</b>
<b>Legal Comments</b>



### RESTRUCTURE PROCESS



**Agree** subject to consultation - Staff in or out of scope

**Inform**  
Line Managers of affected staff in scope, (If not party to the business case). HRBP arranges to present the process of the Organisation change policy to Line Managers

**STAFF CONSULTATION STARTS**  
(Minimum of three weeks)  
Includes – Trade Union, (business case author), HR lead, in scope employees and line managers.

**INTRODUCTORY CONSULTATION MEETING**  
Handouts to include:

- Business Case
- JD/PS for each new post
- Grade
- Employee preference form
- Organisational Change Policy
- Consultation Front Sheet
- VR process

121 Meetings

Group meetings

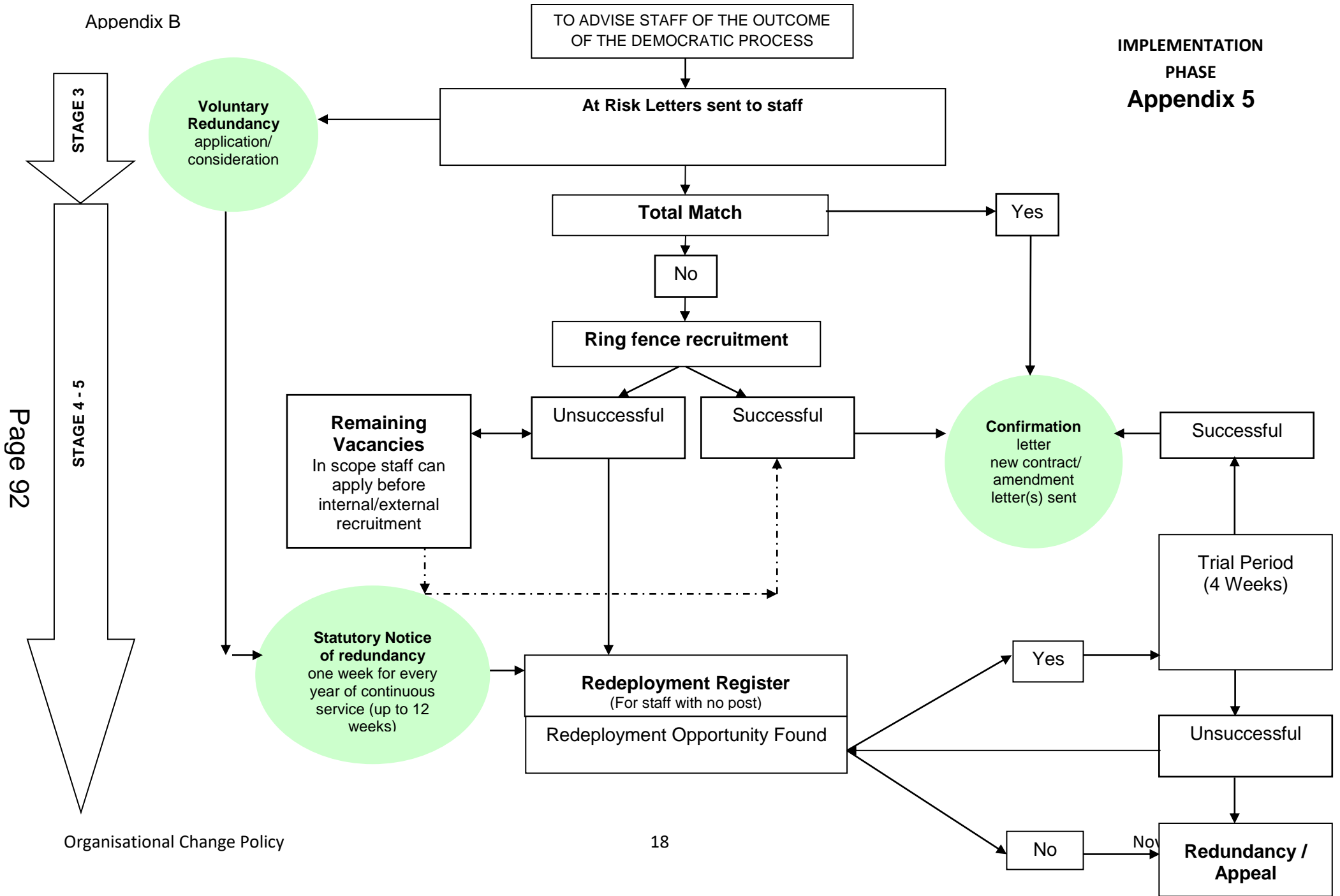
**Consultation Log populated**  
Topics could include JD/PS recommendations, service proposals, and general terms and conditions queries

**Inform** staff of changes to the business case following consultation ahead of final submission to committees

**DEMOCRATIC PROCESS**  
(Business case sponsor to discuss requirements with democratic services). Business case approval by standard committees, for the Council concerned  
**AFTER DECISION ARRANGE BRIEFING**

**Provide** staff with a final copy of the business case or outline changes

Organisational Change Policy



**Employee Preference Form**

Due to the imminent restructure of your department/service area, consultation has now commenced and as part of this process, we are inviting you to detailed your preferred future work options.

If you would like to take this opportunity to request voluntary redundancy or to change your hours then please complete the following information and return your completed application to **[insert name, insert position]** by no later than **[insert date]**. You may submit your application by email to **[insert email address]**.

**Part A  
To be completed by employee**

Name	
Job Title	
Department	
Line Manager	
Extension No.	

***I wish to be considered for the following pending the restructure***

Voluntary Redundancy

Early Retirement

Preferred change of working hours      Part Time/job share       Full Time

***Please provide details of the posts you would like to apply for:***

1)

2)

3)

4)

<p><b><i>I understand that by making this application, I am expressing my interest in being considered for voluntary redundancy/early retirement/a change in working hours and that this does not commit me to anything at this stage.</i></b></p> <p><b><i>I also understand that the Council is under no obligation to accept my application for voluntary redundancy/early retirement/a change in working hours and reserves the right to make any final decision on this matter.</i></b></p>	
<b>Name:</b> (please print)	
<b>Signature:</b>	
<b>Date:</b>	

**Part B  
To be completed by Assistant Director**

<b>Request supported</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<b>Name:</b> (please print)		
<b>Signature:</b>		
<b>Date:</b>		
<p>FULL DETAILS including future skills needs, potential efficiency savings and any other supporting information.</p>		
<p>Financial position:</p>		

**Part C**  
**To be completed by Finance**

Redundancy costs	
Retirement costs	
Overall financial effect (cost/efficiency)	
NAME: Please print	
SIGNATURE:	
DATE:	



## REDEPLOYMENT PROCEDURE

### 1 Introduction

This procedure should be read in conjunction with the Organisational Change Policy and its related procedures.

This procedure sets out the process to be followed when staff are unable to continue in their current post for reasons of redundancy.

### 2 Redeployment

Redeployment is the movement of an employee into a different role or department within the employer's business or that of an associated employer, often as a means of avoiding dismissal due to redundancy. A change in the terms of the employment contract will often be involved, in which case redeployment can only take place with the employee's consent.

Where employees who are "at risk" of a redundancy dismissal are not placed in new posts as part of a ring-fenced recruitment or assimilation process, or where their post has ceased to exist and there are no alternatives, attempts will be made to redeploy an employee to a suitable alternative post within the employing authority.

The Council is committed to:

- Salary protection, in line with the pay protection policy, for the salaries of employees who are redeployed into roles where the grade for the new role is less than the redundant role.
- Providing appropriate and effective retraining for employees selected for redundancy to facilitate their redeployment and minimise as much as possible further impact on the employee.

### 3 The Redeployment Register



As soon as an employee is informed by HR that there are no available posts for the employee either because the post is being made redundant or the restructure has not left any suitable alternative employment, and the employee

remains “at risk”, then the employee will, at this time, be served with notice of redundancy.

The employee will at the same time be placed on the Redeployment Register for the duration of their notice period.

HR will write to the employee to notify them of the process to be followed whilst they are placed on the Redeployment Register and arrange a meeting between HR and the employee to discuss the following:

- The Redeployment Register procedure and each party’s responsibilities whilst the employee is placed on the register.
- The work duties the employee will undertake whilst on the redeployment register (this will usually be the employee’s substantive duties).
- The completion of a skills audit form.
- What the employee may regard as either “suitable or unsuitable” alternative employment.
- A review of current vacancies.
- The potential training or other opportunities to enhance the employee’s transferable skills.

#### **4 Suitable Alternative Employment**

Where an employee is served with notice of redundancy, their employing authority will actively seek to identify suitable alternative employment for the employee and will remain committed to seeking alternative employment throughout the notice period of the employee.

The Council welcome suggestions from employees who believe that there may be an available vacancy or opportunity within the Council that may be suitable.

Serious consideration will be given to any available roles, and any reasonable opportunities for employees to be retrained, where this may be appropriate.

Whether a job is suitable depends on:

- how similar the work is to the employee’s current job
- the terms of the job being offered
- the employee’s skills, abilities and circumstances in relation to the job
- the pay (including benefits), status, hours and location

Once a potential suitable alternative role is found, a meeting will be held between the employee, the recruiting manager, HR and trade union representative or work colleague. The meeting will be used to determine whether the role is a suitable alternative and whether with training and development the employee will be capable of fulfilling the post requirements.

The employee should be provided with the job description and person specification of the suitable alternative role that has been identified and complete the internal Skills Audit Form (see Appendix A). The employee will need to show they have the required skills and experience required for the role.

If a suitable alternative role is found, the Council will offer the role to the employee and the employee's redundancy dismissal will not go ahead and they will have no entitlement to a redundancy payment. If more than one employee is suitable for the same suitable alternative role, the Council may need to hold interviews for the role.

Where an offer of suitable alternative employment is made to an employee, and this is accepted by the employee, this will be subject to a satisfactory four-week trial period. The purpose of the trial period is to allow both the employer and the employee to consider the suitability of the alternative post. Where an offer of suitable alternative employment is made subject to completion of a trial period, an employee's acceptance should be treated as conditional on the successful conclusion of the trial period.

In the event that an employee refuses to accept an offer of suitable alternative employment either before or after the trial period, the employee will be asked to clearly explain his or her reasons in writing. This will then be considered by the Assistant Director - Human Resources and appropriate lead officer, and a decision made as to the validity of the reasons given.

Where the employee unreasonably declines suitable alternative employment, the Council will not make any redundancy payment to that employee.

Employees who have been selected for redundancy may apply for any vacant post that is not considered a match and will, wherever appropriate, be offered an interview. It will be up to the Assistant Director - Human Resources and appropriate lead officer to decide whether it is appropriate to offer an interview. Whilst the selection process will be competitive and there can be no guarantees of success, no external candidates will be invited to apply until those selected for redundancy have been considered.

### 5 Trial Periods

Employees being redeployed are entitled to a (minimum) 4-week trial period in a suitable alternative post. This trial period may be extended in exceptional circumstances i.e., where additional training of the employee has been identified. However, the trial period will last no more than is needed for the purposes of retraining the employee.

Before the start of the trial period an appropriate training programme for the employee must be drawn up and agreed by both the employee and their new manager. Such a training programme could include a mix of coaching, on-the-job training and external courses or seminars as appropriate. The costs for any external training will be met from departmental budgets as part of the restructuring process.

Appropriate work objectives should be agreed between the employee and their manager.

During the trial period, the redeployed employee's manager must ensure that progress is monitored and reviewed on a regular basis. Regular meetings should take place between the line manager and employee, during which progress must be reviewed and feedback given. Notes of the individual's progress should be kept, including reference to any problems encountered and the action taken to resolve them. After each such meeting, both HR and the individual employee should be given a copy of these notes. Towards the end of the trial period the line manager should hold a final review meeting with the employee.

If the trial period is successful, the employee is deemed not to have been a dismissed. If the trial is unsuccessful, the employee shall be regarded as dismissed.

If the suitable alternative employment is deemed unsuitable by the employee or the Council during the trial period, the employee will return to the redeployment register for the remainder of their statutory notice period.

The Council will seek suitable alternative work for redundant employees up to and including the date of the employee's termination of employment. If all other options are exhausted, the employee's employment will be terminated on grounds of redundancy at the end of the notice period.

The Council reserve the right to select the best candidate for any job where there is more than one suitable candidate and may apply appointment selection criteria.

If the proposed suitable alternative employment is agreed by both parties as being suitable, the notice of termination previously issued automatically lapses and the employment is treated as being continuous.



### 6 Pay Protection

If the post into which the employee is redeployed is graded lower than that of their existing post, then the pay protection policy for the appropriate Council will apply. This will apply to all contractual pay including basic pay and allowances. Incremental progression will not apply during any pay protection period.

It should be noted that pay protection is, at all times, subject to change as a result of amendments to the appropriate legislation, or in the interpretation of existing legislation or Council policy.

If the employee has been offered an equivalent or higher graded role in the new structure but the employee has requested to be appointed to a lower level position then the employee may be moved to the lower level graded role at their request. In such circumstances protection will not apply.

Appendix A

## SKILLS AUDIT FORM

(once completed please return to your respective HR Business Partner)

PERSONAL DETAILS	
Name	
Current job title / service area	
If a suitable role arises within a shared team you may be required to work at office locations for the Council, can you think of any reason why you would be restricted from doing this?	
Any there any other personal restrictions that may prevent you from working in particular service areas that we should be aware of?	

EDUCATION AND TRAINING						
Please indicate the highest level of qualification obtained?						
Please list any additional / professional qualifications that you have achieved.						
Please indicate your level of IT competence against each programme		None	Limited	Average	Good	Excellent
	Outlook					
	Word					
	Excel					
	PowerPoint					
	Publisher					
	Adobe					

Please list any other IT programmes that you use on a regular basis to a competent level.						
What training have you attended within the last three years?						
What training and/or skills have you acquired outside of work that may be relevant to the wider organisation?						

WORK EXPERIENCE	
<p>Please list all service areas where you have worked (or gained experience) for the Council giving an indication of the length of service for each.</p>	
<p>Which service areas within the Council interest you or fit well with your current skills and experience?</p>	
<p>Please list any other relevant organisations where you have worked or gained experience through other activities such as volunteer work.</p>	



TRANSFERABLE SKILLS	
<p>Please detail your current skills that could be transferable to a different role.</p>	

ADDITIONAL INFORMATION	
<p>Please add here anything else that you would like to be taken into consideration.</p>	

**HUMAN RESOURCES TO COMPLETE**

Originating department	
Grade	
Date of entry onto register	
Expiry date on register	



## REDUNDANCY PROCEDURE

### 1 Introduction

This procedure should be read in conjunction with the Organisational Change policy and its related procedures.

Consultation will take place with employees and the trade unions in accordance with existing relevant legislation. The Council will always try to avoid the need for compulsory redundancies but sometimes these may be necessary. The pattern or volume of the Council's work or methods of working may change and requirements for employees may reduce.

The purpose of this policy is to ensure that, whenever reduction in employee numbers may become necessary, the Council:

- (a) communicate clearly with all affected employees and ensure that they are treated fairly;
- (b) try to find ways of avoiding compulsory redundancies;
- (c) consult with employees and with recognised trade unions.

In carrying out any redundancy exercise the Council will not discriminate directly or indirectly on grounds of gender, sexual orientation, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, religion or belief, disability or age. Part-time employees and those working under fixed-term contracts will not be treated differently to permanent, full-time comparators.

This policy does not form part of any contract of employment or other contract to provide services, and we may amend it at any time following consultation with Trade Unions and subject to agreement with the Personnel Committee

This policy applies to employees only. It does not apply to agency workers, consultants, self-employed contractors, volunteers or interns.

### 2 Redundancy Payments and Pensions

The Council has agreed policies in relation to severance payments to employees whose employment is ended on grounds of redundancy.

In calculating the statutory redundancy payment, the Council will take into account all continuous service (up to a maximum of 20 years) with bodies listed in the Redundancy Payments (Continuity of Employment in Local Government etc.) (Modification) Order 1999 (as amended) – the Modification Order.

Detailed pensions estimates will be provided through each Council's HR / Payroll team at the point an employee is at risk of redundancy.

In line with National Conditions, if a redundant employee employed by a local authority or other body covered by the Order is offered alternative employment with another authority or Modification Order body, whether in writing or not, before the date of the redundancy and the termination of his/her contract, and starts the new job within 4 weeks of the date of redundancy dismissal, no redundancy payment is due and continuity of service for statutory redundancy purposes is preserved.

### 3 Consultation

Detailed notes shall be taken of all meetings with the employee/s and all employees have the statutory right to be accompanied by a colleague or trade union representative at all meetings.

Where the Council are proposing to make redundancies the Council will enter into consultation with the affected employees on an individual basis and where appropriate also with the trade union or employee representatives. When it is not possible to avoid making compulsory redundancies, the Council will advise all affected employees and where appropriate, recognised trade unions and **OR** employee representatives that compulsory redundancies cannot be avoided. Affected employees will be made aware of the procedure that the Council will follow when making redundancies and the criteria that will be applied.

The criteria used to select those employees who will potentially be made redundant will be objective, transparent and fair and based on the skills required to meet the Council's existing and anticipated business needs.

The Council will then consult individually with those employees who have been provisionally selected for redundancy.

Employees selected or requesting redundancy will be invited to a meeting with an appropriate senior manager and HR to discuss the decision before formal notice of termination of employment is given.

#### 4 Outcome

Where selection for redundancy is confirmed, employees selected for redundancy will be given written notice of termination of employment in accordance with their contracts and written confirmation of the payments that

they will receive. Employees will be given the opportunity to appeal against this decision.

The Council will continue to look for suitable alternative employment for redundant employees and inform them of any vacancies until their termination of employment dates. The manner in which redundant employees will be invited to apply for and be interviewed for vacancies will be organised depending on the circumstances existing at the time. Suitable alternative employment may be offered subject to a trial period where appropriate.

Eligible employees under notice of redundancy will be entitled to take a reasonable amount of paid time off work to look for alternative employment or to arrange training for future employment.

#### 5 Collective Consultation

The number of redundancies being proposed must be established.

- (a) If 20 or more redundancies are being proposed in a 90-day period then the collective consultation obligations will arise under the Trade Union and Labour Relations (Consolidation) Act 1992 ([TULRCA](#)) and it will be necessary to consult on the redundancy proposal with representatives of the affected employees and where the duty applies, to also notify the Secretary of State. The notification must be in writing (either by letter or on a [form HR1](#)) and a copy must be provided to the employee representatives.

Collective consultation should begin in good time. If there are 20 to 99 employees to be made redundant at one establishment over a period of 90 days, then consultation must begin at least 30 days before the first dismissal.

If 100 or more employees are to be made redundant at one establishment over a period of 90 days, consultation must begin no less than at least 45 days before the first dismissal.

The Council must also consult individually with potentially redundant employees.

### **6 Appeals Process**

Where an employee has been notified of their redundancy dismissal but considers that their redundancy dismissal is unfair, for example the Council has unfairly applied the redundancy selection criteria, the employee may exercise their right to appeal the decision.

If an employee wishes to appeal, they should put their request in writing to a member of HR explaining that they wish to appeal against redundancy selection and setting out the reasons for their appeal. The appeal will then be heard by Members of the Council.

Appeals should be submitted within ten working days of the employee receiving notice from the Council of their redundancy dismissal.

The employee will be entitled to be accompanied at the appeal meeting by a work colleague or a Trade Union representative.

The outcome of the appeal will be communicated in writing to the employee within 5 working days from the appeal hearing and it will be confirmed that the outcome of the appeal is the final decision.

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*Cherwell*  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

# Sickness Absence Policy and Procedure

### DOCUMENT CONTROL

<b>Organisation(s)</b>	Cherwell District Council (CDC)
<b>Policy title</b>	Sickness Absence Policy and Procedure
<b>Owner</b>	Human Resources
<b>Version</b>	1.0
<b>Date of implementation</b>	1 December 2022

### DOCUMENT APPROVALS

This document requires the following committee approvals:

<b>Committee</b>	<b>Date of meeting pending approval</b>
Personnel Committee	17 November 2022

### DOCUMENT DISTRIBUTION

This document will be distributed to all employees of Cherwell District

### DATE FOR REVIEW

No later than 1<sup>st</sup> November 2025 but sooner if impacted by legislative changes.

### REVISION HISTORY

<b>Version</b>	<b>Revision date</b>	<b>Summary of revision</b>



### Contents

1	Introduction	4
2	Policy Statement	4
3	Definition	5
4	Confidentiality	5
5	Notification of absence	5
6	Non-compliance with the procedure	6
7	Conduct during absence	7
8	Contact during Long Term Absence	7
9	Occupational Health	7
10	Annual leave and sickness absence	8
11	Managing stress related absence	8
12	Long term sickness and ill health dismissal	9
13	Terminal illness	10
14	Returning to work	10
15	Monitoring sickness absence	11
16	Stage one – first formal discussion	12
17	Stage two – second formal discussion	13
18	Stage three – final formal discussion	15
19	Appeals	16
20	Sickness Pay	16
21	When the disciplinary policy applies	17

### 1 INTRODUCTION

This policy does not form part of any employee's contract of employment and the Council may amend it at any time.

This policy applies to employees only. It does not apply to agency workers, consultants, self-employed contractors, volunteers or interns

The Council value the contribution of their employees in delivering quality services to their customers. Whilst recognising that employees may be prevented from attending work due to ill health the Council also have a duty to maintain service delivery and minimise disruption. The overriding objective of the Sickness Absence Policy and Procedure is to manage sickness absence levels whilst maintaining a positive, fair and consistent approach to staff.

- 1.2 The Council recognise and accept their responsibility to employees to ensure the working environment is safe and that the conditions of employment are conducive to good health and wellbeing. A satisfactory level of employee attendance at work is crucial and non-satisfactory levels reduce our available resources and can have a negative impact on how we deliver our services. It also places colleagues under undue pressure.
- 1.3 The purpose of this policy is to support all employees to achieve and maintain an optimum level of attendance at work, to ensure that attendance is managed effectively and that the sickness scheme is not abused, whilst ensuring that employees with a genuine illness are treated sensitively.
- 1.4 When an employee is absent due to sickness, they must satisfy the requirements of the Council's absence procedure in order that their respective entitlements to statutory and occupational sickness pay are made.
- 1.5 The Council expects all employees to take their mental and physical health seriously and to take personal responsibility for following health working practices and lifestyle choices so that they remain healthy and can attend work regularly, e.g. taking regular breaks, booking annual leave.

### 2 POLICY STATEMENT

- 2.1 It is the policy of the Council:
  - To objectively assess any periods of absence and decide on appropriate action;
  - To review reasons for sickness absence in order to help prevent the absence recurring;
  - To address any welfare problems, and ensure appropriate medical assistance is being provided;
  - To identify work-related ill health and address the cause;
  - To promote occupational health and welfare to ensure the workforce is effective and efficient;
- 2.2 The policy and procedures will be implemented in a non-discriminatory manner taking into account individual circumstances and respecting confidentiality.

### 3 DEFINITIONS

- **Absence** - not attending for work when contractually required to do so.
- **Authorised Absence**- absence authorised by line management prior to or after its occurrence and can be paid or unpaid.
- **Unauthorised Absence** - absence not authorised by line management prior to or after its occurrence and is **always unpaid**.
- **Self-certificated Sickness** – employees are required to complete a Self – Certification Form for the first seven days' of any sickness absence. This form is sent to HR via the employee's line manager. (Saturdays and Sundays are included if both the Friday and Monday are recorded as sickness absence).
- **Medically Certificated Sickness** - sickness absence of more than 7 consecutive days must be supported by a doctor's medical certificate.
- **Frequent Short-Term Absence** - absences that are normally sporadic and attributable to minor ailments. Often the employee will only be absent for a maximum of a week, but more often for single days.
- **Long Term Absence** - *where an employee has been, or is expected to be, continuously absent for four weeks or more.*

### 4. CONFIDENTIALTY

- 4.1 Medical information is confidential. This does not mean that employees have the right to withhold information about their medical condition. However it does mean that the Council recognise that some employees may be reluctant to divulge sensitive or personal information and therefore the absence procedures allow employees some discretion over who, within management, they may speak to about ill health problems. Whoever receives such information must respect confidentiality.
- 4.2 Any information you provide to us about your health will be processed lawfully and in accordance with our Data Protection Policy. We recognise that such data is sensitive and will handle it in a confidential manner.
- 4.3 Any breach of confidentiality will be regarded as serious and could lead to disciplinary action.

### 5. NOTIFICATION OF ABSENCE - *Day One*

- 5.1 Employees must contact their line manager on the first day of absence ideally by the time they would normally start work, and in any case within one hour of their normal start time, giving the nature of their illness or symptoms, its likely duration and what arrangements are being made, if any, to seek medical advice. This is to ensure that the work can be covered and there is a minimum of disruption to service delivery.
- 5.2 Personal contact should be made by the employee by telephone. If an employee is unable to reasonably access a telephone they should make arrangements for an appropriate person to notify their line manager personally on their behalf. Sending a text message via a mobile phone or an e-mail is not an acceptable method of notifying a period of absence. An exception to this rule is in circumstances when an employee is due to start an early shift and it would be unreasonable to contact the manager other than by text. However in this circumstance the employee must follow up any message with personal contact no later than 9.00am.

- 5.3 In the event of not being able to contact their line manager, employees must leave a message, including the information in 5.1, with another colleague in their team. The member of staff receiving this information will ensure that the line manager, or another appropriate manager, is informed of the absence verbally as soon as possible
- 5.4 The line manager should obtain and record the following information from the employee when they notify them of their absence:
- Date and time of call
  - Reason for absence/nature of illness
  - Likely duration of absence
  - If the employee does not call in themselves the name and relationship of the individual reporting the absence.
- 5.5 The line manager and employee may agree arrangements to contact each other during the period of absence in addition to those required in this policy, in the interests of both the welfare of the member of staff and the maintenance of service delivery levels.
- 5.6 Except where a doctor's certificate (Fit Note) covering the period has already been supplied to the Council, through the employee's line manager, employees should contact their line manager on each subsequent working day of absence unless otherwise instructed by their line manager, until their return to work.

### ***More than seven days' absence***

- 5.7 After seven calendar days' continuous absence the employee must inform their line manager of progress and obtain a doctor's medical certificate (Fit Note). This form must be sent by the employee to HR via the line manager as soon as possible.

### ***Continuing absence***

- 5.8 A doctor's medical certificate is required for all subsequent absence both to authorise that absence and to ensure payment of appropriate sickness pay.
- 5.9 An employee can provide a medical certificate that has been issued by a hospital instead of a doctor's certificate if there has been a period of hospitalisation.
- 5.10 After absences of fourteen days or more the employee may be required to see the Council's Occupational Health Advisor to confirm that they are fit to return to work.

## **6. NON-COMPLIANCE WITH THIS PROCEDURE**

- 6.1 Sick pay may be withheld for any periods of sickness absence not covered by a self-certificate or a medical certificate. Continuation of medically certificated absence must be provided no later than 7 days after the expiry of the previous medical certificate. If this is not provided without good reason pay maybe suspended until a certificate is produced to cover the period of absence.

- 6.2 Where periods of absence are not correctly reported in line with this procedure, this may be treated as unauthorised absence and the appropriate pay deducted. Formal procedures will be invoked where repeated non-compliance with this procedure occurs.

### **7. CONDUCT DURING ABSENCE**

- 7.1 The purpose of paid and unpaid sickness absence is to facilitate an employee's recovery from an illness or injury. Therefore activities which would normally be considered inconsistent with genuine sickness or injury, or contravene this policy include:-

- Participation in any sport, hobby, social or other activity which could aggravate the illness or injury, or which could delay recovery.
- Undertaking any other employment during sickness absence whether paid or unpaid, which is in any way inconsistent with the nature of the illness or injury.
- Taking sickness where annual leave has not been granted (in the event of this happening, a doctor's note will be requested as part of the investigation).
- Altering or causing to have altered any of the details on the fit note.
- Providing inaccurate or misleading information about the absence.

Formal disciplinary measures may be taken against any individual who is believed to have contravened the policy and if employees are found to be using the scheme for purposes other than recovery from illness or injury.

During any period of sickness absence an employee must be willing to participate in regular contact with their line manager or another nominated officer such as an HR representative. This could also include HR and Occupational Health as and when this is deemed appropriate.

### **8. CONTACT DURING LONG TERM ABSENCE**

The line manager should take positive steps to keep in touch so that the employee knows that the employer is interested in their health in instances of long-term absence. Line managers should write to the employee indicating a desire to maintain contact and asking the employee whether they would prefer telephone contact, occasional visits at home (perhaps by a colleague), email communication or a combination of these. The letter will make it clear that the line manager's interest and concern is about the employee's welfare and progress and to offer any support that is reasonable and practicable. The line manager will not put pressure on the employee and the employee's wishes as regards contact arrangements. HR should be kept informed of progress, and can offer advice and support as and when required.

### **9. OCCUPATIONAL HEALTH**

During the course of your employment, the Council may request that you undergo medical examinations or health interviews by our Occupational Health Advisors. They are able to provide an invaluable service, for instance, in assisting employees to return to work after prolonged periods of absence and can advise us on how best to manage and support you. In such circumstances, to ensure that our occupational services can provide us with the advice we need, you will be asked to agree to the medical advisor disclosing the results of

the examination to the organisation in accordance with the Access to Medical Reports Act 1988 and shall provide the organisation with such formal consents as may be necessary for this purpose. The Council reserves the right to test for alcohol and drug intoxication as detailed in the Alcohol and Drugs policy.

Employees are asked to co-operate with a request to obtain a medical report although if they do not, management will have no choice but to make a decision based on the information available.

In the event that there is a conflict between Occupational Health advice and the advice provided by the employee's Doctor, the Council reserves the right to prefer the advice of Occupational Health on account of their independence.

### **10. ANNUAL LEAVE AND SICKNESS ABSENCE**

10.1 Where an employee falls sick or is injured while on holiday, the Council will allow the employee to transfer to sick leave and take replacement annual leave at a later time. This is subject to the following strict conditions:

- The employee must contact their Line Manager (by telephone if possible) as soon as they know that there will be a period of incapacity during a holiday.
- The total period of incapacity must be fully certificated by a qualified medical practitioner.
- Where the employee is overseas when he/she falls ill or is injured, evidence must still be produced that the employee was ill by way of either a medical certificate or proof of a claim on an insurance policy for medical treatment received at the overseas location.

10.2 Where the employee fulfils all of the above conditions, the Council will grant the employee the same number of days' replacement annual leave as the number of annual leave days lost due to sickness or injury. An employee must request to take any replacement annual leave in accordance with the Council's normal annual leave policy, and should endeavour to take the replacement annual leave in the same leave year in which it was accrued. During sickness absence an employee will continue to accrue annual leave entitlement.

If the employment is terminated before an employee returns from sick leave, they will receive a payment in lieu of any accrued but untaken annual leave.

### **11. MANAGING STRESS RELATED ILLNESS**

11.1 Any employee who is suffering from a stress related absence e.g. depression, anxiety etc. must be referred immediately to our Occupational Health providers who will make an assessment and give the manager appropriate advice.

11.2 In these circumstances managers are advised to contact HR at the earliest opportunity for help and advice.

### 12. LONG TERM SICKNESS ABSENCE AND ILL HEALTH DISMISSAL

- 12.1 Consecutive medical certificates are needed to cover the full period of long term absence and the employee must contact their line manager each time a new medical certificate is obtained.
- 12.2 The underlying principle in the management of long term absence is to balance the service needs against the circumstances of the employee concerned. Each case will be assessed individually. HR will work in close partnership with the employee's line manager.
- 12.3 HR may, as appropriate, arrange a mutually convenient time to visit the employee at home to discuss their well-being and the circumstances relating to their sickness absence. The visit may include gaining written consent to obtain medical information.
- 12.4 The line manager or nominee will also maintain regular contact with the employee, ideally at least every two weeks to prevent the employee feeling isolated, ensure their welfare needs are being met and keep them updated with any developments at work which may affect them. Contact may be by telephone, letter or home visits.
- 12.5 A meeting either at home or at work, must be arranged with the employee at a time to suit them. They can have friends, family, colleagues or their Trade Union Representative present and will be advised of this when making any arrangements.
- 12.6 An Occupational Health referral is needed in the majority of cases of long-term absence. This should occur at the earliest practical opportunity in order to gain a speedy and useful response.
- 12.7 The Occupational Health Advisor may seek further medical advice on the nature of the employee's illness, whether and when the employee is likely to be able to return, whether they are likely to be able to return full-time or part-time for a while, or whether they will need alternative work.
- 12.8 When the employee returns to work a Return to Work Meeting must be held and a Self-Certification/Return to Work form completed.
- 12.9 An employee recovering from long-term sick leave must be properly monitored and managed by the line manager. Other arrangements may include temporary revision of workloads and/or refresher training.
- 12.10 If, following review, permanent adjustments need to be made, all reasonable steps will be taken to accommodate the changes. The aim is, as far as is practical, to facilitate continued employment.
- 12.11 When medical advice indicates that the employee may have become incapable of undertaking their duties, the Council's Ill Health Dismissal Procedure will be discussed with the employee. If the employee is a member of the local government pension scheme, the Ill health retirement process will be discussed.

### 13. TERMINAL ILLNESS

13.1 When the Council becomes aware that an employee has a terminal illness the following needs to be taken into account:

- The employee may not be aware that the illness is terminal if the medical practitioner has decided that it is not in the person's best interest to be informed of their condition.
- The financial entitlement available to relatives on the death of the employee may be substantially more if the employee remains employed by the Council until the time of death.
- People are affected differently by the knowledge that they are terminally ill. Some may wish to continue working for as long as they are able while others may find it impossible to remain at work.
- The Council is sympathetic to the employee's situation and will manage the employee's situation on an individual basis, giving careful consideration to the employee's interests.
- The Council will be mindful of the pension benefits that can accrue and the length of service qualifications that apply to those benefits. Where possible, decisions about ill health retirement will aim to provide the employee with the most financially beneficial result.

### 14. RETURNING TO WORK

14.1 Return to Work Interviews will be conducted for all sickness absence regardless of length of time off.

14.2 A Return to Work Interview should be done on the day of return, preferably within the first four hours of starting either their rota or normal working day. It is at this point that any failure to comply with this policy will also be recorded. In some circumstances there may be an acceptable explanation, and this can be acknowledged. If there is no acceptable explanation, the disciplinary process may apply. HR should be contacted for advice if this is being considered.

14.3 Return to Work Interviews should be conducted in a sympathetic manner and appropriate arrangements for privacy should be made. The Return to Work Interview should facilitate a resumption of work and progression to full responsibilities within an agreed timescale.

14.4 It is the line manager's responsibility to ensure that the correct documentation is received to cover the period of absence, whether it is a Self-Certification Form/Return to Work form or a medical certificate (Fit Note). These must be passed to HR to be kept on the employee's record and to ensure payroll are able to pay the correct entitlement.

14.5 The line manager should also be alert to any patterns of absence, for example the persistent Monday or Friday absentee. If a pattern is identified, the line manager should put their observations to the employee directly so that the employee has the opportunity to provide an explanation. The line manager should, however, remain open-minded and not jump to any hasty conclusions about the employee's absences.

14.6 The line manager will approve the Self Certification Form/Return to Work Form, provided that they are satisfied that the claim is genuine and the reason for the absence is suitable. If the reasons are not deemed acceptable this then may constitute unauthorised absence and disciplinary action may also be instigated.



14.7 The purpose of this return to work interview is to explore:

- What actions the employee has taken to address the issue e.g. medical treatment
- Whether any aspect of the job may be affecting the employee's health and whether any temporary changes to the job could assist attendance
- Any underlying health problem and the likelihood of further absence
- Whether the employee has a disability, and if so whether there are any reasonable adjustments that could be made
- The impact of the absence on the service
- Setting clear targets for improved attendance, e.g. no more than one days' sickness in three months. Occupational Health or HR can advise on appropriate targets.
- Whether medical advice is needed from the Occupational Health Service
- Any other relevant considerations.

14.8 Where an employee returns to work after a long period of sickness absence, the return to work interview will take account of any particular difficulties in relation to any agreed return to work programme. The Council will discuss reasonable adjustments, on an individual basis, with all employees who have been on long-term sick leave. Long term changes to roles will be considered but not guaranteed. Redeployment will be considered where appropriate.

14.9 Where an employee has been on long term sick, the Council will consider the possibility of a four week phased return to work pattern. During that period of a phased return, where it has been specifically recommended by a GP or Occupational Health professional, the employee will receive full pay. In exceptional circumstances only, the period of phased return may be extended beyond four weeks. If extended beyond four weeks, the employee would only be paid for the hours worked. The remaining hours would be unpaid or the employee can use annual leave, where available.

## 15. MONITORING SICKNESS ABSENCE

### 15.1 Informal Actions

The line manager should try to establish, through investigation and discussion with the employee, the underlying reasons for frequent absences. Until the underlying cause is identified, an appropriate and effective remedy will be impossible to identify. Check whether or not absences are in part because of personal or family problems. Check whether the employee's absences are in any way work related, for example as a result of workplace stress. If the problem is work related, the line manager should take prompt steps to remove or reduce the factor that is causing the employee's problem. Seek medical advice through Occupational Health, if appropriate, to determine whether there is any underlying medical cause for the employee's frequent absences. Speak to the HR department to refer to Occupational Health.

15.2 Set reasonable targets and time-limits for improvement in attendance and ensure that the employee is committed to achieving them. Warn the employee of the consequences of continuing unsatisfactory attendance, i.e. that further action will be taken which may eventually lead to dismissal. Schedule a follow-up meeting at an agreed time to monitor the on-going situation.

15.3 Before taking any formal action in respect of an employee who has had frequent absences from work, the line manager should check the employee's absence record to gain an accurate assessment of the number of days' absence that they have had and the number of separate occasions that they have been absent.

15.4 If there is no improvement and absence levels are unsustainable, the formal stages of this policy will be invoked.

### 16. STAGE ONE - First Formal Discussion

16.1 This discussion will be conducted where:

- There have been three periods of absence in 5 or less consecutive calendar months or
- Sickness absence levels are running at 8 working days or more in a rolling year (pro-rata for part time staff)
- There is an unacceptable pattern of absence, such as, regular Fridays or Mondays;
- Absence regularly occurs on a particular day of the week
- Absence regularly occurs at peak workload periods
- Any period of absence gives concern
- There is continued failure to follow the notification process without good reason
- No satisfactory reason for being absent from work has been provided
- There is a continuing pattern of unauthorised absences
- There has been a failure to provide medical certificates when required
- There is reason to believe that the employee has taken part in activities that are inconsistent with the cause of absence or prejudicial to recovery.

Managers in consultation with Human Resources should use their discretion and not automatically go to a stage one meeting in certain exceptional circumstances e.g. due to a terminal illness or surgical intervention.

16.2 The line manager should inform the employee of the date, time and place of the meeting, giving a minimum of 5 working days' notice, as well as a brief explanation of why the meeting is to be held, by using the Formal Discussion letter (Appendix D). The employee is entitled to be represented by a Trade Union Representative or colleague of their choice, which they are responsible for arranging.

16.3 If the employee's representative is unavailable to attend at the appointed time, the employee may request postponement and suggest an alternative time and date. If this is reasonable and within 5 working days of the original date, the meeting will be postponed.

16.4 The first formal discussion gives the line manager and the employee the opportunity to discuss the employee's absence record and the reasons for the absence(s), and any non-compliance with the Sickness Policy. A course of action will be set out over a specified period of time to provide the employee with an opportunity to improve. During the discussion the line manager will:

- Review the employee's attendance record during the relevant period
- Review any non-compliance issues
- Give the employee the opportunity to discuss any problems or raise any concerns

- Decide whether any further action is required such as a referral to the Council's Occupational Health Advisor (see Section 7)
- Agree a target for improvement in sickness levels over an agreed monitoring period, usually 3 months
- Inform the employee that if attendance and/or compliance does not improve within the time period, a second formal discussion will be held

16.5 During the discussion a formal discussion form must be completed by the employee and line manager.

16.6 Following the meeting the employee will be given a copy of the form, and a letter advising of his/her right of appeal. A copy of both the form and letter will be sent to Human Resources.

16.7 In setting targets for improvement, the line manager will take into account the individual circumstances of the case; any advice received from the Occupational Health Advisor; the impact of any underlying medical condition or disability; and any reasonable work place adjustments that need to be put in place to enable the employee to improve their attendance.

16.8 Following the First Formal Discussion, attendance and/or compliance will be monitored monthly.

16.9 A target of reduced absence during the formal monitoring period (normally 3 months) will be set, following which a formal review will be held.

16.10 If the target set for improvement has not been met and the agreed action from Stage 1 is not having satisfactory results, the line manager may move to Stage 2 at which a HR representative will also be present.

16.11 If the target set for improvement has been met there will be no need for further formal review meetings. However, attendance will continue to be monitored for a further three months. Provided that attendance and/or compliance do not deteriorate during this period there will be no further need for formal monitoring and the employee will be removed from the formal stages of this policy. If attendance and/or compliance deteriorate during this period, however, the line manager may move to Stage 2.

### **17. STAGE TWO - Second Formal Discussion**

17.1 Progression to Stage 2 may occur where: there has been a failure to meet the targets set out in Stage 1, an employee has two Stage 1 discussions within the previous 3 year period or where the total period of absence in any 2 year period exceeds 6 months.

17.2 The employee will be notified of the date, time and place of the meeting at least 5 working days in advance using the formal discussion letter, and advised of the right to be represented. If the employee's representative is unavailable to attend at the appointed time, the employee may request postponement and suggest an alternative time and date. If this is reasonable and within 5 working days of the original date, the meeting will be postponed.

- 17.3 The purpose of this discussion is to ensure that the employee is given a further opportunity to discuss their absence formally and explain why their absence level is not improving. During the Second Formal Discussion the line manager will:-
- Review the employee's attendance record during the monitoring period
  - Review any areas of non-compliance with the policy and procedures
  - Review the steps that have been taken to support him/her in achieving the required level of attendance
  - Give the employee the opportunity to discuss any problems or raise any concerns
  - Discuss any Occupational Health advice that has been received
  - Review the impact of any support or work adjustments recommended by the Occupational Health Advisor, for example counselling
  - Decide whether any new information requires further referral to the Council's Occupational Health Advisor
  - Agree a target for improvement in sickness levels over a further monitoring period, usually three months
  - Agree any further help and support that can be provided to enable the employee to improve their attendance
  - Consider any changes in working arrangements which would allow the employee to continue working in their current job e.g. change of hours, period of unpaid leave, job design – whilst maintaining appropriate levels of service
  - Inform the employee that in the event of a medical report advising that they are permanently unfit to undertake their duties, their continued employment will be in question.
  - Consider the possibility of redeployment on medical grounds
  - Consider if ill health retirement should be explored
  - Issue a **Formal Warning** to the member of staff that his/her employment may be terminated if their attendance levels do not improve within the specified time period.
- 17.4 A Formal Absence Discussion Form must be completed. This will provide a record of the meeting and the outcome. A copy will be given to the employee and to Human Resources.
- 17.5 The employee must be advised of his/her right of appeal.
- 17.6 A target of reduced absence during a formal monitoring period (normally 3 months) will be set, and attendance and compliance will be monitored monthly during that period, following which a formal review will be held.
- 17.7 If the target set for improvement has not been met and the agreed action from Stage 2 is not having results, the line manager may move to Stage 3.
- 17.8 If the target set for improvement has been met there will be no need for further formal review meetings. However, attendance will continue to be monitored for a further three months. Provided that attendance and/or compliance do not deteriorate during this period there will be no further need for formal monitoring, the employee will be removed from the formal stages of this policy and the formal warning will be removed from their record. If attendance and/or compliance deteriorate during this period, however, the line manager may move to Stage 3.

### 18. STAGE THREE - Final Formal Discussion: Dismissal

- 18.1 A Final Formal Discussion may be held if the improvement target(s) have not been met or sustained. Failure to meet the targets set out in Stage 2 may result in progression to Stage 3, or if an employee has two Stage 2 discussions (or more) within the previous 3 year period. This meeting will be with the line manager and a representative from the HR Team.
- 18.2 The employee should be notified of the meeting at least 5 working days in advance and advised of the right to be represented. If the employee's representative is unavailable to attend at the appointed time, the employee may request postponement and suggest an alternative time and date. If this is reasonable and within 5 working days of the original date, the meeting will be postponed.
- 18.3 The purpose of the meeting is to consider whether the employee should be dismissed on the grounds of capability. Dismissal on grounds of ill health capability means that the employee's health is such that they cannot satisfactorily do the work they are employed to do. Ultimately, the Council do not have to retain the services of any employee who cannot for whatever reason attend work on a regular basis and by definition fulfil their contractual obligations to their employer. Each case will be dealt with on its own individual merits and particular circumstances in the light of the following information:-
- The employee's attendance record
  - The steps that have been taken to support them in achieving the required level of attendance
  - Any mitigating circumstances the employee may wish to be taken into account
  - Any occupational health advice that has been received
  - Other information that may have been collected during previous formal absence discussions.
- 18.4 Following the meeting a decision will be taken by the Assistant Director whether to dismiss the employee on the grounds of capability.
- 18.5 The **formal warning** may be extended to allow time for improvement in sickness absence levels. The option of allowing further time for improvement will only be considered if there is evidence that this is likely to lead to the required improvement in attendance.
- 18.6 The Assistant Director will confirm the decision in writing as soon as reasonably practicable and give details of the appeal process. In the case of dismissal the employee will be provided with the reasons for it and the date on which employment will terminate.
- 18.7 In the event that a **Formal Warning** is extended, the individual's sickness absence pattern will be monitored over an appropriate, specified period and regular reviews will be undertaken by the Manager during the monitoring period.

### 19. APPEALS

- 19.1 An employee has rights of appeal against decisions taken. Appeals against action short of dismissal are heard by a Senior Manager who has not previously been involved in the case. Appeals against dismissal are heard by the Appeals Committee. (Sub Committee of Appointments and Sub Committee of Personnel Committee at CDC).
- 19.2 If an employee wishes to appeal s/he must do so in writing within ten working days of the receipt of written notification of the decision.
- 19.3 The outcome of the appeal will be notified either immediately after the hearing and confirmed in writing, or in any event by written notification within ten working days of the appeal hearing.

### 20. SICKNESS PAY

- 20.1 An employee absent from work due to illness is entitled to receive sick pay, depending on their continuous service in Local Government, as follows :-

Service	Full Pay	Half Pay
Less than 4 months	1 month	None
After 4 months but less than 1 year	1 month	+ 2 months
After 1 year but less than 2 years	2 months	+ 2 months
After 2 years but less than 3 years	4 months	+ 4 months
After 3 years but less than 5 years	5 months	+ 5 months
After 5 years	6 months	+ 6 months

- 20.2 The Council has the discretion to extend the application of the above scale in exceptional circumstances.
- 20.3 The Payroll Team will notify the employee at the earliest opportunity of any reduction in sick pay entitlement.
- 20.4 Sickness absence during the twelve months immediately preceding the first day of current absence will be included in the calculation for sick pay entitlement.
- 20.5 This does not affect any entitlement the employee may have to receive Statutory Sick Pay (SSP) for the same periods of sickness absence, although any sick pay the employee receives from the Council shall be inclusive of any SSP due.

20.6 If the employee has been on long term sick leave continuously for more than a year, they will not qualify for Council sick pay again until they have returned to work for a total of 26 weeks. This does not affect any entitlement the employee may have to receive further SSP.

20.7 Further details of entitlement to sick pay is available from the Payroll Team.

### **21. WHEN THE DISCIPLINARY POLICY APPLIES**

21.1 Most issues relating to absence and non-compliance are managed within the formal stages of this policy.

21.2 The Disciplinary Policy will be used for offences that may be regarded as gross misconduct such as:-

- Making a false claim of incapacity for work due to ill health
- Deliberate falsification of self or medical certificates
- Abuse of the sickness scheme, for example, by undertaking paid or unpaid work elsewhere whilst on sick leave without permission

Further detailed advice and guidance on the use of the Sickness Absence Policy and Procedures is available from Human Resources.

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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

# Time Off for Dependents Leave Policy

## DOCUMENT CONTROL

<b>Organisation(s)</b>	Cherwell District Council (CDC)
<b>Policy title</b>	Time Off for Dependents Policy
<b>Owner</b>	Human Resources
<b>Version</b>	1.0
<b>Date of implementation</b>	1 November 2022

## DOCUMENT APPROVALS

This document requires the following committee approvals:

<b>Committee</b>	<b>Date of meeting pending approval</b>
<b>CDC</b> Personnel Committee	17 October 2022 (16:00)

## DOCUMENT DISTRIBUTION

This document will be distributed to all employees of Cherwell District

## DATE FOR REVIEW

No later than 1 November 2025 but sooner if impacted by legislative changes

## REVISION HISTORY

<b>Version</b>	<b>Revision date</b>	<b>Summary of revision</b>

## TIME OFF FOR DEPENDENTS POLICY

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### Contents

<b>1</b>	Entitlement
<b>2</b>	Purpose of the absence
<b>3</b>	Exercising the right to time off
<b>4</b>	The needs of the organisation
<b>5</b>	The procedure
<b>6</b>	Special Paid Leave
<b>7</b>	Local government pension scheme
<b>Appendix 1</b>	Time off for dependents application form

## **1 Entitlement to time off for dependents leave**

This policy does not form part of any employee's contract of employment and the Council may amend it at any time.

This policy applies to employees only. It does not apply to agency workers, consultants, self-employed contractors, volunteers or interns.

Time off for dependents leave is unpaid but provide you with the right to take a reasonable amount of time off work in particular circumstances relating to your dependents. Dependents in respect of whom you can take time off are:

- your spouse or civil partner
- your child
- your parent
- a person who lives in your household (excluding tenants, lodgers and employees)
- a person who reasonably relies on you for assistance, to make arrangements or take action of the kind referred to within the bullet points set out below at (2).

## **2 The purpose of the absence**

The right to time off work for dependants is limited to dealing with an unexpected event involving a dependant.

The circumstances in which employees may take time off for dependants are specified in legislation. These are to:

- provide assistance when a dependant falls ill, gives birth or is injured or assaulted
- make arrangements to provide longer-term care to a dependant who is ill or injured
- deal with the death of a dependant
- deal with the unexpected disruption, breakdown or termination of arrangements for the care of a dependant
- deal with an incident involving the employee's child while a school or another educational establishment is responsible for them.

The right to time off is limited to taking action that is necessary to deal with one of the above unexpected events. Its purpose is to allow an employee a short period of breathing space to deal with a dependant.

This policy does not apply where an employee needs to take planned time off or provide longer-term care for a dependant. If the right to time off for dependants does not give the employee, the scope / time off needed to look after a dependant then they should refer to other Council policies such as Flexi-Time or Compassionate leave.

Further detail on circumstances where time off work for dependants applies is as follows:

### **3 Exercising the right to time off**

Whether the action the employee is taking because of an immediate or unexpected crisis will be considered necessary will depend on the circumstances, including the nature of the problem, the closeness of the relationship between them and the dependant, and whether anyone else is available to assist. Action is unlikely to be considered necessary if the employee knew of a problem in advance but did not try to make alternative care arrangements.

The manager should take into account the circumstances and treat each situation on the basis of whether or not the time off is reasonable and necessary.

### **4 The needs of the organisation**

Reasonable time off in relation to a particular problem will not normally be more than one or two days. However, we will always consider each set of circumstances on their facts.

Line managers cannot take into account the operational needs of their organisation when assessing whether or not an employee is entitled to take time off for dependants, or whether or not the amount of time off that the employee needs to take is reasonable and necessary to deal with the particular circumstances. Even where the employee has an important deadline to meet, this should not prevent the line manager from permitting the employee to take time off.

All employees are entitled to take time off for dependants, and they do not need to have accrued a minimum period of continuous service to be eligible.

### **5 The procedure**

An employee will only be entitled to time off under this policy if, as soon as is reasonably practicable, they tell your line manager:

- (a) the reason for their absence; and
- (b) how long they expect to be away from work.

If the employee fails to notify us as set out above, they may be subject to disciplinary proceedings under our Disciplinary Procedure for taking unauthorised time off.

We may in some cases ask the employee to provide evidence for their reasons for taking the time off, either in advance or on their return to work. Suspected abuse of this policy will be dealt with as a disciplinary issue under our Disciplinary Procedure.

All line managers should familiarise themselves with this policy.

Provided that the correct process has been followed in line with this policy, an employee should complete a copy of the form at Appendix 1 on their return to work and forward directly to payroll for processing once the form has been authorised by their line manager. As all time off for dependents is unpaid, payroll

will arrange for the employees' salary to be adjusted accordingly in light of the time off.

## **6 Special Paid Leave**

In exceptional cases, Special Paid Leave of up to five days may be granted in any one leave year by the line manager to enable an employee to face an emergency situations or to cope with a critical situation involving a dependant / close family member / someone who depends on them.

An example could be:

- Employees whose partner or close family member have a terminal/life threatening illness

Special paid leave is not suitable for situations where advance notice is given (i.e. to take a dependant to hospital for an appointment or planned school inset days).

Additional leave, without pay, may be granted in special circumstances at the discretion of the Council, whereby provisions are not made elsewhere to cover such circumstances.

## **7 Local government pension scheme**

Any absence, which is unpaid, will be treated as a break in service for occupational pension purposes unless you choose to pay voluntary contributions.

You must write to Payroll and state your intention to pay voluntary contributions no later than 30 days after your return to work. You may pay these contributions as a lump sum or in instalments. For further advice, please contact Payroll.



<b>TIME OFF FOR DEPENDANTS' NOTIFICATION FORM</b>	
Name of employee	
Department	
Job Title	
I declare that I am requesting to take unpaid time off for a dependant, in accordance with my rights under the Employment Rights Act 1996.	
<b>The dependant I request to take the time off for is:-</b>	
<input type="checkbox"/> My child	
<input type="checkbox"/> My partner / spouse	
<input type="checkbox"/> My parent / step-parent	
<input type="checkbox"/> Someone who lives with me as part of the family (this excludes lodgers, tenants, boarders and live in employees)	
<input type="checkbox"/> Someone who reasonably relies on me for assistance in the absence of someone who has a closer relationship with them	
<b>And the reason for this time off is / was:-</b>	
<input type="checkbox"/> To provide assistance on an occasion when this dependant fell ill or was injured or assaulted.	
<input type="checkbox"/> To provide assistance on an occasion when this dependant gave birth.	
<input type="checkbox"/> To make longer term care arrangements for this dependant who was ill or injured (this includes mental illness or injury).	
<input type="checkbox"/> To take action required in consequence of the death of the dependant.	
<input type="checkbox"/> To deal with an unexpected disruption, breakdown or termination of arrangements for the care of the dependant.	
<input type="checkbox"/> To deal with an incident which involved/involves my child and which occurred unexpectedly in a period which an educational establishment which my child attends was responsible for him or her.	
<b>When did / will this absence take place:-</b>	



From (date):		To (date):	
Total missed hours that would normally be working during this period:			
Signed Employee:		Date:	
Signed Assistant Director:		Date:	
<b>This form should be returned to Human Resources</b>			

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## **Cherwell District Council**

### **Personnel Committee**

**17 November 2022**

### **Workforce Profile Statistics**

### **Report of Chief Executive**

This report is public

### **Purpose of report**

To provide the Personnel Committee with an update on Cherwell District Council's workforce including Key Performance Indicators for measuring staff well-being and to highlight the actions officers are taking to address any issues

### **1.0 Recommendations**

The meeting is recommended to:

- 1.1 Review and note the workforce data for Quarter 2 of 2022/23 (Appendix one).

### **2.0 Introduction**

- 2.1 Workforce Data for Quarter 2 of 2022/23 has been produced and is available at appendix one of this report. HR monitor workforce data on a quarterly basis to identify emerging trends in staff wellbeing and organisational development. Since the last quarter, HR has included comparative data to assist CDC with benchmarking against the local government sector and, for sensitive information such as ethnicity, gender, age, against the make-up of the district.

### **3.0 Report Details**

- 3.1 The workforce profile report provides commentary and data for quarter 2. It also includes past data where this is available, some of which dates back to April 2020 – the start of the COVID-19 pandemic. Monitoring data through the pandemic helps us to understand how things have changed or are changing as the world returns to a new normal.

- 3.2 The report provides statistics on:

- Headcount & FTE
- Employment and role basis

- Agency usage
- Turnover
- Leavers by length of service
- Leavers by reason
- Sickness absence incidents by reason
- Sickness absence rates –all absence, short-term, long-term, stress-related
- Percentage of working time lost due to sickness absence
- Age profile
- Gender Profile
- Ethnicity Profile
- Apprenticeship information

3.3 The workforce statistics for quarter one of 2022/23, highlighted we were missing a significant amount of sensitive information on our employees. Since then, officers have been encouraging all staff to complete this information on our HR system. The HR Team has also visited our depots to collect this data from colleagues that aren't regularly users of the HR system but also to capture other important details such as emergency contacts and next of kin. As a result, of this concerted work, the collection rate for sensitive information has increased from 48.75% to 68.73%.

3.4 HR will continue to encourage all employees to provide this data, whilst stressing they don't have to disclose it, but we need to know if they'd prefer not to. This is so we can demonstrate that we have collected all the sensitive information our staff are willing to share with us, which will help inform future policies and services.

3.5 The Q1 reported also highlighted a need to improve the exit interview process as leavers were choosing not to complete the questionnaire. The data collected through this process can be very informative, in highlighting areas of dissatisfaction or that require improving to increase staff retention. Since quarter one, HR has updated the process so that leavers are asked to complete the questionnaire but also invited to a meeting with a member of the team to discuss their responses. The data will then be shared with service managers where appropriate and developed for including in future quarterly workforce updates.

## 4.0 Conclusion and Reasons for Recommendations

Monitoring workforce data helps CDC to compare how it's performing against the rest of the local government sector, to ensure it remains an attractive employer and retains its staff. It also helps the council to measure how well it's supporting staff's wellbeing and development so it can identify issues at the earliest opportunity to address them effectively.

## 5.0 Consultation

N/A

## **6.0 Alternative Options and Reasons for Rejection**

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: Not to complete workforce statistics, this option is rejected as workforce analytics will enable CDC to address challenges and efficiencies in the workforce more efficiently.

## **7.0 Implications**

### **Financial and Resource Implications**

- 7.1 There are no financial implications directly associated with this report. This is historic information for which any costs will already have been incurred.

Comments checked by:

Joanne Kaye, Deputy S151 and Strategic Finance Business Partner,  
[Joanne.kaye@cherwell-dc.gov.uk](mailto:Joanne.kaye@cherwell-dc.gov.uk), 01295 221545

### **Legal Implications**

- 7.2 Monitoring employment statistics assists the Council to understand its employment trends and this will aid compliance with employment law obligations.

Comments checked by:

Shiraz Sheikh, Assistant Director of Law, Governance and Democratic Services and Monitoring Officer, [Shiraz.Sheikh@cherwell-dc.gov.uk](mailto:Shiraz.Sheikh@cherwell-dc.gov.uk)

### **Risk Implications**

- 7.3 There are no risk management implications arising directly from this report. Any arising risks will be managed by the relevant service operational risk register and escalated to the leadership risk register as and when necessary.

Comments checked by:

Shona Ware, Assistant Director – Customer Focus, 01295 221652  
[shona.ware@cherwell-dc.gov.uk](mailto:shona.ware@cherwell-dc.gov.uk)

### **Equalities and Inclusion Implications**

- 7.4 There are no equalities nor inclusion implications arising directly from this report

Comments checked by:

Shona Ware, Assistant Director – Customer Focus, 01295 221652  
[shona.ware@cherwell-dc.gov.uk](mailto:shona.ware@cherwell-dc.gov.uk)

## 8.0 Decision Information

### Key Decision

Financial Threshold Met: N/A

Community Impact Threshold Met: N/A

### Wards Affected

N/A

### Links to Corporate Plan and Policy Framework

N/A

## Document Information

### Appendix number and title

- Appendix 1 – Workforce Profile Data – Quarter 2 2022-23

### Background papers

None

### Report Author and contact details

Claire Cox, Assistant Director of HR

[Claire.cox@cherwell-dc.gov.uk](mailto:Claire.cox@cherwell-dc.gov.uk)

01295 221549

**Headcount and Full Time Equivalent (FTE) comparison and Agency usage**

Chart 1 shows that the headcount (based at the end of each quarter) at Cherwell District Council (CDC) has had a further reduction between quarter 1 and quarter 2 of 2022. This is attributed to a cleanse of casual workers, ensuring appropriate leavers action has been taken for those no longer completing work for the Council.

Other than a reduction in casual workers, quarter 2 has seen adjustments of 23 leavers and 24 new starters across the organisation.

Headcount has reduced by 5.82% between the first two quarters of 2022/23, but the actual impact on FTE is much smaller.

**Chart 1**

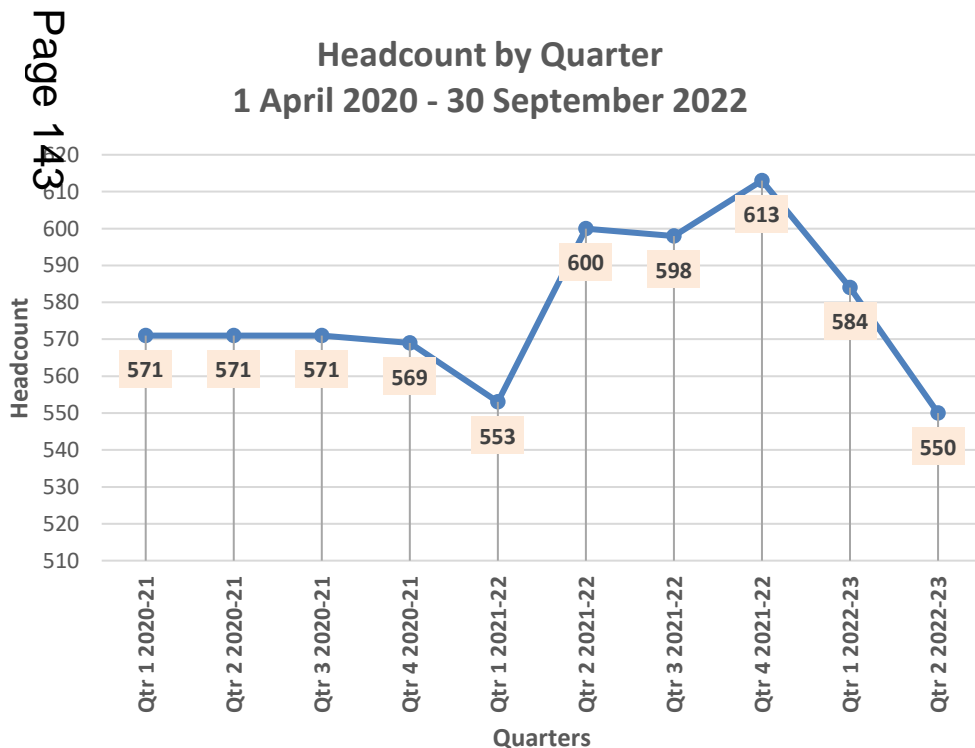


Chart 2 details the distribution of headcount across our departments and directorates as at the end of quarter 2 in 2022/23. With Wellbeing and Environmental Services showing the highest headcount.

The headcount in Wellbeing has reduced by 30 due to the cleanse of casual workers who no longer work for us.

Planning and Development has seen a reduction of 5. Housing Services has reduced by 4.

Customer Focus has had an increase of 9 employees since quarter 1. Other departments have had minimal or no fluctuation.

**Chart 2**

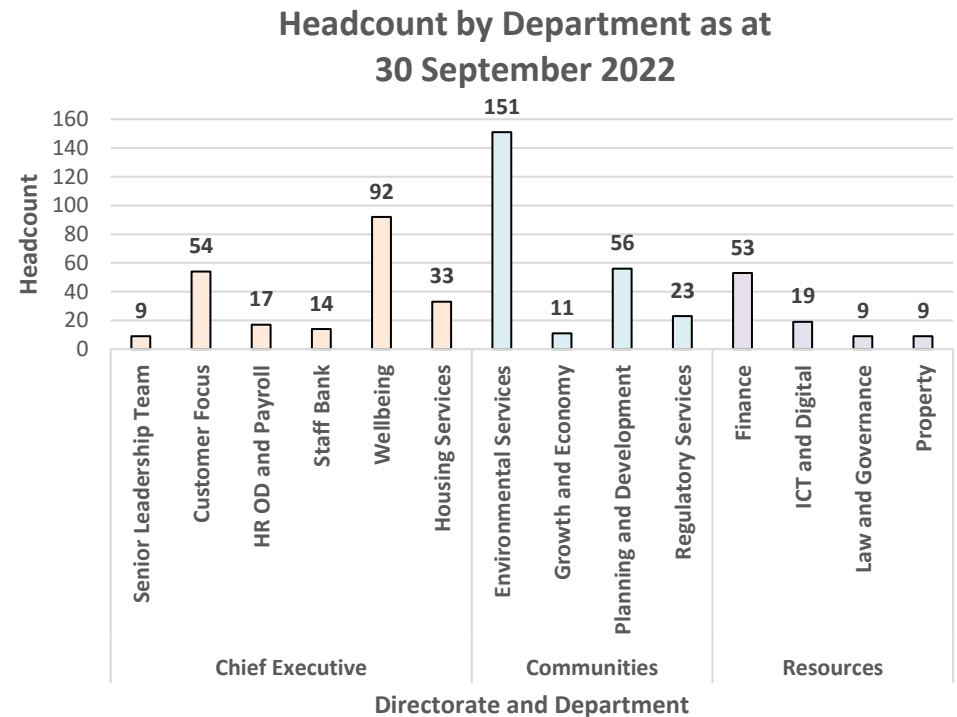


Chart 3 outlines the fluctuation of FTE which does not mirror headcount for this quarter due to the reduction in casual employees who are zero hours.

Chart 3

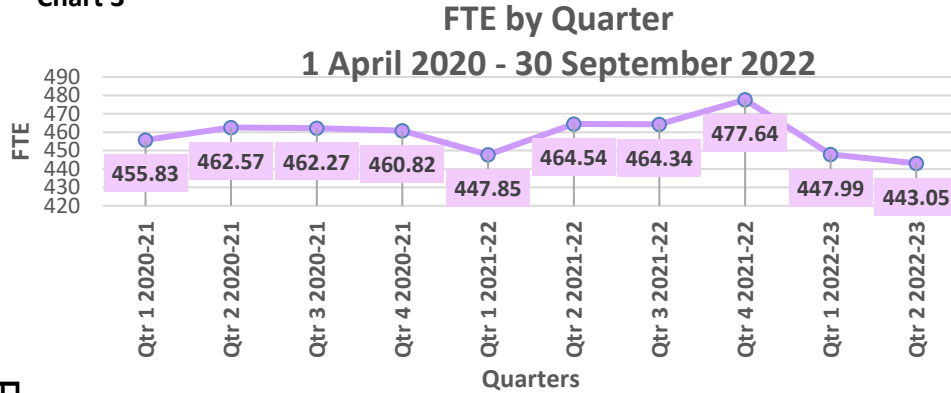


Chart 4 outlines the distribution of FTE across the departments and directorates as at the end of quarter 2 of 2022/23. A reduction of 4.94 FTE has occurred since quarter 1.

A reduction of 4.44 FTE is recorded in Planning and Development, 4 FTE in Housing Services between the first 2 quarters of 2022/23. Customer Focus has increased by 7.51 FTE.

Charts 5 shows the breakdown of basis of hours across our workforce as at 30 September 2022, our full-time workforce has increased by 3.42% and part-time by 0.81%. Our casual workforce has reduced by 4.21%.

Chart 4

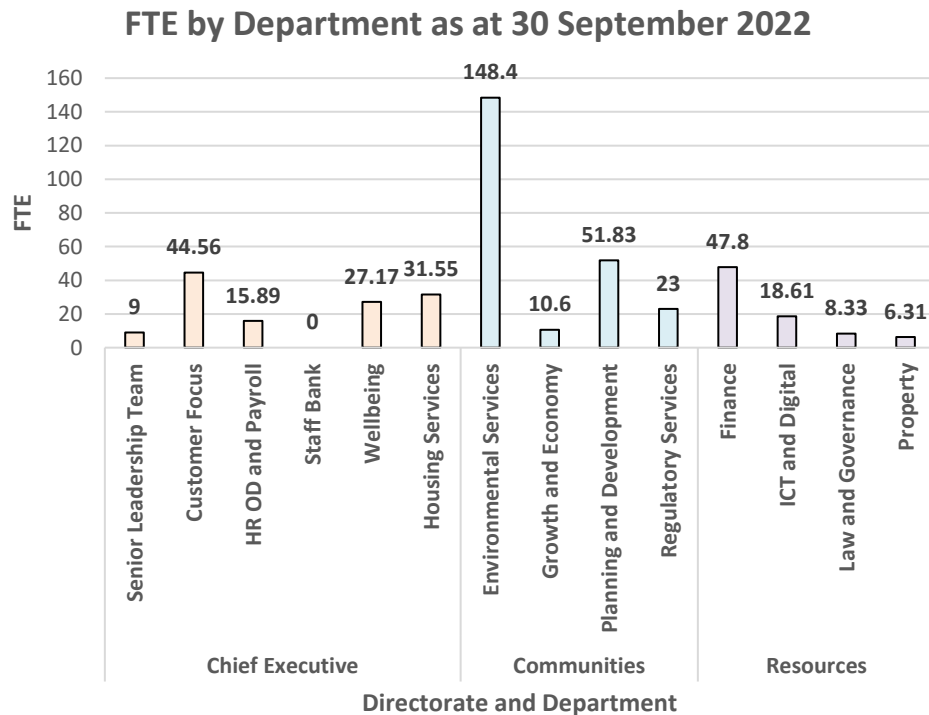


Chart 5

% Breakdown of Role Basis As at 30 September 2022

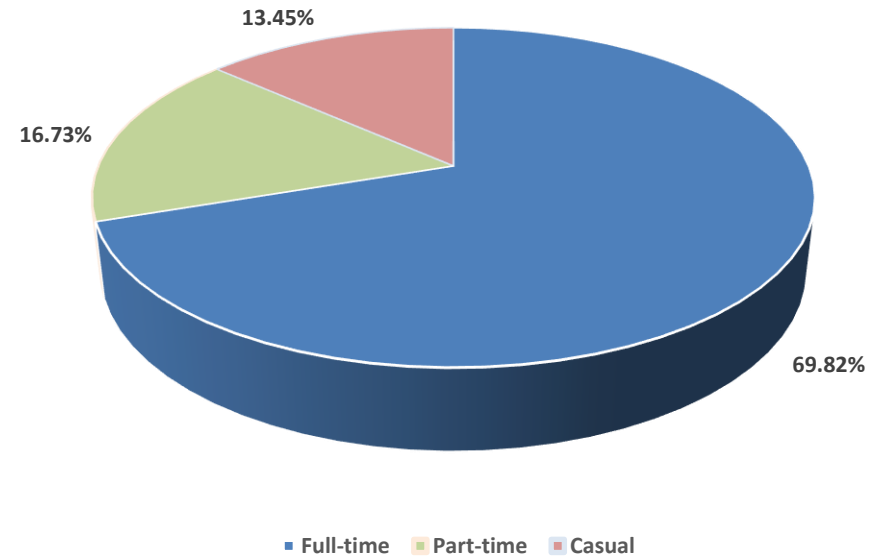
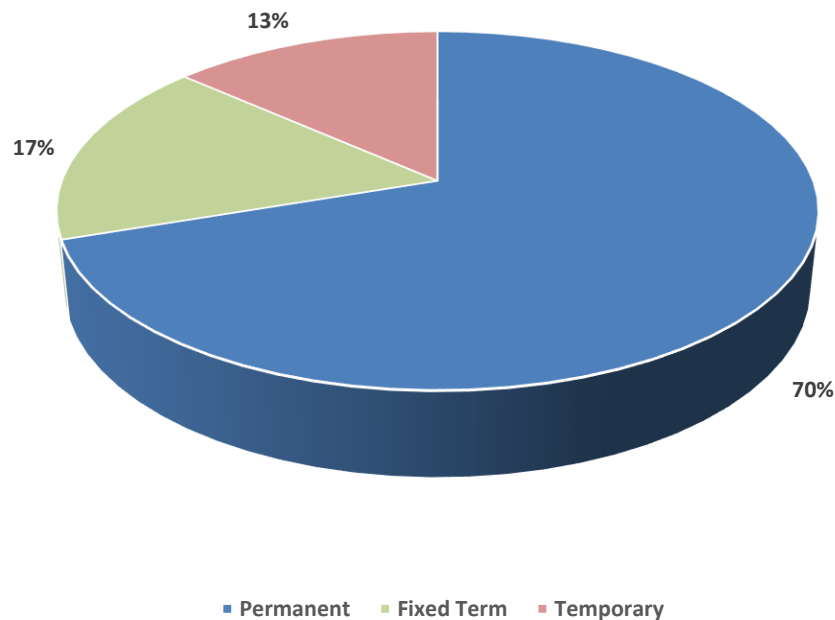




Chart 6 outlines the employment basis of those directly employed by CDC shows that 70% of our workforce are in permanent roles.

Chart 6

**% Breakdown of Employment Basis  
As at 30 September 2022**



In addition to employing staff directly, CDC also utilise Agency Workers, either for interim or short-term usage for specific posts and projects.

Chart 7 outlines agency usage as at the end of each quarter in 2022/23 to date by directorate and department.

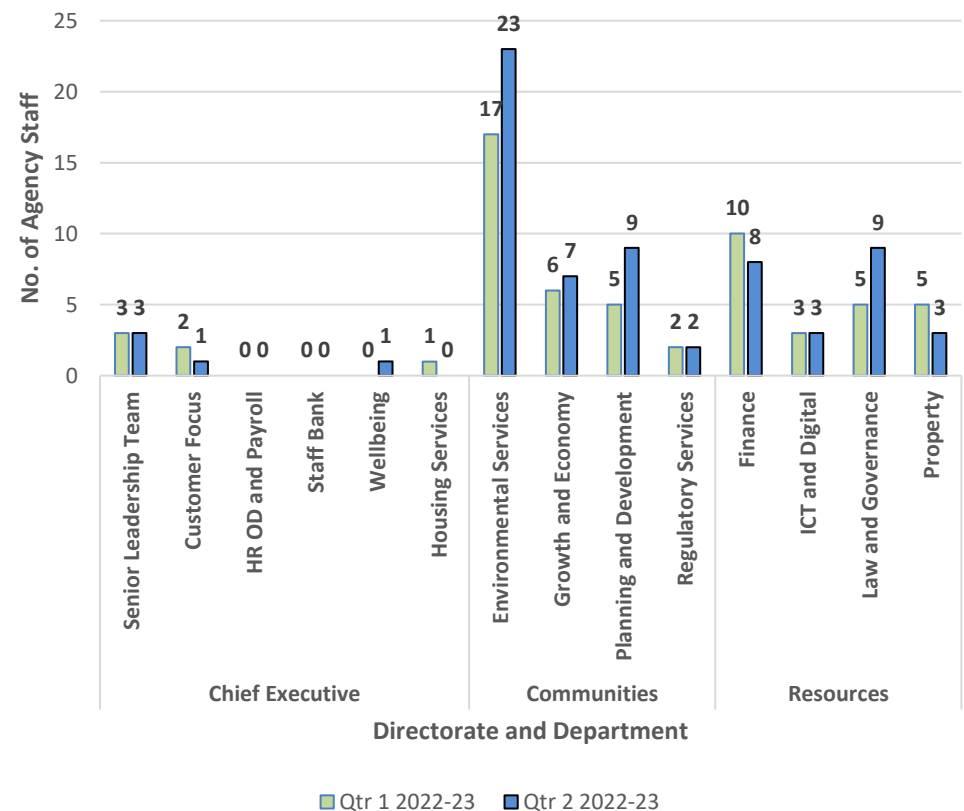
A total of 69 Agency workers were engaged with CDC at the end of quarter 2 of 2022/23.

The highest agency usage continues to be within Environmental Services, within refuse collection and this is due to having 3-person crews on refuse collection, often utilising agency staff to cover for employee sickness and holidays.

Planning and Development and Law and Governance have each had an increase of 4 agency staff since quarter 1. These are known hard to fill areas nationally at present. Customer Focus, Finance and Property have all reduced their agency usage since quarter 1.

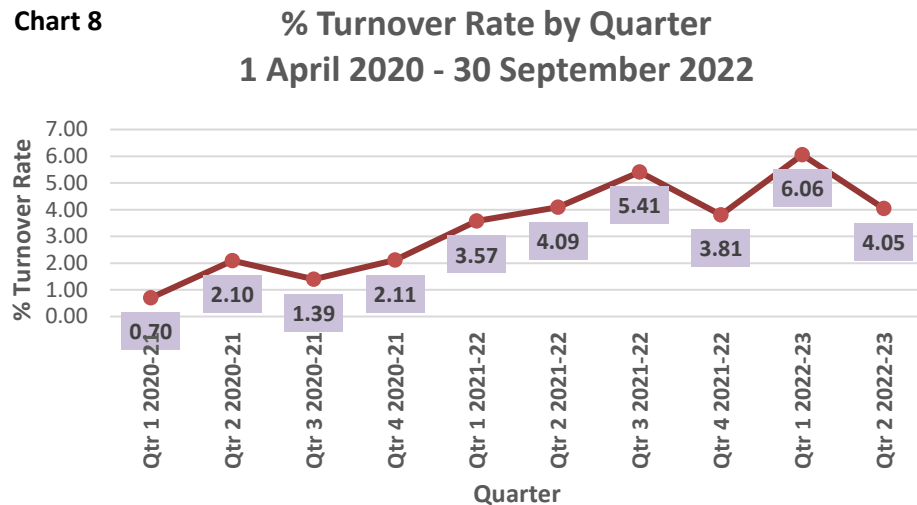
Chart 7

**Agency Usage  
by Quarter for 2022-23**



**Turnover rates and Leaver information**

Chart 8 tracks the turnover rate per quarter from April 2020 to September 2022. The turnover rate is defined by firstly calculating the average number of employees for the period and dividing the number of leavers by the average number of employees.



The turnover for quarter 2 shows a reduction of 2.01% since quarter 1. The figures used to calculate quarter 2 do not incorporate the casual leavers in Wellbeing as if included, it pushes the turnover rate up to 10.39% which appears far more impactful than the reality.

CDC participate in a workforce metric benchmark exercise that is co-ordinated by the Local Government Association. Data around employee turnover is submitted on a quarterly basis by CDC and other local authorities across the country and this has been translated into a mean average across the local authorities sector.

For quarter 1 the mean turnover rate for English authorities was 4.1%. CDC had a turnover rate of 6.06%, 2,5% higher than the mean average but this was attributed to the decoupling from OCC.

LGA statistics for quarter 2 are not yet available but will be tracked and added in the next round of statistics.

Comparative data for Quarter 1 of 2022/23 is as follows:

**Table 1**

Metric Type	Value Type	QUARTER 1 Mean for All English authorities	CDC Qtr 1	CDC Qtr 2
Labour turnover	%	4.1	6.06	4.05

Chart 9 outlines leavers by reason for quarter 2 of 2022/23. Resignation is the highest reason for leaving; accounting for 65% of all leavers. 22% of leavers are due to retirement.

**Chart 9**

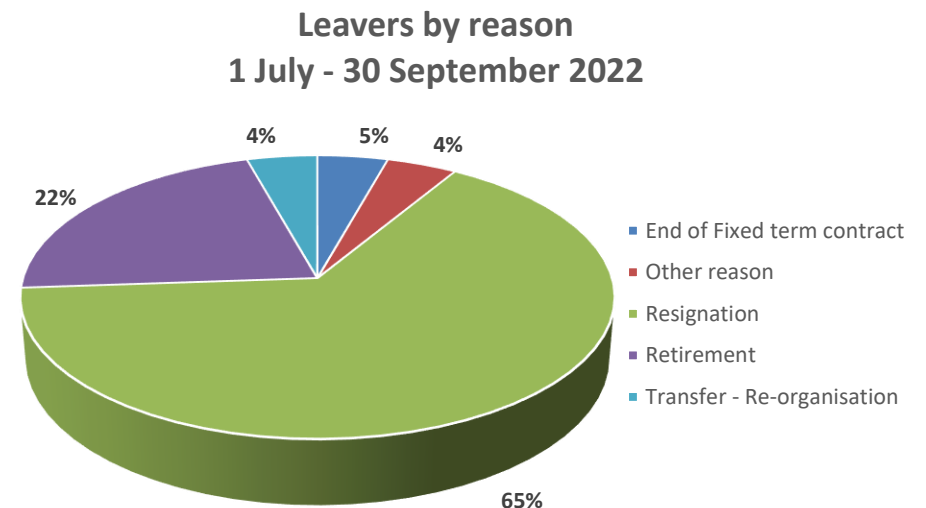


Chart 10

**Leavers by Length of Service  
1 April 2020 - 30 September 2022**

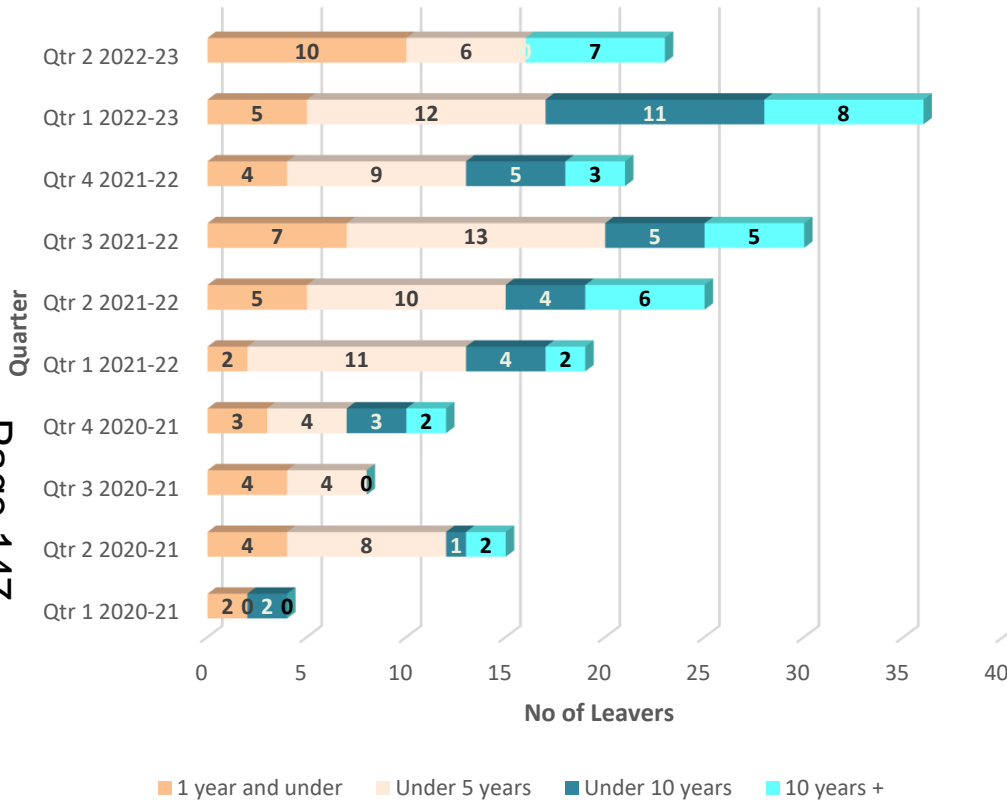


Chart 10 outlines leavers by length of service across the last 9 quarters. In the last rolling 12 months 33.3% of leavers have had less than a years’ service.

Chart 11 shows that 10 leavers left with less than a year’s service in the last quarter.

During quarter 2 the process for exit interviews has been updated to ensure we gather vital data as to why employees are leaving. This data can then go towards informing how to improve retention.

**Sickness Absence reasons and rates**

Chart 11 shows the number of sickness absence incidents by reason over the last 6 quarters, back to April 2021. COVID-19 remains the most common absence reason overall for this time period, which is to be expected due to the pandemic.

COVID-19 has been the highest reason for sickness absence for the previous 3 quarters. COVID-19 accounts for just over 18.07% of all incidents over the last 6 quarters, recording 180 cases, with 32 incidents occurring in the latest quarter.

The second highest reason for sickness in quarter 2 of 2022/23 was stomach/liver/kidney and digestion, accounting for 11% of incidents in the current quarter, and 11.3% over the last 6 quarters, making it the third most likely reason for sickness absence.

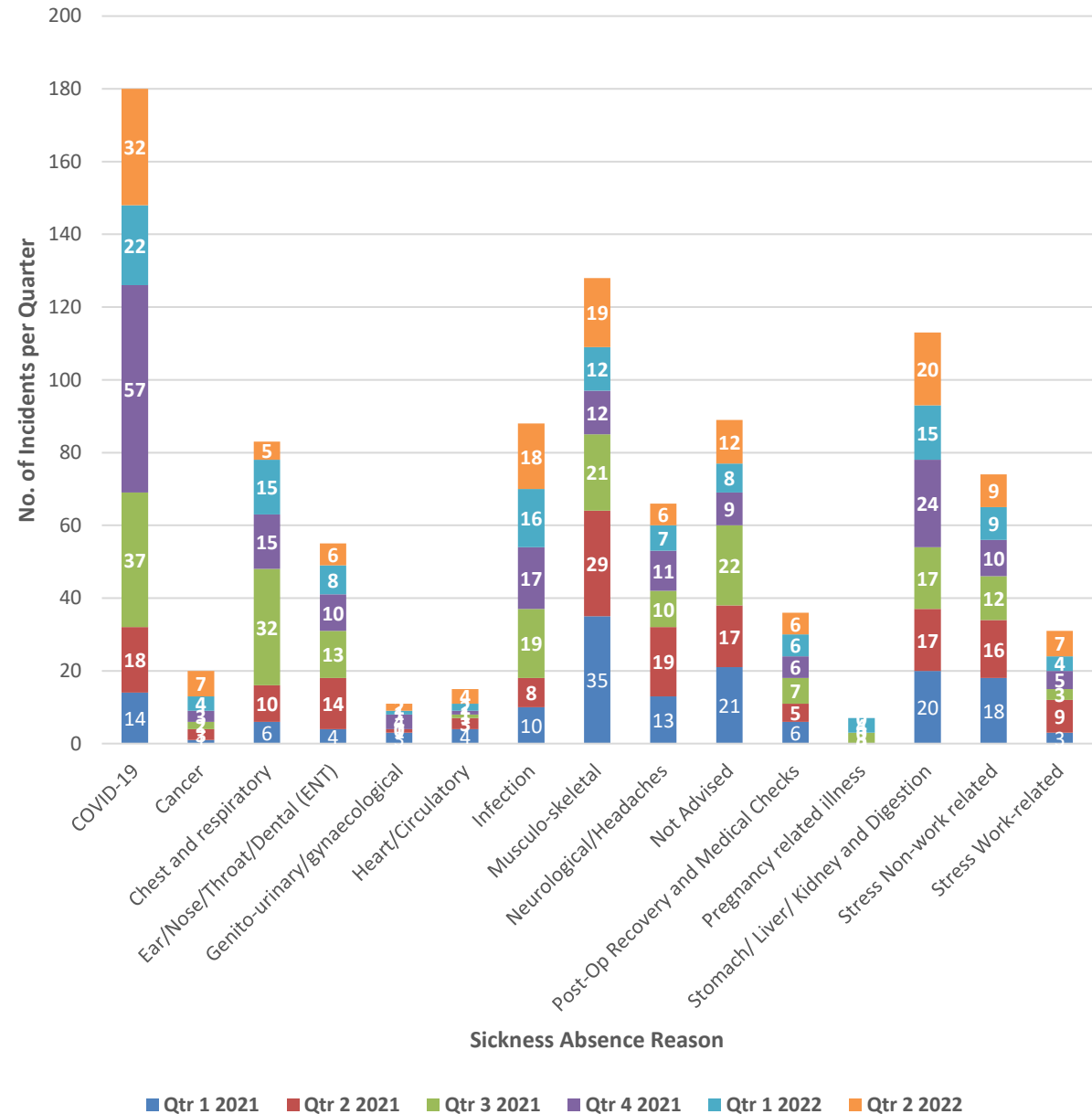
The third highest number of incidents were attributed to Musculo-skeletal issues, accounting for 19 out of 153 incidents in quarter 2 of 2022/23, which is 12.42% of incidents.

Musculo-skeletal is the second highest absence reason over the last 6 quarters accounting for 128 out of 996 incidents, equating to 12.85% of all incidents across his period.

Infection and Not advised complete the top 5 reasons for absence, accounting for 30 incidents collectively in quarter 2 of 2022/23.

88 reasons have been due to infection over the last 6 quarters, which is 8.84 of all incidents. Not advised had 8.9% of all incidents over the last 6 quarters, recording 89 out of 996 incidents across the period.

**Chart 11 Sickness Absence Incidents by Reason April 2021 to September 2022**



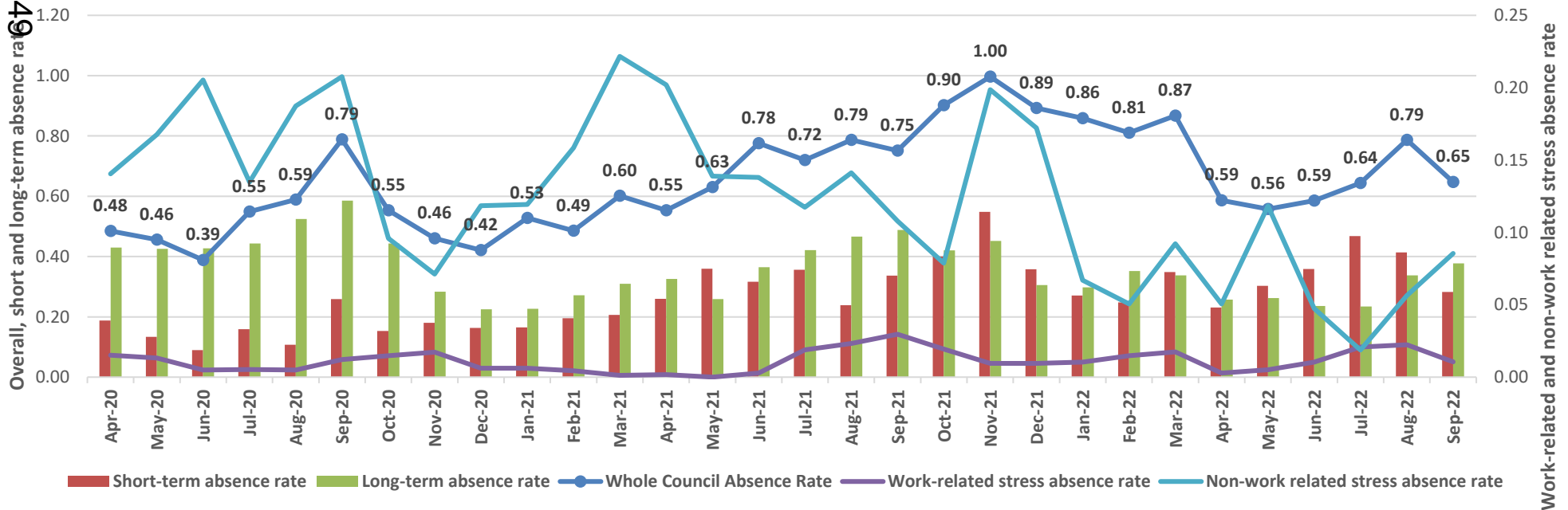
The corporate target for sickness absence is no more than 3 days per FTE in a rolling 12-month period. Long-term sickness is recorded as any absence spanning 28 days or more. HR work with managers and employees, where employees are off on long-term sick to engage with Cordell Health, CDC's Occupational Health Provider, to ensure effective absence management.

Chart 12 tracks the absence rate per month back from April 2020 to September 2022 and shows that CDC are consistently below the maximum absence target on a rolling monthly basis. The absence rate is calculated by dividing the hours lost due to sickness absence by the FTE for the period. The highest rate of absence, recording 1 day lost per FTE; is in November 2021. Quarter 2 records a slightly higher absence rate than quarter 1 of 2022/23. 20 additional sickness absence incidents were recorded in the latest quarter.

Chart 12 also captures the absence rate of short and long-term instances. July has the highest rate of short-term absence, recording an absence rate of 0.47 days per FTE. September had the highest rate of long-term absence with a rate of 0.38 days lost per FTE.

Chart 12

**Council Absence Rates by Month**  
 Overall and broken down into short-term, long-term and stress  
 April 2020 - September 2022



The absence rate attributed to stress is also displayed in Chart 12 and records a slight increase in work-related stress through August, with a rate of 0.11. This had reduced to 0.05 by September 2022. Work-related stress accounted for 4.6% of incidents in quarter 2 of 2022/23.

The highest absence rate for work-related stress currently remains September 2021; with 0.14 days lost per FTE.

The non-work related stress absence rate has increased over the last quarter, rising from 0.02 in July to 0.09 by September. Non-work related stress incidents accounted for 5.9% of all incidents in quarter 2 of 2022/23.

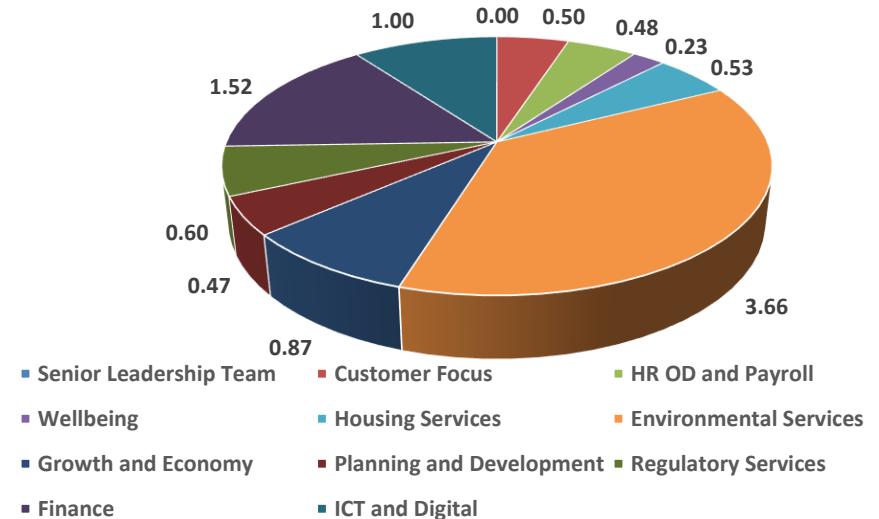
HR continue to ensure that Occupational Health support is accessed at the point that employee sickness is classified as long-term unless there are benefits to investigate this sooner. If an employee reports that they are absent due to stress, then an immediate referral to Occupational Health is made to ensure that support mechanisms can be put in place as soon as possible. Employees are also asked to complete a Health and Safety Executive (HSE) Stress Questionnaire as this provides information on the causes of stress which aids the organisation in supporting employees to deal with these issues where possible.

Employees also continue to have access to the Employee Assistance Programme (EAP) which is provided by Health Assured and offers access to counselling, legal and financial advice, and wellbeing resources. The service is confidential and whilst statistics on usage are reported through to CDC; details of which employees have made contact is withheld.

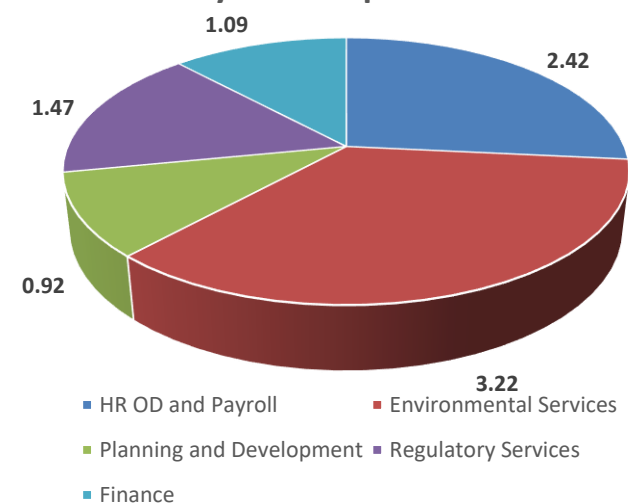
Charts 13 and 14 provide a breakdown of the percentage of working time lost by department for both short term and long-term sickness absence.

Environmental Services, Finance and ICT record the highest rates of short-term sickness absence in quarter 2, collectively accounting for 6.18% of working time lost due to short term absence.

**Chart 13** Percentage of working time lost due to short term absence by department 1 July to 30 September 2022



**Chart 14** Percentage of working time lost due to long term absence by department 1 July to 30 September 2022



Data for quarter 1 of 2022/23 is provided in table 1. Sickness data for quarter 2 is not yet available from the LGA but will be added into a later edition of these statistics. The LGA calculate the mean sickness absence rate across all English authorities as 2.8 per person in quarter 1 of 2022/23. CDC records a rate of 1.65 days in quarter 1 and 2.11 days in quarter 2.

CDC is consistently lower than the mean average through all calculations of both long and short-term absence with days lost due to short term recording at 0.31 days per FTE lower than the mean average and long-term, almost 50% of the mean average.

Table 2

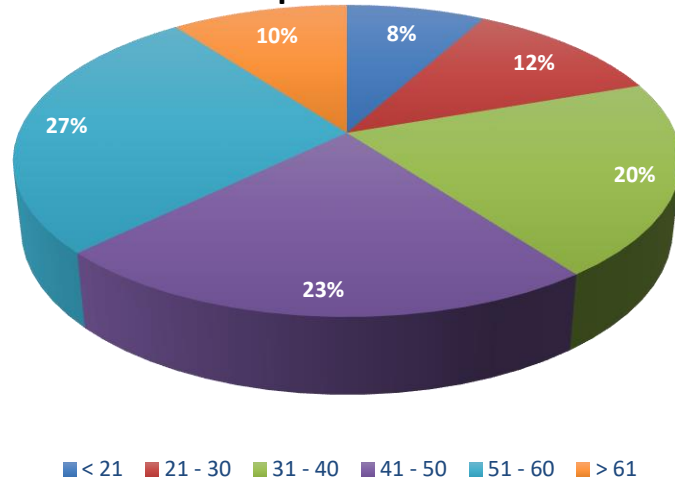
Metric Type	Value Type	QUARTER 1 Mean for All English authorities	CDC Qtr 1	CDC Qtr 2
Sickness absence rate	Days per person	2.8	1.65	2.11
Days lost through sickness, short term	%	11.6	1.37	1.79
Sickness absence, short term (FTE)	Days per FTE	1.2	0.89	1.17
Days lost through sickness, long term	%	11.1	1.16	1.46
Sickness absence, long term (FTE)	Days per FTE	1.5	0.76	0.94

**Age, Gender and Ethnicity Workforce Profile as at 30 September 2022**

Chart 15 shows a breakdown by age of the CDC workforce, expressed in percentage. 10% of CDC employees are over 65. 50% of CDC employees are aged between 41 and 60, with a further 20% aged between 31 and 40 and 20% aged under 21 to 30.

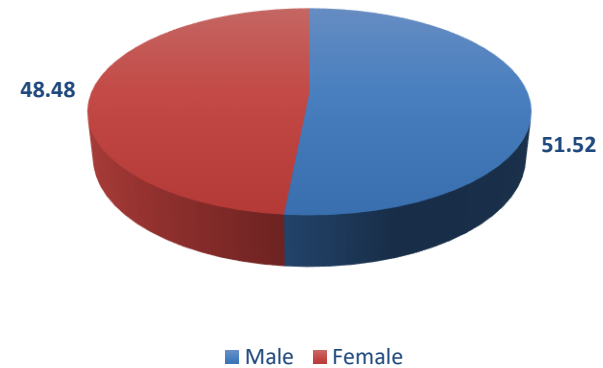
**Chart 15**

**Age Profile Percentage as at 30 September 2022**



**Chart 16**

**Gender Profile Percentage as at 30 September 2022**



Out of a population of 150,503 within the Cherwell District, 49.6% are male and 50.4% are female. At CDC, 51.52% of our workforce are male and 48.48% are female meaning it is quite representative of the district.

At the end of quarter 1 for 2022/23, it was reported that 51.25% of the workforce had not recorded their ethnic background.

Since quarter 1 data was collected, a number of requests have been made to the workforce to record their sensitive information within the HR/Payroll system and by quarter 2 this data has been captured for a further 20% of the workforce, with 68.73% recorded.

Chart 17 shows a breakdown of ethnicity within CDC. Comparative data has been sought both nationally and from the district and is presented in Table 3.

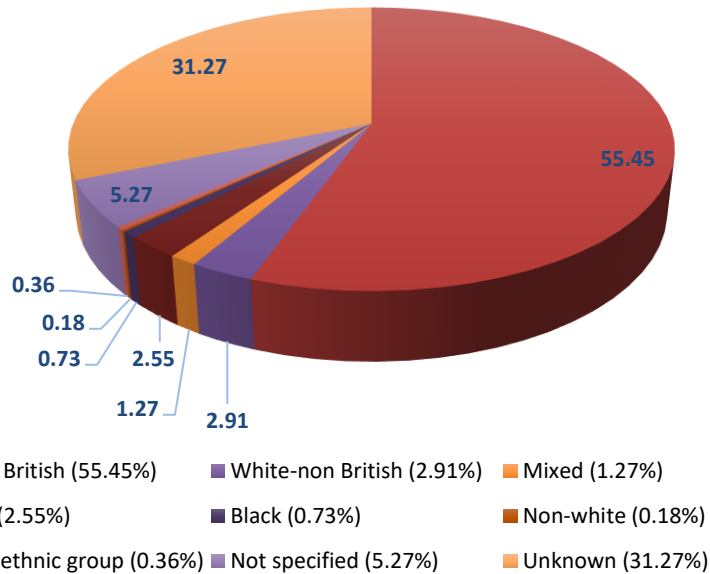
Chart 16 breaks down the gender of the CDC workforce and shows that CDC is almost a 50% split.

CDC record statistics on employees sensitive data in order to ensure that our workforce is representative of the district we support and serve. Where we are under-represented, we need to review what we can do to ensure these groups are aware of the employment opportunities we have available. Local Insight data in relation to gender and ethnicity within the Cherwell District has been used to compare against the make-up of our workforce.



Chart 17

**Ethnicity Profile Percentage as at 30 September 2022**



Page 153

CDC’s workforce is predominantly white British with 55.45% of the workforce that has recorded their ethnicity in this category.

When comparing this data to the district overall, Cherwell has a higher percentage of residents than the average across the UK that identify as White British.

White non-British are the second highest recorded category at CDC with 2.91%, followed by Asian with 2.55%. This differs from the data of the district where non-white and White non-British are the next highest categories.

The HR Team will continue to work with the organisation to gather outstanding data and will continue to update on a quarterly basis.

Table 3

Ethnic Group	England average (%)	Cherwell District (%)	CDC (%)
White British	79.8	86.3	55.45
White-non British	5.7	5.8	2.91
Mixed	2.3	1.8	1.27
Asian	7.8	4.3	2.55
Black	3.5	1.4	0.73
Non-white	14.6	7.8	0.18
Other ethnic group	1	0.4	0.36
Not specified	N/A	N/A	5.27
Unknown	N/A	N/A	31.27

**Apprenticeships within Cherwell District Council as at Quarter 2**

**Chart 18**

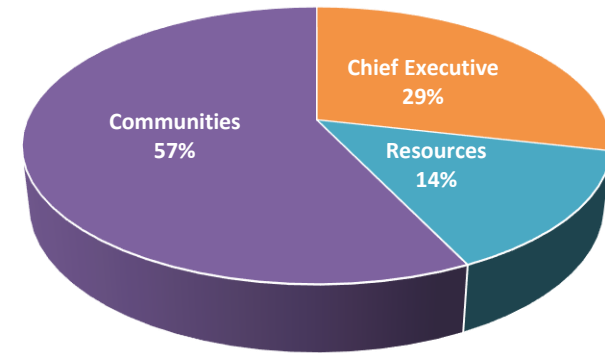
Percentage of Apprenticeships within Directorates

**Information**

There are 14 apprenticeships currently running within the Council, of which 4 are apprentices on programme, employed specifically as apprentices; and the remaining 10 are employees undertaking an apprenticeship as CPD or career progression. Chart 18 details the percentage of apprenticeships per directorate.

There are currently 8 apprenticeships within the Communities Directorate, 4 within the Chief Executive Directorate and 2 within the Resources Directorate – please see graph.

Details of the apprenticeships at the organisation are detailed in the table below. The organisation is using its apprenticeship levy predominantly for upskilling existing staff.



■ Chief Executive ■ Resources ■ Communities

Apprenticeships details below:

Apprenticeship Standard	Level of Apprenticeship	Duration of Apprenticeship	Number of employees on apprenticeship	Apprentice or Employee CPD	Team	Directorate	Cost of Apprenticeships (£)
Accounts or Finance Assistant	Level 2	1 ½ Years	1	CPD	Finance	Resources	5,400
Autocare Technician	Level 2	2 ½ Years	1	Apprentice	Fleet Management	Communities	12,000
Building Control Surveyor	Level 6	4 Years	3	CPD	Building Control	Communities	72,000
Business Administration	Level 3	1 ½ Years	2	Apprentice	Depot	Communities	10,000
Chartered Surveyor	Level 6	5 ½ Years	1	Apprentice	Access and Grants	Communities	27,000

Apprenticeship Standard	Level of Apprenticeship	Duration of Apprenticeship	Number of employees on apprenticeship	Apprentice or Employee CPD	Team	Directorate	Cost of Apprenticeships (£)
Chartered Town Planner	Level 7	2 ½ years	1	CPD	Planning	Communities	19,400
Improvement Practitioner	Level 4	1 ½ Years	2	CPD	ICT Customer Services	Resources Chief Executive	12,000
Operations / Departmental Manager	Level 5	1 ½ Years	1	CPD	Health Place Shaping	Chief Executive	7,000
Senior Leader	Level 7	2 Years	1	CPD	HR	Chief Executive	14,000
Senior People Professional	Level 7	3 ½ Years	1	CPD	HR	Chief Executive	19,000
					<b>Total apprenticeship levy committed</b>		<b>197,800</b>

### Future Apprenticeships

The Council currently has one apprenticeship being advertised for Level 3 Business Administration. This apprenticeship is within Environmental Services.

The Council have a number of employees who are interested in starting apprenticeships for CPD or Career progression in the very near future and these include:

- 1 x Level 4 Accountant or Taxation Professional – AAT – working within Finance
- 1 x Level 3 HR Support – working within HR
- 1 x Level 7 Senior People Professional – working within HR
- 2 x Level 3 Team Leader / Supervisor – working with Leisure

**Current amount in the Levy Account**

The Council currently has £129,063 in their levy account. It is estimated that a further £75,624 will be received over the next 12 months, based on funds entering the Council's Apprenticeship service account, including the 10% top up from the government. It is estimated that the Council will spend £50,369 in the next 12 months based on the current apprenticeships within the table above.

**Expired Funds**

To date the Council have not had any expired funds retracted from the levy account. Based on the current apprenticeships within the dashboard it is estimated that £2,788 will expire in September 2023 (this does not take into account any new apprenticeships that will be added to the dashboard).