

Meeting: **Employment Committee**

Date/Time: **Thursday, 18 June 2015 at 10.00 am**

Location: **Executive Room, County Hall, Glenfield**

Contact: **Miss. A. Rog (0116 305 0455)**

Email: **anna.rog@leics.gov.uk**

Membership

Mr. G. A. Boulter CC Mr. W. Liquorish JP CC
Mrs. J. Fox CC Mrs. H. E. Loydall CC
Mr. D. Jennings CC Mr. R. J. Shepherd CC
Mr. J. B. Rhodes CC

AGENDA

Item

Report by

1. Election of Chairman.

Mr J. B. Rhodes CC was nominated Chairman Elect at the Annual Meeting of the County Council held on 20 May 2015.

2. Election of Deputy Chairman.

3. Minutes of the meeting held on 5 March 2015.

(Pages 3 - 4)

4. Question Time.

5. Questions asked by members under Standing Order 7(3) and 7(5).

6. To advise of any other items which the Chairman has decided to take as urgent elsewhere on the agenda.

7. Declarations of interest in respect of items on the agenda.



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|-----|--|---------------------------------------|-----------------|
| 8. | Organisational Change Policy and Procedure:
Update of Action Plans. | Chief Executive | (Pages 5 - 10) |
| 9. | Behaviour in the Workplace policy. | Director of
Corporate
Resources | (Pages 11 - 26) |
| 10. | Smarter Working policy. | Director of
Corporate
Resources | (Pages 27 - 44) |
| 11. | Sickness Absence Rates. | Director of
Corporate
Resources | (Pages 45 - 50) |
| 12. | Changes to Officer Employment Procedure
rules. | Chief Executive | (Pages 51 - 56) |
| 13. | Any other items which the Chairman has
decided to take as urgent. | | |
| 14. | Date of Next Meeting. | | |

The next meeting of the Committee is scheduled to be held on 22 October 2015 at 10.00am.



Minutes of a meeting of the Employment Committee held at County Hall, Glenfield on Thursday, 5 March 2015.

PRESENT

Mr. J. B. Rhodes CC (in the Chair)

Mrs. J. Fox CC
Mr. D. Jennings CC
Mr. J. Kaufman CC

Mrs. H. E. Loydall CC
Mr. R. J. Shepherd CC
Mr. E. D. Snartt CC

36. Minutes of the previous meeting.

That the minutes of the meeting held on 4 February 2015 be confirmed and signed subject to minute 31(i) being amended to read as follows:-

31 (i). Following agreement at national level in November 2014, on a fifteen month pay award of 2.2%, effective from January 2015 to March 2016, it was agreed to implement this and the non-consolidated lump sum for employees up to grade 14, in January 2015.

37. Question Time.

The Chief Executive reported that no questions had been received under Standing Order 35.

38. Questions asked by members.

The Chief Executive reported that no questions had been received under Standing Order 7(3) and 7(5).

39. Urgent items.

There were no urgent items for consideration.

40. Declarations of interest.

The Chairman invited members who wished to do so to declare any interest in respect of items on the agenda for the meeting.

Mrs Fox CC, Mr Jennings CC, Mrs Loydall CC and Mr Shepherd CC declared a personal interest in relation to agenda item 6 as recipients, or were relatives of recipients of a teacher's pension.

41. Pay Policy Statement.

The Committee received a report outlining the Council's Pay Policy Statement 2015/16 for submission to the County Council. A copy of the report, marked 'Agenda Item 6', is filed with these minutes.

Arising from discussion members were advised as follows:-

- (i). There were approximately twenty employees under Soulbury conditions of service, the majority of whom were education psychologists;
- (ii). The Assistant Director advised that the wording relating to the Council's discretionary approach to retirement benefits would be re-drafted for the final Pay Policy statement;
- (iii). The pay award agreed in February was weighted towards those on lower pay scales, and as a result the number of employees on a wage lower than the living wage had decreased.

RESOLVED:-

That the County Council be recommended to approve the Pay Policy Statement 2015/16.

42. Chief Officers Pay Settlement.

The Committee considered a report outlining the action taken by the Chief Executive in implementing a pay award for employees covered by the Joint Negotiating Committee for Chief Officers (i.e those on grades 18 – 21). A copy of the report, marked 'Agenda Item 7', is filed with these minutes.

RESOLVED:-

That the action taken by the Chief Executive in implementing a pay award for employees covered by the Joint Negotiating Committee for Chief Officers be noted.

43. Organisational Change Policy and Procedure: Summary of Action Plans.

The Committee considered a report of the Chief Executive which presented a summary of current Action Plans which contained provision for compulsory redundancy and details of progress in their implementation. A copy of the report marked 'Agenda Item 8' is filed with these minutes.

The Committee was advised that the closure of Kegworth Community Centre had taken place in January 2015, and this would be reflected in the Action Plans submitted to the next meeting.

RESOLVED:

That the summary of current action plans which contain provision for compulsory redundancy and details of progress in their implementation be noted.

44. Date of Next Meeting.

The Committee noted that the next meeting would take place on Thursday 18 June 2015 at 10.00am.



EMPLOYMENT COMMITTEE – 18 JUNE 2015

ORGANISATIONAL CHANGE POLICY AND PROCEDURE

SUMMARY OF ACTION PLANS

REPORT OF THE CHIEF EXECUTIVE

Introduction

1. The purpose of this report is to present a summary of current Action Plans which contain provision for compulsory redundancy and details of progress in their implementation.

Background

2. At its meeting on 11th February 2010 the Committee approved a new Organisational Change Policy and Procedure (replacing the Policy in the Event of Redeployment and Redundancy) together with revised arrangements through which the Committee would exercise its oversight of the implementation of that procedure.
3. In accordance with that decision, summaries of current Action Plans are attached as follows:
 - Appendix A1 – Implementation Completed
 - Appendix A2 – Implementation Underway
4. The arrangements also involve presenting a summary of any outstanding comments/concerns raised by members of the Committee. There are no outstanding comments/concerns on this occasion.
5. Members are asked to indicate where they wish a representative of the Department concerned to be present to answer any questions in any particular case, if they have not already done so.

Equality and Diversity Implications

6. The Organisational Change Policy and Procedure is designed to ensure that changes which impact on employees are implemented in a fair and non-discriminatory manner.

Recommendation

7. That the report be noted.

Officer to Contact

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EMPLOYMENT COMMITTEE –18th JUNE 2015

SUMMARY OF CURRENT ACTION PLANS - IMPLEMENTATION COMPLETED

Action Plan	Date Approved	Outcome
A&C - Arts and creative industries officer post	14/10/2014	1 redundancy
CEX - Strategy, Partnership & Communities : Closure of Kegworth Community Centre	08/09/2014	3 redundancies
C&FS - Action Plan For Leicestershire Psychology Service	12/01/2015	1 redundancy
C&FS - Children's Social Care : Family Safeguarding Service, Child Protection Service	12/11/2014	1 redundancy
Corporate Resources – People & Transformation Phase 2	08/08/2014	2 redundancies
RES - School Food Service – Thurnby St. Lukes	09/02/2015	1 redundancy
RES - School Food Service – Great Glen St. Cuthberts	09/02/2015	2 redundancies
RES - Employee Service Centre Restructure	09/02/2015	2 redundancies
RES - Ashby C of E School Food Provision Action Plan		1 redundancy
RES - Ashby Hill Top School Food Provision Action Plan		1 redundancy

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EMPLOYMENT COMMITTEE – 18th JUNE 2015

SUMMARY OF CURRENT ACTION PLANS - IMPLEMENTATION UNDERWAY

Action Plan	Date Approved	Current Position	Next Steps	Max Compulsory Redundancies
C&FS Phase 1 – Management Grades 12 – 15	13/11/2014	Consultation currently ongoing		28 redundancies
E&T Departmental Restructure	30/01/2015	Consultation started 03/02/2015	Consultation	4 redundancies

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EMPLOYMENT COMMITTEE - 18th JUNE 2015

BEHAVIOUR IN THE WORKPLACE POLICY

REPORT OF THE DIRECTOR OF CORPORATE RESOURCES

Purpose

1. The purpose of this report is to seek the Employment Committee's approval for the introduction of a Behaviour in the Workplace Policy to replace the Dignity at Work Policy.

Background

2. The current Dignity at Work Policy and supporting guidance was drafted in 2012. However, arising from feedback from the Trade Unions and operational HR advisory teams it was identified that the Dignity at Work Policy needed to be reviewed in order to achieve better outcomes.
3. A number of key issues were identified including:
 - The majority of investigations resulting in no formal action being taken and consequently working relationships being left damaged with no support to help the parties involved to continue to work together;
 - Questions about the objectivity of some investigations;
 - Managers potentially failing to address incidents of unacceptable behaviour that they have witnessed as no formal complaint has been made;
 - The support offered during the process tends to focus on the complainant with little or no support being given to the alleged perpetrator.

Key Changes

4. In order to address the issues outlined above, the new policy emphasises a number of key points:-
 - A change to the policy title as it was felt that 'Dignity at Work' was too narrow a term for the behaviour covered by the policy. The new policy is therefore titled 'Behaviour in the Workplace Policy';
 - Clarification of the responsibilities of employees and managers in supporting the Council's commitment to creating and maintaining a working environment free of unacceptable behaviour;

- More emphasis on trying to resolve issues using an informal approach;
- A greater focus on supporting both parties during the process, not just the complainant;
- A recommendation that, wherever possible, the individual appointed as Investigating Officer should be employed in a different Service or Department to the complainant or alleged perpetrator and should be someone with appropriate experience and no prior involvement in the complaint;
- The introduction of a mandatory meeting at the end of the process to help both parties to re-establish their working relationship.

Implementation

5. The proposed policy, attached as an appendix to this report, has been agreed by the Trade Unions and People Strategy Board.
6. If approved by the Employment Committee, the policy will become effective as soon as is practically possible subject to finalising a communications and engagement plan. A copy will be published on the Council's intranet for managers and employees to view.
7. To promote the introduction of the new policy, an article will be published in Managers' Digest and a news item posted on the front page of the Council's intranet.
8. The policy's application will be monitored through ongoing discussions with Trade Unions, HR Advisers and managers. A formal review of the policy, with the Trade Unions, will take place after one year.

Recommendations

9. The Committee is requested to approve the introduction of the Behaviour in the Workplace Policy attached as an appendix to this report.

Equalities and Human Rights Implications

10. An Equalities and Human Rights Impact Assessment has been undertaken in relation to the changes to the policy. No adverse equality, diversity or human rights impacts were identified.

Officer to Contact

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List of Appendices

Appendix A - Behaviour in the Workplace Policy

Behaviour in the Workplace Policy

Scope

This policy applies to all employees of Leicestershire County Council, with the exception of those based in schools and colleges. It also applies to individuals who may be working on behalf of the Council (e.g. placement students, volunteers, casual workers).

Complaints of unacceptable behaviour directed at an employee by a third party (e.g. contractors, agency workers, customers) are also covered by this policy and should be dealt with using the process detailed below under [Third Party Harassment](#).

Purpose

Leicestershire County Council is committed to creating and maintaining a working environment where people are treated with courtesy, consideration and respect. Employees, and others working on the Council's behalf, are therefore required to conduct themselves in a professional and acceptable manner at all times.

This policy is designed to encourage employees to consider their own behaviour and how this may be perceived by others. It also provides examples of the types of behaviour that the Council considers unacceptable and sets out the informal and formal approaches that will be used to address such behaviour.

The Council's [Code of Conduct](#) and [Organisational Values](#) set out the minimum standards of behaviour expected from its employees. Managers and employees should ensure that they read this policy in conjunction with these documents.

What constitutes unacceptable behaviour?

Unacceptable behaviour is any unwanted action or behaviour which could reasonably be described as:

- Bullying - offensive, intimidating, malicious or insulting behaviour, and/or an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient;
- Harassment - unwanted conduct related to a relevant protected characteristic (i.e. age, disability, gender reassignment, race, religion or belief, sex, sexual orientation) which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual;
- Victimisation - subjecting a person to a detriment because they have, in good faith, made, or supported someone to make, a complaint of discrimination or harassment or given evidence in relation to a complaint.

Unacceptable behaviour does not necessarily have to be face-to-face; it can also be via telephone or written communications. The behaviour can be persistent or an isolated incident. Employees are able to complain of behaviour that they find offensive even if it is not directed at them. They need not possess the relevant characteristic themselves and can complain of behaviour they find offensive because of their association with a person who has a protected characteristic, or because they are wrongly perceived to have one, or are treated as if they do. It is the impact of the behaviour on the recipient which is important and, if the recipient feels that they have been subjected to unacceptable behaviour, the complaint must be taken seriously and, where appropriate, investigated.

Examples of the different types of unacceptable behaviour can be found in [Appendix A](#).

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

Counter Complaints

Managers who are using Council procedures to address an employee's performance, attendance or conduct will not be regarded as demonstrating unacceptable behaviour unless there is evidence to show that they have acted inappropriately. Where a complaint is solely or largely related to the commencement of these procedures, the manager's manager will meet with the complainant to discuss their concerns. The complaint will only be investigated further under this policy if evidence is provided which suggests that the manager has acted inappropriately or the concerns raised are not a consequence of the instigation of these procedures. Complaints that relate to disciplinary or performance management proceedings should be raised as part of those proceedings and/or any related appeal process.

How you can help prevent unacceptable behaviour

Both employees and managers have an important role to play in supporting the Council's commitment to creating and maintaining a working environment free of unacceptable behaviour. There are a number of steps that individuals can take to help do this, including:

- Being aware of how their own behaviour may be perceived by others and if necessary, changing it;
- Treating colleagues with dignity and respect;
- Taking a stand if inappropriate jokes or comments are being made;
- Making it clear to others if they find their behaviour unacceptable;
- Intervening, if possible, to stop unacceptable behaviour and providing support to recipients;

- Reporting unacceptable behaviour and supporting the Council in the investigation of any complaints.

Managers also have a particular responsibility to:

- Set a good example by their own behaviour;
- Ensure that employees are aware of the standards of behaviour that are expected of them;
- Intervene as early as possible to put a stop to unacceptable behaviour;
- Take complaints of unacceptable behaviour seriously and take appropriate action to address them.

What to do if you witness unacceptable behaviour

Anyone who witnesses behaviour which they deem to be unacceptable should take action rather than ignoring what they've observed. This could include:

- Speaking directly to the perpetrator of such behaviour to make them aware of how their behaviour has been perceived;
- Speaking directly to the recipient of such behaviour to offer support and encourage them to address the issue;
- Reporting their observations to their manager.

The individual should make a detailed note of the behaviour witnessed and the action they took as this may be required if they are asked to provide information as part of a formal investigation.

Managers who witness unacceptable behaviour, or have an issue reported to them, should ensure that they take action rather than dismissing the problem. Intervening at an early stage can put an end to behaviour and stop it escalating.

Managers have a legal duty of care to protect their employees from unacceptable behaviour and should therefore ensure that they deal with any such complaints as quickly as possible. Failure to do this may result in action being taken against the Council or specific individuals.

If the recipient requests that no action is taken, the manager will need to assess the seriousness of the reported unacceptable behaviour and determine what the next steps should be (e.g. monitor the situation, speak to the individual concerned, instigate a formal investigation, etc.).

Informal Procedure

What to do if you feel you are being subjected to unacceptable behaviour

An employee who feels that they are being subjected to unacceptable behaviour may find it useful to discuss the details with an independent person (e.g. a work colleague, Trade Union representative, manager) in the first instance. Having a second opinion can help the employee to determine whether they have reacted reasonably or if they may have misinterpreted the situation.

If the employee still believes that they are being subjected to unacceptable behaviour, they should attempt to resolve the matter informally by raising it with the person subjecting them to the behaviour. The employee should explain that they found the behaviour offensive and/or unwelcome and request that it is not repeated. This initial approach can be made either in person, by email or by telephone. If the employee feels unable to make the approach on their own, they can ask their manager (or the next most relevant manager if the complaint is about their manager) to make the approach on their behalf.

Once the initial approach has been made, both parties should meet to discuss the situation and agree a way forward. Depending on the nature of the complaint, it may be beneficial for a third party (e.g. a manager) to be involved to help facilitate the meeting and reach a solution. If the matter involves employees from two different teams, consideration should be given to as to which manager will facilitate this meeting or whether it would be more appropriate to involve another independent manager.

The employee should keep a record of the action they have taken and the response. If the unacceptable behaviour continues or reoccurs, this information could be used as evidence in any formal investigation.

If an informal approach does not resolve the situation, or the complaint is too serious to be dealt with informally (e.g. threatening behaviour), the employee can raise a [formal complaint](#). In very serious cases, a criminal offence may have been committed and the employee may also wish to report the matter to the police as well as their manager.

Employees should note that any formal investigation may result in both parties being required to attend a mandatory meeting to agree strategies to repair their working relationship. Individuals are therefore encouraged to engage in any mediation meetings offered during the informal or formal process in order to try and resolve the matter at the earliest opportunity.

What happens if you are accused of unacceptable behaviour?

If an employee is approached informally about their behaviour, they should not simply dismiss the complaint without giving it consideration. Although there may be occasions where a complaint is found to be malicious, the employee should assume that any approach received is genuine until established otherwise.

As a way of resolving the matter informally, it may be necessary for both parties to meet to discuss the matter and agree a way forward. Possible outcomes of this meeting could

include providing the other party with an apology, an explanation and/or reassurance that the behaviour won't happen again. Provided it is not repeated, no further action should need to be taken. Employees may want to discuss any complaint with their manager for advice and/or support.

However, if the behaviour continues after the informal approach or the complaint is of a serious nature (e.g. threatening behaviour) then it will be necessary to undertake a formal investigation under the [Formal Complaint Procedure](#), details of which are set out below.

What support is available to employees during the process?

Where a manager has been informed of an issue involving a member of their team, it is their responsibility to take steps to support the individual to resolve the matter informally. However, individuals may also benefit from seeking additional support from one of the following whilst the situation is being resolved:

- The Employee Wellbeing Service - its qualified accredited counsellors can provide a confidential, impartial listening service to employees but are not able to raise complaints on their behalf;
- Disabled, Black or LGBT Workers Groups;
- Trade Union;
- Independent manager;
- Work colleague.

Formal Complaint Procedure

If an informal approach does not resolve the issue or the complaint is too serious to be dealt with informally (e.g. threatening behaviour), a formal investigation will be undertaken. Any investigation will be handled in a manner that respects the confidentiality of those involved.

An employee who wishes to raise a formal complaint should do so in writing to their Head of Service. The Head of Service will be the Decision Maker in relation to the complaint, unless the Council considers it is inappropriate in the circumstances.

If a complaint relates to a Head of Service or Assistant Director then any complaint should be made to the employee's Assistant Director or Director respectively. Any complaints in relation to Directors should be made to the Assistant Director (Corporate Services and Transformation). In these situations an appropriate manager may be delegated to be the Decision Maker.

The complaint should set out, in detail, the names of parties involved, the nature of their complaint, the date(s) and time(s) that any alleged conduct occurred, the names of any witnesses and what action has already been taken to attempt to resolve the issue. Any supporting evidence should be provided together with the complaint. It should also identify how the employee feels the issue can be resolved. Employees should note that a copy of the complaint (excluding the names of any witnesses) will be provided to the alleged perpetrator at the start of the investigation process.

Generally it will be for an employee to decide whether they wish to raise a formal complaint. However, the Council has a duty to protect all employees and reserves the right to commence an investigation into complaints raised informally, even where the employee has not made a formal complaint, if it is considers it appropriate to do so.

Confidentiality

Complaints of unacceptable behaviour will be dealt with sensitively and confidentiality will be maintained where possible. However, there may be circumstances in which this will not be possible. Details of the investigation and the names of the person making the complaint and the person accused must only be disclosed on a “need to know” basis. Breach of confidentiality in this respect may give rise to disciplinary action under the Council’s [Disciplinary Policy and Procedure](#).

Employees should note that information relating to a complaint by or about an employee may be placed on the employee’s personal file where the complaint is founded or where it is found that the complaint has been raised maliciously. A record of the outcome and of any notes or other documents compiled during the process may also be retained on the employee’s personal file.

Process

On receipt of a complaint, the Decision Maker should:

- Determine whether the complaint relates to a third party. If so, refer to the section on [Third Party Harassment](#) for further information;
- Review what action has already been taken by the complainant to resolve the situation. If [informal action](#) has not been attempted but would be considered appropriate, the employee should be encouraged to consider pursuing this option before any formal investigation is commenced;
- Acknowledge receipt of the complaint as soon as possible and advise the complainant that they will be invited to attend a Formal Investigatory Meeting;
- Contact the alleged perpetrator to advise them that a formal complaint has been made against them and that they will be invited to attend a Formal Investigatory Meeting. Where the alleged perpetrator is in another service or department, this contact should be made via the employee’s manager;
- Consider whether the working arrangements (including reporting lines) of the complainant and alleged perpetrator need to be altered to limit their contact during the investigation or whether either employee may benefit from more [flexible working arrangements](#) whilst the issue is resolved;
- Remind both the complainant and the alleged perpetrator that support is available from the Employee Wellbeing Service.

Investigation

An 'Investigating Officer' will be appointed to establish the facts and explore the full details of the complaint. Wherever possible, this individual should be employed in a different Service or Department to the complainant or alleged perpetrator and should be someone with appropriate experience and no prior involvement in the complaint. The investigation should be thorough, impartial and objective and carried out with sensitivity and due respect for the rights of all parties concerned. Strategic HR may be available, on occasion, to undertake investigations on behalf of a Service or Department.

The Investigating Officer will endeavour to complete the investigation in a timely and confidential manner.

Managers should note that they have a legal duty of care to protect their employees from unacceptable behaviour and should therefore ensure that any such complaints are resolved as quickly as possible. Failure to do this may result in action being taken against the Council or specific individuals.

As part of the investigation, the Investigating Officer will:

- Check whether the alleged perpetrator has been spoken to previously, either informally or formally, about the same or similar behaviour;
- Interview the complainant to ascertain the full details of their complaint and obtain copies of any supporting evidence and/or names of witnesses;
- Interview the alleged perpetrator to give them the opportunity to respond to the allegations against them and provide copies of any supporting evidence and/or names of witnesses. The individual should be provided with a copy of the complaint;
- Interview any individuals who may have witnessed the alleged unacceptable behaviour or have evidence which either supports or contradicts the allegations. In order to maintain confidentiality, questions will only be asked of individuals who can provide evidence in relation to the alleged behaviour; speculative interviews of individuals will not be conducted. The importance of confidentiality will be emphasised to any witnesses interviewed;
- Adopt an objective and balanced approach to the gathering of information;
- Assess objectively whether they believe, on the balance of probabilities, that the alleged behaviour did take place and if it could reasonably be deemed as offensive.

In certain circumstances it may be necessary to suspend or temporarily redeploy the alleged perpetrator whilst the investigation is completed. Suspension is not a disciplinary penalty and does not pre-determine the outcome of the investigation. The details of any suspension should be confirmed in writing to the employee. There may also be situations where consideration will need to be given to temporarily redeploying or altering the

reporting lines of the complainant (e.g. where a complaint is raised against a number of employees in the same team or the complaint is against the employee's manager).

The Council will also consider any requests made by the complainant or alleged perpetrator for changes to their working arrangements (e.g. change of hours) during the course of the investigation to avoid or minimise any contact between the relevant parties.

The Investigating Officer should refer to the [Disciplinary Guidance](#) for further information on undertaking an investigation, conducting formal investigatory interviews and producing an investigation report.

In situations where the complainant or the alleged perpetrator refuses to attend an investigatory interview due to ill health, it may be necessary, depending on the length of and reason for the absence, to conclude the investigation without this evidence. In such cases, it may be appropriate for an occupational health referral to be made regarding the employee's fitness to attend any meetings relating to the complaint.

Potential Outcomes

The Investigating Officer will produce a report for consideration by the Decision Maker as to what action should be taken. The standard of proof for any investigation and any subsequent disciplinary hearing will be "on the balance of probabilities".

The potential outcomes of the investigation are:

- There is nothing to suggest that any unacceptable behaviour took place. In these circumstances no further action will be taken;
- It is believed that unacceptable behaviour took place and further action is required. Depending on the severity of the behaviour, it may be appropriate to deal with the matter informally (e.g. an apology, reassurance of no repeated harassment, training, counselling, instigating capability proceedings, as appropriate). However, in serious cases it will be necessary to refer the matter to a formal disciplinary hearing (see Stage 3 of the Disciplinary Policy for further information). It **will not** be necessary to undertake another investigation as the Investigating Officer's report and evidence, including witness statements, can be used for the basis of the disciplinary. A copy of the Investigating Officer's report should be included in the disciplinary hearing folder.

Regardless of the outcome of the complaint, the Council will consider how best to manage the relationship between the employee and persons concerned which may include some form of mediation or counselling or change to duties, working locations or reporting lines of one or both parties.

Any employee who deliberately provides false information or otherwise acts maliciously in the course of an investigation may be subject to action under the Council's [Disciplinary Policy and Procedure](#).

Confirming the Outcome

As soon as possible following the conclusion of the investigation, the Decision Maker should meet separately with the complainant and the alleged perpetrator to provide them with the outcome. During the meetings, the Decision Maker should provide a detailed summary of the investigation's findings and confirm the outcome of the investigation and what action, if any, will be taken. The contents of the discussion should then be confirmed in writing. A copy of the investigation report should **not** be provided to either party at this stage. If the matter progresses to a disciplinary hearing, the alleged perpetrator will be provided with a copy of the investigation report as part of the hearing paperwork.

Right of Appeal

The complainant has the right to appeal if they are not satisfied with the outcome of the investigation. An [appeal registration form](#) must be submitted to the Decision Maker within 5 working days of receiving the outcome letter. When completing the registration form the employee should specify the grounds for their appeal (e.g. procedural flaw, new evidence) and attach any supporting evidence.

The appeal hearing should be convened as soon as possible. For the majority of employees, the appeal will be heard by a panel of three officers, chaired by a senior manager and accompanied by two other panel members; another independent manager and a representative from Strategic HR. However, appeals for those employed under the Conditions of Service of the Joint Negotiating Committee for Chief Officers of Local Authorities will be heard by a panel comprised of at least three elected Members

The appeal will not be a reinvestigation of the original complaint but rather a consideration of the points raised in the appeal and whether the original conclusion reached by the Decision Maker was appropriate. New evidence will only be considered if it is relevant and there was a good reason why it was not provided as part of the original investigation.

The format of the appeal hearing will be in line with the [Appeal Policy and Procedure](#). The Decision Maker will present their reason for reaching their decision and may call the Investigating Officer as a management witness. The employee may be accompanied by a work colleague or Trade Union representative.

Right of Appeal against Disciplinary Sanctions

Where the outcome of the investigation has been referred to a disciplinary hearing and a disciplinary sanction imposed, an employee has the right to appeal against that sanction. Further information can be found by clicking [here](#).

Re-establishing Working Relationships

In situations where the complaint has either not been upheld or the outcome is informal action, the alleged perpetrator and the recipient **must** attend a mandatory joint meeting to discuss what support or action is required to assist them to re-establish their working relationship. The Decision Maker should ensure that this meeting is scheduled to take place as soon as possible after the parties have been advised of the investigation outcome. A third party (e.g. manager, HR representative) should be involved in this meeting to help facilitate a solution.

The meeting should focus on agreeing strategies to assist the parties to resume and repair their working relationship. A potential outline of the meeting might include:

- Explaining the purpose of the meeting (i.e. it is not to revisit the complaint previously investigated, it is about moving forward);
- Identifying potential areas of concern and explore these with the parties;
- Encouraging open and honest communication;
- Confirming the key points agreed to help move forward.

Protection and Support for those involved

Employees who make complaints or who participate in good faith in any investigation must not suffer any form of retaliation or victimisation as a result. Anyone found to have retaliated against or victimised someone in this way will be subject to disciplinary action under the Council's [Disciplinary Policy and Procedure](#).

Any employee that believes that they have been subjected to any such treatment should inform their manager. If the matter is not resolved then a complaint may be made under this policy or the Council's [Grievance Policy and Procedure](#), as may be appropriate.

Malicious Complaints

If it is determined that an employee has made a complaint or given evidence that they know to be untrue, this may lead to disciplinary action being taken against them.

Third Party Harassment

The Council acknowledges that its employees may suffer unacceptable behaviour by users of its services. Unacceptable behaviour directed at an employee of the Council by a third party (e.g. customers, suppliers, contractors, agency staff, member of the public) should be reported immediately to the employee's manager.

The Council will investigate any complaint of unacceptable behaviour made by an employee against a third party and take appropriate action. The manager should investigate the allegation appropriately depending upon the circumstances of the complaint. The investigation should include speaking to the complainant and may include speaking to any witnesses or the alleged perpetrator if possible.

The Council's responses to unacceptable behaviour towards its employees by third parties may be restricted by the lack of applicable sanctions or by statutory duties to provide services. Within these restrictions, however, the following guidelines must be observed by all supervisors and managers of employees who have been subjected to unacceptable behaviour in the course of their employment, by a third party:

- Any employee who has been subjected to unacceptable behaviour must be dealt with sympathetically and supportively by management, and should be offered suitable counselling;

- Managers should deal explicitly with perpetrators with a view to withdrawing their services if appropriate;
- Where the complainant is likely to remain in contact/close proximity with the alleged perpetrator it may be appropriate to make a request to the contractor / agency / supplier for the alleged perpetrator to be temporarily removed from the workplace if possible / appropriate;
- Only where the employee has requested a transfer or has asked not to deal with the third party again, and the Council provides a statutory service to the user, should substitution of staff be considered. Not every case can be covered by such advice and managers must use their discretion in appropriate circumstances. Further advice and support can be obtained from Strategic HR.

APPENDIX A - Definitions of Unacceptable Behaviour

Unacceptable behaviour can occur in all forms of communications including face-to-face, written, visual, electronic, or telephone. The following list provides some examples of possible unacceptable behaviour; this list is not exhaustive:

Bullying

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, and/or an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

Possible examples of bullying include:

- Constantly criticised and subjected to destructive criticism;
- Spreading malicious rumours, or insulting someone (particularly on the grounds of age, race, sex, disability, sexual orientation and religion or belief);
- Subjected to nit-picking and trivial fault finding;
- Undermined, especially in front of others, overruled, ignored, sidelined, marginalised, ostracised;
- Isolated and excluded from what's happening;
- Singled out and treated differently;
- Belittled, degraded, demeaned, ridiculed, patronised, subject to disparaging remarks;
- Regularly the target of offensive language, personal remarks, or inappropriate bad language;
- Threatened, shouted at, humiliated;
- Set unrealistic goals and deadlines which are unachievable or are changed without notice;
- Have their responsibility increased but their authority removed;
- Denied information or knowledge necessary for undertaking work and achieving objectives;
- Either over-loaded with work without reason or when others have a much lesser workload, or have their work taken away.

Harassment

Harassment is unwanted behaviour related to a relevant protected characteristic which includes age, disability, gender reassignment, race, religion or belief, sex and sexual orientation or any other personal characteristic which is reasonably considered to have the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Harassment is normally characterised by more than one incident of unacceptable behaviour. One minor incident will not usually constitute harassment however, a series of incidents, particularly where an employee has expressed a dislike of such behaviour and has asked for it to stop or just one incident if it is sufficiently serious (e.g. threatened or actual violence or threats of dismissal) may constitute harassment.

Harassment includes the following:

- **Harassment based on association.** It is unlawful to discriminate against or harass any individual for association with another individual who has a protected characteristic;
- **Harassment based on a perception.** It is unlawful to discriminate against or harass any individual based on a perception that he or she has a particular protected characteristic;
- **Third party harassment.** Employers can be found liable for harassment of an employee in the course of his or her employment, based on any of the protected characteristics.

Possible examples of harassment include:

Age Discrimination

- Ridiculing or demanding behaviour focused towards people because of their age.

Disability Harassment

- Mimicking the effect of a disability or speech impairment;
- Ostracising, “freezing out”, ignoring and staring;
- Making fun of a disability;
- Use of inappropriate terms;
- Inappropriate personal questions/comments about a disability;
- Belittling or patronising comments/nicknames;
- Moving a wheelchair without the user’s agreement;
- Practical jokes, e.g. hiding a disability aid;
- Touching a visibly impaired person, to annoy.

Sexual Harassment

- Unwanted non-accidental physical contact ranging from unnecessary touching, patting or brushing against a colleague’s body, to assault and coercing sexual relations;
- Unwelcome sexual advances, offensive flirting, propositions or pressure for sexual activity, continued suggestions for social activity within or outside the workplace, after it has been made clear that such suggestions are unwelcome;
- The display of pornographic or sexually suggestive pictures, objects or written materials;
- Leering, whistling or making sexually suggestive comments or gestures, innuendoes or lewd comments;
- Conduct that denigrates or ridicules or is intimidatory or physically abusive because of his or her sex, such as derogatory or degrading abuse or insults which are gender related and offensive comments about appearance or dress;
- Harassment of a sexual nature related to gender reassignment;
- Making decisions on the basis of sexual advances being accepted or rejected.

Racial Harassment

- Conduct that denigrates or ridicules a colleague because of his or her race, such as derogatory remarks, graffiti, jokes. Such conduct can be verbal or physical;
- The display or sending of offensive letters or publications; threatening behaviour;
- Being “frozen out” of conversations;
- Jostling or assault, or other non accidental physical contact;
- Derogatory nicknames or racial name calling or jokes.

Homophobic Harassment

- Conduct that denigrates or ridicules a colleague because of his or her actual or presumed sexuality, such as derogatory remarks, graffiti, jokes. Such conduct can be physical or verbal;
- The display or sending of offensive letters, publications, threatening behaviour;
- Being “frozen out” of conversations;
- Jostling or assault, or other non accidental physical contact;
- Derogatory nicknames or homophobic name calling or jokes;
- Intrusive or inappropriate comments about someone’s personal life or family circumstances.

Religious Discrimination

- Discriminatory behaviour which fails to acknowledge the rights or needs of people with different beliefs or practices.

Victimisation

- Where a person is treated less favourably than other people because, for example, that person has brought proceedings, given evidence, or complained about the behaviour of someone who has been harassing or discriminating against them.

Aids/HIV

- Harassment, ridicule or exclusion of people, due to their real or suspected infection with Aids/HIV.



EMPLOYMENT COMMITTEE - 18th JUNE 2015

SMARTER WORKING POLICY AND GUIDANCE

REPORT OF THE DIRECTOR OF CORPORATE RESOURCES

Purpose

1. The purpose of this report is to seek Employment Committee's approval for the introduction of the Smarter Working Policy and Guidance.

Background

2. In order to ensure the effective delivery of the County Hall Master Plan, the Council will need to implement new ways of working. There are also significant business benefits in further developing the Council's existing flexible working arrangements. These include; recruitment and retention of key skills, enhanced productivity and employee motivation. It is therefore proposed to broaden the scope of this policy to all County Council employees (excluding Schools and Colleges).
3. It is recognised that in order to embed new ways of working, it will be necessary to challenge and change the culture and behaviours which can prove to be a barrier. The tone and focus of the policy therefore reflects this change.
4. The increase in remote working will require managers to manage by performance and outcomes rather than by presenteeism. This will require a greater focus on trust and communication within the employment relationship, which again is highlighted in the policy.
5. Managers may have to at times make different decisions for different people to accommodate alternative ways of working. Whilst great emphasis is placed on the need for consistency to ensure fairness, embracing Smarter Working will mean managers having the confidence to consider individual personal circumstances and work styles, when making decisions. It is recognised that this is a cultural shift and some managers will require additional support in dealing with this change.
6. Remote and home working will be encouraged for a much broader range of employees and the emphasis will be on what tasks, rather than entire job roles could be performed away from the office. The policy incorporates relevant information which relates to this.
7. The policy demonstrates a positive commitment to Smarter Working, however, reinforces that any decisions in relation to 'where, when and how' employees work must be subject to service delivery needs.

8. The People Strategy Board recently approved a decision for the Council to work towards becoming an accredited Timewise Council. The Timewise Foundation champions flexible working and the accreditation programme is designed to help local authorities become more flexible. HR is therefore working with Timewise, in order to create an improvement plan which supports the County Hall Master Plan and the implementation of Smarter Working.

Key Points

9. In order to address the above issues, the following key principals have been incorporated into the policy:
10. The term 'Smarter Working' will replace reference to 'Flexible Working' in policies and communications. This change will demonstrate a fresh approach and indicates that the focus is not only on hours, but also where and how we work. The majority of requests for alternative ways of working will be dealt with in a more positive, informal manner (where appropriate) in line with the principles of Smarter Working.
11. This policy sets the scene in term of the reasons, benefits and the vision of Smarter Working but also provides guidance around the types of working arrangements (contractual and non- contractual) which may be considered/ adopted.
12. The aim of the policy is to provide managers with a framework for implementing new ways of smarter working. It provides advice on managing a remote workforce in the context of having reduced office accommodation.
13. Although the key policy will be the Smarter Working Policy and Guidance (replacing the former Flexible Working policy), the document will include sign posts to other relevant policies, e.g. Statutory Right to Request Flexible Working Guidance, Permanent Home Working Policy, Travel and Expenses Guide etc. All of these and a number of other policies have been reviewed or are in the process of being reviewed, in order to accommodate the changes in the new ways of working.

Implementation

14. The proposed policy, attached as Appendix A has been agreed by the Trade Unions and the People Strategy Board. In addition, comments have been received and incorporated from HR staff and a nominated group of Departmental Managers.
15. If endorsed by Employment Committee, the policy will become effective as soon as possible. A copy will be published on the Council's intranet for managers and employees to view; specifically located on the designated Smarter Working pages, which will be available on CIS.
16. To promote the introduction of the policy, an article will be published in Managers' Digest and a news item posted on the front page of the Council's intranet. It will also be referred to within forthcoming Management Training and various forms of communications, as part of the County Hall Master Plan.

17. The policy's application will be monitored through ongoing discussions with Trade Unions, HR staff and managers. A formal review of the policy, with the Trade Unions will take place after one year.

Recommendations

18. Employment Committee is requested to approve the introduction of the Smarter Working Policy and Guidance.

Equalities and Human Rights Implications

19. An Equality and Human Rights Impact Assessment has been undertaken in relation to this policy, and has not identified any adverse impact on equality and human rights.

Officer to Contact

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List of Appendices

Appendix A – Smarter Working Policy and Guidance

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Smarter Working Policy and Guidance

Contents

Purpose	1
Culture and Behaviour	2
Scope	2
Equalities	3
What is Smarter Working	3
Benefits of Smarter Working	3
Types of Smarter Working Arrangements	3
Monitoring and Review	6
ICT / Virtual Desktop Infrastructure (VDI)	7
Managing by Performance and Output	7
Implementation of Smarter Working with Reduced Office Space - County Hall	9
Other Factors to Consider when Implementating Smarter Working	12
Appendix A – Relevant Information for Remote and Home Working	12

Purpose

The Council recognises that working smarter is essential to the successful transformation of the organisation and contributes to the Council’s performance as well as supporting employees to achieve a positive work-life balance.

The Council’s aim is therefore to support smarter and innovative working arrangements which still meet the delivery of effective customer-focussed services and the needs of the people of Leicestershire.

Supporting employees to achieve greater flexibility requires consideration on where, when and how work is carried out; this underpins the concept of smarter working. It can help to increase employee motivation, reduce sickness absence, promote employee wellbeing and attract/ retain a skilled and motivated workforce.

This policy is designed to provide managers with a framework for implementing new ways of working in line with smarter working but also managing a workforce in the context of having reduced office accommodation.

This policy replaces the former ‘Flexible Working’ policy, however as there is legislative requirements in relation to statutory requests; a Statutory Right to Request Flexible Working Guidance still exists. This applies to those who wish to make a formal request to contractually change to their working arrangements, under the statutory scheme.

For the majority of people, who either wish to alter their working pattern which does not constitute a contractual change or where revised working arrangements are informally agreed with their line manager, this will not necessary require submission of a formal statutory request. Further information about informal (non-contractual) and formal (contractual) working arrangements can be found on page 6 and 7 within this document.

Managers are responsible for driving the aims of this policy and promoting the required cultural change, which includes having a positive approach to the consideration of smarter working requests, (subject to the needs of the service) and supporting the implementation of the new ways of working.

In addition to other relevant policies such as the Statutory Right to Request Flexible Working Guidance, Permanent Home Working Policy and Guidance, Travel and Expenses Guide, Lone Working Policy and Guidance etc. further guidance documents, factsheets and useful information can be found within the Smarter Working Managers Pack; located on the Smarter Working pages on CIS.

[Back to Content](#)

Culture and Behaviour

The world of work is changing; with increasing demands, the need to meet efficiency targets and a further need to attract and retain the best talent in order to deliver even better services as an organisation. There is therefore a need to consider the way we work and move away from traditional methods of working.

However in order to embed the new ways of working, it is necessary to challenge and change the culture and behaviours which prove to be a barrier. The concept of how we work will be further challenged, with reduced office space and will emphasise the need for more effective working practices, management styles, communication and the importance of relationships at work.

This may mean a need to make different decisions for different people, at times. Whilst it is important to be mindful of consistency to ensure fairness, embracing smarter working will mean managers considering individual personal circumstances and work styles, when making decisions. Further advice may be obtained from Strategic HR Services, where required.

[Back to Content](#)

Scope

This policy applies to all Leicestershire County Council employees, employed under the conditions of service of the following bodies:

- National Joint Council for Local Government Service Employees
- Joint Negotiating Committee for Chief Officers
- Centrally Employed Teachers (School Teachers Pay & Conditions)

This policy does not apply to employees of Schools and Colleges.

Equalities

The Council's commitment to equality of opportunity will be observed at all times during the operation of this policy and procedure. This will ensure that employees are treated fairly and without discrimination on the grounds of race, nationality, ethnic or national origins, sex, marital status or civil partnership, disability, age, sexual orientation, trade union membership or activity, political or religious belief, maternity or pregnancy, gender re-assignment and unrelated criminal conviction.

[Back to Contents](#)

What is Smarter Working

Smarter working means being more flexible about when, where we work and how we use space and technology to find new and more effective ways of doing things, e.g. varying working patterns, working remotely, use of conference calling as opposed to physical meetings etc. This type of working can help reduce costs, improve productivity and customer focus, as well as supporting the wellbeing of employees and a better work life balance.

[Back to Contents](#)

Benefits of Smarter Working

Research shows that working more flexibly results in a culture whereby staff are motivated, high performing and engaged; increasing productivity which enhances the reputation of the organisation as an 'attractive employer'.

Other benefits of smarter working for employees as well as the organisation may also include:

- Improved efficiency and effectiveness
- Reduced travel time and costs as a result of commuting
- Contributing to less traffic and pollution
- Greater job satisfaction
- Enhanced quality of life by maintaining a work life balance
- Greater flexibility for combining work and outside commitments

- More effective use of office and car parking space
- Reduction in sickness absence
- Recruitment and retention of key skills

[Back to Contents](#)

Types of Smarter Working Arrangements

The following are examples of smarter working arrangements which employees and/ or managers may wish to consider. This is not an exhaustive list and it is accepted that the requirements of the

role and service delivery needs are paramount, managers are however encouraged to be open to ideas and creative when determining what working arrangements could be accommodated within their team/ service.

There may be occasions where a manager receives a number of requests close together. The manager is not required to make a value judgement as to which request is most deserving and should consider each case on its merits.

It may also be appropriate to discuss alternative arrangements which could be accommodated or the possibility of either trialling or agreeing to the request on a temporary basis. Further advice may be sought from advice from Strategic Human Resources.

The following factors should be considered before any type of smarter working arrangements are put into place:

- The times at which the service cover must be provided;
- Any periods of high or lower demand;
- Minimum service cover requirements;
- The availability of support services and facilities such as ICT, catering, etc. (as applicable) and access to a manager/ supervisor; and
- The requirements of employees to start work earlier or later and flexible finishing times.

'Where' work may be carried out:

- **Main office base**
- **Home**
- **Remotely)**

Main office base – this is where employees work at the office, which is their main base according to their contract.

Home Working - this refers to an informal arrangement whereby employees work from home either on an occasional or regular basis; whilst the remaining time is spent working on site / or in an office location.

Remote Working - this is defined as an informal facility whereby employees carry out work that would have normally have been completed at a traditional office, at various LCC touchdown points, an alternative office location/ LCC Wi-Fi access points within the County.

A map of LCC touch down points as well as a link to the various LCC Wi-Fi access points can be found within the Managers Pack on the Smarter Working pages on CIS.

It should also be acknowledged that whilst employees will not necessarily be required to work remotely or from home, employees may however be encouraged to consider and explore alternative methods of working in line with Smarter Working.

It is expected that the majority of homeworking will be carried out occasionally or regularly on an informal basis in line with this policy. However in some circumstances, the request may be for this type of working arrangement to be on a permanent basis; which forms a part of a more formal

agreement. For further information, refer to the Permanent Home Working Policy and Guidance located on the Smarter Working pages on CIS.

The terms and conditions and policies that apply to employees working remotely or from home will be unchanged from those they would receive when working in the work place, unless a variation to contract is issued which states otherwise.

Regardless of the frequency of remote and home working, the following points should be noted:

- The Working Time Regulations are complied with and employees are not working excessive hours.
- Suitable and sufficient time is set aside for work responsibilities and arrangements made for minimal home related disturbance.
- Employees should be contactable when working remotely or at home, especially during agreed working hours.
- Appropriate care is taken to ensure the safety and security of equipment.
- The working environment is maintained to the agreed health and safety standards.
- To undertake the health and safety e-learning module available through CIS.
- Sufficient support is arranged for any dependent care.
- Any equipment supplied by the Council should be used primarily for work related purposes and in accordance with the Council's existing policies on private use.
- There are suitable security arrangements for storing confidential Council information. Only encrypted USB devices approved and issued by ICT should be used as a means of data transfer.
- Security of information is considered before logging on to public-access wi-fi networks when working on Council business.
- All data and information produced, accessed or used in the course of performing the duties of the job is the property of the Council and is subject to data protection legislation.
- The Council's Code of Conduct is adhered to, regardless of where the employee works.
- The manager provides support and/ or guidance when required.
- Employees who travel regularly between sites are subject to the [Driver and Vehicle Safety Policy](#), which can be found on the Health, Safety and Wellbeing pages on CIS.
- Employees should familiarise themselves with the best practice advice outlined within the Lone Working Policy and Guidance on CIS e.g. in relation to the location of meetings, travelling alone, notification of whereabouts and/ or any changes to scheduled meetings.

For further information on the practicalities related to remote and home working, see Appendix A within this policy.

'When' and 'How' work is carried out:

(Informal / Non- Contractual Arrangements):

Flexible Working Pattern – where employees start and finish at different times to suit their own personal commitments, providing that this does not have an adverse effect on the needs of the service and their contractual hours are being worked.

Compressed Hours - where the employee's normal weekly working hours are compressed and worked in fewer days (e.g. a full-time working week of 37 hours worked over 4 or 4.5 days, or 9 days instead of 10 days). This can either be as part of an informal arrangement in agreement with management or one which is a contractual agreement. Managers should however be aware that there will be a change in the way annual leave is worked out, as a result of compressed hours. Further information on compressed hours can be found within the Types of Employment Contracts Guidance.

Hot Desking – allows employees the flexibility to work from any desk within the service area they work in. This will be crucial going forward as a result of reduced office space.

Ad Hoc Commitments - as far as practicable managers should allow employees to meet personal commitments that fall within their working hours (e.g. attending a school play, sports day, boiler breakdown). In most cases the commitment will mean that an employee is only away from work for a short period. It is therefore expected that any time lost will be made up within the following 12 week period on a date agreed with the manager. In circumstances where the employee is unable to make up the time, they should book annual leave, use any existing TOIL or take unpaid leave to cover the time lost. For further information, refer to the Planned and Unplanned Leave Sections of the Leave Arrangements Policy on CIS.

Rota – where a system of rotation is introduced by the manager, in order to provide essential office cover or distribution of certain re-occurring tasks/ duties in line with service needs.

(Formal / Contractual Arrangements - Resulting in a Variation to Contract being issued):

Part - time - where an employee's contracted hours are less than 37 hours per week.

Job Sharing – this is a form of part-time working where two (or occasionally more) people share the responsibility and duties for one job. Further information is available within the Job Sharing Guidance, located on Smarter Working pages on CIS.

Annualised Hours - where an employee's hours are defined over a year, where there may be significant, usually seasonal, fluctuations in the amount of hours needing to be worked during particular periods. Further information is available within the Types of Contracts Guidance on CIS.

Term Time Only –where an employee only works during term time which is usually linked to the academic timetable. This means that an employee shall not be working during school closure periods. Term-time only working is also classed as annualised hours and may be used to accommodate an employee who wishes for care reasons, not to work during school closure periods. Further information is available within the Types of Contracts Guidance on CIS.

[Back to Contents](#)

Monitoring and Review

All working informal and formal arrangements should be subject to and be monitored on a regular basis, through management one to one meetings and PDR's.

Where working arrangements are found to no longer meet service requirements, it may become necessary for the manager to consult and negotiate changes with the employee(s) concerned.

[Back to Contents](#)

ICT / Virtual Desktop Infrastructure (VDI)

In order to support the achievement of enhanced flexibility, the Council has invested in the implementation of VDI. This will allow employees to be able to access the network and most of their desktop applications regardless of where they work.

For further information on this, refer to the VDI fact sheet/ guidance document and FAQ's located on the Smarter Working pages on CIS.

Information on alternative methods of communication to support smarter working such as mobile phones, tele-conferencing and video conferencing can also be found on the above pages on CIS.

[Back to Contents](#)

Managing by Performance and Output

The new ways of working will require a need to manage by performance/ output as opposed to presenteeism.

The Council recognises that this is a change for many who will be more used to staff being in the office regularly or on a daily basis. The basic principles of management still apply but managers will just need to ensure that there are additional protocols in place, some of which are covered below:

Managing Remote Workers:

This will not only require creative thinking, but also a good level of communication, organisation, trust and working together in order to ensure that the arrangements put in place do not have an impact upon the quality of work or the targets that the service is required to meet.

Having an adaptable style of management will ensure managers can take advantage of opportunities to improve the services offered and support employees with different work styles and methods. Managers cannot expect to gain from flexibility from employees and then to manage in a strict and rigid way.

Managing employees who work remotely should not be radically different from managing them in their specified place of work. However, it is important not to have an 'out of sight, out of mind' approach, whereby just because employees are not physically present, they get overlooked. It is therefore important to establish some ground rules with employees when they move towards smart and remote working.

Manager Responsibilities:**Setting Clear Expectations & Outlining Objectives:****Agree in advance, what work needs to be completed**

Managers may wish to discuss and agree the scope of work that will be undertaken, outlining the expectations and setting any deadlines where required, during the period of remote working.

Agree accessibility and contact

Depending on the role, the employee may need to be available to customers and colleagues during certain times of their normal working day or during the entire day, where this is the case; it is important to agree in advance what these times will be and how the employee can be contacted. This may include forwarding work extension numbers to the employee's mobile or from where they are working remotely that day.

Employees should be informed that there may be occasions where they are asked to work from the office to provide cover at short notice due to staff absence etc. Managers should however consider all available options before approaching employees who are working at home, to provide office cover.

Be realistic about the type of work which can be done

For some, remote working is an excellent opportunity to complete work away from the office with minimal interruptions. Those who normally conduct their work with computers and telephones will find it most easy to adapt. However for other roles, further thought will need to be given; bearing in mind the type of work the employee normally does and also what resources they require, in order to carry out their duties.

It should also be acknowledged that whilst employees will not necessarily be asked to work remotely or from home, employees may well be encouraged to consider and explore alternative methods of working in line with Smarter Working.

Maintaining Communications:**Regular one to ones/ PDRs**

It is important to continue regular one to ones with employees to discuss their progress on the agreed objectives and keeping them informed on developments within the department and organisation. In accordance with the Council's PDR process, clear objectives/ targets/ deadlines and performance standards should be agreed with all employees including those who are home/ remote workers. Ensuring that remote employees are included in personal development opportunities such as career progression and promotion is vital.

Agree 'check-in' procedures

Managers may wish to agree in advance the frequency and method for checking in (by telephone, by email or arranging a face to face meeting). How, when and the frequency of meetings, especially where the employee is working remotely on a regular basis. Managers should also make themselves available to employees and respond to any questions they may have in a timely manner.

Employee's Welfare:

Just because employees are not physically present, it does not mean that they are no longer part of the team. It is essential to include them in any messages and to invite them to meetings or events, even if they are unlikely to be able to attend. Keeping in touch with employees who work remotely is important so that they feel informed and included.

The employer has a duty of care to the employee. It is therefore important to watch out for signs that they may be switching off, becoming de-motivated or feeling isolated.

Focusing on the Outcomes:

Managers should focus on the 'outputs' and not how and when the employee works to achieve what they need to do. For example, an advantage of working remotely can be that the employee chooses the hours worked across the day, if this fits in with the needs of the service. Without the need to travel into the usual place of work, an earlier start can be made, or the employee might choose to work later into the evening. With a focus on outputs, the person should be able to plan their work in the most effective way.

Performance Management:

If problems with performance arise, it is important to provide specific feedback on the areas of concerns and provide the employee with an opportunity to discuss any issues they have whilst working remotely and to agree a way forward. Ideally any feedback should be given during a face-to-face but if that is not possible, this may be done over the phone at a suitable time, with the agreement of the employee.

Depending on what the concerns are, the situation may need to be further dealt with in line another policy such as the Capability or Disciplinary policy. Managers may wish to seek further advice from Strategic Human Resources in this situation.

[Back to Contents](#)

Implementation of Smarter Working with Reduced Office Space at County Hall

As part of the County Hall Master Plan project, it will be necessary to reduce the current amount of desks to a ratio of 8 desks for every 10 people, so that offices can be freed up to generate additional income though leasing this space. The Council is committed to achieving its target of 8:10 at County Hall, whilst ensuring that the office environment is still safe, efficient and fit for purpose. Managers will therefore need to consider the principals of smarter working with reduced desks and how best this may work for the employees and the service concerned.

Whilst this is by no means an exhaustive list, managers may wish to consider the following factors when implementing the 8:10:

- Determining which employees are considered to be 'mobile', 'office based' and which may be considered as 'fixed desk' (refer to the section below for further details on this).

- How best to utilise the new office space, number desks allocated per department and implementation of hot desking.
- Implementing clear desk protocols to enable effective 'hot desking'.
- Availability of desks of fixed desk workers on non-working days or annual leave.
- Consideration of employees normal working hours, patterns of work, ability to work elsewhere.
- Discussions with employees regarding the options for home working and remote working.
- Whether a rota should be introduced to provide essential office cover / distribution of certain re-occurring tasks/ duties in line with service needs.
- De-cluttering the office.
- Allocating appropriate storage to individuals and/ or having some shared storage space within the office.
- Consideration of more electronic filing as opposed to paper files, working from electronic documents, and printing less.
- Whether there are any existing reasonable adjustments as a result of a disability that need to be in place, in order for the employee to be able to carry out their duties without them being disadvantaged (refer to the section below for further details on this).
- Implementing the principals outlined when managing remote workers (refer to the above section for further information).

Determination of Fixed Desk Workers and Mobile Workers

Mobile Worker – is an employee who does not necessarily require to work from their assigned office based in order to carry out their duties, may not always work from the office all of the time, may travel as part of their duties and are able to work from home or alternative work locations such as another office or touch down point.

Office Based Worker - is an employee who is usually office based either due to the nature of their role and/ or ability to work elsewhere. This does not however necessarily mean that they should be allocated a fixed desk as most office workers should still be able to hot desk.

Fixed Desk Worker – is an employee who is limited to work elsewhere due to specific equipment needed which has been implemented as a reasonable adjustment as a result of a registered disability under the Equalities Act, 2010.

In identifying whether employees are considered as 'mobile', 'office based' or in some cases 'fixed desk' workers, the following factors may be considered in order to make this judgement:

- Any DDA and reasonable adjustments required (refer to the section below for further details on this).
- Specific role/ need to be in the office
- Facility to work from home or touch downs (appropriate set up, equipment, access to required files, emails etc).
- Ability to hot desking within the office

Although the above factors may be taken into account when determining the type of workers, this is not a set criteria as the needs of every department vary as well as the needs of individuals.

Clear Desk Protocol

In order for the reduced desk ratio and hot desking to work effectively, there will be a need for departments to operate a clear desk policy, so that all desks are depersonalized and all standardised regardless of whether they are fixed desks or are hot desks.

For further information on this, refer to the Clear Desk and Office Protocol as part of the Managers Pack, located on the Smarter Working pages on CIS.

Confidentiality

The concept of hot desking further emphasises the need for employees to be mindful of confidentiality and data protection. This includes ensuring that all documents are securely locked away after use, kept confidential whilst in lengthy meetings and computer screens are also locked whilst away from the desk they are working at.

Reasonable Adjustments

The legal definition of a disabled person under the Equalities Act, 2010 is **“someone who has a substantial and long term physical or mental impairment that has a substantial and long term effect on his or her ability to carry out normal day to day activities”**

Managers should be mindful about employees having a registered disability under the Equalities Act, 2010 for which reasonable adjustments have been put into place/ or need to put into place in order for the employee to be able to carry out their duties without them being disadvantaged. This is particularly important when allocating fixed desks.

In most circumstances, managers will already be aware of employee’s disability and any adjustments that have been put into place where relevant.

Where managers are not already aware of an existing disability that has been declared by an employee then depending on the circumstances, in some cases it may be necessary to refer the employee to Occupational Health and/ or carry out an appropriate Health & Safety risk assessment.

For further information on this, refer to the Reasonable Adjustments fact sheet as part of the Managers Pack, located on the Smarter Working pages on CIS.

Managers may also wish to discuss the situation with Strategic Human Resources for further advice.

Preparing the Team for Smarter Working

The manager should meet with **all** employees collectively to prepare the team for smart working. If an implementation plan has been produced then this should be shared with everyone. Discussions should take place around the benefits/ potential challenges and ways which the challenges may be overcome.

In addition to discussions regarding how the 8:10 desk ratio may be implemented, there are likely to also be various operational issues which also need to be taken into account.

For examples of factors to be considered, refer to the Preparing the Team for Smarter Working fact sheet as part of the Managers Pack, located on the Smarter Working pages on CIS.

[Back to Contents](#)

Other Factors to Consider when Implementing Smarter Working

New Starters

Managers should ensure that the Council's stance on smarter working is shared with applicants and new starters; this should be embedded within the interview process and at the point of induction.

Consideration should also be given as to whether hot desking, in particular remote and home working will apply to new starters straight away or whether this should apply after a specified period of time i.e. after their induction/ period of training.

Employees on Long Term Absence, i.e. Maternity Leave and Sick Leave

Managers should ensure that any employees on long term absence are informed and kept updated of any particular arrangements/ changes that the department or team have put into place as a result of implementing smarter working.

[Back to Contents](#)

Appendix A – Relevant Information for Remote and Home Working

Managers should ensure that employees are aware of the following factors associated with remote and home working, regardless of the frequency:

Health and Safety

The employee and the Council are subject to the provisions of the Health and Safety at Work Act (1974), regardless of where the work is carried out. The Council must, as far as is reasonably practical, ensure the employee's health, safety and welfare at work.

If a work related accident occurs whilst the employee is working remotely or from home, this must be reported in accordance with the usual procedures.

Personal Security

All meetings with work colleagues, managers or customers should take place at an office / external work location; such meetings should not take place at an employee's home.

Employees working remotely and from home should adhere to the [Lone Working Policy](#) and should ensure that colleagues know where and when to expect them at a particular location.

Work Location

The proposed work site should be both adequate and practical for working in terms of health and safety.

Working from home may allow employees with caring responsibilities to have more flexible care arrangements. However, this is not a means for combining work with care responsibilities and employees are expected to have proper care arrangements in place during their working day.

Contingency Plans

In an event where technical issues are experienced which prevents the employee in working from remotely or from home, it is important that the manager is informed. The expectation is that in this situation employees where possible, work from an alternative base, such as another nearby touch down point or on site.

Employees working remotely or at home may also be recalled to the normal work location at short notice, in circumstances where there is a sudden disruption to staffing levels, e.g. sudden illness or unplanned absence of a colleague(s).

Insurance

Council Owned Equipment

Items of equipment belonging to the Council are covered by the Council's insurance whilst they are in the employee's home and when in transit. This equipment needs to be specifically identified. Employees should also notify their home insurers of the nature and extent of the use of their home for work purposes.

The Council will not ordinarily contribute towards home insurance as it is not anticipated that there will be any additional costs associated with home working.

Employees working from home are covered by the Council's Employer Liability Scheme. However, employees do have a duty to take reasonable care within their own working environment.

Personal Equipment

Any personal equipment used by the employee for work purposes shall not be covered by the Council's insurance.

Travel Costs

Employees who work from home on an occasional or regular basis and are required to travel from their home to an alternative work location (which is not their normal work base) are eligible to claim any official mileage incurred in excess of their normal commute journey. This principal also applies to employees working remotely.

Claiming mileage is however subject to the conditions specified within the 'Mileage in excess of normal commute journey' section of the [Travel, Subsistence and Related Allowances Guide](#).

Employees who travel from home to an alternative work base using public transport i.e. by bus or train may be reimbursed for these travel expenses providing that they submit appropriate tickets and receipts.

Employees should however consider the most efficient means of travel in terms of time and the cost amount of mileage incurred, therefore planning journeys accordingly in advance is essential.

Additional Costs

The cost of access to essential information, necessary files / network / intranet, which are required to perform the tasks of the job, will be provided by the Council. It is likely that most employees will already have some form communication technology such as a PC or laptop for personal use in their homes and this may be used for work purposes.

Other costs such as additional energy costs and furniture will be met by the employee and not paid by the Council. This is because these costs are offset by the reduction in travelling time, cost and mileage normally incurred as a result of commuting.

Broadband

The Council will not contribute towards the employee's broadband services. It is likely that most employees would already subscribe to broadband / internet access for personal use in their homes.

Taxation

There should not be any personal or council tax implications for employees as a result of working from home.



EMPLOYMENT COMMITTEE - 18 JUNE 2015

SICKNESS ABSENCE

REPORT OF THE DIRECTOR OF CORPORATE RESOURCES

Purpose

1. The purpose of this report is to provide the Employment Committee with an update on the Council's overall position on sickness absence as at 31st March 2015. Although this is now reported on a rolling year basis, this date can still be used to mark an 'out turn position' for the period April 2014 – March 2015.

Background

2. The Committee regularly receives a report which details the most recent sickness absence figures, and describes the actions that have been taken in an attempt to reduce sickness absence. Although these will have had some impact in individual cases on reducing the time lost, overall sickness absence has continued to increase. As a consequence this report details a proposed revised corporate approach for member consideration.

Absence Data

3. The Council's sickness absence figure as of 31st March 2015 is 9.83 FTE days. As stated above, this indicates that when compared with the figures for the previous two years, sickness absence continues to increase. According to the last Local Government Workforce Survey published in February 2014, the median figure across the public sector is 8.8 FTE days.
4. The corporate target which is 7.50 FTE days has only been achieved by one department, Chief Executive's. EMSS have also reached the target but they are not included in the Council's overall figure.
5. It should be noted that provisional April figures are now available. The rolling 12-month figure shows a drop to 9.66 days, with all departments apart from Adults & Communities showing a reduction.

Department	2012/13 Out turn	2013/14 Out turn	2014/15 Position	2014/15 Days lost
Chief Executive's	6.47	7.51	5.55	1127
E&T	8.29	10.06	8.23	6273
C&FS	8.30	9.84	10.37	10007
Corporate Resources	8.35	7.11	7.86	8967
Adults and Communities	11.36	11.16	12.24	18505
Public Health	-	7.11	9.14	531
Total	9.22	9.47	9.83	
Department	2012/13 Out turn	2013/14 Out turn	2014/15 Position	
ESPO	9.14	8.58	12.07	3729
EMSS	-	-	6.65	1094

Data Quality

6. The data output in system reporting terms is as accurate as it can be, and it should be noted that a revised reporting system and managers' dashboard will be rolled out from August 2015. It is important to note however that the data is reliant on managers inputting absence accurately, and also closing absence off when individuals return to work.

Reasons for Absence

7. The highest two reported causes of sickness absence are viral infections and stomach problems, accounting for 26.7% and 18.2% of absence respectively. The data shows that stress /depression and mental health and fatigue account for 5.2% of absence. The 'nothing stated' category has seen a slight improvement with 7.2% of absences recorded in 2014/15, compared to last year's figure of 8.9%.
8. At the last Committee meeting, Members asked whether the 'not known' category on Oracle was essential. To clarify, during self-certification an individual has the right not to declare the reason for absence (although we ensure that managers ask for this as a matter of routine). However, from the 8th day of absence, the fit for work note from the GP would confirm the reason, which should be entered retrospectively. The category of 'other' will be removed from the new reporting system.

Actions Taken to Date

9. The following actions have or are about to be taken to assist in reducing the amount of time lost due to sickness in the Council:-
 - (i) Each department receives a monthly report detailing sickness absence. This goes to each DMT for information/action;
 - (ii) An HR Advisor based within the Strategic HR Service has been specifically deployed to work with managers to assist, in particular managing the more complex cases;
 - (iii) HR Workshops have been held for managers, and the feedback was that managers found these informative;
 - (iv) Communications in the Managers' Digest;
 - (v) The Managing Absence Policy has been revised to allow managers to proceed to a hearing when an employee meets their attendance target but then lapses back (previously there was a requirement to start the process again). Additionally, in cases where the employee will not be able to return to work, a manager can move straight to the final employment hearing.
 - (vi) Commitment to work towards Public Health England's Workplace Wellbeing Charter.
 - (vii) Improvements are being made to the Oracle recording and reporting of sickness absence. It is intended that these will assist managers further in managing absence.

Proposed Way Forward

10. It is recognised that in addition to the actions already outlined in this report the Council, including ESPO and EMSS, have to adopt a far stronger and more formal performance management approach, placing a greater level of responsibility and accountability on senior managers. The following approach, although outline only at this stage, has been agreed in principle by officers:-
 - (i) Appoint a HR Strategic Lead to lead a corporate project group who will be responsible for developing a revised Managing Sickness Absence Project Plan. This will have a much sharper focus on working with DMT's and Heads of Service to implement initiatives, assessing their impact and where possible, assessing their outcomes.
 - (ii) Overall progress on the final action plan will be presented to the People Strategy Board in the form of regular update reports.

- (iii) Consideration has started as to what may be included in the project plan. Proposed initiatives to date include:-
- a) Implementation of Star Chamber sessions within each department.
The proposal is to hold a session with each Assistant Director and for their Heads of Service to be present. The purpose of Star Chambers is to determine what actions have been, and are being taken to manage particular absence cases, e.g. whether return to work and trigger point interviews have been held; whether referrals have been made to occupational health; to ensure that improvement plans have been put in place with targets and whether or not any formal action is being planned or taken. By undertaking these meetings it will also become evident whether or not managers need any further support in this area, such as absence management training.
 - b) Bespoke training sessions for each department. Strategic HR is in the process of developing a set of training sessions for managers based on identified departmental requirements and feedback on those areas where they require more information and additional support. The first training session will be run for Adults and Communities, and will be practical in application with a focus on writing improvement plans and referrals to occupational health. Part of the session is also devoted to how to approach potentially difficult and sensitive discussions on sickness absence.
 - c) The subject of sickness absence to be included as a regular part of departmental managers' meetings, where presentations and discussions can be supported by Strategic HR.
 - d) Include sickness absence targets in managers' PDR's and performance against these targets to be monitored in supervision sessions.
 - e) Working with the Communications Unit to develop a targeted campaign on health and wellbeing.
 - f) Consider further how the Council's flexible working policy can be used to assist employees in managing health issues which would lead to improved attendance.

Recommendations

The Committee is asked to:-

- (a) Note the contents of this report;
- (b) Support the proposed approach to performance managed sickness absence through corporate and departmental project plans.

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Background Papers

None

Equalities and Human Rights Implications

The attendance management policy has been subject to an equality and human rights impact assessment, and this was published in 2014. There are no equalities and human rights issues arising directly from this report.

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EMPLOYMENT COMMITTEE – 18TH JUNE 2015

**PROPOSED AMENDMENT TO THE OFFICER
EMPLOYMENT PROCEDURE RULES**

REPORT OF THE CHIEF EXECUTIVE

Purpose

1. This report concerns new regulations which amend the rules and procedures for the dismissal of Head of the Paid Service, the Monitoring Officer and Chief Financial Officer.

Background

2. As part of the arrangements introduced in 2001, the Head of Paid Service, the Monitoring Officer and Chief Finance Officer were given statutory protection through the requirement to appoint a Designated Independent Person (DIP) to investigate any allegation of misconduct. The intention of this provision was to ensure that these officers could discharge their statutory responsibilities without any fear of being influenced by elected members and being dismissed without good reason.
3. The DIP would be appointed early in the process when it appeared to a Council that an allegation of misconduct by the relevant officer required investigation. No disciplinary action could be taken other than in accordance with the recommendations of the report of the DIP.

New Regulations

4. The Local Authorities (Standing Order) (England) (Amendment) Regulations 2015 were laid before Parliament on 25th March and came into effect on 11th May 2015. Local Authorities are required to make the necessary changes to their procedures as soon as possible after this date.
5. These new regulations remove the requirement to appoint a DIP. Instead the regulations require:-
 - a) the Council to establish a Panel to advise the Council on matters relating to the dismissal of the Head of the Paid Service, the Monitoring Officer or Chief Financial Officer;
 - b) the full Council to approve a notice to dismiss these officers.
6. The Regulations provide that the Council must invite in accordance with the following priority order to :-
 - i) an independent person who has been appointed by the Council and who is a local government elector;

- ii) any other independent person who has been appointed by the Council;
- iii) an independent person appointed by another authority.

with a view to appointing not less than two such people to the Panel.

7. The Council currently has three independent persons appointed to deal with member conduct issues. Whilst it would be possible to call upon these people to serve on any Panel, it would alter the basis of their appointment from advising on standards issues in the context of a regime with little in the way of sanctions to operating in the context of disciplinary action and employment law. It would therefore be appropriate to approach these persons to ascertain whether they would be willing to take on this additional responsibility. In the event that one or more of these persons indicate they are not willing to do so it will be necessary to start a recruitment process.

Appointment of an Independent Investigating Officer

8. The Employment Committee will need to start the disciplinary process against the officers covered by these regulations based on advice it receives. Given that the officers concerned are three of the most senior officers of the Council it would be somewhat difficult for a serving officer of the Council to be asked to investigate any alleged misconduct. Accordingly the proposed changes to the Officer Employment Procedure Rules contain a provision to enable the Employment Committee to appoint an Independent Investigating Officer to advise it on an appropriate course of action.

Additional Concerns regarding the new Regulations

9. Members should be aware that across the local government sector there are concerns relating to the implementation and operation of these regulations. The first of these relates to the requirement that a notice to dismiss must be approved by the full Council which then raises the question as to which members could then deal with any appeal against dismissal. The second relates to the dual role of the Independent Persons on the Panel. Such persons are to be drawn from persons appointed to deal with 'Standards related issues'. As such these persons will need to develop a closely working relationship with the Monitoring Officer and it is these same persons who could then be asked to advise on disciplinary matters relating to the same Monitoring Officer. The third concerns the role of the Council meeting itself. The Council would be required to act in a quasi-judicial capacity, may need to consider evidence and representations and would need to meet in private. These and other concerns have been highlighted and it is hoped that at some point guidance will emerge on these points.

Revised Officer Employment Procedure Rules

10. Attached to this report are the proposed amendments to Part 4 H Rule 11 of the Officer Employment Procedure Rules to give effect to the new regulations.

Recommendations

11. The Employment Committee is asked to give its approval to the proposed changes to Rule 11 of the Officer Employment Procedure Rules and refer the matter to the Constitution Committee for consideration.

Equalities and Human Rights Implications

There are no discernible implications arising from the recommendations in this report.

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List of Appendices

Appendix A – Proposed Amendments to the Officer Employment Procedure Rules

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APPENDIX A**Suggested Revision to Part 4H of the Constitution
Rule 11 – Officer Employment Procedure Rules**

1. No action may be taken by the Employment Committee – except for suspension – relating to the dismissal of either the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer other than in accordance with The Local Authorities (Standing Order) (England) (Amendment) Regulations 2015) and as set out below.
2. In respect of the proposed dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, the Employment Committee may appoint an Independent Investigating Officer (IIO) to examine the circumstances of the case and to advise the Committee on any action to be taken.
3. Where consideration is being given to the dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer a Panel (comprising an Advisory Committee established under section 102(4) of the Local Government Act 1972) will be set up which shall include at least two Independent Persons who have consented so to serve from amongst those previously appointed by the County Council or by another Council under Section 28(7) of the Localism Act 2011 and which shall meet at least 20 working days before any meeting of the County Council at which any proposed dismissal is to be considered
4. The Employment Committee will, having considered the advice of any Independent Investigating Officer appointed, make a recommendation to the Council for consideration, including any terms for cessation of employment.
5. Any proposal to dismiss the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer other may only be taken by the Council following consideration of
 - a. any advice, views or recommendations from the Panel set up under paragraph 3 above
 - b. the conclusions of any investigation into the proposed dismissal : and
 - c. any representations from the officer concerned

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