



James Ellis
Head of Head of Legal and Democratic
Services

MEETING : LOCAL JOINT PANEL
VENUE : ONLINE MEETING - LIVESTREAMED
DATE : WEDNESDAY 20TH JANUARY, 2021
TIME : 12.00 PM

MEMBERS OF THE PANEL

EMPLOYER'S SIDE:

Councillors E Buckmaster, L Haysey, J Dumont (Vice-Chairman) and
A Ward-Booth

Substitutes: Councillors G Cutting and I Kemp

STAFF SIDE - UNISON

J Bruce (Chairman), N Munro, S Forde and J Pomfrett

Substitutes: J Francis and P Stevens

*(Note: Substitution arrangements must be notified by the absent Member
to Democratic Services 24 hours before the meeting)*

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DISCLOSABLE PECUNIARY INTERESTS

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:
 - must not participate in any discussion of the matter at the meeting;
 - must not participate in any vote taken on the matter at the meeting;
 - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
 - if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
 - must leave the room while any discussion or voting takes place.
2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.
3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.
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- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
- participate in any discussion or vote on a matter in which a Member has a DPI;
- knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

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AGENDA

1. Apologies

To receive apologies for absence.

2. Minutes - 1 July 2020 (Pages 7 - 14)

To confirm the Minutes of the meeting held on 1 July 2020.

3. Chairman's Announcements

4. Declarations of Interest

To receive any Members' Declarations of Interest.

5. Reports by Secretary to the Employer's Side (Pages 15 - 198)

Employment Policies Developed Report x 7 (Discipline, Grievance, Code of Conduct for Employees, Probation, Bullying and Harassment, Absence Management and Appeals Policy)

6. Reports by Secretary to the Staff Side

There are no reports by the Secretary to the Staff Side.

7. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

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MINUTES OF A MEETING OF THE
LOCAL JOINT PANEL HELD IN THE VIRTUAL
MEETING - VIRTUAL MEETING ON
WEDNESDAY 1 JULY 2020, AT 12.00 PM

PRESENT: **Employer's Side**

Councillors M Stevenson, E Buckmaster,
L Haysey and J Dumont

Staff Side (UNISON)

Ms Jackie Bruce (Chairman)
Ms S Forde and Ms J Pomfrett

ALSO PRESENT:

Councillors J Francis, R Bolton, J Burmicz,
M McMullen and P Ruffles

OFFICERS IN ATTENDANCE:

Lorraine Blackburn	- Scrutiny Officer
Claire Kirby	- Human Resources Officer
Simon O'Hear	- Head of Human Resources and Organisational Development
William Troop	- Democratic Services Officer

1 APOLOGIES

There were no apologies for absence.

2 MINUTES

It was moved by Councillor Buckmaster and seconded by Councillor Haysey that the Minutes of the meeting held on 5 February 2020 be confirmed as a correct record and signed by the Chairman. After being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that the Minutes of the meeting held on 5 February 2020 be confirmed as a correct record and signed by the Chairman.

3 CHAIRMAN'S ANNOUNCEMENTS

The Chairman thanked everyone attending the virtual meeting. The Chairman reminded Members that following a decision by Council in May 2020, the Membership of all committees had remained the same to address administrative protocols caused by the Covid-19 outbreak. The Panel Members introduced themselves.

The Chairman welcomed William Troop to the meeting as the new Democratic Services Officer.

The Chairman highlighted some of the good work going on in the background over the last few months as both Officers and Members dealt with working in different ways. She thanked both Staff and Members who she said had gone above and beyond to support residents and

employees during this trying situation. The Chairman referred to the innovative work in the background to ensure that the most vulnerable had been offered support and of the changes which had been made to ensure the continuation of vital services and how all within the Council had adapted to the challenges of the new working situation. The Chairman went on to say that the provision of equipment had enabled the customer services team to work from home and so allow the public to continue to have human contact, with staff readily embracing the challenges of the new ways of working and should be thanked for this.

The Chairman expressed her thanks to the IT Service on the support they had given to both Staff and Members under these difficult situations as all had embraced the use of new technology and Zoom meetings in moving forward to what had become the “new normal”. The Chairman expressed her thanks to the Chief Executive, the Head of Human Resources and Organisational Development and the Leadership Team for recognising the importance of working with UNISON and thanked Members of the East Herts UNISON Branch Executive Team for their support and their input on the Risk Assessments and Policy Changes that UNISON had been consulted on and the invaluable help this had provided to the Branch Secretary.

The Chairman commented that although there were no current plans for all to return to the office, as things moved forward and the lockdown eased, she explained that UNISON would continue to work collaboratively with the Council on the creation of the new working protocols and dynamic Risk Assessments for staff and services.

The Chairman referred to the statements of support regarding the “Black Lives Matter” issue by the Leader and leaders of other districts, boroughs and County Councils in Hertfordshire and the Police and Crime Commissioner. She expressed her thanks to the Chief Executive for his statement to staff on this important matter and commented that UNISON had always been a leader in the fight against racism and inequality in all its forms and wherever it may be and this would continue to be fought every day. She concluded by saying that everyone was entitled to be treated equally and with respect and the Council, Members and Staff would continue to work together to support this.

The Leader thanked the Chairman for her comments adding that it was a pleasure to be part of that [Black Lives Matter] Statement. She thanked Officers for working under these extreme circumstances for working flexibly and said that the support given to Members had been phenomenal.

4 GENERAL LEAVE POLICY

The Secretary to the Employer’s Side (and Head of Human Resources and Organisational Development) submitted a report on the proposed updated General Leave Policy. He explained that this had been updated to reflect legislative changes (Jack’s Law) from 6 April 2020 regarding statutory parental bereavement leave and pay and also sought approval of a proposal to enhance the second statutory week of bereavement pay to full pay as requested by UNISON and agreed by Leadership Team. The Head of HR explained that the proposed changes were unlikely to impact on the Council detrimentally and would support the

mental impact on a parent in such a difficult situation.

Ms Forde from the Staff Side referred to paragraph 3.3 and the 26 week qualification period of needing to be in the Council's employment. She felt that as the proposal to pay the second week at full pay was unlikely to impact on the Council detrimentally, then this qualification period should be removed.

In respect of a query from Councillor Haysey, the Head of HR explained that whilst the 26 period was a statutory requirement, removing this qualification period would not impact on other Council policies and the existing East Herts 5 day (1st week) provision did not have a qualifying period.

It was moved by Councillor Haysey and seconded by Councillor Stevenson that the 26 qualifying period be removed from the second week of full pay.

After being put to the vote, the motion was declared CARRIED.

RESOLVED – that Human Resources Committee be advised that the Local Joint Panel (A) support the approval of the updates to the general leave policy to reflect legislation changes from 6 April 2020 regarding statutory parental bereavement leave and pay; and that

(B) a proposal to enhance the second statutory week of bereavement pay to full pay be supported, subject to the removal of the 26 week qualifying period

5 OUT OF HOURS POLICY

The Secretary to the Employer's Side submitted a report regarding proposed changes made to the Standby and Out of Hours Policy following the decision to cease the Corporate Standby Rota. The Human Resources Officer provided a summary of the report.

The Chairman commented that going forward, when consultation was to be undertaken which affected staff, then that should be undertaken early on as this would have made the process easier. She thanked the Leadership Team for bringing the matter forward. The Head of HR and Organisational Development accepted the point made in relation to involving staff early on. He added that originally this had been led by the Housing and Health team but that Officers could have advised teams affected that the matter was under review. He reminded Members that the four staff affected were aware that the out of hours payment to them was under review.

Ms Pomfrett (UNISON Member) sought assurances that the Council's partners would be advised of the proposed changes and made aware that the caretaking team would be the only team on standby. The Head of HR explained that the appropriate service manager would be responsible for letting partners within their service area know of the proposed changes.

The Head of HR reminded the Panel that the changes to the Policy would require the approval of HR Committee which would next meet on 5 August 2020.

It was moved by Councillor Buckmaster and seconded by

Ms J Bruce that the recommendation be supported.

After being put to the vote, the motion was declared CARRIED.

RESOLVED – that Human Resources Committee be advised that the Local Joint Panel support the changes made to the Standby and Out of Hours Policy following the decision to cease the Corporate Standby Rota.

6 REPORTS BY SECRETARY TO THE STAFF SIDE

There were no reports by the Secretary to the Staff Side.

The meeting closed at 12:36pm

Chairman
Date

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Local Joint Panel

Date of Meeting: 20 January 2021

Report by: Head of Human Resources and Organisational Development

Report title: Employment Policies Developed Report x 7
(Discipline, Grievance, Code of Conduct for Employees, Probation, Bullying and Harassment, Absence Management and Appeals Policy)

Ward(s) affected: None

Summary

RECOMMENDATIONS FOR LOCAL JOINT PANEL MEMBERS:

- (a) To approve the revised Disciplinary Policy
- (b) To approve the revised Grievance Policy
- (c) To approve the revised Code of Conduct for Employees
- (d) To approve the revised Probation Policy
- (e) To approve the revised Bullying and Harassment Policy
- (f) To approve the revised Absence Management Policy
- (g) To approve the revised and reduced Appeals Policy in line with the changes made to the policies (a), (b), (d), (e) and (f) above

1.0 Proposal(s)

- 1.1 The proposals are set out in the recommendations above. 6 key HR policies have been updated in line with legislation and best practice. Appeals processes have been incorporated back into these policies as the 'one size fits all' approach we currently have with a generic Appeals Policy does not work well so the appeals processes have been tailored to each

individual policy. As such, the Appeals Policy has been updated to remove reference to these policies. Once the remaining policies still covered in the Appeals Policy have been updated, the Appeals Policy will then be deleted.

2.0 Background

2.1 Upon starting at East Herts Council the new Head of HR and OD identified the need to update the full suite of HR policies and in particular, the key formal policies to incorporate further best practice. This work was then delayed in order to establish the East Herts Together (E.H.T) Group who have worked with HR, LT and Unison to develop the policies and serve as a further cross service group to engage with and consult with to ensure the policies are fit for purpose and user friendly.

2.2 The East Herts Together also agreed some terms of reference to be used when developing policies which has been followed:

- To take the employee through their career journey
- Should be joined up, not in isolation to each other
- Include good examples and flow charts
- Legally compliant
- Include who to contact for more information

2.3 These policies are the first tranche of HR policies to be reviewed by the team, with the remaining policies to be updated throughout 2021.

2.4 The policies have been updated in line with best practice and legislation.

3.0 Summary of changes to policies

Disciplinary

3.1 General

- More concise wording, making the policy shorter.
- The procedure is less prescriptive to ensure more ability to adapt to circumstances.

3.2 Examples of the types of misconduct

- Examples of the types of misconduct are now in the main body of the policy and not in an Appendix.
- Misconduct is now categorised into two areas general and gross rather than three (serious has been taken out).

3.3 Informal stage

- Informal stage is simpler and less prescriptive.
- Removes reference to keeping a written record of informal meetings on the employee's file for a defined period of time (i.e. 6 months).
- Removes reference to an improvement note and giving a verbal warning at the informal stage as it better for an informal warning to be issued.

3.4 Investigation

- Removes the wording that states the investigating manager is normally the employee's manager to ensure it is less prescriptive and another appropriate manager could be used depending on the circumstances.
- Remove the requirement to complete investigations within 10 working days and change it to say the matter will be investigated promptly and adequately in line with ACAS

guidance.

- Removes the requirement that the investigating manager must meet with the employee at the end of the investigation to explain the findings and the option to give them a verbal warning which was inappropriate and not in line with ACAS guidance.

3.5 Disciplinary Hearing

- Removed the requirement to hold the hearing within 10 working days and changed it to say it will be arranged promptly in line with ACAS guidance.

3.6 Disciplinary Outcomes (sanctions)

- Removed the verbal warning as an outcome under the formal procedure in line with ACAS practice instead the informal stage should be used fully.
- Final warning is now live for 18 rather than 12 months as it is usual for this to be higher than written warning which was and remains 12 months.

3.7 Appeal

- The appeals procedure is now included within the policy rather than there being a separate Appeals Policy.

3.8 Review

- As with all we are removing the 3 year review and instead stating will be reviewed in line with best practice and legislation, this allows policies to focused on when appropriate rather than just because time has passed.

3.9 Unison Comments

- Unison had no comments except to say that the policy had been improved on a number of grounds.

Code of Conduct

3.10 General

- It should be noted that this is part of constitution and will therefore require further approval by the Monitoring Officer to incorporate back into the constitution. The Monitoring Officer has confirmed it appropriate for HR, LT, LJP and HRC to develop and update.
- The title has changed from 'Officer's Code of Conduct' to 'Code of Conduct for Employees'
- The Declaration of Secondary Employment form has been added as an appendix to support timely access and action.
- Inclusion of a statement to make it clear that any breach of the Code of Conduct will be investigated and may lead to disciplinary action.
- Includes a separate sign off for new starters to confirm they understand and agree to abide by the Code of Conduct.

3.11 There is a new introduction which:

- Highlights that all groups engaged by the council (e.g. agency workers, contractors, volunteers) must abide by the Code of Conduct, not just employees.
- Makes reference to the council's values and behaviours.

3.12 A new section has been added called 'Work Performance and following East Herts Council's procedures'

- This section highlights the expectations that employees should perform to a high standard, carry out reasonable management instructions and follow council procedures. There was previously no reference to this in the Code of

Conduct.

3.13 A new section has been added called 'Attendance and Timekeeping'

- This section covers the expectations regarding absence notification and authorisation, and punctuality in attending work and meetings.

3.14 A paragraph has been added to the 'Violence, Bullying and Harassment' section

- This makes it clear that a manager discussing with an employee concerns regarding their performance or behaviour where legitimate and constructive criticism is made (or a reasonable request/instruction given) does not constitute bullying behaviour.

3.15 Additional wording has been added that makes the writing of a reference process clearer for managers

- In particular, the revision makes it clearer that managers must seek guidance from HR before sending a reference to ensure data is in line with employee records and for a copy to be placed on the employee's file for reference.

3.16 Clearer process on declaring personal relationships has been added

- The revised Code outlines in more detail the process for declaring and managing personal relationships within the workplace, highlighting the requirement to act professionally at work.

3.17 Clarification has been given on accepting gifts and hospitality

- Makes the process of accepting gifts and hospitality clearer and a declaration form is now included as an Appendix.

3.18 Changes regarding Alcohol and Smoking

- The wording on drinking alcohol in the workplace has changed to say that alcohol should not be consumed in the workplace (please note this is an employee/officer code so this does not prevent members from consuming in the workplace).
- The wording on smoking now includes reference to vaping and e-cigarettes.

3.19 Safeguarding

- A new paragraph has been added on safeguarding to say that 'Employees should take steps to protect children, young people and adults at risk so that they are safe when using our services'. A link to the safeguarding policy will be included.

3.20 A new section has been added entitled 'Use and Monitoring of East Herts Council Property, Equipment and Time'

- This section has brought together several sections from the current policy. It provides clarification regarding how council property and equipment should be used and what monitoring the council may legitimately use. It is aligned to the Acceptable Network Use Policy.

3.21 A new section has been added on mobile phones while driving

- There was previously no reference to this in the current policy. It makes it clear that hand held mobile phones should not be used whilst driving, this is important if the act happens as it ensures East Herts is not liable.

3.22 A new section has been added entitled 'East Herts Council's Profile and Reputation'

- In particular, it makes it clear that employees should not give information to the media about the organisation and its work without the agreement of a member of the Leadership Team.

3.23 Unison comments

- Unison agreed with the above changes. They requested a revision to the absence notification section to add that where there are exceptional circumstances employees should contact their line manager as soon as possible.

Grievance

3.24 Main changes

- There is now a link to Bullying and Harassment policy which is important to ensure matters have one pathway overall.
- A formal bullying or harassment matter is heard through this procedure at stage 2.
- As with all we are removing the 3 year review and instead stating will be reviewed in line with best practice and legislation, this allows policies to be focused on when appropriate rather than just because time has passed.

3.25 Unison comments

- Unison requested we made it clearer that the Hearing Manager may consider ending the grievance meeting and resume it at a later date if they need to investigate statements and facts from the meeting and/or any new evidence that arises during the meeting
- Unison requested that it was made clear that where the actions that follow an informal grievance are unsuccessful, the employee has recourse to the formal procedure. The flowchart in the appendix has been amended accordingly.

Probation

3.26 Main changes

- The most significant change is that the policy now includes absence and conduct as well as performance, this was previously removed in error, probation must cover all three. The whole process is covered within the policy, there is no separate procedure.
- The policy now covers employees new to a role where they have not previously passed probation at East Herts, not just new starters to the council.
- The formal monthly meeting form has been removed and managers can take their own notes instead which means no signing by the employee is required.
- A new probation appraisal form will be developed to assess performance at the end of the probationary period – this will be developed before implementation.
- The ability to extend probation more than once has been built in so it can be considered where appropriate by in line with Unison feedback this is limited to a further 6 months in total.
- There is now a probation hearing rather than a termination meeting which gives the employee the opportunity to state their case before a decision is made

(the previous title implied termination rather than a hearing to decide, the line manager can still recommend).

- The ability to link back to the absence management policy if attendance issues arise in probation but the employee is then confirmed in post. If their probation is confirmed but absence deteriorates within 12 months, they can be moved to Level 2 rather than starting again.
- The Recruitment, Induction and Probation Policy has been updated to signpost to the new Probation Policy rather than previous procedure (this is not included for reference as it is a simple change to signpost correctly).
- As with all we are removing the 3 year review and instead stating will be reviewed in line with best practice and legislation, this allows policies to be focused on when appropriate rather than just because time has passed.

3.27 Unison feedback

- Unison requested that the policy made it clear that probation (in terms of being able to use the policy as opposed to the 3 formal procedures) will only apply to existing employees where they have not undergone a probationary assessment and have not therefore been confirmed in their previous post.
- Unison requested that wording was added to say that objectives will be set during the induction stage as soon as practicable but within the first month.
- Unison requested that the total probation extension cannot exceed 6 months as they felt it was important that probation must have a maximum (maximum total is therefore 6 + up to 6 months = 12 months).
- Unison requested an addition that there could be an option to downgrade an employee rather than dismiss. This was not considered appropriate to include because East Herts is unlikely to have positions to downgrade to and if the employee cannot pass probation in the job they were recruited to they are unlikely to be suitable for

redeployment.

- Wording was adjusted upon Unison's request to emphasise that extension is not taken lightly and the LT member has to authorise such an extension. Wording was also changed to make it clear that the LT member decides whether a formal probationary hearing should be held.
- Unison were concerned that the only two outcomes of a probation hearing were a warning or dismissal and requested a third option was added which is to not dismiss or provide a warning i.e to determine there is no case and the employee can continue in their current probation.

Bullying and Harassment

3.28 Main changes

- Reference to the dignity at work statement which was Appendix A and written by a former CEO has been removed as this caused issues in terms of updating and also was an unnecessary duplication in terms of commitments and principles.
- The policy now has a combined list of forms of bullying and harassment as the previous lists were quite vague and often the same.
- A section has been added which makes clear bullying does not include professional management conversations which include constructive criticism.
- The policy now makes clear that a complaint is a grievance and therefore does not allow matters to have two separate pathways. The policy is described as a specialised version of the EHC grievance policy – therefore matters will count as grievance hearings and grievance decisions.
- The old policy was overly prescriptive, this has been reduced to ensure the policy is easier to follow. This includes the informal stage which was previously very prescriptive and too formal i.e. around investigation. This

has been reduced significantly to make a truly informal stage and encourage more use.

- A responsibility section has been added to set out roles and responsibilities for the complainant, the manager and colleagues.
- Previous sections in the old policy regarding victimisation, monitoring following a formal harassment/bullying complaint, and malicious complaints have been removed as they are unnecessary as separate as covered in the main body.
- The appeals area has been developed to ensure that if a complaint is upheld by informally acted upon i.e. by a inform disciplinary warning the complaint cannot appeal as the matter has been resolved. The policy makes clear that appeals will be managed through the grievance procedure.
- As with all we are removing the 3 year review and instead stating will be reviewed in line with best practice and legislation, this allows policies to focused on when appropriate rather than just because time has passed.

Absence Management Policy

3.29 Significant redevelopment of both procedure and absence triggers to ensure greater consistency and clearer framework which allows matter to move from short-term to long-term and vice-versa.

This Policy has been significantly redeveloped and may appear a lot longer but this is to ensure there is a clearer framework for both short-term and long-term sickness absence. The policy itself is 23 pages long (the font size is 14) but it shows as 63 pages this is because it has a number of appendices (40 pages) including Flow charts, Stress Risk Assessment form, Level 1 and 2 forms for managers to use to ensure consistency (all of which Unison welcomed and E.H.T as stated above would like flow charts where appropriate and

possible). When the policy is built on the intranet it will look better and appendices will be links rather than one document. If approved the policy will go to HRC in February, HR will then look to roll out management training on managing absence and use the new policy as part of this (this will ensure it is successfully implemented and ensure the consistency and join up to HR required).

3.30 Main changes

- Short-term absence triggers have been changed from 7 days sickness absence within any twelve-month period and 3 separate periods of sickness absence in a 6 month period to 3 spells or more in any 3-month period, and/or where an employee has been absent for 10 days or more over the previous 12 months. The days will be pro-rate for part-time staff where they do not work 5 days per week. The triggers were previously too low compared to employment averages and managers had the option not to act informally meaning consistency harder to achieve and issues more likely to arise.
- Removal of the term warnings in formal stages – now called level 1, 2 and 3. Absence management should be supportive first, the levels do warn what next step could be but not really appropriate to call it written warning, final warning etc. as this implies discipline warnings and this is not a conduct matter as illness is genuine when managed through this policy.
- Stress management guidance (appendix in previous policy) has been incorporated into the policy itself with addition of the stress risk assessment form to ensure transparency (this was welcomed by Unison).
- Self cert and return to work form removed from appendices, this is now done through MyView and this is made clear.
- Level 2 meeting can be held by line manager, this was previously Head of Service level who now comes in at

Level 3 where a hearing is required, with the line manager presenting the case at Level 3 hearing.

- Now specified that employees should not text or email their manager to tell them they are off sick to ensure sufficient cover is put in place.
- Addition of 4-weekly face-to-face catch up (on top of weekly telephone calls) for long term sickness cases to ensure employees are supported appropriately.
- Removal of the informal stages for both short and long term sickness, the Level 1 meeting is the first action in the procedure.
- Increase in length of review periods for short-term sickness - from 3 months to 4 months at stage 1, 6 months at level 2 (was unspecified in old policy) and 12 months at Level 3. This ensures the review is more meaningful and appropriate to the history of absences.
- Link between short and long term levels (stages) is now established i.e. if an employee goes to Level 1 in long-term and then subsequently comes back to work but hits short-term triggers they can move to Level 2 rather than re-starting at Level 1. Previously short term and long term were not linked but as it all absence management they should be.
- Employees referred to Occupational Health at 4 week point for long-term sickness. The old policy was not as prescriptive to use Occupational Health but the medical opinion is best sought at this stage to inform reviews so is sought up front (this was a possible outcome at the informal stage if considered appropriate previously).
- Ill health redeployment was considered at stage 2 of the previous policy, in the new policy it is a potential outcome of level 3 which is the hearing stage.
- Capability hearing was heard by a Director in the previous policy, due to changes in our structure this is now an Leadership Team member.
- Appeals procedure now incorporated within the policy. Can only appeal against dismissal as earlier action is only a

review and will be consistent. You could previously appeal against warnings but warnings have now been removed. Appeals would be heard by a chief officer i.e. Chief Executive or Deputy Chief Executive.

- As with all we are removing the 3 year review and instead stating will be reviewed in line with best practice and legislation, this allows policies to be focused on when appropriate rather than just because time has passed.

3.31 Unison Feedback which included regional input

- Unison sought clarity on the hearing process which was provided and agreed covered well. Overall Unison welcomed the updates and the improvements to triggers, procedure consistency and the tone of the policy.
- Policy was developed further by adding in Level 1 and 2 forms for consistency and to ensure all matters covered (these were added to the appendices).
- Regarding clause 1.5 Unison said this must be handled with care, HR will ensure this, no change to policy but matter noted.
- Regarding clause 2.2. this was made clearer that principles of policy apply to Chief Officers but would be managed by Members in line with the constitution.
- Regarding 2.4 which states the council may, in its discretion, decide not to follow all the timescales and details set out in this policy. This has been developed to say HR will control/support this if appropriate, i.e. it will be handled carefully.
- Unison requested that weekly contact should not be expected where staff is off with stress as it may not aid recovery this was not agreed as it is important to keep in touch for both parties but accepted that it could be modified in cases if medical guidance suggests it is appropriate i.e. not aiding recovery.
- Unison requested to add back in Stress and Mental health section and signs to watch for (see 8.5), the section

signposts to both EAP and MHFA.

- Regarding 8.11 re Stress Risk Assessment, this was talked through with Unison and it was agreed to add form as Appendix b so employees are aware and also make clear HR involvement in what can be a specialist matter.
- Regarding 10.5 and phased return Unison accepted that this should be funded from sick pay but are concerned if the employee is on half-pay that this may make the employee what to return without a phasing, the wording was changed to make less prescriptive and we agreed to review in line with case circumstances (i.e. EH could top up sick pay if really necessary for phasing) but the policy still makes clear it is funded from the sick pay pot and therefore use will reduce pot.
- Section 13.4 (a) has been developed re redeployment to include protected salary of up to 4 weeks where employee is redeployed due to capability to a less demanding role (4 weeks maximum and not 18 months like redeployment in relation to redundancy). Unison wanted this to reduce financial stress impact, although it should be noted this will only be an option where a vacancy exists. This was then further developed to make clear in line with redeployment policy that the employee has become disabled during the course of their employment with the Council and such redeployment to a lower graded post would constitute a suitable reasonable adjustment, in this circumstance the employee would receive 18 months of salary protection as set out in the redeployment policy.

Appeals

3.32 The Appeals Policy has been updated to remove the appeals process for the Disciplinary, Grievance, Probation, Bullying and Harassment and Absence Management policies as these have been incorporated back into these policies. The 'one size fits all' approach we currently have with a generic Appeals Policy does not work well as generic framework across all

areas so the appeals processes have been tailored to each individual policy.

4.0 Implications/Consultations

Community Safety

No

Data Protection

No

Equalities

The policies have been updated in line with equalities legislation and with consideration to the Council's Equality Policy.

Environmental Sustainability

No

Financial

No

Health and Safety

No

Human Resources

Yes as set out this is an employment matter and the report has been produced by HR

Human Rights

No

Legal

The policies have been updated in line with employment legislation.

Specific Wards

No

5.0 Background papers, appendices and other relevant material

5.1 The updated policies are attached as Appendices 1 to 7.

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APPENDIX 1



East Herts Council

Disciplinary Policy

Policy Statement

**Policy Statement No 4 (Issue No 4)
February 2021**

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1.0 PURPOSE, SCOPE AND PRINCIPLES

- 1.1 East Herts Council aims to provide a high quality service to our service users and visitors and to encourage positive working relations between colleagues. It is important, therefore, that staff maintain high standards of conduct. Most of the time staff achieve this. However in certain situations it is necessary to use disciplinary action. In such circumstances this disciplinary procedure will be used to ensure that fair and consistent action is taken.
- 1.2 This policy applies to all staff other than Chief Officer and above, where procedures set out in the Constitution are used.
- 1.3 The policy has been developed in accordance with the Advisory, Conciliation and Arbitration Service (ACAS) Code of Practice, 'Discipline and Grievance Procedures'. It has been agreed with Unison.
- 1.4 The principles in this policy apply to all East Herts Council's employees with the following exceptions:
 - (a) Disciplinary matters will be dealt with under separate procedures relating to probationary periods of employment.
 - (b) Incompetence, incapability or other poor performance at work which is considered not to be attributable to a wilful disinclination by the employee to carry out his/her duties efficiently or effectively, but which is thought to be attributable to a lack of skill or aptitude. Such cases will be dealt with under the Managing Performance Policy. However, acts of gross incompetence – i.e. where failings in performance are so serious that they

totally undermine the employer's trust and confidence in the employee – will be dealt with as gross misconduct under this procedure rather than the Managing Performance Policy.

(c) Cases where performance of an employee's duties and/or attendance are adversely affected by ill health. Such cases will be dealt with under the Managing Absence Policy.

- 1.5 No formal disciplinary action will be taken against an employee until the case has been sufficiently investigated.
- 1.6 At each stage of the formal procedure the employee will be advised of the nature of the allegation against him/her and will be given the opportunity to state his/her case at a formal disciplinary hearing before a decision is reached.
- 1.7 At all stages of the following procedure, where specified staff/managers are designated to handle different stages, East Herts Council reserves the right to reasonably substitute suitable alternatives.
- 1.8 An employee may be suspended on full pay during the disciplinary process in relation to a gross allegation if this is appropriate and authorised.
- 1.9 In the case of gross misconduct, the penalty may be dismissal without either notice or payment in lieu of notice.
- 1.10 An employee will have the right to appeal against any formal disciplinary penalty imposed.
- 1.11 It is recognised that disciplinary action against a trade union officer could be seen as an attack on the union's functions. Although normal disciplinary standards will

apply to their conduct as employees, no disciplinary action should be taken until the circumstances of the case have been discussed with a full-time official. This does not apply in the case of a precautionary suspension.

2. THE RIGHT OF ACCOMPANIMENT

2.1 The employee will have the right to be accompanied at all formal disciplinary and appeal hearings by a trade union representative or an East Herts Council work colleague ('the companion'). The employee will also have the right to be accompanied by a trade union representative or an East Herts Council work colleague at formal investigatory interviews.

2.2 The companion will be allowed to:

- Address the hearing
- Confer with the employee
- Put the employee's case
- Ask questions of witnesses
- Sum up the employee's case
- Respond on the employee's behalf to any view expressed at the hearing

The companion has no right to:

- Answer questions on the employee's behalf
- Address the hearing if the employee does not wish it
- Prevent the employer from explaining their case

2.3 It is the employee's responsibility to request his/her chosen companion to accompany him/her to the disciplinary hearing or appeal or investigatory interview. It is also the employee's responsibility to supply copies of all relevant information and documentation to his/her representative.

3. THE ROLE OF HUMAN RESOURCES

- 3.1 The Human Resources team will advise staff on the disciplinary procedure.
- 3.2 Human Resources will provide managers with professional advice and help with managing the procedure. As Human Resources staff will be responsible for monitoring that the procedure is implemented on a consistent basis by all managers, a member of Human Resources should be consulted in all cases where disciplinary action may occur.
- 3.3 A member of the Human Resources team will, where considered appropriate by the manager hearing the case, attend formal investigatory interviews, formal hearings, review and appeal meetings as a management advisor.
- 3.4 Human Resources will arrange for a note taker to attend formal investigatory interviews (if required) and formal hearings to provide a summary record (and not verbatim) of the meeting and the decisions made where applicable. The note taker may be a member of Human Resources or another suitable member of staff.

4.0 TYPES OF MISCONDUCT

- 4.1 All breaches of East Herts Council's Code of Conduct will be investigated and, where considered appropriate, will lead to disciplinary action being taken. However, the Code of Conduct is not intended as a complete list of rules/expectations in relation to conduct or possible breaches. Any breach of the Code of Conduct will be investigated and may lead to disciplinary action. Breaches fall into two main categories:

- General misconduct
- Gross misconduct

4.2 General misconduct

4.2.1 General misconduct is categorised as the kind of actions where a lower level warning would be seen as sufficient to draw the employee's attention to the need to improve depending on the circumstances of the case.

4.2.2 However in the following circumstances general misconduct would normally result in a written or final written warning:

- where general misconduct is prolonged and/or there are repeated acts of misconduct, or
- there is more than one misconduct issue, or
- they are action(s) of a nature that verge on gross misconduct.

4.3 Gross misconduct:

4.3.1 Gross misconduct is defined by East Herts Council as those acts which are so serious in their nature that they destroy the mutual relationship of trust and confidence between the employee and the employer and make any further working relationship impossible. The following are examples of gross misconduct but this is not an exhaustive list (further examples are provided in the Code of Conduct for Employees),:

- (a) Acts of dishonesty.
- (b) Serious verbal, written or physical abuse, dangerous or intimidatory conduct, violence or threats of violence made against service users, colleagues or others.
- (c) Serious acts of discrimination, bullying or harassment,

- (d) Making unfounded or knowingly malicious allegations against colleagues, other working contacts or service users.
- (e) Serious misuse of facilities, equipment or time.
- (f) Non-compliance with statutory health and safety requirements or East Herts Council health and safety policy and procedures such as to endanger life or risk causing serious injury.
- (g) Non-compliance with East Herts Council's Smoking Policy and the law surrounding smoking in public with regards to not smoking or vaping inside of any buildings.
- (h) Serious acts of insubordination or verbal abuse or extreme rudeness/ discourtesy towards managers or other colleagues, service users or working contacts.
- (i) Refusal to carry out duties or reasonable instructions or to comply with East Herts Council rules.
- (j) Being in an intoxicated and offensive or intoxicated and incapable condition whilst on duty, unless caused by drugs prescribed by a medical practitioner and properly administered.
- (k) Serious breaches of East Herts Council's requirements, policies, procedures and rules with respect to safeguarding, child protection and protection of vulnerable adults, or of our Code of Conduct in relation to maintaining professional relationships with service users.
- (l) Serious acts of misconduct which are prejudicial to East Herts Council's reputation or interests whether committed at work or outside working hours.

- (m) Serious breaches of confidentiality relating to East Herts Council, its employees, members or service users.
- (n) Acts of sexual misconduct or indecency in relation to work, work-related events, service users, colleagues or working contacts.
- (n) Acts of gross incompetence or negligence – i.e. where the consequences of an act(s) of underperformance are so serious as to fundamentally undermine East Herts Council’s confidence in the employee or cause unacceptable loss, damage or injury.

5. INFORMAL DISCIPLINARY PROCEDURE

- 5.1 Where minor problems in conduct are alleged, it is the manager's responsibility to take action to ensure that the individual is made aware of the problem.
- 5.2 The manager will usually have an informal discussion with the member of staff to investigate the matter and decide on an appropriate course of action. Formal steps will be undertaken if the matter is not resolved or if informal discussion and warning is not appropriate in the circumstances.
- 5.3 A note of the meeting and any informal warning issued must be made by the manager and a copy held on the employee’s HR file. Informal action is not subject to time limits for disciplinary purposes.

6. FORMAL DISCIPLINARY PROCEDURE

6.1 Scope

The formal disciplinary procedure will be used where:

- Conduct problems are considered too serious to be

dealt with informally in the first instance, or

- An employee fails to meet East Herts Council's expected standards of conduct after having previously received an informal warning in relation to any aspect of their conduct.

6.2 Investigation

6.2.1 Where a matter arises which is suspected or believed to be a disciplinary matter, an investigating manager will be designated to investigate the matter promptly and adequately.

6.2.2 The employee will be informed of the nature of the allegation(s) being investigated.

6.2.3 Investigation will be conducted with the aim of establishing the facts of the case, and may include:

- Interviewing the employee
- Interviewing any witnesses, and obtaining signed and dated statements
- Collecting documentary evidence
- Seeking further information from internal and external parties

6.2.4 Where the employee is interviewed as part of the investigation, it should be made clear that this is part of the investigation and not a formal disciplinary hearing.

6.2.5 The investigating manager will prepare a report of the investigation. If on completion of the investigation the manager conducting it concludes on the balance of probabilities the allegation of misconduct is justified and may require more than an informal warning (see Section 5 above), a formal disciplinary hearing will be arranged.

6.2.6 The investigating manager will normally present management's case at the disciplinary hearing.

6.3 Suspension

6.3.1 Where the matter to be investigated is thought to involve gross misconduct, the employee may be suspended from work on full pay while the investigation proceeds. Similarly, if during the course of an investigation the investigating manager conducting it is of the view that a serious or gross breach of discipline may have occurred, he or she may then recommend suspension as an appropriate precautionary measure to a member of the Leadership Team. Suspension can only be authorised by a member of the Leadership Team. The LT member should make a note of their decision including any alternatives considered/actioned.

6.3.2 Suspension is not a disciplinary penalty and does not imply that any decision has already been made about the allegations.

6.3.3 In all cases, any decision to suspend will only be taken once alternatives to suspension have been considered and the decision should be confirmed in writing as soon as reasonably practicable.

6.3.4 Short term alternatives to suspension may include:

- Working from home or an alternative location
- Working on appropriate restricted duties
- Working in a more closely supervised environment

6.4 The Disciplinary Hearing

6.4.1 Following any investigation, if East Herts Council considers there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing.

The purpose of the hearing will be for:

- East Herts Council to explain the allegation(s) against the employee and go through the evidence that has been gathered, including hearing presentations from the investigating manager's witnesses where appropriate.
- The employee to set out their case and answer any allegations that have been made.
- The employee to ask questions, present evidence, call relevant witnesses if they wish and hearing officer deems it appropriate, and to be given an opportunity to raise points about any information provided by any of the witnesses.

6.4.2 The hearing will normally be conducted by a member of the Leadership Team although this may change at the discretion of East Herts Council depending on the seriousness of the matter.

6.4.3 Where reasonably practicable the employee will be given a minimum of 5 working days advance notice of the hearing.

6.4.4 The employee should also be provided with the report of the investigation and copies of all relevant documentation which will be considered at the disciplinary hearing and which is available to East Herts Council at that time. This will normally include any statements obtained from witnesses, whether or not the witnesses will be attending the hearing.

6.4.5 The employee should provide any further documentation and the names of any witnesses at least 2 working days before the hearing.

6.4.6 A hearing may be postponed if the employee's chosen companion is not available at the time specified in the notice or for other good cause, provided the employee proposes an alternative date for the hearing within 5

working days of the original date set for the hearing. If the employee fails, without good reason, to attend or is unable to attend the reconvened hearing it will normally proceed in his/her absence, but failure to attend may be treated as misconduct in itself.

6.4.7 At the disciplinary hearing East Herts Council will go through the allegations against the employee and the evidence that has been gathered. The employee will be able to respond and present any evidence. The employee's companion may make representations and ask questions, but should not answer questions on the employee's behalf.

6.4.8 The employee may request for relevant witnesses to appear at the hearing. This will be arranged provided they are considered to be appropriate to attend by the Chair of the Hearing.

6.4.9 The Chair of Hearing may adjourn the disciplinary hearing if further investigations are necessary, such as re-interviewing witnesses in the light of any new points that have been raised at the hearing.

6.4.10 The employee must be informed in writing of the decision, usually within 5 days, and of their right of appeal against the decision.

6.5 Disciplinary Hearing Outcomes

6.5.1 Although there are three levels of disciplinary action, this does not mean that all these levels must always be followed before a dismissal is considered. Action may be implemented at any level depending on the seriousness of the misconduct involved.

6.5.2 Action in cases other than those involving gross misconduct

Where a reasonable belief in the employee's culpability in relation to the misconduct alleged is established on the balance of probabilities, the following disciplinary action may be taken depending on the nature of the misconduct and any mitigating circumstances.

(a) First Written Warning

Where following a disciplinary hearing, an employee is found to have committed general misconduct they may be given a written warning. The warning should set out the details of the complaint, the improvement required, and the timescale, and the consequences of any further misconduct. A copy of the written warning will be kept on the employee's personal file, but will normally be disregarded for disciplinary purposes after one year, subject to satisfactory conduct and performance.

(b) Final Written Warning

In the following circumstances the employee will be issued with a final written warning where an employee's conduct:

- Continues to be unsatisfactory despite the issue of a first written warning, or
- Is sufficiently serious to justify only one written warning, but insufficiently serious to justify dismissal

The final written warning will follow the same format as in (a) above, except that it will be spent for disciplinary purposes after 18 months (in exceptional cases the period may be longer) subject to satisfactory conduct.

Warnings involving safeguarding children or vulnerable adults will be placed on the employee's personal file permanently.

(c) Dismissal

For an act or acts of further misconduct (other than gross misconduct) by an employee who is under a final written warning given in accordance with (b) above, the employee will be dismissed with notice or with pay in lieu of notice.

6.5.3 Gross Misconduct: In cases where, after a disciplinary hearing, on the balance of probabilities an employee's culpability of gross misconduct is established (see definitions in Section 5.2) the employee may be summarily dismissed without either notice or payment in lieu of notice. This means that the employee can be dismissed without any prior warning(s).

6.5.4 Only members of the Leadership Team are authorised to dismiss an employee. The Head of HR and Organisational Development must be consulted on any decision to dismiss.

7. RECORDS OF DISCIPLINARY HEARINGS AND RELATED MEETINGS

7.1 Notes of disciplinary meetings will be taken and a summary record made by a member of the Human Resources team or Executive Assistant Team or other suitably appointed person, and a copy will be supplied to the employee. If the employee does not agree with the record, s/he should submit his/her suggested amendments in writing and these will be attached to the original copy.

7.2 All records and relevant documents will be placed on the employee's personal file, and copies will be circulated to the employee and relevant managers. The exception will be records of informal discussions and warnings (see Section 5 above), which will be recorded by the line manager and placed on the employee HR file for safe keeping.

- 7.3 Although disciplinary warnings will be spent after specified periods, all disciplinary records will be kept on employees' files permanently.

8. CASES OF ALLEGED CRIMINAL ACTIVITY

- 8.1 If the allegation involves suspected non-financial criminal offences at work the manager must inform the Head of HR and OD (or the Chief Executive or the Monitoring Officer if appropriate) with a view to contacting the police. If the allegation involves suspected serious financial irregularity or fraud, the Head of Finance and Property (S151 Officer) (or the Chief Executive or the Monitoring Officer if appropriate) must be informed. The Head of Finance and Property (S151 Officer) will then arrange for any further investigation into the allegation, as necessary. The Council's policy is that the Police or whichever external agency is appropriate to the alleged offence will normally be informed without delay of any suspicions of fraud and corruption. Any decision **not** to notify the Police or other agency will be made by the Chief Executive and should be documented on the case-file. Please refer to the Council's Anti-Fraud and Anti-Corruption Strategy Policy Statement for more information.
- 8.2 Where the employee has been charged with or convicted of a criminal offence at or outside work, or is in custody (whether in remand or following conviction) the manager should contact the Head of HR and OD to determine whether or how to apply this procedure. In particular cases a risk assessment may be appropriate. Employees are expected to inform their manager if they are charged with or convicted of a criminal offence at or outside work.
- 8.3 Disciplinary investigations can be undertaken at the same time as a criminal investigation, except in exceptional circumstances, as advised by the police.

9 OVERLAPPING DISCIPLINARY AND GRIEVANCE ISSUES

- 9.1 An employee may raise a grievance after disciplinary procedures have begun against them. In these instances, the Head of Service should consider suspending the disciplinary case for a short period of time (no more than one week) to consider the implications of the grievance upon the disciplinary.
- 9.2 If the grievance is related to the disciplinary it is permissible to deal with them concurrently. If the grievance is raised before the appeal stage of the disciplinary procedure, if the Head of Service thinks it is appropriate and it is related to the disciplinary, the grievance will be heard as part of the disciplinary procedure. If the employee raises the grievance after the disciplinary process has been completed, the full grievance procedure should be followed. Employees cannot raise a grievance against a disciplinary sanction. The Appeals Policy must be used in this case.

10 APPEALS PROCEDURE

- 10.1 An employee has the right of appeal against any formal disciplinary action taken which he/she believes is unjust.
- 10.2 An employee can appeal against a disciplinary sanction on the following grounds:
- There was a significant breach of the procedure;
 - A reasonable person could not have reached the decision to find against the employee on the basis of the evidence submitted;
 - The penalty was too harsh, taking into account the seriousness of the offence and any mitigating circumstances;
 - Significant new evidence has become available, and that evidence could not have been available at the time of

the original hearing.

- 10.3 An employee who wishes to appeal must lodge the appeal in writing with the Head of HR and OD, setting out briefly the grounds of the appeal, no longer than 10 working days after the employee has been notified in writing of the disciplinary penalty.
- 10.4 East Herts Council will write to the employee with details of the arrangements for hearing the appeal as soon as reasonably practicable, which will be held without unreasonable delay.
- 10.5 The appeal will be conducted impartially and where possible by a more senior manager who has not been previously involved in the case. This may be a Service Manager, Head of Service or the Deputy Chief Executive depending on the nature of the appeal. Appeals against dismissal will be heard by a Chief Officer; the Deputy Chief Executive or where they have not already been involved the Chief Executive.
- 10.6 Appeal hearings will not normally rehear the whole case, but will focus on the grounds of appeal. Further evidence may be introduced by either side if it is relevant to the grounds for the appeal and provided it is received within the specified timescale of 3 working days before the date of the hearing.
- 10.7 Following the appeal hearing, the Chair or Panel hearing the appeal should retire to consider their decision and the employee will be informed in writing of the decision as soon as practicable confirming that this decision is the final stage of the appeals procedure.

APPENDIX A

Recommended Process for Disciplinary Hearings

- Chair opens meeting:
 - Check employee has received letter and documentation
 - Check they understand their right to accompaniment (representation)
 - Check witnesses to be called by both sides
 - Outline the process and structure of the hearing (see below); tell them what you will be looking for (the 8-Point Checklist in Appendix B below)
 - Agree ground rules for witness statements, representation and adjournments (adjournments may be requested by either party or by the Manager conducting the hearing and will not be refused unreasonably – if denied an explanation will be given))
- Chair outlines the allegations and asks if employee admits them.
- Chair may ask questions at any point during following proceedings.

The Investigating Manager's Case

- The Investigating manager makes opening statement and presents management case (summarise contents of report).
- The member of staff and his/her representative may question the Investigating Manager.
- The Investigating Manager may call witnesses and question them (subject to the Chair of the Hearing deeming the witnesses appropriate to be called).

- Employee/rep may question the Investigating Manager's witnesses.
- Investigating Manager may re-examine their own witnesses on any issues raised by Chair or employee.
- Investigating Manager briefly summarises the management case against the employee.

The Employee's Case

- Employee and/or their rep present their case against the allegations and explain any special circumstances which may exist and the precise nature of the remedy sought.
- The Investigating Manager may question the employee
- Employee and/or their rep may call witnesses and question them.
- The Investigating Manager may question the employee and employee's witnesses (subject to the Chair of the Hearing deeming the witnesses appropriate to be called).
- Employee may re-examine their own witnesses on any issues raised by the Chair or the Investigating Manager.
- Employee and/or their rep briefly summarises their case.

APPENDIX B

Disciplinary Hearing Decision Checklist

1. Has there been as much investigation as is reasonable in the circumstances?
2. Have the Council's procedures been fairly followed?
(Consider the principles of the policy)
3. Have I paid sufficient regard to any explanation put forward by or on behalf of the employee?
4. Do I genuinely believe that the employee has committed the general misconduct or gross misconduct as alleged?
5. Have I reasonable grounds on which to sustain the belief, on the balance of probabilities?
6. Is the misconduct sufficiently serious to justify the disciplinary action I am contemplating?
7. Have I had regard to any mitigating circumstances put forward by or on behalf of the employee?
8. Is the decision within the band of reasonable responses of a reasonable employer in the circumstances?

The effect of answering yes to the first five questions is to reach a finding that the allegations have been found. Questions 6 to 8 help to determine whether the proposed sanction is reasonable.

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APPENDIX 2

Policy Name	Grievance
Date	February 2021
Statement No	3
Version	5
Review Date	February 2024

Contents page to be added once content agreed

1. Purpose & Scope

- 1.1 The council is committed to providing a harmonious workplace for all staff, where each individual is treated fairly and with respect. It is hoped that any work related disagreements will be rare and, if they do occur, they can be resolved informally. However, it is recognised that this may not always be possible. The purpose of this procedure is so that all staff know how they should raise a formal grievance if they wish to do so and with whom.
- 1.2 Employees may take out a grievance about any aspect of their employment, including:
 - terms and conditions of employment
 - health and safety
 - working relationships
 - working environment
- 1.3 This policy has been developed in accordance with the ACAS Code of Practice on Grievances and in consultation with Unison.
- 1.4 The procedure aims to help to resolve individual grievances in a manner which is as fair and timely as possible. It is the council's policy to find a solution to individual grievances as early in the procedure as possible.

- 1.5 This procedure will not cover appeals that are set out in other policies; in those cases the relevant appeal process should be followed.
- 1.6 Please note that there is a separate Bullying and Harassment Policy for complaints involving bullying and harassment and this policy should be used in conjunction with this Grievance Procedure in such cases.
- 1.7 This procedure does not form part of any individual employee's contract of employment with the council.
- 1.8 Where an employee raises a concern as a 'protected disclosure' in compliance with the public interest disclosure provisions of the 1998 Act, the matter will normally be dealt with under the council's Whistleblowing policy.
- 1.9 Grievances raised about the same issue by two or more employees (or by a union representative on their behalf) will follow this policy but will usually be dealt with collectively.
- 1.10 The Council recognises the right of employees to raise grievances relating to their employment. However if an employee continues to raise grievances which appear to be repetitive and unfounded, this may be regarded as vexatious and could lead to disciplinary action being taken against them.
- 1.11 Wherever possible a grievance should be dealt with before an employee leaves the council's employment. Grievances raised after employment ends will not be dealt with in line with the council's formal grievance procedure.
- 1.12 A flowchart outlining the informal and formal grievance process can be found in Appendix 2.

2. General principles

- 2.1 At any stage of the procedure, where specified people are designated to hear the grievance, appropriate substitutes may be used in cases of non-availability or where otherwise considered appropriate.
- 2.3 Where timescales are specified in the procedure, these may be varied on account of unavoidable circumstances – for example the need of the manager hearing the grievance to carry out further investigations - or by mutual consent.
- 2.4 At any stage of the procedure, the manager hearing a grievance will have the right to determine who they require, in addition to the employee who has raised the grievance, to be present for all or part of the hearing as a means of gathering all the information s/he needs to make a decision. This may include any person who is a subject of the grievance. In such cases the aggrieved employee will be notified in advance of who will be in attendance and in what capacity.
- 2.5 At any stage of the procedure, another manager or member of staff may, where required by the manager hearing the case, be present at the meeting to assist and take notes.
- 2.6 Where an employee has a disability, concern or a specific support need which makes any part of procedure more difficult the HR Officer should be advised so that additional support may be considered.

3. Confidentiality

- 3.1 All parties involved in a grievance must respect confidentiality. Any records will be kept securely and in accordance with the General Data Protection Regulations (GDPR).

4. Support

- 4.1 Support for all parties involved in a grievance is available through the employee assistance programme (EAP). Further details can be found on the [intranet](#).

5. Roles and responsibilities

5.1 Managers' responsibilities:

- To deal with matters fairly and promptly;
- To make every effort to deal with matters informally in the first instance;
- To establish the facts of the case and carry out any necessary investigations;
- To take notes of any grievances raised at the informal stage.

5.2 Employees' responsibilities:

- To make every effort to discuss the issues informally, before the formal process is commenced;
- To raise issues without unreasonable delay.

5.3 Human Resources responsibilities:

- To advise on procedure, ensuring consistency and equality;
- To take notes at the formal grievance meetings unless the Hearing Manager decides an additional note-taker should be present;
- To act as a facilitator in any informal discussions relating to a grievance if necessary;
- To arrange mediation and support where appropriate.

5.4 Role of the Representative (union or work colleague)

- 5.4.1 At any stage of the formal procedure, the employee raising the grievance has the right to be accompanied by a trade union

representative or a work colleague. Acting as a companion is voluntary and colleagues are under no obligation to do so. If a colleague agrees to do so, they will be allowed reasonable time off from duties without loss of pay to act as a companion.

5.4.2 The representative should be allowed to:

- Address the meeting;
- Present and sum up the employee's case;
- Respond on behalf of the employee to any views expressed at the meeting (but not to answer questions on the employees' behalf);
- Confer with the employee during the hearing.

5.4.3 A union representative can only attend in a union capacity if they are a full time official or certified by their union as having the necessary experience to perform such a role.

5.4.4 If a Trade Union Steward or Officer raises a grievance they are entitled to be represented by a full time Trade Union Official.

6. Stage 1 - Informal procedure

6.1 If an employee has a grievance relating to his/her employment, the matter should be raised initially with their manager. The grievance should be raised orally or in writing in the first instance. In the event that the grievance relates to their manager, the grievance should be referred to their Head of Service or Head of HR and OD.

6.2 The manager assigned to hear the grievance will take such steps he/she considers necessary to resolve the grievance as quickly as possible, on an informal basis.

6.3 It is advisable for managers to keep a written note on the nature of the grievance, what was decided/actions taken and the reasons for the actions.

7. Stage 2 - Formal Procedure

7.1 If the matter is very serious or in other circumstances where the employee does not wish to raise the matter informally or where informal action has not been successful, the employee may proceed straight to the formal stage of the procedure.

7.2 The employee should submit their grievance in writing

7.2.1 The employee should complete the grievance form in Appendix 1 and send it to their HR Officer;

7.2.2 A HR Officer will allocate an appropriate manager (the Hearing Manager) who has not been involved in the case so far and has undertaken appropriate management training to hear the grievance. HR will provide support and guidance to ensure the process is followed appropriately;

7.2.3 It may be necessary to conduct an investigation into the matter before the hearing can take place. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. The employee must co-operate fully and promptly in any investigation. The investigating officer will keep the employee informed of likely timescales.

7.3 The employee is invited to a grievance meeting

7.3.1 The employee will be invited to a grievance meeting in writing. They will be advised of their right to be accompanied by a work colleague or trade union representative;

7.3.2 If an employee's chosen companion is not be available at the time proposed for the hearing by the employer, the employer must postpone the hearing to a time proposed by the employee, provided that the alternative time is both reasonable and not more than five working days after the date originally proposed;

7.3.3 The meeting should take place within 10 working days of receiving the grievance form. Any substantial delays, and the reason for the delays, should be communicated to the employee and agreed with HR;

7.3.4 Employees and their representative are obliged to make every effort to attend the meeting. If they fail to attend without good reason, a decision based on the evidence available may be taken in the employee's absence.

7.4 Documents should be exchanged before the meeting

7.4.1 At least 3 working days prior to the meeting, all documents/ evidence and names of witnesses should be exchanged. The Hearing Manager will determine whether it is appropriate for witnesses to be called.

7.5 A grievance meeting will be held

7.5.1 The grievance meeting is an opportunity for the employee to re-state their grievance and how they would like it to be resolved and to assist the council to reach a decision based on the available evidence and the representations made.

7.5.2 Every effort should be made to discuss the issues stated and find a solution which is acceptable for both parties;

7.5.3 Usually present at the grievance meeting are the Hearing Manager, HR Officer, the employee raising the grievance (and their representative if applicable) and the manager responding to the grievance.

7.6 Recommended format for a grievance meeting

- 7.6.1 The Hearing Manager will ensure that all parties understand the process that is to be followed and have the relevant documents;
- 7.6.2 The employee and/or their representative will present their case including how they would like it to be resolved, calling any witnesses and referring to the documents that have already been submitted;
- 7.6.3 The Hearing Manager may consider ending the meeting and resuming it at a later date if any new evidence arises during the meeting or statements and facts made at the meeting need investigating further;
- 7.6.4 The Hearing Manager followed by the HR Officer will have the opportunity to question the employee and any witnesses;
- 7.6.5 The manager may then respond to the grievance;
- 7.6.6 The Hearing Manager will then ask any final questions before asking each side to sum up.
- 7.6.7 Both parties will make final statements which summarise the key points of their case. The employee will sum up after the manager. It is not normally appropriate for new evidence to be presented at the summing up stage;
- 7.6.8 The Hearing Manager will then close the meeting to consider the matter, advised by the HR Officer;
- 7.6.9 The Hearing Manager may consider postponing the decision to give more time for deliberation/clarifications however this must be done without unreasonable delay. An estimated timescale for resolution should be communicated to all parties. If it is necessary to clarify any of the evidence presented, including

recalling witnesses, all parties will be recalled, even if the point of clarification only concerns one party.

7.7 The decision is confirmed in writing

7.7.1 The decision will be confirmed to the employee in writing by the Hearing Manager within 3 working days. This will include recommendations on the way forward and details of the right to appeal. Any other parties involved in the grievance will also be appropriately informed of the outcome.

8. Stage 3 - Appeal

8.1 If the grievance is not upheld and resolved to the satisfaction of the employee at the formal stage, he or she may appeal. The employee must set out the full grounds for the appeal, to the Head of Human Resources and OD in writing within ten working days from when the decision was sent or given to the employee.

8.2 The council will, as soon as possible (usually within ten working days of receipt of the written grievance), arrange an appeal hearing, which will be chaired by an appropriate member of the Leadership Team who has not been previously involved in the case and is more senior than anyone who carried out any part of the case previously. If an employee's chosen companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards, the council may ask the employee to choose someone else.

8.3 The person responsible for the appeal hearing will consider the appeal and may be supplied with all of the documentation submitted in relation to the earlier stages of the procedure and any new evidence.

8.4 The decision on the appeal will be provided in writing within ten working days of the appeal hearing. Any other parties

involved in the grievance will also be appropriately informed of the appeal decision. Such decision will be final and there is no further appeal.

9. Mediation

9.1 Mediation can be used at any stage of the grievance process. It is a confidential and voluntary process and is conducted on the basis that both parties want to achieve a mutually agreeable outcome or solution. A successful mediation should leave both parties feeling that the outcome is fair, reasonable and appropriate under the circumstances.

9.2 The Council has a number of employees who are trained in mediation. In some cases it may be appropriate to use an external mediator. HR will be able to arrange this.

10. Overlapping Discipline and Grievance issues

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

11. Policy Review and Amendment

11.1 This policy shall be reviewed in line with legislation and best practice to reflect the best possible level of support and management.

Appendix 1

GRIEVANCE FORM

The grievance form should be completed where an employee wishes to raise a formal grievance.

EMPLOYEE'S NAME:	
JOB TITLE:	
SERVICE:	

DETAILS OF GRIEVANCE:

Please complete this section, giving a summary of the grievance. You should include where appropriate:

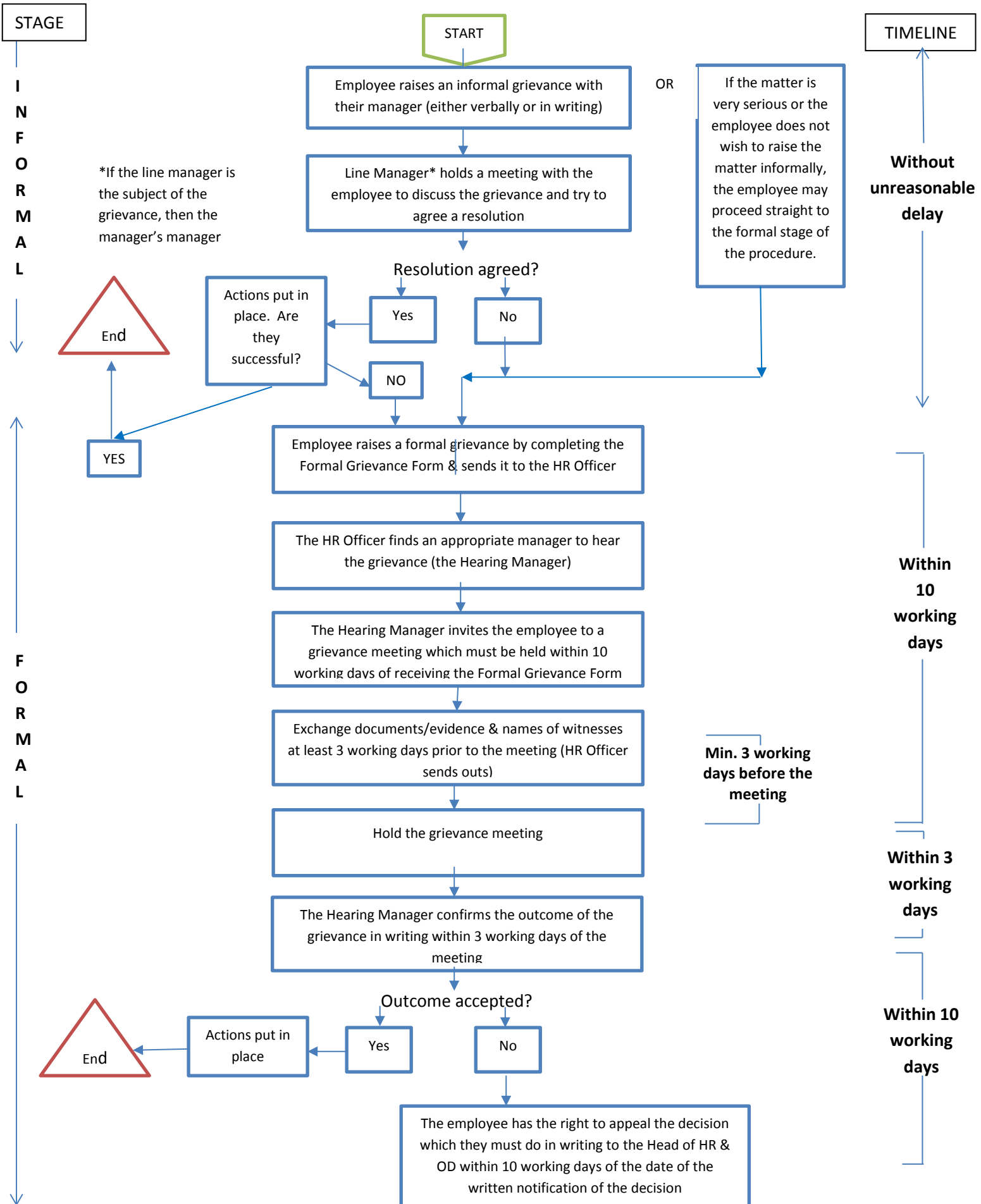
- What the grievance is about
- Relevant dates of event(s)
- Witnesses to event(s)
- Where the event(s) took place
- Relevant background information leading up to the grievance
- Why the grievance has not been resolved at the informal stage (please state reasons)

Outcome sought:

--

EMPLOYEE'S SIGNATURE:	
DATE:	

Appendix 2 FLOWCHART – INFORMAL & FORMAL GRIEVANCE PROCESS



APPENDIX 3



East Herts Council

Code of Conduct for Employees

Policy Statement

**Policy Statement No 14 (Issue No 3)
February 2021**

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CODE OF CONDUCT

Policy Statement No 14 (Issue No 3) February 2021

1.0 Introduction

- 1.1 The primary commitment of East Herts Council is to provide excellent services to our service users, visitors and partner organisations. This commitment lies at the centre of the work undertaken by employees with every effort made to achieve these aims.
- 1.2 It is important that all employees (including agency employees, contractors and volunteers) conduct themselves to preserve public confidence in East Herts Council's integrity as an organisation.
- 1.3 Employees should at all times act with due regard to the council's values and behaviours and to show respect to fellow employees, Members, service users, visitors and partner organisations.
- 1.4 East Herts Council believes that the conduct of its employees is of a high standard. The purpose of this code is to provide clear guidance on the standards expected from all. All employees and volunteers should be aware that breaches of this Code will be investigated and, where considered appropriate, disciplinary action taken.
- 1.5 No code of conduct can cover all circumstances that may arise. Emphasis, therefore, is placed on the standards of performance and behaviour which are expected rather than making a complete list of rules or possible breaches.
- 1.6 Any action undertaken by a member of staff as part of a trade union dispute, where this action has been properly and legally

called by a recognised trade union, shall be outside the scope of this policy.

- 1.7 Where 'employees' are referred to in this Code, the principles and conduct expectations also apply to agency staff, contractors and volunteers.

2.0 Standards and General Conduct

2.1 The Code of Conduct has been developed to ensure that there are appropriate standards for the way in which the council delivers its services. Each employee is expected to abide by the terms and conditions of their employment and will be expected to conduct themselves in accordance with council policies and the council's values and behaviours.

2.2 Employees are expected to report any breach of the council's standards, procedures or expected behaviours to the appropriate manager. If an employee is concerned regarding coming forward in a safe and confidential way they should seek HR, management or union support, another potential avenue to raise concerns is through the Disclosure (Whistleblowing) Code.

3.0 Work Performance and following East Herts Council's procedures

3.1 You are expected to carry out the full duties of your job to a high standard of performance, with appropriate support, supervision and training from East Herts Council. You are also expected to carry out reasonable management instructions and comply with East Herts Council rules.

4.0 Attendance and Time Keeping

- 4.1 All absence must be authorised in advance in accordance with East Herts Council's leave booking arrangements except in the case of sickness, injury or exceptional personal complications that could not be foreseen. If you are unable to work for any of these reasons, you must contact your line manager as soon as possible and your absence must be notified and certified in accordance with East Herts Council's absence/sickness notification & certification procedures.
- 4.2 The council operates a flexi-time scheme which allows most employees (where the service and nature of the work allows) to have flexible start and finish times. However if you know that you are going to arrive at work much later than you normally do, please ensure your manager is aware from a health and safety perspective.
- 4.3 If you have a role that has set start times or a meeting time has been arranged, punctuality in attendance for work is expected, barring the most exceptional circumstances.

5.0 Violence, Bullying and Harassment

- 5.1 East Herts Council will not tolerate any acts of violence, threatening behaviour, verbal abuse, malicious cruelty, bullying and/or harassment or any behaviour which can be reasonably determined as intimidating and unwanted.
- 5.2 What does not constitute bullying behaviour is a manager discussing with an employee concerns regarding their performance or behaviour where legitimate and constructive criticism is made (or a reasonable request/instruction given).
- 5.3 Further information can be obtained from the council's Bullying and Harassment Policy.

6.0 Honesty, Integrity and Avoidance of Conflicts of Interest

- 6.1 High standards of integrity and honesty are expected at all times. This includes being truthful and honest when asked appropriate questions by managers and other colleagues about any matters which have a bearing on your employment with and work at East Herts Council.
- 6.2 East Herts Council documents, forms and records should be completed truthfully and accurately. This includes all Human Resources forms, attendance forms, financial forms and records.
- 6.3 Under no circumstances may employees other than the line manager or an appropriate senior manager write a reference on East Herts Council headed paper for East Herts Council employees or ex-employees. Managers must seek guidance from HR before sending a reference to ensure data is in line with employee records and for a copy to be placed on the employee's file. If you choose to write a personal character reference for a colleague/ex-colleague you must do so from your private address, making clear that you are not writing in an official capacity on behalf of East Herts Council, and you must be explicit about the nature of the working relationship that you had with the colleague.
- 6.4 Authority must not be abused in relation to a colleague, service user, Member or applicant for East Herts Council's services. Improper use of your official position for private gain or for the gain of relatives and associates will not be tolerated.
- 6.5 Conflicts of interest arises when an employee has a financial or personal interest, kinship or relationship, or engages in any activity (paid or unpaid) which could:
- enable him/her to secure some personal advantage (other

than salary) or advantage for a close relative or friend as a result of his/her being employed by East Herts Council; or

- influence his/her judgment in relation to the performance of his/her duties on behalf of East Herts Council.

6.6 For a conflict of interest to arise, the advantage does not have to be realised. You have a duty to be aware of and declare any interests or potential conflict of interests and to take steps to resolve any conflicts that may arise.

6.7 Officers must declare to their manager and to the Head of Legal and Democratic Services any interests, financial or non-financial, which could bring about a conflict with the interests of the authority.

6.8 Once applicable at any time during employment by the council, employees must declare to their Head of Service and the Head of Legal and Democratic Services, membership of any organisation or group which:

- is open to the public and requires formal membership and commitment of allegiance and has secrecy about rules and members' conduct; or
- has views which oppose those of the council in a way or to such a degree that this does, or could be seen to, compromise the employee's ability to carry out his or her duties on behalf of the council in an unbiased and impartial way.

6.9 New starters will be asked to confirm they have read and understood this code of conduct and will be required to declare any potential conflicts of interest as part of their new starter process.

6.10 For avoidance of doubt, Freemasonry is an 'organisation' within the meaning of paragraph 6.8.

6.11 You should not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your job.

7.0 Personal Relationships

7.1 In line with Section 6 above you have a duty to be aware of and declare any interests or potential conflict of interests and to take steps with management guidance to resolve any conflicts that may arise. This includes close personal relationships which can affect your ability to perform your role, essentially by declaring and being transparent it allows the council to manage the situation appropriately.

7.2 It is the employee's responsibility to inform their manager (who must then seek advice from HR), in confidence, if they are in a close personal relationship with another employee, a Member, service user, contractor or someone working from a partner organisation.

7.3 This requirement applies equally to relationships that existed prior to employment and to relationships that develop at the council.

7.4 The manager will discuss with the employee the potential impact of the relationship on the council.

7.5 Although the manager will treat the disclosure sensitively and in confidence, HR will be informed and it is possible that other parties will need to be made aware. This will be on a strictly need-to-know basis and this will be discussed with those concerned first.

- 7.6 The manager will be responsible for making appropriate alternative arrangements in relation to recruitment, selection, appraisal, promotion or other situations or processes where there may be a conflict of interest or where unfair advantage may be gained, or perceived to be gained over other employees.
- 7.7 In some cases it may be necessary to consider moving an employee to another service, if the actual or perceived risk of conflict of interest cannot be managed by other means.
- 7.8 Failure to disclose the existence of such a relationship will result in disciplinary action being considered.
- 7.9 It is important to note that where there is a close personal relationship of a romantic or sexual nature between employees or with one of those mentioned in 7.2 above, it is likely that public displays of affection at work may cause discomfort for their colleagues and portray an unprofessional image. Employees are therefore expected to behave professionally at work with each other and intimate contact and/or displays of affection should only be conducted outside of the work environment. Failure to act professionally will lead to disciplinary action being considered.

8.0 Gifts and Hospitality

- 8.1 You should not accept any fee or reward from organisations except for small gifts not exceeding £25 e.g. advertisement materials, calendars, chocolates, diaries etc. You must complete the declaration form in Appendix 2 and submit it to your Head of Service, who can decide whether it should be returned or how it should be used (e.g. a box of chocolates may be appropriate to be shared amongst the team or used with a fundraising raffle). If a more substantial gift is offered it should

always be tactfully refused and your Head of Service informed that the offer was made.

- 8.2 Invitations to working meals, social functions to which other employees are invited, general celebrations or team sporting events are generally acceptable. However, offers of holidays, hotel accommodation, theatre or match tickets should be refused. You must seek advice from your Head of Service.
- 8.3 You should avoid accepting gifts and hospitality that might reasonably be thought to influence your judgement.
- 8.4 The receipt of gifts of money or gift vouchers from any service user, applicant for East Herts Council's services (prospective candidate or service user), or contractor or supplier is absolutely prohibited.
- 8.5 The acceptance of non-monetary gifts or benefits from all those listed above must be actively discouraged at all times. Whilst it is recognised that in a restricted number of situations it may not be possible, without giving offence, to refuse a trivial gift (e.g. a bottle of wine or a box of chocolates from a contractor at Christmas-time, or flowers from a grateful resident). The gift and donor must be reported to your Head of Service, who can decide whether it should be returned.
- 8.6 If an employee is invited to receive hospitality from or wishes to provide hospitality to a contractor, extravagance must be avoided, and permission must be sought from your Head of Service.

9.0 Alcohol, Drugs and Smoking

- 9.1 If an employee has an alcohol or drug related problem the council views this as a serious illness which should be treated. In these circumstances the council will be sympathetic but will

insist that treatment is sought. However, if treatment is not sought for the condition the council may be forced to use the disciplinary procedure. The council has an Alcohol, Drug and Substance Misuse policy.

- 9.2 You should not be under the influence of alcohol or non-prescription drugs whilst at work, prejudicing performance of your duties and affecting the image of East Herts Council detrimentally. Employees on prescribed medication should inform their manager if they have been prescribed drugs which may affect their performance or other people's safety.
- 9.3 Employees whose job it is to work directly with members of the public must refrain from using alcohol before going on duty and whilst on duty until the working period has finished (it is not acceptable to smell of alcohol as this will potentially damage reputation both of the individual and the council).
- 9.4 Alcohol should not be consumed in the workplace.
- 9.5 Bringing onto, taking or possessing illegal drugs whilst on East Herts Council premises is prohibited and will lead to disciplinary action and be treated as gross misconduct within the terms of East Herts Council's disciplinary procedure and brought to the attention of the police.
- 9.6 Smoking (including the use of e-cigarettes and vaping) is not permitted within East Herts Council's buildings. Smoking is only allowed in designated areas as outlined in the council's Smoke-Free Workplace Policy and in line with the law. The time spent taking smoking breaks should be accounted for in your own time (for example included in the time provided for your lunch break on your flexi sheet, or made before the beginning or after the end of the working day).

10.0 Health and Safety

- 10.1 All employees are responsible for ensuring reasonable care for the health and safety of him/herself and other persons who may be affected by his/her acts or omissions at work. Copies of the council's Health and Safety policies and guidance are available from the Council's Health and Safety Officer or on the intranet (as well as being circulated as part of the recruitment process).
- 10.2 You must not intentionally or recklessly interfere with or misuse anything provided by East Herts Council in pursuance of relevant health and safety legislation and good practice.
- 10.3 You should familiarise yourself with and comply with East Herts Council's Health & Safety Guide and procedures at all times including risk assessments that relate to areas of your work.

11.0 Diversity and Equality

- 11.1 It is important that employees create an environment which is supportive of everyone and does not illegally or unfairly discriminate against anyone because of age, gender reassignment, being married or in a civil partnership, being pregnant or on maternity leave, disability, race (including colour, nationality ethnic or national origin), religion or belief, or sexual orientation, or any other form of unfair discrimination.
- 11.2 Employees must be familiar with and actively uphold East Herts Council's Equality policies.

12.0 Maintaining Professional Relationships and Safeguarding

- 12.1 Employees have a professional duty and a responsibility to safeguard the welfare of service users and visitors, maintain

professional relationships especially in relation to children and vulnerable adults. Employees must follow, uphold and comply with East Herts Council's Safeguarding Policy [\(Link to be added\)](#).

12.2 Employees should take steps to protect children, young people and adults at risk so that they are safe when using our services.

12.3 The council is committed to ensuring that the needs and interests of children, young people and adults at risk are considered by Members, employees, volunteers and contractors in the provision of services and decision-making.

12.4 All employees must ensure they are conversant with the council's Safeguarding Policy and Procedure and follow it. Failure to do so may lead to disciplinary action.

13.0 Confidentiality and Processing Information

13.1 Within the council, communication should be open and informative to all. However, certain information should be considered confidential within the council. Information should not be divulged unless required by law and disclosure is expressly authorised. Personal information on anyone is internally confidential unless part of agreed procedures. Any breach of confidence is a serious disciplinary offence. If you are in doubt about such a matter you should consult your manager. In compliance with the General Data Protection Regulations (GDPR), the Council will process personal or "sensitive" data only for legitimate reasons.

13.2 All knowledge of East Herts Council's work, future plans, employees or Members is confidential and should not be divulged other than in the course of proper performance of duties.

- 13.3 Personal information gained about colleagues must not be maliciously spread or allowed to become the subject of gossip.
- 13.4 Employees should not be critical of one another to outside organisations or to individuals with whom we have a professional relationship.
- 13.5 Employees are expected to abide by East Herts Council's confidentiality & data protection policies at all times.

14.0 Use and Monitoring of East Herts Council Property, Equipment and Time

- 14.1 East Herts Council property and equipment should be treated with care and only used for authorised purposes.
- 14.2 East Herts Council property may not be taken off the premises for personal use unless the procedure for loaning equipment has been followed prior to the loan of the equipment.
- 14.3 Work time should be devoted exclusively to carrying out East Herts Council responsibilities not for personal projects or activities.
- 14.4 Unauthorised pamphlets or literature should not be distributed in the workplace.
- 14.5 Unauthorised documents should not be placed on the walls of the East Herts Council offices or managed properties or on East Herts Council or Union noticeboards. Authorised documents mounted in these places should not be removed or defaced.
- 14.6 Whereas East Herts Council recognises that at certain times it is necessary for employees to make personal telephone calls – e.g. emergencies, making arrangements with relatives, friends or medical and professional contacts - these must be kept to a

bare minimum in terms of both quantity and length of time spent on the phone.

14.7 If friends, relatives or medical and professional contacts telephone you in a personal capacity, you may accept such incoming calls provided that:

- they are not given priority over or allowed to disrupt any work, meeting, or service user contact in which you are engaged;
- if the conversation which takes place lasts longer than a few minutes, it must be accounted for in your own time (for example included in the time provided for your lunch break).

14.8 Under no circumstances may employees use East Herts Council mobile telephones for their own personal use.

14.9 Personal mobile phones should be either switched off or put onto silent/vibrate mode during working hours to ensure that others are not disturbed: use of these at work should be restricted to authorised break times unless otherwise agreed by your manager.

14.10 The occasional use of computers, printers and photocopiers for personal use will be permitted under the following conditions:

- such use is occasional, and not regular;
- use of computers in no way contravenes the rules on computer use set out in East Herts Council's ICT Acceptable Use Policy;
- the time spent in producing documents is accounted for in your own time (for example included in the time provided for your lunch break, or made before the beginning or after

the end of the working day).

14.11 You must not use East Herts Council's franking machine for private correspondence.

14.12 With the exception of printing and photocopying paper as above, you must not use East Herts Council stationery or other stock (e.g. staff kitchen supplies, cleaning materials) for private purposes. Unauthorised removal of East Herts Council stationery or other stocks/materials from an East Herts Council site will be treated as theft.

14.13 It should be noted that East Herts Council has the means, automated and otherwise, of monitoring individual usage of property and equipment, including:

- telephones;
- mobile phones;
- e-mail;
- internet
- Overt CCTV
- Card reader entry systems.

14.14 In order to protect East Herts Council's resources, we reserve the right to use appropriate monitoring systems and information, and such information may form part of the evidence in any disciplinary or other management action that may be taken in connection with:

- any breach of our rules relating to personal use of property, equipment and time,
- any other matter upon which individual usage of property, equipment and time has a bearing.

- 14.15 East Herts Council will have due regard to relevant legislation that may impact on monitoring, including the Human Rights Act (1998), the General Data Protection Regulations and the Regulation of Investigatory Powers Act (2016). To this end, we will not use monitoring systems that are excessive for purpose, for example interception/tapping of phone calls.
- 14.16 You must familiarise yourself with the contents of East Herts Council's ICT Acceptable Use Policy and must not use East Herts Council's e-mail/internet facilities other than within the very limited terms set out in the policy.

15.0 Use of Computers

- 15.1 There should be no unauthorised access to or modification of East Herts Council's computer equipment, programmes or data.
- 15.2 No hardware or software (including computer games) should be installed onto East Herts Council's network or stand-alone computers that has not be authorised by the ICT Department or a member of the Leadership Team.
- 15.3 If you wish to carry out any private work on East Herts Council's computer equipment you must seek prior authorisation from your manager.
- 15.4 You must familiarise yourself with the contents of East Herts Council's ICT Acceptable Use Policy and must not use East Herts Council's e-mail/internet facilities other than within the very limited terms set out in the policy.
- 15.5 You must conduct yourself professionally on e-mail and the Internet including social media (please see Social Media Guidelines – Link be added). This conduct includes, but is not

limited to, avoiding use of material with offensive sexual content, profane or vulgar language, racial or ethnic slurs or similarly insulting material.

15.6 You must not use the Internet/e-mail/social media to circulate materials with a political or religious content. This does not apply to materials circulated by East Herts Council's recognised trade union Unison.

15.7 Do not insert any disks/CDs or other storage devices brought in from outside East Herts Council into the East Herts Council computer equipment without prior agreement from a member of the ICT team. A virus check may need to be carried out first.

15.8 Any misuse of East Herts Council's computer resources may result in a criminal prosecution under the Computer Misuse and Cybercrimes Act (2018) as well as East Herts Council's own internal disciplinary action.

16.0 Mobile Phones whilst driving

16.1 All employees must not use hand held mobile phones (East Herts Council issued or personal) for organisational or personal use whilst driving. Stopping at traffic lights or being stuck in traffic jams is still deemed driving under the law unless the traffic jam is "exceptional" and the engine is turned off.

17.0 East Herts Council's Profile and Reputation

17.1 Please ensure at all times that your words and actions do not bring East Herts Council into disrepute, either internally or in any dealings with external agencies or the public.

17.2 All those who work for East Herts Council are expected to be committed to the aims and objectives of the organisation. Those who attend any external meeting or activity on behalf of

East Herts Council are expected to promote the work and policies of the organisation in a positive way.

17.3 The Leadership Team have responsibility for communications with the media. No one who works for East Herts Council should give information to the media about the organisation and its work without the agreement of a member of the Leadership Team.

18. Outside Activities

18.1 Secondary Employment: In line with the contract of employment, permission should be sought in writing from your Head of Service using the declaration form in Appendix 3 if you wish to engage in other business or employment outside of East Herts Council. The Head of Service will ascertain whether the activities in question could impair your ability to act at all times in the best interests of East Herts Council and will also refer to the Working Time Directive. Permission will not be unreasonably refused. If it is refused, the reasons will be explained in writing. You will not have the right of appeal. A copy of the declaration form will be placed on your personal file.

18.2 In work related social events or in mixing socially with colleagues outside of work you are expected to maintain and be responsible for your own appropriate behaviour in line with the code of conduct. The onus in such situations is on you to avoid behaving in a manner which could lead to a misconduct complaint. Any such complaint will be dealt with under the disciplinary procedure.

18.3 With the above stipulation, your off duty hours are your personal concern but your personal activities should not take precedence over your duty or put you in a position where your duty and private interests conflict. Employees should not

engage in any activity which, in East Herts Council view, conflicts with or acts detrimentally to East Herts Council business or in any way weakens public confidence in the conduct of East Herts Council's business.

19.0 Political neutrality

19.1 Employees provide services for all Members and must ensure that their individual rights are respected.

19.2 Some employees may be required to advise political groups and must do so in ways which do not compromise their political neutrality.

19.3 Employees must follow lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.

19.4 Any political assistants, appointed in accordance with the Local Government and Housing Act 1989, are exempt from the standards set in 19.1 to 19.3 above.

19.5 The council has a list of politically restricted posts within the meaning of the Local Government and Housing Act 1989.

19.6 Employees holding politically restricted posts are disqualified from membership of any local authority other than a parish or community council and from being an MP or MEP. The council will maintain a list of these posts and advise the postholders concerned.

20. Criminal proceedings, convictions and misconduct or impropriety allegations

20.1 For the protection of all parties you are required to notify a member of the Leadership Team in writing in the event that

you are charged with or convicted of a criminal offence. The information will be treated with sensitivity and confidentiality. No action will be taken unless there is a direct impact on your position.

20.2 In the case of criminal proceedings or conviction involving a East Herts Council employee, East Herts Council reserves the right to consider the impact of such proceedings upon itself and the compatibility of the proceedings or offence with the employee's role, and to take appropriate action. In certain circumstances disciplinary action may follow.

20.3 **Allegations/Misconduct outside of the workplace**

In the event that any allegations of impropriety or misconduct are made against you in respect of your conduct outside the workplace, you must notify your manager immediately (who must then consult with HR). This includes any allegations made in the course of any secondary employment, a voluntary role or holding a public appointment. A failure to notify the council through your manager of such allegations could result in disciplinary action being commenced against you, which may result in the termination of your employment.

21.0 **Intellectual property rights, copyright etc**

21.1 Any inventions, writings or drawings created in the course of an employee's normal duties are considered the 'intellectual property' of the council and should not be passed on to another party without the permission of the employee's manager.

21.2 Employees must not infringe copyright. Downloading, copying and/or distribution of copyright material including literature, text, music, sound, pictures, software and electronic files is prohibited unless the employee has the correct licences or permissions.

22.0 Tendering issues

- 22.1 Employees involved in tendering and dealing with contractors should be clear on the separation of service user and contractor roles within the Council. Employees must follow the procedures and rules incorporated in the Council's Financial Regulations, Financial Procedures, and rules/procedures relating to Contracts and Procurement requirements. Senior employees who have a service user and/or contractor responsibility must be aware of the need for accountability and openness.
- 22.2 Orders and contracts must be awarded on merit, in accordance with the Council's procurement regulations and demonstrating best value has been achieved. Employees must demonstrate impartiality. No part of the community should be discriminated against.
- 22.3 Employees in service user or contractor units must exercise fairness and impartiality when dealing with customers, suppliers, other contractors and sub-contractors.
- 22.4 Employees who have access to confidential information on tenders or costs, for either internal or external contractors, must not disclose that information to any unauthorised party, subject to the Freedom of Information Regulations.
- 22.5 Any employees contemplating a management buy-out should inform their manager as soon as they have formed an intent and withdraw from the contract awarding process.
- 22.6 Employees should ensure that no preferential treatment is shown to current or former employees, or their partners, relatives or assistants, in awarding contracts to businesses run by or employing them in a managerial capacity

23.0 Use of financial resources

- 23.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the community and behave in a way that minimises a risk of legal challenge to the authority.
- 23.2 Employees must comply with the Council's financial regulations and procurement regulations to safeguard assets and the use of financial resources.
- 23.3 Employees should inform a member of the Leadership Team, who will in turn inform the Head of Finance and Property (S151 Officer), the Head of Paid Service and the appropriate Head of Service of any irregularity or suspected irregularity.
- 23.4 The Council has an Anti-Fraud and Anti-Corruption Strategy, and Disclosure (Whistleblowing) Code. All employees must familiarise themselves with the contents of these documents.

24.0 Sponsorship - Giving and Receiving

- 24.1 When an outside organisation wishes to sponsor a council event, the basic conventions concerning acceptance of gifts and hospitality apply (see Section 8). Acceptance of any support must come about through a transparent decision making process and the support accepted must be recorded.
- 24.2 Where the Council wishes to sponsor an event or service, no employee, partner or relative must benefit from the sponsorship in a direct way without there being a full disclosure to a member of the Leadership Team of any such interest.
- 24.3 When the Council gives support in the community, through sponsorship, grant aid or other means, employees should

ensure that impartial advice is given and there is no conflict of interest involved.

25.0 Standards of dress

25.1 The Council considers the way employees dress and their appearance to be of significant importance in portraying a professional image to all users of its services whether they are Councillors, visitors, residents of the district or colleagues.

25.2 All employees are individually responsible for their general presentation, appearance and personal hygiene, and have a responsibility to consider how others may perceive their appearance.

25.3 Employees are expected to dress appropriately for the duties of their post and are encouraged to adopt a common sense approach with regard to the clothing and jewellery that they wear to work. All external business meetings and contact with the public will require business dress, while more casual approach is permissible for employees working in the back office environment.

25.4 The council operates a 'dress down Friday' where employees may wear jeans and t-shirts. However, employees must ensure that casual dress is appropriate for the workplace.

26. BREACHES OF THE CODE OF CONDUCT

26.1 Any breach of the Code of Conduct will be investigated and may lead to disciplinary action. Breaches fall into two main categories:

- (1) Breaches of the Code of Conduct which, if substantiated, constitute gross misconduct and will normally lead to

summary dismissal, i.e. dismissal without notice or pay in lieu of notice and without previous warnings, following investigation and a disciplinary hearing. Gross misconduct is defined by East Herts Council as those acts which are so serious in their nature that they destroy the employment relationship between the employee and the employer and make any further working relationship and trust impossible.

- (2) Breaches of the Code of Conduct which, if substantiated, warrant lesser penalties.

26.2 Further details and examples are incorporated into East Herts Council's Disciplinary Policy.

APPENDIX 1

CODE OF CONDUCT

I have read and understood the procedures:

Name:

Job Title:

Team/Service:

Signature:

Dated:

APPENDIX 2

GIFTS & HOSPITALITY DECLARATION FORM **(Received or declined)**

This form is for employees to declare any gifts or hospitality **whether they have been accepted or not.**

Please give your completed declaration form to your Head of Service for approval.

A signed copy of your decision will be filed in the Gifts and Hospitality Register held by the Executive Support Team and a copy will be returned to you.

Name _____

Job title _____

Date of Declaration _____

Details of the declaration

Nature of gift / hospitality being / has been offered _____

Date received / to be received _____

Name of company /organisation / individual offering gift / hospitality _____

Has the gift / hospitality been accepted **or**
declined? _____

Reason for accepting or
declining _____

Signed (Employee) _____

Date _____

Signed (Head of Service) _____

Date _____

One copy to be secured in the Gifts & Hospitality Register maintained by
the Executive Support Team.

One copy to be returned to the employee.

APPENDIX 3

DECLARATION OF SECONDARY EMPLOYMENT

Name: _____

Job Title: _____

Team: _____ Service: _____

Please submit details below

Declaration

I do not believe that this activity conflicts with the business or reputation of East Herts Council. Please outline what controls are in place to prevent any conflicts if there may be possible concerns.

Signed: _____ Date: _____

For Head of Service

I am satisfied that this activity does not conflict with the business or reputation of East Herts Council.

I have made further comments regarding this declaration (page 2)

Request Approved Request Denied Further Comments

Signed: _____ Date: _____

Decision confirmed to officer:

Signed: _____ Date: _____

Further comments regarding this declaration:



APPENDIX 4



East Herts Council

Probation

Policy Statement

**Policy Statement No 46 (Issue No 1)
February 2021**

Contents page will be added once finalised.

1. Purpose and Scope

- 1.1 A probationary period allows a new employee, or an employee who is new to a particular post, an opportunity to establish their suitability for the post with guidance and support from their line manager. The employee will be assessed against the criteria for performance, conduct and attendance established during recruitment and induction (this will include the Job Description (including Competencies expected for the role), Code of Conduct and the standard sickness absence triggers will also be considered pro-rated to the review period).
- 1.2 This procedure does not form part of any individual employee's contract of employment with East Herts Council.
- 1.3 Concerns with performance, conduct or attendance of new staff will be dealt with under this procedure. The relevant sections of the following East Herts Council policies will **not** apply to employees during their probationary period:
 - Managing Performance Policy
 - Disciplinary Policy
 - Absence Management Policy
- 1.4 East Herts Council is firmly committed to meeting its responsibilities under the Equality Act 2010. Where issues with an employee being able to carry out the full performance requirements of a role or levels of absence are found to be related to a disability, the council will give full consideration to making reasonable adjustments as recommended by relevant medical advisers and in consultation with the employee. The employee may be referred to an Occupational Health Adviser or other specialist adviser at any stage of the following procedure so that the council can take their recommendations fully into account when deciding on an appropriate course of action.

2. Different Types and Lengths of Probationary Period

2.1 New employees

2.1.1 All new employees - with the exception of those who are offered fixed-term or temporary contracts of less than 3 months where the contract will definitely expire without renewal - will normally be subject to a probationary assessment period before confirmation of their employment with the council (or, in the case of fixed-term/temporary employees having their contract extended).

New employee on contract of 0-3 months	No probationary assessment if the contract will definitely expire without renewal, but must have a 'probationary' performance assessment towards the end of the contract before a decision to extend the contract can be made.
New employee on contract of 3-6 months	3 months probationary period with up to 3 months extension
New employee on contract of 6+ months	6 months probationary period with up to 6 months extension in total

2.1.2 Heads of Service may, at their discretion, decide to attach a longer or shorter probationary period and/or extension to any individual contract of employment. In addition, Heads of Service may decide to attach a probationary period to a contract of between 0-3 months.

2.2 Extensions of short-term contracts

2.2.1 An employee who is initially employed by the council on a short fixed term contract should not be offered an extension to their contract of more than 3 months without undergoing a performance appraisal/assessment by their line manager. The aim is to ensure proper quality control, i.e. to ensure that people who have not been properly assessed are not given significant extensions to their contract.

2.3 Existing employees taking up a new job within East Herts Council

2.3.1 Where the employee has not undergone a probationary assessment and has not therefore been confirmed in their previous post with the council they will be managed under this procedure. The relevant sections of the following East Herts Council policies will **not** apply to such employees during their probationary period:

- Managing Performance Policy
- Disciplinary Policy
- Absence Management Policy

2.3.2 Where an employee has been

- working for the council in a position and under a contract in relation to which they have previously undergone a probationary assessment and been confirmed in post, and
- that employee is offered a new position which is different to their previous position in terms of duties and responsibilities s/he will - unless decided otherwise at the discretion of the Leadership Team member - be subject to a 6 months performance review period in relation to the new post. This means that s/he will have a full performance appraisal in accordance with the PDR Scheme.

In the event of any problems with performance, conduct or attendance arising during or at the end of the employee's

probationary assessment period, the following procedures will apply:

- Managing Performance Policy
- Disciplinary Policy
- Absence Management Policy

2.3.3 The performance review period may be extended in such instances while the employee is subject to the relevant stage of the above policies. At each stage of the above policy a review period is set for improvement. If those expectations for improvement are not met by the end of the review period then the matter will be referred to the next stage of the policy and the probationary review period extended accordingly. The employee will not be confirmed in their new post until the matter has been resolved and the relevant policy is no longer live. An employee's salary increment will be withheld until the probationary period has been successfully completed.

3. Criteria for Assessment

3.1 **Performance:** East Herts Council management should clarify with the employee the performance criteria against which the employee will be assessed. These criteria may be as specified in any or all of the following documents: competencies profile, performance objectives, job description, person specification, or as specified orally or in writing by the line manager in any other format. During the induction stage (as soon as practicable but within the first month) the line manager must provide the employee with clear written objectives for the probationary period so that these can be assessed and reviewed during the probationary period, these can be developed through the progress meetings as appropriate.

3.2 **Conduct:** All employees are expected to act at all times in accordance with East Herts Council's Code of Conduct.

3.3 **Attendance:** Expectations with regard to attendance are set out in and the council's Absence Management Policy. The short-term absence triggers will be applied on a pro-rata basis to the probationary period. This means for full-time staff the triggers will be 5 days or more in the 6 month period or 3 spells in 3 months. Where these triggers are met, the employee's probationary period will normally be extended to allow a four month review period in line with the absence management policy.

4. Progress meetings

4.1 A key part of the probation procedure is for managers to hold regular progress meetings with the employee (121s). These should be a two-way process and provide both with the opportunity to discuss progress on a one-to-one and confidential basis. These meetings should be held at least once a month and should be planned and scheduled at the outset of the employee's employment.

At each meeting, the manager should aim to:

- highlight areas where the employee is doing well;
- explain clearly and in precise terms any areas in which the employee is falling below the required levels;
- explore the possible reasons for any failure to meet the required standards;
- discuss and agree whether or not any specific training or coaching is required;
- discuss whether there are any issues with timekeeping, attendance, general conduct or attitude;
- invite the employee to comment on issues such as the extent to which he or she has integrated into the service and how well he or she is getting on with colleagues; and
- give the employee an opportunity to ask questions or raise concerns about any aspect of his or her employment.

- 4.2 The manager must take a record of these meetings and send a copy to the employee to ensure expectations and progress are clear.

- 4.4 At the end of each progress meeting, the manager should agree an action plan with the employee so that his or her progress can be monitored during the next few weeks and the employee is aware of what is expected of him or her by the time of the next review. Where any concerns have arisen about the employee's performance, attendance, or conduct, the manager should discuss these with the employee and build expectations and reasonable support into the action plan.

5. End of the Probationary Period

- 5.1 Towards the end of the probationary period (or the end of the extended period if the probationary period has already been extended) the employee will normally be invited to a probationary appraisal meeting, the employee will be required to undertake a self-assessment in preparation for the probationary appraisal meeting and the line manager will then complete a line manager assessment form using the a modified version of the PDR/Appraisal form for Probation.

- 5.2 If the meeting is for whatever reason not held before the end of probationary period this does not mean that the employee's probation is confirmed by default. The employee will not be deemed to have passed their probationary period unless and until that is confirmed to the employee in writing.

- 5.3 At the probationary appraisal meeting the employee's line manager will discuss their assessment against the Criteria for Assessment in section 3 above. The employee will have the opportunity to make any submissions around the Criteria for Assessment that they consider necessary.

- 5.4 At the conclusion of the probationary appraisal meeting the line manager may recommend one of the following to the Leadership Team member using the probation appraisal form:
- a) Confirm the employee in post and inform HR who will issue a letter of confirmation of appointment to the employee.
 - b) To extend the probationary period in accordance with the extension provisions set out in the policy. Please see section 6 below.
 - c) Terminate the employee employment on the grounds that the employee has failed to successfully complete the Probationary Period. Please see section 8 below.
- 5.5 There may be circumstances in relation to the performance/conduct/attendance where the line manager may request that it is appropriate for a member of Leadership Team to invite the employee to a probationary review hearing before the end of the probationary period in which case such a hearing will be called in accordance with this section. In these circumstances the line manager will not normally hold a probationary appraisal meeting and will instead write a report to the appropriate Leadership Team member setting out their concerns (with evidence) and recommend that a formal probationary hearing is held.
- 5.6 Where dismissal is determined it will be with notice except in cases of gross misconduct where the employee will be dismissed without notice. The decision to dismiss will be confirmed in writing to the employee and inform them of their right to appeal

6. Extension of the Probationary Period

- 6.1 There will be circumstances in which a member of Leadership Team, in consultation with the line manager, may decide to extend an employee's probationary assessment period without either a probationary appraisal meeting or a Formal Probationary Review Hearing having taken place. Extensions can be made in relation to any or all of the criteria i.e.

Performance, Conduct and/or Attendance. Extensions may also be required due to the opportunity to assess being delayed i.e. due to absence or other delays. In these circumstances the line manager will write a report to the relevant Leadership Team member recommending an extension with the reasons for this and the Leadership Team member will consider the reasons and whether an extension is appropriate. If the Leadership Team member authorises this extension they will then ask HR to write to the employee to extend the probationary period with these reasons set out.

- 6.2 As attendance will be reviewed in line with the councils absence policy, probations will as stated above normally be extended to allow the sickness absence of a probationary employee to be reviewed for four months. Where an employee subsequently passes probation but has been subject to a absence review period they will then continue to be managed/supported by the councils absence management policy.
- 6.3 The Leadership Team member may decide to extend an employee's probationary assessment period for more than one extension period (up to a total of 6 months).
- 6.4 Where a Leadership Team member decides to extend an employee's probationary assessment period, there will be no obligation on the line manager to wait for the expiry of the extension period before referring the matter to a Leadership Team member to consider holding a Formal Probationary Review Hearing to consider the possibility of dismissing the employee.
- 6.5 An employee's first salary increment is subject to satisfactory completion of the probationary assessment period or any extension. Where an employee's probationary period is extended, no increment will be payable until they have been confirmed in post. No increment will be backdated except in circumstances where extension was as a result of the line manager's unavailability or unforeseen circumstances relating

to the management of the employee's department or the organisation rather than as a result of reservations about the employee's performance, conduct or attendance. Backdating of an increment in such circumstances will be at the discretion of the Leadership Team member.

- 6.6 Withholding of a first increment until such time as satisfactory completion of the probationary assessment period will also apply to existing employees taking up a new role within the Council (see section 2.3 above).

7. Grievances arising during the Probationary Period

- 7.1 Where an employee has a grievance relating to their employment during their probationary assessment period, the council's normal Grievance Procedure will apply.

8. Probationary Review Hearing

- 8.1 A Formal Probationary Review Hearing may take place in any of the following circumstances:

(i) Where during the probationary assessment period the line manager is of the opinion that problems with a probationary employee's performance, conduct or attendance are of a kind or degree to warrant consideration of termination of employment before the end of the probationary assessment period.

(ii) Where after the probationary appraisal assessment the line manager recommends that dismissal of the employee should be considered.

(iii) In circumstances as set out in section 6.4 above.

- 8.2 The line manager will prepare a report detailing the grounds of the concern(s) and providing, where available, written details

relating to the investigation and any relevant discussions with the employee to date.

- 8.3 The hearing will be conducted by an appropriate member of the Leadership Team.
- 8.4 The employee will be given a minimum of 5 working days' advance notice of the hearing. S/he will be informed of the purpose of the meeting and the nature of the allegations or concerns. S/he should be advised of his/her right to be accompanied by a trade union representative or work colleague at the hearing.
- 8.5 The line manager (or other relevant manager who has conducted the investigation) will attend the hearing to present details of the allegations/concerns to be considered.
- 8.6 The employee will be given the opportunity to state his/her case before a decision is reached.
- 8.7 Following the hearing, the Leadership Team member will consider his/her decision and the action to be taken. The following courses of action will be available to the Leadership Team member, although they do not preclude other action:
 - (a) To dismiss the employee with notice or payment in lieu of notice. In cases of gross misconduct, the employee will be dismissed without notice or payment in lieu of notice. The decision to dismiss will be confirmed in writing to the employee, explaining the reasons for the dismissal and informing them of their right to appeal.
 - (b) To issue a warning, advising the employee of the expectations with regard to future conduct/performance/attendance, a specified review period if considered appropriate, and the potential consequences of failing to meet these expectations. The Leadership Team member may decide at this stage to

extend the probationary period of employment. In such a case, the probationary review appraisal will take place at the end of the extension period rather than at the end of the initial probationary review period.

- (c) To determine that the employee should be appraised with a view to confirming them in post. This will be appropriate where the problems with a probationary employee's performance, conduct or attendance are not substantiated and are not of a kind or degree to warrant termination of employment or do not warrant a warning and review period as set out in (b) above. Where the probationary review appraisal has not been completed this will be required before confirmation in post is confirmed in writing and the Leadership Team member will be required to sign off the Line Managers probationary appraisal of the employee in line with.

9. Appeal

- 9.1 The employee will have the right of appeal only in the event that a decision to dismiss is made, there is no right of appeal against any extension decision.
- 9.2 An employee who wishes to appeal must lodge the appeal in writing with the Head of HR and OD setting out the grounds of the appeal, no longer than 5 working days after the employee has been notified in writing of the decision to dismiss. The appeal will normally be heard by the Chief Executive or another member of the Leadership Team if they have not been involved in the original decision to dismiss.

10. Policy Review and Amendment

- 10.1 This policy shall be reviewed in line with legislation and best practice to reflect the best possible level of support and management.

APPENDIX 5

East Herts Council

Bullying & Harassment Policy

Policy Statement No 17 (Issue no 4)

2020

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1. INTRODUCTION

- 1.1 East Herts Council is committed to the elimination of discrimination on the grounds of sex, marital status, sexual orientation, race, colour, nationality, gender reassignment, creed or religious belief, ethnic or national origins, age and disability. It is the right of every member of staff to work without fear of harassment or victimisation. The council recognises the problems associated with bullying and harassment and is committed to providing an environment in which all individuals can operate effectively, confidently and competently.
- 1.2 We welcome the support of staff in seeking to eradicate harassment and bullying in the workplace, or outside work if it has a bearing on the working relationship.
- 1.3 Where unacceptable behaviour occurs within the scope of this policy, appropriate disciplinary action will be taken which may include dismissal. The council treats serious cases of harassment or bullying as gross misconduct.
- 1.4 This procedure does not form part of any individual employee's contract of employment with East Herts Council

2. PURPOSE AND SCOPE

- 2.1 The purpose of this policy & procedure is to provide a procedure under which staff who consider they are victims of harassment or bullying can seek action which is non-threatening to them and quickly ends the problem. It is intended to give confidence to those who might be afraid to seek a solution to the problem due to fear of reprisal or ridicule and to put into practical application the council's firm commitment to the elimination of harassment and bullying.
- 2.2 This policy is a specialised version of the council's Grievance Policy. Any formal actions to investigate an employee's complaint taken within the scope of this Procedure will count as grievances, grievance hearings and grievance decisions.

- 2.3 This procedure will not cover circumstances where an employee has been dismissed under the Councils Disciplinary Procedure, in which case the Disciplinary (Appeals) Procedure will apply.
- 2.4 This policy and procedure covers all full and part-time East Herts Council employees, including casual staff and agency staff.

3. HARASSMENT & BULLYING - DEFINITIONS and FORMS

3.1 Harassment

- 3.1.1 The current definition of harassment as set out in the Equality Act 2010 is 'unwanted conduct or sexual conduct related to a relevant protected characteristic, 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 and because of rejection or submission to the conduct the individual is treated less favourably than they would have been treated if they had not rejected or submitted to the conduct.
- 3.1.2 The protected characteristics are; age, disability, gender reassignment, race, religion, sex and sexual orientation.
- 3.1.3 In deciding whether conduct has the effect referred to in the definition the following must be taken into consideration:
- (a) the perception of the individual
 - (b) the circumstances of the case
 - (c) whether it is reasonable for the conduct to have that effect.
- 3.1.4 The scope has been extended to include harassment based on association or perception and by a third party.
- 3.1.5 The essential characteristic of harassment is that the action(s) is unwanted by the recipient.

3.2 Bullying

- 3.2.1 Bullying is not specifically defined in law, however ACAS gives the following definition:

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

3.2.2 Bullying is often inextricably linked to the areas of harassment described above.

3.3 Forms of Harassment and Bullying

3.3.1 Harassment and bullying can range from extremes such as violence, to less obvious forms such as ignoring or excluding someone. Forms include:

- Inappropriate and unwelcome physical contact
- Abusive, aggressive, threatening or insulting words and behaviour.
- Derogatory remarks or offensive language.
- Insensitive jokes or pranks.
- Gossip or slander.
- Spreading malicious rumours or making malicious allegations.
- Displaying or circulating or distributing offensive writing or literature or pictures or computer imagery.
- Posters, graffiti, badges, or other symbolic displays of offensive material.
- Requests for sexual favours.
- Speculation or innuendo about a person's private life and sexual activities.
- Obscene gestures.
- Unwelcome or unauthorised use of mobile phones to take pictures or video films or record conversations without agreement.
- Pressure to participate in political/religious groups.
- Isolation or non-cooperation.
- Exclusion from conversations or work or social activities.
- Criticising individuals unreasonably in front of others.
- Constantly devaluing effort and/or achievement.
- Blaming individuals for mistakes that are not their fault.
- Setting employees up to fail, for instance by setting unreasonable deadlines, changing work objectives without consultation, or withholding information necessary for the individual to do their job.
- Substituting responsible tasks with menial or trivial ones without justifiable cause.

This list is not exhaustive, actions could be in person or online and the actions in question must be viewed in terms of the offence or distress they cause the individual and the degree to which the offence caused is apparent to a reasonable person.

- 3.3.2 A professional management conversation concerning performance or behaviour where legitimate and constructive criticism is made (or a reasonable request/instruction given) may be difficult for an employee to hear (and therefore unwanted) but does not constitute bullying behaviour providing such criticism or instruction is legitimate/reasonable.
- 3.3.3 Harassment and bullying can occur between any two parties, and may be directed by one or more individuals towards one or more individuals. A person may be harassed even if they were not the intended "target". They can be perpetrated by people at any level of the organisation against people at any other level - or at the same level - within the staffing structure.

4. GENERAL PRINCIPLES

- 4.1 If a complaint is brought to the attention of management, it will be investigated promptly and appropriate action taken. All employees involved in an investigation are expected to respect the need for confidentiality.
- 4.2 Measures will be taken to ensure that employees are protected against victimisation for making or being involved in a complaint. Any action taken against an employee for complaining about harassment or bullying (except where the complaint is found to be false and malicious) will be investigated as a potential disciplinary offence.
- 4.3 Where an employee makes a formal complaint under Section 8 of this procedure, the employee should be kept informed in general terms (usually by the investigating manager) of any decisions or actions taken, and/or any proposed future action with an indication of timescales.
- 4.4 Any allegations/complaints found to be false and malicious may result in disciplinary action being taken against the complainant.

5. RESPONSIBILITIES UNDER THE POLICY

- 5.1 Every East Herts Council employee is responsible for their own conduct within the terms of this policy. The aim of the policy is to protect employees from harassment and bullying and to enable them, if necessary, to make a complaint or assist in an investigation without fear of reprisal. The responsibility for ensuring that this is achieved lies with the complainant themselves, the line manager and colleagues.

- 5.2 **The complainant:** We acknowledge that people who are harassed or bullied often feel vulnerable and isolated and believe it is best not to complain as their complaints will not be taken seriously. East Herts Council will treat all complaints very seriously and we would strongly encourage anyone in this situation to take active measures to stop the bullying or harassment by using the informal and/or formal procedures set out below.
- 5.3 **The manager:** All East Herts managers have a duty to establish and maintain a working environment free from harassment and bullying and to challenge incidents when they occur. Any manager who receives a complaint of harassment or bullying, or is witness to such behaviour, must investigate the complaint or incident and ensure that the problem is resolved as quickly as possible. They may be able to intervene informally (with the consent of the victim) to resolve the problem, or where this is likely to be inadequate or inappropriate they may need to take measures to invoke action - or support the victim in taking action - under the formal procedure set out in Section 8 below.
- 5.4 **Colleagues:** All employees must comply with this policy and take steps to ensure that bullying and harassment does not occur. This includes not colluding in or ignoring harassment or bullying behaviour directed at others, and challenging it (or drawing it to the attention of an appropriate manager) if you think it is taking place. Any employee who receives a complaint of harassment or bullying must respect the confidentiality of both the complainant and the alleged perpetrator, and should encourage the complainant to consider using the informal and/or formal procedures set out below.

6. MAKING A COMPLAINT

- 6.1 A member of staff who believes that s/he is being subject to harassment or bullying may, if they choose to, first use the informal procedures set out in Section 7 below. It is preferable for all concerned that complaints of harassment or bullying are dealt with informally wherever possible since the intention is to prevent the harassment or bullying. Informal action often enables quick, practical solutions while preserving confidentiality and minimising embarrassment for the victim.
- 6.2 However, where the complainant feels that the informal procedure is inappropriate or likely to prove ineffective, they may use the formal procedure described in Section 8 below.

- 6.3 Any employee being subjected to or witnessing any incident(s) of harassment or bullying should keep a written record including the date, time, nature of incident(s), any correspondence relating to the incident(s), names of those involved and the names of any witnesses.
- 6.4 The Council's confidential Employee Assistance Programme is available to employees who feel they need such counselling support [\(add link\)](#). Managers can refer employees if appropriate but it can also be accessed through self-referral and without approval from managers, Occupational Health or HR. The role of the counsellor is to provide support and assistance to the complainant during this stressful time. The role also extends to the alleged harasser, if requested. However, the same counsellor should not advise the alleged harasser. The counsellor has no role in formal investigations and neither are they a source of evidence in any proceedings, since all discussions between counsellor and employee are confidential.

7. INFORMAL PROCEDURE

- 7.1 Some people are unaware that their behaviour in some circumstances could be viewed as harassing or bullying. If it is clearly pointed out to them that their behaviour is unacceptable, the problem can sometimes be resolved.
- 7.2 Employees that feel comfortable doing so should raise the matter informally with the alleged perpetrator, stating which aspect of their behaviour is offensive and unacceptable, the effect it is having on them and making it clear that it should cease. This can be done either verbally or by means of a written communication, a copy of which they should keep.
- 7.2 If the employee feels unable to do this, or has tried this and it has failed, they should approach any of the following for confidential advice/support and be encouraged to take appropriate steps:
- Line manager or another manager or a member of Human Resources
 - A EHC colleague
 - Trade Union representative

The colleague or TU rep or Manager or HR Officer may accompany the employee to any discussion with the alleged perpetrator and facilitate a discussion to resolve matters.

7.3 HR should also be contacted (if they have not been by the complainant) to provide advice and support over the informal stage to ensure matters are treated consistently and support is provided to both parties.

8. FORMAL PROCEDURE

8.1 A formal complaint can be made using East Herts Council formal Grievance Procedure. The employee should also copy their written grievance to the Head of Human Resources or in their absence the Human Resources Officer.

8.2 The formal procedure will apply where:

- Where the complainant feels that the informal stage is inappropriate or likely to prove ineffective.
- The informal procedure has proved ineffective and the complainant wishes to make a formal complaint.
- The nature of the allegation is serious enough to warrant formal action from the outset.
- An allegation has been made by a "third party", who witnessed an incident.
- It becomes apparent during an informal stage to the manager supporting this stage that the matters are serious enough to warrant formal action.

8.3 An appropriate manager will be appointed by HR to investigate the complaint promptly and adequately, they will be supported by a HR Officer. Human Resources may appoint a note-taker in addition to a HR Officer to support the investigator. In certain cases East Herts Council may appoint an independent and/or expert investigator from outside of the organisation.

8.4 The complainant may request extra support from management during the time that any complaint is being investigated, which may include a request to work separately from the alleged perpetrator. In considering such requests management will conduct a risk and reasonableness assessment before deciding on action designed to protect the employee from the risk of further harassment without unnecessary disruption to services.

8.5 Depending on the nature and severity of the allegations, the employee who is accused of harassment or bullying may be suspended on full pay whilst the circumstances of a serious complaint are being investigated, in accordance with the procedures for suspension set out in the councils Disciplinary Procedure.

- 8.6 Investigation will be conducted with the aim of establishing the facts of the case. Where the complainant or any witness is interviewed as part of the investigation they will have the option of being accompanied by a trade union representative or a work colleague of their choice. The alleged perpetrator will have the same option.
- 8.7 A formal grievance hearing with the complainant within the terms of the Councils Grievance Procedure (see Stage 6 of the Grievance Procedure) shall form part of the investigatory process.
- 8.8 All efforts should be made to conclude the investigation within 28 days of the formal complaint being received. If this time limit is exceeded, the complainant should be advised of this and informed of a likely date when the investigation will end.
- 8.8 The investigator will prepare a report of the investigation. The investigator will conclude on the balance of probabilities whether the complaint should be upheld and referred to a disciplinary hearing or for the perpetrator to be issued with an informal warning where there is only some substance or the misconduct only warrants an informal warning, or they may determine there is no case to answer.

Where the matter is referred to a Disciplinary hearing, any disciplinary action will be conducted in accordance with the council's disciplinary policy, with the additional specific provisions:

- The complainant as well as the employee accused of harassment or bullying will have the right to be accompanied at the hearing by a trade union representative or a work colleague.
- The severity of the disciplinary penalty imposed upon an employee found guilty of harassment will be consistent with those detailed in the disciplinary procedure (e.g. serious acts of harassment or bullying will normally result in summary dismissal). Where a lesser penalty is considered appropriate this may be coupled with action to ensure that the victim is able to continue working without embarrassment or anxiety. This may include the transfer of the harasser to a different work area or department on a temporary or permanent basis, or the amendment of working practices to minimise contact between the two employees

- 8.9 The employee against whom disciplinary action has been taken may appeal against the penalty in accordance with the council's Disciplinary (Appeals) Procedure.

9. HARASSMENT/BULLYING BY CONTRACTORS, AGENCY STAFF, SERVICE USERS OR OTHER GROUPS

- 9.1 The Council has a responsibility under equality legislation to protect our staff from harassment by third parties (stakeholders and other external contacts). The Council will take all reasonable actions in response to incidents of unacceptable behaviour towards employees. Management undertakes to investigate reported incidents and take appropriate action.
- 9.2 Employees have a duty to report incidents of harassment by people who are not East Herts Council employees. This should be done by advising their line manager of what happened and by completing an Incident Report Form on the intranet and returning it to the Health & Safety Officer. HR will also be informed of the incident to ensure any support the employee needs is provided
- 9.3 In such circumstances, the employee may in the first instance choose to follow the informal procedure set out in Section 7 above.
- 9.4 However, where the complainant feels that the informal procedure is inappropriate or likely to prove ineffective they should make a formal complaint in writing to their line manager.
- 9.5 Upon receiving a formal complaint the line manager must inform his/her senior manager of the complaint, and investigate the complaint promptly and adequately. While the complaint is being investigated the line manager should instigate all reasonable measures (with the authority of the senior manager if necessary) to protect the employee from the risk of further harassment.
- 9.6 If after the investigation the immediate line manager (and their line manager if relevant) are satisfied that harassment has occurred, it will be the responsibility of the senior manager to instigate appropriate action - within the council's legal and constitutional powers and operational/financial capacities - to prevent the perpetrator from further harassing the complainant or any other member of staff. In some cases a warning to the perpetrator may be adjudged sufficient in the first instance, coupled with other practical action designed to protect the complainant from exposure to further acts of harassment. However, for serious cases, or where an initial warning has proved ineffective, such action may ultimately include:

- Denying further access to EHC by the visitor or agent of a contractor or consultant, or termination of the contract for services.

9.7 Whatever the initial or ultimate course of action decided upon in relation to the perpetrator, the line manager and the senior manager must, from the point of becoming aware of the harassment, take reasonable and appropriate action to prevent or minimise the potential for the complainant to be subjected to further acts of harassment.

10. HARASSMENT/BULLYING BY ELECTED MEMBERS

10.1 Any dealing between Members and Officers should be conducted with mutual trust, respect and courtesy. Further guidance is available in the Council's Constitution and the Member/Officer Relations Protocol.

10.2 If an employee wishes to raise concerns about a member's behaviour towards them they should raise the complaint with the Monitoring Officer in accordance with the Constitution. This procedure will not apply in those circumstances and the matter will be managed by the Monitoring Officer (Head of Legal and Democratic Services).

10.3 Details of how to make such a complaint to the Monitoring Officer can be found here:

<https://www.eastherts.gov.uk/councillors-committees/complaints-about-councillors>

11. APPEALS TO STAGE 2 GRIEVANCES FROM THIS PROCEDURE

11.1 If the investigator decides that there is a disciplinary case to answer neither party will have a right of appeal against this decision. There is a separate right of appeal regarding a sanction against an employee following a disciplinary hearing. Please see Disciplinary Policy for further details.

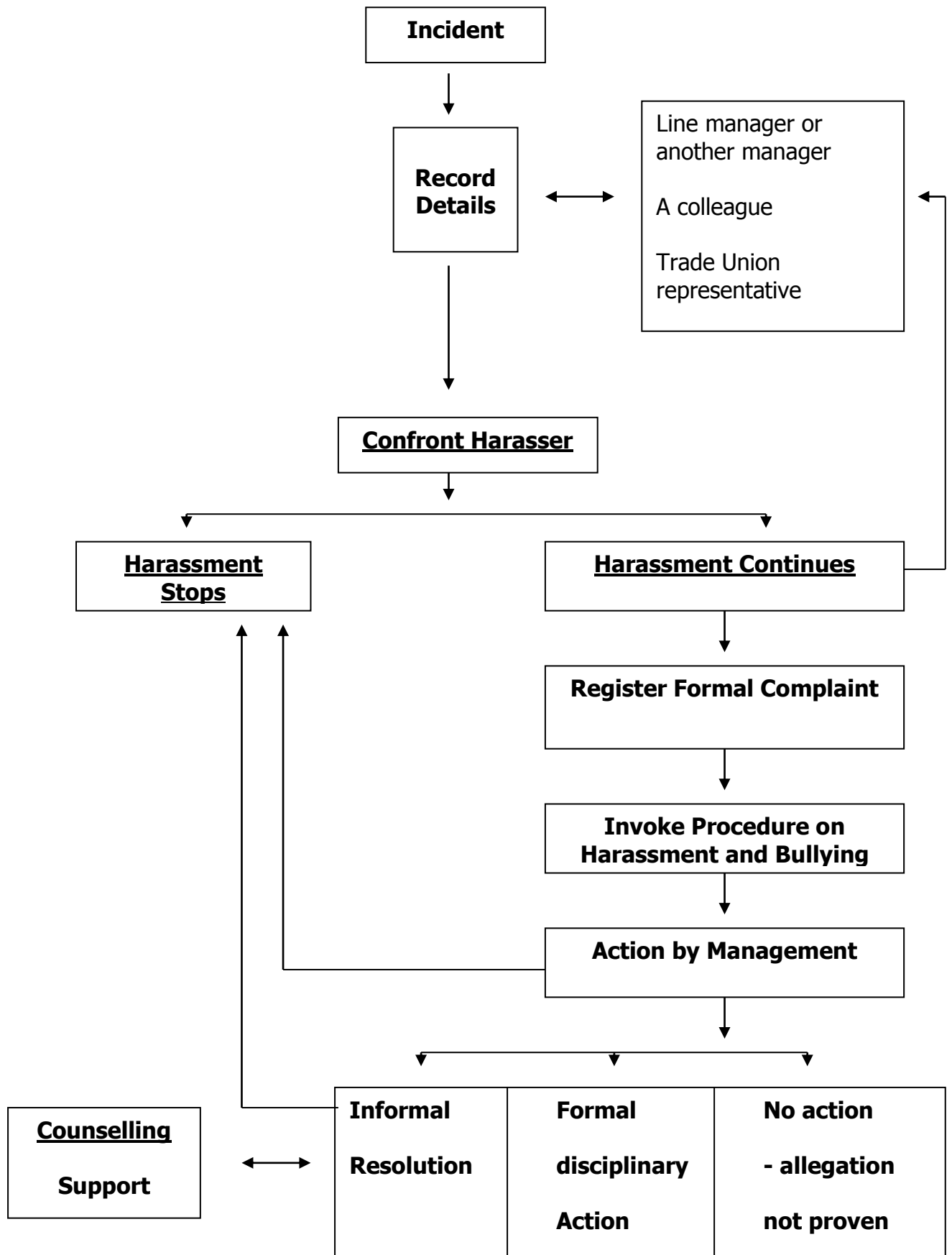
11.2 If the manager decides that it is likely that there is some substance to the complaint/grievance but that the matter should be resolved through informal means this will uphold the complaint and neither party will have a right to appeal against the decision.

11.3 If the manager decides that there is no case to answer, the complainant may appeal against the decision. Please see Grievance Policy for further details.

12. REVIEW

12.1 This procedure will be reviewed if there are any changes in legislation or best practice requiring amendments to be made.

Pathway for Dealing with Complaints of Bullying and Harassment



APPENDIX 6

Policy Name	Absence Management
Date	December 2020
Statement No	1
Version	6

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Appendix A – short and long term sickness process flow-charts

Appendix B – Stress Risk Assessment Form

Appendices C to H – Level 1 and 2 Sickness Meeting forms and Review Forms

1.0 Introduction

- 1.1 The overall purpose of the policy is to encourage and support all employees to meet the standards of attendance and performance at work that will enable us to provide a high quality of service to customers.
- 1.2 The council recognises that employees will, from time to time, be unable to come to work for short and sometimes long periods of time. We do not expect staff to come into work when they are genuinely sick. This policy aims to ensure that a reasonable balance is found between the employee's welfare and the need to maintain the effectiveness and consistency of the council's services.
- 1.3 The council is committed to managing sickness absence and believes that it is the responsibility of the managers, employees and union representatives to work together to promote positive approaches and to the management of sickness absence and employee wellbeing
- 1.4 The contractual sick pay provisions provide staff with entitlement to be paid for sickness absence, this is not entitlement to be absent for sickness but an entitlement to be paid in line with these provisions if an employee is genuinely unwell.
- 1.5 Failure to comply with the requirements of the council's Absence Management Policy and/or the abuse of the policy may lead to loss of sick pay and may result in disciplinary action. Abuse includes taking time off as sick leave when not genuinely sick.

2.0 Scope

- 2.1 The following procedures cover incidences of absence or incapability to perform duties due to sickness, injury, a medical/health-related condition, or disability including the following:

- Frequent short-term illness – whether medically certificated or self-certificated.
- Long-term medically certificated illness.
- Absence as a result of industrial injuries.
- Inability to perform requirements of a job owing to a medical condition or a disability (The Managing Performance Policy may also be used in these circumstances if appropriate).

2.2 This policy applies to all employees except for Chief Officer level or any other nominated statutory posts, for these postholders the principals and structure will apply but it should be used in conjunction with procedures set out in the Constitution and will involve Members as appropriate.

2.3 Sections 11 and 12 of these procedures will not apply to employees during their probationary period and prior to confirmation in post. Incidents of absence in relation to these employees will be dealt with under separate procedures relating to probationary periods of employment which are based on the absence triggers contained in this policy.

2.4 The council may, in its discretion, decide not to follow all the timescales and details set out in this policy. HR would be required to consider the reasonableness of such action (before any adjustment) in relation to all the circumstances of the case, including the total length of contract or the length of the remaining period of the contract.

2.5 Level 1 and 2 meetings will normally be held by the line manager but the council reserves the right to substitute the line manager with another or more senior manager where appropriate. Where the line manager is a Head of Service, another member of the Leadership Team will hold the Level 3 meeting.

2.6 Human Resources may accompany managers at meetings. It is their role to advise on procedure, ensure consistency and equity of treatment.

3.0 Definitions of absence

Short term absence

Short term absence is defined as any period of time where an employee is not at work due to sickness for a period of up to 28 calendar days in duration, from the first day of absence (including half days).

Long term absence

Long term absence is defined as a period of time where an employee is absent from work due to sickness for a continuous period of greater than 28 calendar days.

4.0 Unauthorised absence

- 4.1 It is the employee's responsibility to make sure they let their manager know at the earliest opportunity (normally before 9am) if they are unable to report for work and the reasons why. However where an employee fails to report for work an hour after an employee is due to start work, without informing their manager, it is important that the situation is investigated and the employee given an opportunity to explain. On the first day of absence the manager (who should seek support from HR) should make enquiries of colleagues to try and establish the reason for the absence. Failing this, all reasonable efforts should be made to get in contact with the employee including contacting their emergency contacts.
- 4.2 If the employee gives their reason as sickness they should be reminded of the sickness reporting procedure and advised, if appropriate, that failure to inform their manager of their absence may lead to their absence from work being considered as unauthorised absence, which may result in loss of pay and possible disciplinary action. Discussions with the employee regarding

unauthorised absence should be documented in writing and placed on the employee's personal record file.

5.0 Sickness and annual leave

5.1 Employees who fall sick on annual leave may be reimbursed for their annual leave if their sickness is certified by a Doctor. Managers should be informed of this as soon as is reasonably practical.

5.2 If an employee is taken ill whilst abroad, they should obtain a statement to verify a certifiable period of illness from a recognised medical practitioner or hospital consultant in the country in which the illness occurred.

6.0 Reasonable adjustments

6.1 The council is firmly committed to meeting its responsibilities under the Equality Act 2010. Care will be taken that the procedures are applied in a way that does not discriminate against employees with a disability or women who are absent from work for reasons of pregnancy-related illness. Reasonable adjustments will be made wherever possible, in accordance with legal and good practice requirements. Examples of reasonable adjustments could be:

- Providing specialist equipment
- Modifying days or hours of work
- Modifying duties
- Redeployment
- Support and advice

6.2 Advice on reasonable adjustments should be sought from HR.

7.0 Occupational health

Referral

- 7.1 Occupational Health is a service that managers and employees can utilise to support the employee's return to work. Occupational health will provide medical advice and give guidance on support needed for the employee to improve their health and can advise on reasonable adjustments the council may wish to consider.
- 7.2 Managers or employees who wish to utilise occupational health should contact the HR service to discuss the process and whether it is appropriate to do so based on the circumstances of the case.

Access to medical records

- 7.3 After the initial consultation, the Occupational Health may decide it is necessary to contact an employee's GP or specialist to gain further information. If so, they will request either verbally or in writing that the employee complete the access to medical records form, which will advise them of their rights under the Access to Medical Reports Act 1988. The employee should complete the form and advise whether or not they are prepared to give consent.
- 7.4 If the employee fails to return the consent form, it will be assumed that they have withheld consent. Employees should be made aware that refusal to give consent could mean the council might have to make a decision on an employee's capability with the medical advice available.

8.0 Stress Management Guidance

- 8.1 When an employee reports sickness absence for stress related reasons, managers should consider the following:

Occupational health

- 8.2 Upon receipt of self-certification or medical certificates from a GP, where the reason for absence is stated as stress the manager should contact the HR Service to determine whether or not it is appropriate to refer the employee to occupational health for

advice and support or whether a stress risk assessment should be organised.

- 8.3 Where employees want to self-refer to occupational health, claiming stress they should advise their manager and HR to ensure that appropriate advice and support is provided.
- 8.4 Appointments for referral and self-referral must be made through the HR Service and accompanied by a completed occupational health referral form.
- 8.5 Occupational health will advise managers on rehabilitation or suitable adjustments to the workplace to facilitate a return to work and avoiding a recurrence of the problem.

Stress and Mental Health

- 8.6 There is often a link between stress and mental health. In practice, it can be hard to distinguish when stress turns into a mental health problem and when existing mental health problems become exaggerated by stress at work.
- 8.7 Signs of mental health concern to look out for include:
 - An increase in unexplained absences or sick leave
 - Poor performance
 - Poor timekeeping
 - Poor decision-making
 - Lack of energy
 - Uncommunicative or moody behaviour
- 8.8 Many of the symptoms of mental health problems are similar to those that people experience when they are under considerable pressure; the key differences are in the severity and duration of the symptoms and the impact they have on someone's everyday life.
- 8.9 Managers can support employees affected by mental health problems by:

- Exploring whether their mental health problem is impacted by problems at work and if so, trying to find a resolution to their concerns.
- Encouraging employees to raise and discuss issues concerning their mental health confidentially.
- Keeping in touch with employees who are off sick. Managers should not pressurise employees but should encourage them to keep them informed.
- Offering employees returning to work from a period of mental health sickness absence a gradual return to work.
- Encouraging employees to look after their mental health; ensuring employees take lunch breaks and have a good work-life balance.
- Reminding employees of the support and advice available to them through the Employee Assistance Programme and/or the Mental Health First Aiders.

Stress Risk Assessments

- 8.10 Managers should respond to work related concerns that are having an impact on the employee's stress levels and undertake reasonable measures to eliminate or control these.
- 8.11 Where an employee has cited job related stressors within their service areas, managers should conduct a stress risk assessment as soon as reasonably practicable (see Appendix B for template). These should be conducted under guidance from the HR Service, and where appropriate the advice of occupational health should also be considered.

Employee Responsibilities

8.12 Employees have a responsibility to raise concerns and tell their manager about possible problems and sources of stress. If the organisation is not aware of a problem it can be difficult for action to be taken. Employees' roles and responsibilities include:

- To understand what work related stress is, what causes it and how it can be prevented and managed.
- To identify potential causes of stress for themselves before they become a problem and to raise them with their manager.
- To identify early when they are beginning to experience excessive pressure that may lead to work related stress and raise this with their manager or HR service so they can help to resolve the problem.
- To work with their manager or HR service in identifying solutions to work related stress.
- To be supportive of colleagues experiencing work related stress.
- To work with their manager or HR service in identifying solutions to help them return to work effectively and quickly after a period of stress or mental health or depression related sickness absence.
- To take advice and support that is available to them through the employee assistance programme to help manage their stress symptoms. EAP details/[Link to be added](#)

9.0 Notification and certification of sickness absence

9.1 Employees must contact their manager by telephone before 9.00am if they are absent from work due to sickness, injury or any other health problem on every day of absence for the first 7 days

of absence (employees should not text in or e-mail so they can discuss their absence and arrangements required in their absence). If their manager is unavailable they should contact another member of the team. The employee must also confirm when the sickness started, how long they expect to be away from work, the reason they are sick and any cancellation or cover arrangements that need to be made in relation to their work. In exceptional circumstances, if the employee is too ill to notify their absence themselves then they can arrange for someone to do this on their behalf.

- 9.2 If an employee leaves work during the working day because of sickness, s/he must notify their immediate line manager (or another manager) giving an anticipated return date and discussing necessary arrangements as in 9.1 above.
- 9.3 The manager must log the employee's sickness on MyView once notified as soon as practicable.
- 9.4 Employees must keep their managers up to date if the reason for the absence changes or if the absence is expected to last longer than originally stated.
- 9.5 For each occasion of sickness absence, employees must complete the first section of the self-certification and return to work form on MyView and then submit this to their manager. The manager will then complete a return to work interview with the employee and complete the second section of the form on MyView. (see 10.1 below)
- 9.6 **Maintaining contact after the first 7 days of absence**
If the absence continues beyond seven calendar days then the employee must keep their manager informed of the progress of their sickness on at least a weekly basis and obtain a fit note from their doctor to cover every day of sickness (from day eight). The weekly catch up should be managed by the manager in line with an agreed day/time with the employee to hold the call and should be done on the phone or by video link. Every four weeks the employee

should be offered a catch up face to face meeting either in the workplace or through a home visit (home visits will be supported by a HR Officer accompanying the line manager), a video call may also be considered if appropriate. Employees must forward fit notes immediately to their manager who in turn should add the certificate end date onto MyView and then forward onto HR.

- 9.7 Employees who are undergoing close monitoring of absence may be asked to provide a fit note from the first day of each absence period. If, as a result of this requirement, the employee incurs a cost this will be refunded, normally through the expense claims process.
- 9.8 Every absence must be certified and recorded to ensure correct payment of sick pay and to ensure that accurate records are maintained. Any employee who fails to comply with these procedures may be dealt with through the council's Disciplinary Policy. Also, failure to comply may result in the council withholding sick pay, including statutory sick pay and all other benefits.
- 9.9 If an employee is absent from work through sickness they must refrain from working elsewhere. If this situation were to arise it may be dealt with under the Disciplinary policy.

10.0 Returning to work

- 10.1 Upon return to work following every period of sickness absence the manager should arrange to meet privately, in an appropriate place, with the employee to conduct a return to work interview. Return to work interviews can be conducted by telephone or video for home and remote workers. This should happen ideally on the first day back or at least within three days of the return to work.
- 10.2 These discussions are deemed to be informal and should raise any concerns around the employee's absence and attempt to resolve any issues before moving to formal procedures.
- 10.3 In general this discussion should be used to: -

- Discuss the cause of absence
- Discuss, where appropriate, the general attendance record, and reinforce the council view of the importance of good attendance.
- Arrange a level 1 (or appropriate level) meeting regarding short term sickness issues when an employee has reached the sickness triggers (see section 11).
- Discuss the support and advice available to the employee to help improve their sickness record.
- Complete the return to work form on MyView.

10.4 In the case of long-term sickness absence, the discussion should be used to allow consideration of any particular difficulties or concerns the employee may have relating to their return to work.

10.5 In agreeing support for returners to work, managers should consider whether a risk assessment is required or further advice is needed from Occupational Health and whether a phased return would be helpful. If the latter is required the phased return will be managed with sick pay meaning that any partial absence during the phasing will be funded through the sick pay entitlement. The absences during a phased return will not contribute to absence triggers.

11.0 Short term sickness

Level 1 meeting

11.1 It is important that line managers raise their concern about individual absence problems with the employee at an early stage so that appropriate measures can be taken. It is also important that if an employee is having health problems, s/he should discuss this with the manager.

11.2 The line manager must meet with the employee in any of the following circumstances:

- (a) Where an employee has been absent on sick leave for 3 spells or more in any 3-month period, and/or where an employee has been absent for 10 days or more over the previous 12 months. Whilst it is recognised that this is more difficult to monitor in respect of part-time staff, Human Resources will support line managers when absence through sickness for such staff reaches triggers on a pro-rata basis i.e. a part timer who works on 2.5 days per week rather than across 5 days would reach annual triggers with 5 working days absence.
- (b) Where the employee's overall attendance record gives rise to concern because of a combination of sick leave, medical appointments (e.g. Hospital, Doctor Dentist Appointments), leave unauthorised in advance and/or dependency leave and/or compassionate leave.
- (c) Where there are other reasons for concern, for example the employee's absence appearing to follow a particular pattern such as frequent Mondays or Fridays, or repeated instances of absence just before or after periods of annual leave.

11.3 In preparation for the meeting, and deciding on potential follow-up action, the manager should give due consideration to the following factors and seek HR support especially to confirm absence triggers to be set in the review period:

- Possible presence of work-related stress.
- Possibility of any other work-related factors including working conditions, relations with other staff or managers, health and safety issues or other issues associated with the working environment.
- Any evidence of drink or drug related illness*.
- Any specified recurring medical condition*.
- Any condition that might constitute a disability*.
- Any absence in relation to a disability*.
- Any pregnancy-related illness*.

*The manager must consult with HR before holding a meeting with the employee in such cases.

Conducting a Level 1 Meeting

11.4 The purpose of the meeting will be:

- To review absence so far and to ascertain and confirm reasons for absence.
- To consider any work related support which may be required including any temporary assistance or change of duties and work arrangements.
- Understand and record the actions the employee is taking including support from medical professionals as appropriate.
- To consider with the employee whether it is relevant at this stage to refer the employee to the Occupational Health Advisor and/or to seek a medical record/reports from the employee's own GP or other medical practitioner.
- To set a review period and future expectations.
- To inform the employee of possible outcomes if expectations are not met and potential next stages.

Please see Level 1 meeting form at Appendix C, the form should be sent to HR to go the employee file

11.5 At the meeting the manager should consider the circumstances of the employee and fully consult the employee about the problem before deciding on what action is to be taken.

The meeting will normally conclude with the manager:

- Setting the length of the review period, with due regard to the circumstances of the case. The period will not normally be less than 4 months.
- Setting out the level of absence (i.e. the total number of days and/or spells) that would trigger a level 2 meeting. This should be in line with their work pattern (please seek HR support as

above). For full-time staff this will be 3.5 days or more and/or 3 spells of absence in 3 months (see Appendix A).

- The manager should also record any other agreed actions as appropriate.
- Agreeing any interim review meetings that might be appropriate in the circumstances of the case.
- Informing the employee that unless expectations are met over the review period, then further action will be taken in line with Level 2 below. It should also be explained to the employee that should it become clear at any time during the review period that expectations will not be met, then the review meeting will be brought forward.

The results of the discussion and any proposed action, including details of the expectations for improvement, should be confirmed in writing.

Level 1 Follow Up Review Meeting

11.6 If at the end of the review period the attendance expectations have been met, the manager should advise the employee that:

- No further action is necessary.
- If trigger points for investigation are reached again within 12 months of the review meeting, the procedure will continue from the beginning of Level 2.
- If trigger points are not reached again within 12 months of the review meeting, but are reached again after that time the procedure will normally start from Level 1.

11.7 Where there has been some improvement, but expectations have not been met completely (for example where the employee's absence is very close to the trigger and the review has consisted of other time off from work), the line manager in consultation with HR and in consideration of the circumstances of the case may decide to extend the Level 1 review period before finally confirming the review is complete.

Please see Level 1 review meeting form at Appendix D, the form should be sent to HR to go the employee file.

Level 2 meeting

Pre-meeting Action

- 11.8 In the event of attendance expectations not being met during a Level 1 review period, or where the employee's absence hits trigger points again within 12 months of a Level 1 review meeting, the employee should first be referred to the Occupational Health Advisor (OHA) and/or a medical report/records obtained from the employee's own GP or other medical practitioner. The line manager should tell the employee that expectations have not been met, that an OHA referral will be made, and a Level 2 meeting held once the OHA report is received.
- 11.9 On receiving the advice from the OHA, the line manager shall invite the employee to a Level 2 meeting and inform them of their right to be accompanied by a colleague or trade union representative. A member of HR will also attend the meeting to support and provide advice as appropriate.

Conducting a Level 2 Meeting

- 11.10 The purpose of the meeting will be to review the situation again taking into account the employee's circumstances. Depending on the outcome of the medical advice and consultation with the employee, the line manager may decide on any of the following courses of action (although these do not preclude other/alternative action):
- a) Set a Level 2 review period, explaining to the employee that if attendance expectations have not been met by the end of the period, the matter will be referred for consideration by a member of the Leadership Team at a Level 3 meeting, where a range of options may be considered. The review period

should not normally be less than 6 months. (In certain circumstances - e.g. if the employee has previously been on Level 2 on more than one occasion - the period should be 12 months). It should also be explained to the employee that should it become clear at any time during the review period that expectations will not be met, then the review meeting will be brought forward.

- b) In a case where it is clear to the line manager that despite action taken so far there is no marked improvement in the attendance level and/or it seems that there is unlikely to be an improvement in the attendance level in the near future, the line manager has the option of referring the case to a member of the Leadership Team for further consideration in line with Level 3 below. (An example of where this course of action is appropriate is in cases where the number and frequency of previous Level 1 and/or Level 2 meetings is such to suggest a recurring pattern of problems with attendance).
- c) Where it is considered to be a disciplinary rather than a sickness matter, for example if the OHA has advised that there is no reason that the employee should not attend regularly and there are concerns or doubts about the pattern of or reasons for absence, the line manager may decide to refer the matter to the Disciplinary Procedure.
- d) Require the employee to provide first day GP certificates (this action may be taken in conjunction with other possible actions above).

11.11 The results of the discussion and any proposed action, including details of the expectations for improvement, should be confirmed in writing using the Level 2 meeting form at Appendix E, the form should be sent to HR to go the employee file

Level 2 Follow Up Review Meeting

- 11.12 Where option (a) above is selected, and at the end of the review period the attendance expectations have been met, the manager should advise the employee that:
- No further action is necessary.
 - If trigger points for investigation are reached again within 12 months of the review meeting, the procedure will continue from the beginning of Level 2.
 - If trigger points are not reached again within 12 months of the review meeting, but are reached again after that time the procedure will normally start from Level 1.
- 11.13 Where there has been some improvement, but expectations have not been met completely, the line manager may decide to extend the Level 2 review period before finally deciding on a course of action.
- 11.14 Where expectations not met the employee's case should be referred for formal consideration by a member of the Leadership Team at a Level 3 meeting, please see section 13.
- 11.15 Please see Level 1 review meeting form at Appendix F, the form should be sent to HR to go to the employee file.

12.0 Long term sickness

Level 1 meeting

Pre-Meeting Action

- 12.1 Where an employee has been absent for 4 weeks or more continuously they should normally be referred to the Occupational Health Advisor (OHA) and/or a medical report/records obtained from the employee's own GP or other medical practitioner. The employee will be asked to provide written consent and subsequently informed of the OHA appointment made where applicable.

- 12.2 If the employee is too ill to attend the OHA appointment, the employee will be asked to give consent to the council or the OHA, to obtain relevant medical information from the employee's GP, hospital or other appropriate medical professionals.
- 12.3 On receiving the advice from the OHA (or other relevant medical information), the line manager shall write to the employee inviting them to a Level 1 (Long-Term Absence) meeting as set out below (this might be a Level 2 or Level 3 meeting if relevant because the employee's attendance/ performance was already subject to earlier levels) giving them 5 working days' notice. HR will attend the meeting and the employee will be informed of their right to be accompanied by a colleague or trade union representative.
- 12.4 If the employee is too unwell to attend a meeting at the council's offices, the line manager should arrange to visit the employee at home to conduct the meeting. All home visits should be accompanied by HR. If the employee is unable to receive a visit at home, a medical statement to this effect must be provided.
- 12.5 If the employee returns to work prior to the Level 1 (or other relevant Level) meeting, the appropriate meeting should take place in accordance with the procedures for short term absence (see Section 11 above).

Conducting a Level 1 Meeting

The purpose of the meeting will be:

- To review absence so far and to ascertain and confirm reasons for absence.
- To consult with the employee and to ascertain from them the likelihood of their returning to work in the near future.
- To consider measures to assist the employee to return to work.

- To set a reasonable date for review of the situation.
- Outline the possible range of outcomes.

The results of the discussion and any proposed action, including details of the expectations for improvement, should be confirmed in writing by issuing the employee with a copy of the Level 1 Long-term Sickness form found at Appendix G (the form should be sent to HR to go the employee file).

Level 1 Follow Up Action

12.6 If the employee returns to work by or before the end of the review period, the line manager must conduct a Return to Work interview (see Section 11 above) and should also complete a review form (see Appendix H) to advise the employee that:

- Should his/her absence levels hit the trigger points for investigation within the next 12 months, the procedure will continue from the beginning of Level 2 of either the Long-Term Sickness Procedure or the Short Term Sickness Absence Procedure, as appropriate.
- If trigger points are not reached again within 12 months of the review meeting, but are reached again after that time the procedure will normally start from Level 1.

The form should be returned to HR to place on the employees file.

Level 2 meeting

Pre Meeting Action

12.7 If the absence continues beyond the agreed Level 1 review period, or where the employee's absence hits trigger points within 12 months of a Level 1 review meeting, the employee should first be referred to the OHA and/or a medical report/records obtained from the employee's own GP or other medical practitioner.

- 12.8 On receiving the advice from the OHA, GP or other medical practitioner, the line manager shall invite the employee to a Level 2 meeting.

Conducting a Level 2 Meeting

- 12.9 The line manager should ascertain the employee's view of the illness and medical diagnosis/prognosis and should discuss with the employee reasonable options available to the council and the employee.
- 12.10 Depending on the outcome of the medical advice and consultation with the employee, the line manager may decide on any of the following courses of action (although these do not preclude other/alternative action):
- a) In a case, where it is clear to the line manager that despite action taken so far there is no marked improvement in the sickness absence level/the employee's ability to carry out their duties and/or it seems that there is unlikely to be an improvement in the near future, the line manager should refer the case to a member of the Leadership Team for further consideration in line with Level 3 below.
 - b) Set a further review period, informing the employee that if they have not returned to work/are unable to perform their duties by the end of the period, the matter will be referred to Level 3, and that consideration may at that stage have to be given to the employee's continued employment.

Whichever action is decided upon, the line manager should confirm this in writing with the employee, HR will provide a modified form to complete based on Level 1 Long-term sickness form in Appendix G, (this must be completed and sent to HR for filing), including possible outcomes discussed.

Level 2 Follow Up Review Meeting

12.11 If the employee returns to work/is able to resume performance of their duties by or before the end of the review period, the line manager must conduct a Return to Work interview (see Section 10 above and also form in Appendix H which can be modified with HR support for Level 2 review but now returned) and should advise the employee that:

- Should his/her absence levels hit the trigger points for investigation within the next 12 months, the procedure will continue from the beginning of Level 2 of either the Long-Term Sickness Procedure or the Short Term Absence Procedure, as appropriate.
- If trigger points are not reached again within 12 months of the review meeting, but are reached again after that time the procedure will normally start from Level 1.

13.0 Level 3 - sickness and attendance hearing

(Capability Review Hearing)

Pre-meeting Action

13.1 Where the employee's case is referred for formal consideration by a member of the Leadership Team, for example:

- In the event of attendance expectations not being met during a Level 2 review period, or
- Where the matter has been directly referred to Level 3 in accordance with sections 11.10 (a) and 12.10(a).

13.2 The employee should normally first be referred to the OHA for an up to date medical opinion and/or a medical report/records obtained from the employee's own GP or other medical practitioner. The line manager should tell the employee that an OHA/GP referral will be made, and a Level 3 meeting held once the OHA/medical report is received.

The line manager must prepare a report including:

- A brief summary of the employee's general employment record: length of service, job description, general performance record.
- Attendance record as a whole during the duration of employment with the council.
- Action taken so far (including notes of previous meetings).
- Factual medical information including the most recent medical opinion from the OHA, and any information from the employee's GP/consultant. This will address matters such as whether there is an underlying illness/condition; the likelihood of change in attendance/return to work within a reasonable period.
- Any reasonable adjustments that can be made or reasons why any proposed adjustments are not reasonable.
- The effects on the service and other staff
- The service and financial impact on the council, including the ability to make alternative work arrangements to cover the employee's post.
- Any other relevant information.

13.3 The Leadership Team member must write to the employee inviting him/her to a meeting. The employee will be given a minimum of 5 working days' notice of the meeting.

The letter should outline the following:

- The purpose of the meeting and potential outcomes, including the possibility of dismissal.
- The employee should be advised of their right to be accompanied to the meeting by a recognised trade union representative or work colleague.
- Explain that the matter may be dealt in their absence if they fail to attend
- Attach copies of any documentary evidence that will be considered at the meeting and which is available at that time.

Conducting a Level 3 Meeting

13.4 The purpose of the meeting will be to determine the employee's future employment based on the employee's circumstances. Depending on the outcome of the medical advice and consultation with the employee, the Leadership Team member may decide on any of the following courses of action, although these do not preclude other/alternative action:

a) Redeployment with a review period. To attempt to identify alternative work within the council that is within the employee's capability, failing which the employment may be terminated. Potential options may include:

- part-time work on a temporary or permanent basis with a pro rata reduction in salary and other benefits
- transfer to a less demanding post (if available and provided that the Person Specification is met), protection of existing salary will be considered based on the circumstances of the case for a maximum of 4 weeks whilst the employee trials the role. As this would involve the staff choosing to accept a job at lower salary for capability reasons the council would not provide the 18 month salary protection in line with the redeployment policy unless the employee has become disabled during the course of their employment with the Council and such redeployment to a lower graded post would constitute a suitable adjustment, in this circumstance the employee would receive 18 months of salary protection as set out in the redeployment policy.

If the employee is redeployed, an appropriate review period should be set based on the circumstances of the case to ascertain whether the employee has been able to fulfil the requirements (performance and attendance) of the new job.

b) Additional review period in current role

For long term sickness:

- To inform the employee that the stage has been reached whereby unless s/he is able to return to work within a defined period, his/her employment will be terminated. A further review period may be combined with further referrals to the OHA and/or further meetings or home visits.

For short term sickness:

- To inform the employee that the stage has been reached whereby unless attendance expectations are met within a defined period, his/her employment may be terminated. A further review period can be combined with the following:
 - further referrals to the OHA;
 - a requirement for first day medical certificates;

c) To explore ill health retirement or compassionate retirement in accordance with the rules and procedures of the Local Government Pension Scheme and Retirement policy.

d) To dismiss the employee with the notice to which he/she is entitled on the grounds:

- that the employee's level of non-attendance at work is unacceptably high and it is not possible and/or reasonable for the council to continue to employ him/her, or
- that the employee is incapacitated and it appears that no longer term improvement can be expected within a reasonable period; therefore it is not possible and/or reasonable for the council to continue to employ him/her as s/he is incapable of satisfactory performance of the duties for which s/he is employed.

13.5 Whichever action is decided upon, the Leadership Team member should confirm this in writing with the employee, including possible outcomes discussed within 3 working days of the meeting.

Level 3 Follow Up Review

- 13.6 Where options (a) or (b) above are selected, and at the end of the review period the performance and attendance expectations have been met, the manager should advise the employee that:
- No further action is necessary.
 - If trigger points for investigation are reached again within 12 months of the review meeting, the procedure will continue from the beginning of Level 3.
- 13.7 Where there has been some improvement, but expectations have not been met completely, the line manager may decide to extend the Level 3 review period before finally deciding on a course of action.
- 13.8 If expectations have not been met, the matter will be referred to a member of the Leadership Team to consider dismissal. The process for the meeting will be as in 14.4 above. Further medical advice may be sought by the council in advance of this meeting if it is considered by the council necessary and relevant.
- 13.9 If trigger points are not reached again within 12 months of a review period, or any extension of the review, but are reached again after that time, the line manager will decide at which Level the procedure will start. This will normally be Level 1 or Level 2; the line manager's decision will be based on consideration of the full attendance history of the individual and the particular circumstances of the case.
- 14.0 Cases that might be dealt with under either/both the short term and long term sickness procedures**
- 14.1 Not all cases will fall neatly within either section 12 or section 13 above. It is possible for any employee at any stage/level of the long-term procedure to return to work; s/he may then begin to take frequent short term sick leave. Similarly, at any stage/level of the short term absence procedure an employee's sickness absence

may become protracted. In such cases, the whole set of circumstances will be considered.

15.0 Right of appeal against dismissal

- 15.1 An employee has the right of appeal against any decision to dismiss taken under these Procedures. The employee must lodge the appeal in writing with the Head of HR & OD no later than 10 working days after the employee has been notified in writing of the decision to dismiss.
- 15.2 The appeal will normally be heard by a Chief Officer, the Deputy Chief Executive or where they have already been involved the Chief Executive.
- 15.3 The employee must be notified in writing of the date and time of the appeal hearing and his/her right to be accompanied by a trade union representative or work colleague. The letter should explain that the matter may be dealt with in the employee's absence if s/he fails to attend, and that if unable to attend s/he may be represented by a trade union representative or work colleague and/or send written submissions.
- 15.4 The decision of the Deputy Chief Executive or the Chief Executive shall be final and will be confirmed in writing with the employee.
- 15.5 The date that any dismissal takes effect will not be delayed pending the outcome of an appeal. However, if the appeal is successful, the decision to dismiss will be revoked with no loss of continuity or pay.

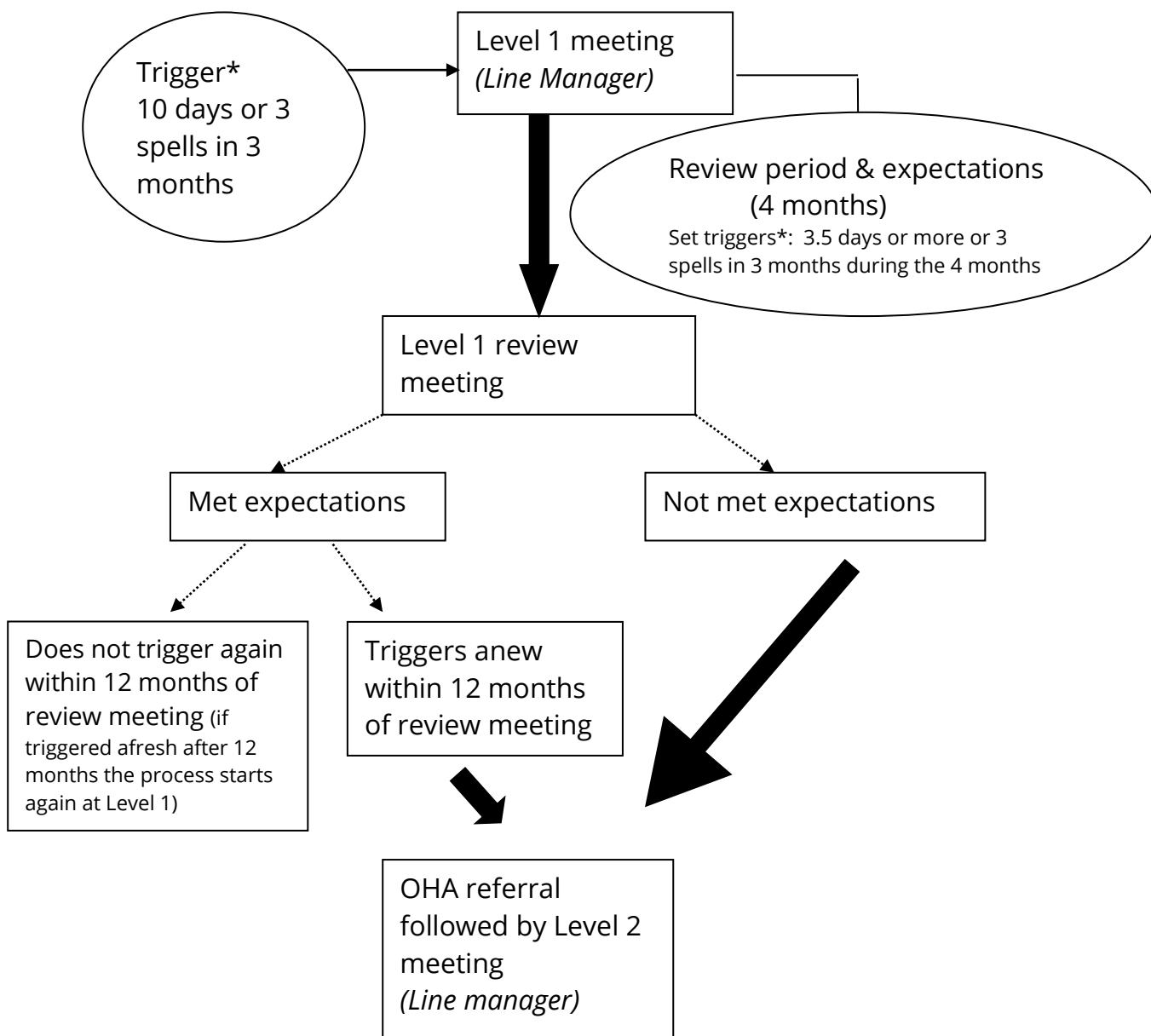
16.0 Policy review and amendment

- 16.1 This policy shall be reviewed in line with legislation and best practice to reflect the best possible level of support and management.

Appendix A - Flow Charts on Using the Sickness & Attendance Policy

Short Term Absence

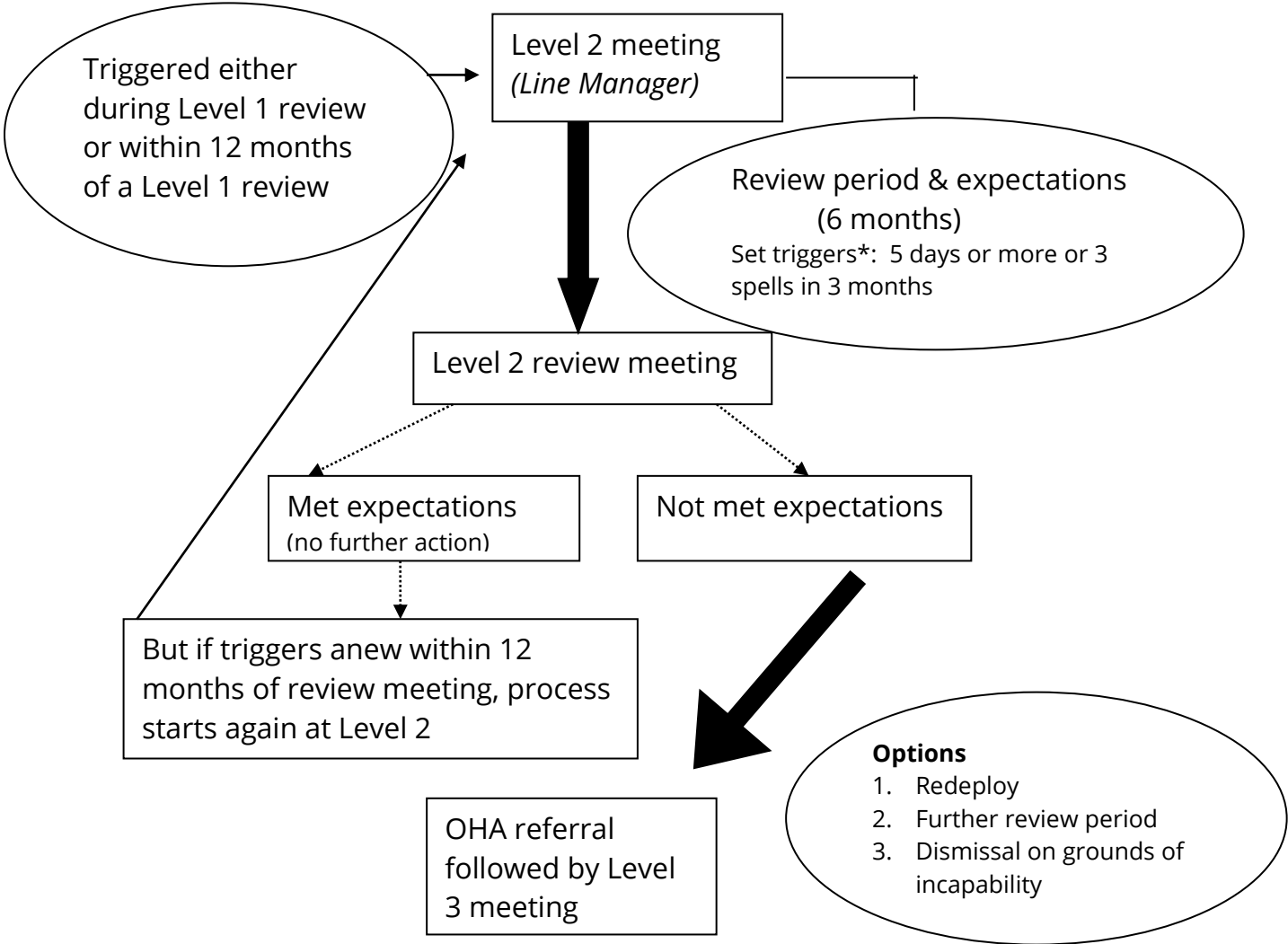
Levels 1 & 2



* = Full-time triggers these will be pro-rata for part-time

Short Term Absence

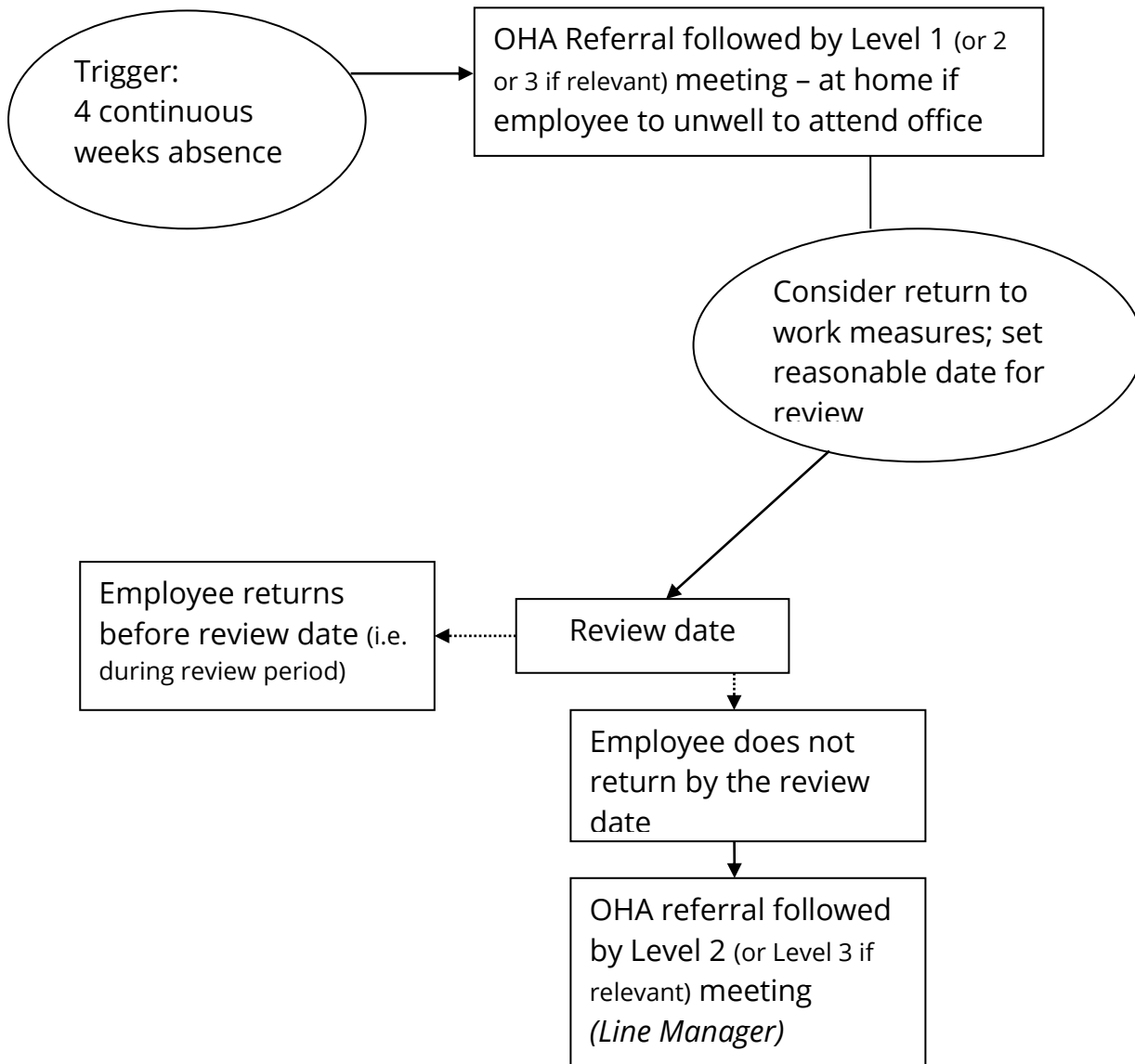
Levels 2 & 3



* = Full-time triggers these will be pro-rata for part-time

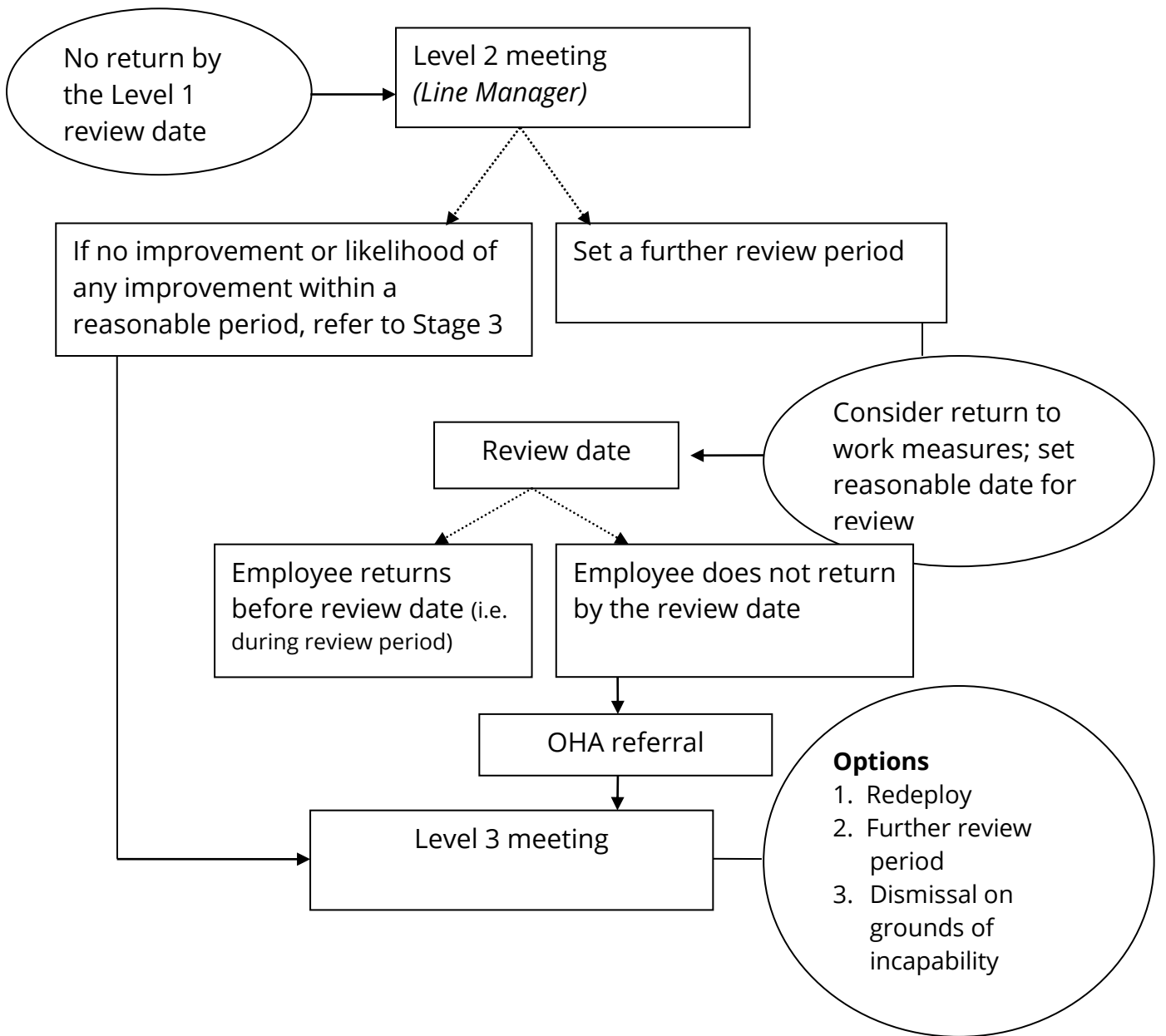
Long-Term Absence

Levels 1 & 2



Long-Term Absence

Levels 2 & 3



Appendix B – East Herts Council Stress Risk Assessment Form

The HSE Management Standards cover six key areas of work design that, if not properly managed, are associated with poor health and well-being, lower productivity and increased sickness absence. In other words, the six Management Standards cover the primary sources of stress at work, this form prompts discussion on each source so that action can be informed.

Demands – this includes issues such as workload, work patterns and the work environment.

Control – how much say the person has in the way they do their work.

Support – this includes the encouragement, sponsorship and resources provided by the organisation, line management and colleagues.

Relationships – this includes promoting positive working to avoid conflict and dealing with unacceptable behaviour.

Role – whether people understand their role within the organisation and whether the organisation ensures that they do not have conflicting roles.

Change – how organisational change (large or small) is managed and communicated in the organisation.

STRESS ASSESSMENT & ACTION PLAN

Service/team:		Manager:
Employee:	Date of assessment:	Manager's signature:
Sickness absence dates to and from (if relevant):		HR's signature:
Review date:		Employee's signature:

Cause of stress	Was/is it a problem for you? Rate 1-5 Never(1) /Seldom(2)/Sometimes(3)/Often(4)/Always(5) Describe/give examples:	What can we do about it? (Employee/ Manager/other Staff/External?) Can we make any reasonable adjustments?	Target date for implementation and person (s) responsible	Review Date
DEMANDS OF THE JOB				
Different people/groups at work demand things that are hard to combine?				
Unachievable deadlines?				
Have to work very intensively?				
Some tasks neglected because you have too much to do?				
Unable to take sufficient breaks?				

Feel pressured to work long hours?				
Have to work very fast?				
Unrealistic time pressures?				
Any other Demand issues (workload, work patterns and the work environment)				

Cause of stress	Was/is it a problem for you? Rate 1-5 Never(1) /Seldom(2)/Sometimes(3)/Often(4)/Always(5) Describe/give examples:	What can we do about it? (Employee/ Manager/other Staff/External?) Can we make any reasonable adjustments?	Target date for implementation and person (s) responsible	Review Date
CONTROL				
Can decide when to take a break?				
Have a say in your work speed?				
Have a choice in deciding how you do your work?				
Have a choice in deciding what you do at work?				

Cause of stress	Was/is it a problem for you? Rate 1-5 Never(1) /Seldom(2)/Sometimes(3)/Often(4)/Always(5) Describe/give examples:	What can we do about it? (Employee/ Manager/other Staff/External?) Can we make any reasonable adjustments?	Target date for implementation and person (s) responsible	Review Date
Have some say over the way you do your work?				
Working time can be flexible?				
Any other Control issues (how much say in the way they do their work.)				

Cause of stress	Was/is it a problem for you? Rate 1-5 <small>Never(1) /Seldom(2)/Sometimes(3)/Often(4)/Always(5)</small> Describe/give examples:	What can we do about it? <small>(Employee/ Manager/other Staff/External?)</small> Can we make any reasonable adjustments?	Target date for implementation and person (s) responsible	Review Date
SUPPORT (Manager)				
Given supportive feedback on the work you do?				
Can rely on your manager to help you out with a work problem?				
Can talk to your manager about something that upset or annoyed you at work?				
Supported through emotionally demanding work?				
Line manager encourages you at work?				

Cause of stress	Was/is it a problem for you? Rate 1-5 Never(1) /Seldom(2)/Sometimes(3)/Often(4)/Always(5) Describe/give examples:	What can we do about it? (Employee/ Manager/other Staff/External?) Can we make any reasonable adjustments?	Target date for implementation and person (s) responsible	Review Date
Any other Line Mgr Support - this includes the encouragement, sponsorship and resources provided by the organisation and line management. HR support for you as a line manager is also relevant or policies and procedures to Manage staff				

Cause of stress	Was/is it a problem for you? Rate 1-5 <small>Never(1) /Seldom(2)/Sometimes(3)/Often(4)/Always(5)</small> Describe/give examples:	What can we do about it? <small>(Employee/ Manager/other Staff/External?)</small> Can we make any reasonable adjustments?	Target date for implementation and person (s) responsible	Review Date
SUPPORT (Peers & Staff)				
Colleagues/staff would help you if work became difficult?				
Get help and support needed from colleagues and staff?				
Receive the respect at work you deserve from your colleagues/staff?				

Cause of stress	Was/is it a problem for you? Rate 1-5 Never(1) /Seldom(2)/Sometimes(3)/Often(4)/Always(5) Describe/give examples:	What can we do about it? (Employee/ Manager/other Staff/External?) Can we make any reasonable adjustments?	Target date for implementation and person (s) responsible	Review Date
Colleagues/staff willing to listen to your work-related problems?				
Any other Colleague/staff Support issues i.e. reliability				

Cause of stress	Was/is it a problem for you? Rate 1-5 <small>Never(1) /Seldom(2)/Sometimes(3)/Often(4)/Always(5)</small> Describe/give examples:	What can we do about it? <small>(Employee/ Manager/other Staff/External?)</small> Can we make any reasonable adjustments?	Target date for implementation and person (s) responsible	Review Date
RELATIONSHIPS				
Subject to personal harassment in the form of unkind words or behaviour?				
There is friction or anger between colleagues?				
Subject to bullying at work?				

Cause of stress	Was/is it a problem for you? Rate 1-5 Never(1) /Seldom(2)/Sometimes(3)/Often(4)/Always(5) Describe/give examples:	What can we do about it? (Employee/ Manager/other Staff/External?) Can we make any reasonable adjustments?	Target date for implementation and person (s) responsible	Review Date
Are relationships at work strained?				
Any other relationship issues; including promoting positive working to avoid conflict and dealing with unacceptable behaviour				

Cause of stress	Was/is it a problem for you? Rate 1-5 Never(1) /Seldom(2)/Sometimes(3)/Often(4)/Always(5) Describe/give examples:	What can we do about it? (Employee/ Manager/other Staff/External?) Can we make any reasonable adjustments?	Target date for implementation and person (s) responsible	Review Date
ROLE				
Clear about what is expected of you at work?				
Know how to go about getting your job done?				
Are clear about what your duties and responsibilities are?				
Clear about the goals and objectives for the department?				

Cause of stress	Was/is it a problem for you? Rate 1-5 <small>Never(1) /Seldom(2)/Sometimes(3)/Often(4)/Always(5)</small> Describe/give examples:	What can we do about it? <small>(Employee/ Manager/other Staff/External?)</small> Can we make any reasonable adjustments?	Target date for implementation and person (s) responsible	Review Date
Understand how your work fits into the overall aim of the organisation?				
Any other role issues – understand your role within the organisation - do not have conflicting roles				

Cause of stress	Was/is it a problem for you? Rate 1-5 <small>Never(1) /Seldom(2)/Sometimes(3)/Often(4)/Always(5)</small> Describe/give examples:	What can we do about it? <small>(Employee/ Manager/other Staff/External?)</small> Can we make any reasonable adjustments?	Target date for implementation and person (s) responsible	Review Date
CHANGE				
Sufficient opportunity to question managers about change at work?				
Consulted about changes at work?				
When changes are made at work, are you clear about how they would work out in practice?				

Cause of stress	Was/is it a problem for you? Rate 1-5 Never(1) /Seldom(2)/Sometimes(3)/Often(4)/Always(5) Describe/give examples:	What can we do about it? (Employee/ Manager/other Staff/External?) Can we make any reasonable adjustments?	Target date for implementation and person (s) responsible	Review Date
Any other change issues - how organisational change (large or small) is managed and communicated in the organisation.				

Factors outside work

This list of questions on the return to work Risk Assessment are mainly focused on factors at work. However, there may be factors outside work, for example in the employee’s family life, which may have contributed to or added to the pressures at work. These may have made it harder for the employee to cope with demands at work that they would normally be able to cope with.

The employee may want to share these issues with you as their manager – you may be able to help at work and make adjustments, for example, being more flexible with their working hours or just being sympathetic to the pressures they are under.

Cause of stress	Was/is it a problem for you? Rate 1-5 <small>Never(1) /Seldom(2)/Sometimes(3)/Often(4)/Always(5)</small> Describe/give examples:	What can we do about it? <small>(Employee/ Manager/other Staff/External?)</small> Can we make any reasonable adjustments?	Target date for implementation and person (s) responsible	Review Date
OTHER ISSUES				
Is there anything else that was a source of stress for you, at work or at home, that may have contributed to you going off work with work-related stress?				

Appendix C – Level 1 sickness meeting form (short-term)

Employee Name:

Service:

Line Manager Name:

Meeting Date:

<p>Explain reason for meeting: (outline how triggers have been met)</p>	
<p>Refer to policy: Go through key points.</p>	
<p>Check Employee agrees with sickness dates:</p>	
<p>Request explanation for absence(S) – check detail is correct: Comments:</p>	
<p>Is there a pattern of absence: Is there a link between sickness</p>	

bouts: Any underlying health issues:	
Have health issues been discussed with employees own doctor:	
Any work or personal factors exacerbating absence:	

Level 1 Sickness Meeting Review Date:	
Level 1 Review Period Triggers:	
Explain that Level 2 can be triggered by normal annual triggers which follow in 12 months from review period (Full-time contract = 10 days in 12 month period or 3 spells in 3 months).	

Employee Signature_____

Date_____

Line Manager Signature_____

Date_____

Appendix D – Level 1 sickness review meeting form (short-term)

Employee Name:

Line Manager Name:

Date of Review Meeting:

Date of L1 Sickness Meeting:

Outline any absence due to sickness during the review period:	
Does the employee agree to the sickness record?	
Have the targets/expectations been met with reference to the council policy?	
If absence is borderline re targets/expectations, is an extension of the review period necessary?	
State extension period & date as necessary	
As per policy, what is now the current level of sickness for further 12-month period?	
Date sickness level expires if level conditions not breached as per policy:	
Should absence exceed council policy within the next 12-months, state next level of sickness process:	

Employee Signature:

Line Manager Signature:

Date:

Appendix E – Level 2 sickness meeting form (short-term)

Employee Name:

Service:

Line Manager Name:

Meeting Date:

Explain reason for meeting: (outline how triggers have been met)	
Refer to policy: Go through key points.	
Check Employee agrees with sickness dates:	
Request explanation for absence(S) – check detail is correct: Comments:	
Is the recent intermittent absence part of any pattern:	
Any underlying health issues:	
Have health issues been discussed with employees own doctor:	

<p>What action is the employee taking to improve health / ability to attend?</p> <p>What support/guidance has been given by GP or medical services.</p>	
<p>Review advice from Occupational Health and any action required</p>	
<p>Any work or personal factors exacerbating absence:</p> <p>What support is required from work?</p>	
<p>Return to work, agreed support and phased return plan if relevant.</p>	

<p>Level 2 Sickness Meeting Review Date:</p>	
<p>Level 2 Review Period Triggers:</p>	<p>5 days in 6 months or 3 spells in 3 months</p>
<p>Explain that Level 2 can be re-triggered by normal annual triggers which follow in 12 months from review period (Full-time contract = 10 days in 12 month period or 3 spells in 3</p>	

months or by 4 weeks of continuous absence – also option at Level 2 for Line Manager to refer directly to Level 3 if appropriate e.g. redeployment needs to be considered).	
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Employee Signature_____

Date_____

Line Manager Signature_____

Date_____

Appendix F – Level 2 sickness review meeting form (short-term)

Employee Name:

Line Manager Name:

Date of Review Meeting:

Date of L2 Sickness Meeting:

Outline any absence due to sickness during the review period:	
Does the employee agree to the sickness record?	
Have the targets/expectations been met with reference to the council policy?	
If absence is borderline re targets/expectations, is an extension of the review period necessary?	
State extension period & date as necessary	
As per policy, what is now the current level of sickness for further 12-month period?	
Date sickness level expires if level conditions not breached as per policy:	
Should absence exceed council policy within the next 12-months, state next level of sickness process:	

Employee Signature:

Line Manager Signature:

Date:

Appendix G – Level 1 Sickness Meeting – Long Term absence Form

Employee Name:

Service:

Line Manager Name:

Meeting Date:

<p>Explain reason for meeting: (outline how triggers have been met)</p>	
<p>Refer to policy: Go through key points.</p>	
<p>Check Employee agrees with sickness dates:</p>	
<p>Request explanation for absence(S) – check detail is correct: Comments:</p>	
<p>Is the recent long-term absence part of any pattern:</p>	
<p>Any underlying health issues:</p>	

<p>Have health issues been discussed with employees own doctor:</p> <p>What action is the employee taking to improve health / ability to attend?</p> <p>What support/guidance has been given by GP or medical services.</p>	
<p>Review advice from Occupational Health and any action required</p>	
<p>Any work or personal factors exacerbating absence:</p> <p>What support is required from work?</p>	
<p>Return to work, agreed support and phased return plan if relevant.</p>	

<p>Level 1 Sickness Review Date:</p>	
<p>Level 1 Review Period Triggers:</p>	
<p>Explain that Level 2 can be triggered by normal annual</p>	

triggers which follow in 12 months from review period (Full-time contract = 10 days in 12 month period or 3 spells in 3 months or by 4 weeks of continuous absence – also option at Level 2 for Line Manager to refer directly to Level 3 if appropriate e.g. redeployment needs to be considered).	
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Employee Signature _____

Date _____

Line Manager Signature _____

Date _____

Appendix H - Level 1 Sickness Meeting - Long Term absence - but now returned

Employee Name:

Dept:

Line Manager Name:

Meeting Date:

<p>Explain reason for meeting: (outline how triggers have been met)</p>	
<p>Refer to policy: Go through key points.</p>	
<p>Check Employee agrees with sickness dates:</p>	
<p>Request explanation for absence(S) - check detail is correct: Comments:</p>	
<p>Is the recent long-term absence part of any pattern:</p>	
<p>Any underlying health issues:</p>	

<p>Have health issues been discussed with employees own doctor:</p> <p>What action is the employee taking to improve health / ability to attend?</p> <p>What support/guidance has been given by GP or medical services.</p>	
<p>Review advice from Occupational Health and any action required</p>	
<p>Any work or personal factors exacerbating absence:</p> <p>What support is required from work?</p>	
<p>Return to work, agreed support and phased return plan if relevant.</p>	

<p>Level 1 Sickness Meeting Review Date:</p>	
<p>Level 1 Review Period Triggers:</p>	<p>3.5 days or 3-spells of absence (in 3 months) within review period of 4 months</p>

	<p>Dates:</p> <p>N.B. The review period is an isolated period and will not count to the 12 months that follow. - However if absence is borderline review can be extended e.g. 3 days.</p>
<p>Explain that Level 2 can be triggered by normal annual triggers which follow in 12 months from review period (Full-time contract = 10 days in 12 month period or 3 spells in 3 months or by 4 weeks of continuous absence - also option at Level 2 for Line Manager to refer directly to Level 3 if appropriate e.g. redeployment needs to be considered).</p>	

Employee

Signature _____

Date _____

Line Manager Signature

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APPENDIX 7

Policy Name	Appeals
Date	March 2019
Statement No	5
Version	3
Review Date	March 2022

1. Purpose/Aim

- 1.1 The purpose of this policy is to provide a standardised appeals process for the policies listed in section 2. Where a policy is not listed below it is because it has an appeal process incorporated within the policy.

2. Scope

- 2.1 This policy applies to all employees, except for Chief Officer level and above, where procedures set out in the Constitution are used.

- 2.2 The Appeals policy refers to the following policies:

- Managing Performance Policy
- Redundancy Policy (excluding voluntary redundancy)
- Flexible Working Scheme

and,

- Process for dismissal for Some Other Substantial Reason (SOSR)

- 2.3 Any formal appeal received that is not directly covered by any of the policies listed above and is not subject to a specific appeals process should also be dealt with following the process detailed in Sections 3 and 5.

2.4 This policy is based on legislation and the ACAS code of practice, and has been agreed with UNISON.

3. Who to Appeal to and Time Limits

3.1 An employee has a right to appeal against formal action taken in accordance with the stated policies.

3.2 The appeal must be submitted within 10 working days of the date of the written notification of the decision to be appealed. The appeal should be submitted to the Head of HR and Organisational Development using the Appeal Submission form (Appendix A), stating their grounds of appeal and the resolution sought. Appeals submitted late without mitigating circumstances will not be allowed to proceed.

3.3 The appeal hearing should be held without unreasonable delay.

4. Grounds for Appeal

4.1 Appeals against Managing Performance Procedure

4.1.1 An employee can appeal against any formal sanction made under the Managing Performance Policy on the following grounds:

- There was a significant breach of the procedure.
- The employee was given insufficient time in which to demonstrate that they could achieve the required standard.
- The employee was not offered appropriate support and/or training.
- The employee was not offered suitable and available redeployment.
- That management have not acted reasonably.

4.2 Appeal against Redundancy Decisions

4.2.1 Under the Redundancy Policy, employees can appeal against decisions on the following grounds:

That their post is not redundant

The employee needs to specifically state why they believe their role is not redundant and where their duties have transferred to.

That they should have been slotted in to/ring fenced for a new post

The employee needs to specifically state which post/s it would have been appropriate to slot them in to / ring fence them for and why, setting out the similarity of tasks carried out (this may be different to the employee's job specification) and any transferable skills not already identified.

That the selection criteria during interview / management selection unfairly applied

The appeal hearing will have available anonymised information on the assessment of the other candidates, which will be taken into consideration when reaching a decision. This information will be made available to both sides before the appeal hearing and both sides will be invited to comment on how the appeal might impact on other staff. If the appeal is successful, the member of staff who is selected for redundancy in their place will also have a right of appeal.

That the post offered is not suitable alternative employment

The employee needs to state why they believe the role that has been offered to them is not suitable alternative employment.

4.2.2 Where notice of redundancy has already been served, any appeals will run concurrently with the employee's notice period.

4.3 Appeal against a Dismissal for Some Other Substantial Reason (SOSR)

4.3.1 A member of staff who wishes to appeal the decision to dismiss for SOSR should state their full grounds of appeal using the Appeal Submission form.

4.4 Appeal against Decisions in Relation to Flexible Working Applications

4.4.1 A member of staff who wishes to appeal a decision in relation to a proposal they have made to work flexibly should state their full grounds of appeal using the Appeal Submission form.

5. Appeal Hearing Process

5.1 HR will allocate an appropriate manager who has not been previously involved in the case to hear the appeal (the Hearing Manager). This may be a service manager, Head of Service or the Deputy Chief Executive depending on the nature of the appeal. Appeals against dismissal will be heard by the Chief Executive in accordance with the Constitution.

5.2 For grievances concerning a Chief Executive or Chief Officer, appeals will be heard in accordance with the Constitution.

5.3 PROCESS: Step 1 - Written Notification

5.3.1 Human Resources will write to the employee confirming the date, time and location of the appeal hearing, giving at least 7 working days' notice and informing of their right to be accompanied by a trade union representative/work colleague.

5.3.2 No later than 5 working days prior to the hearing the employee must submit any new evidence or inform the Head of HR of any witnesses they intend to call at the hearing.

5.3.3 The manager responding to the appeal (the Responding Manager) will be required to submit a response to the appeal. This should present the circumstances of the case and the action taken to date, and should include a full set of the key documents to be presented at the appeal hearing, including witness statements, a full summary of the circumstances of the case, copies of all correspondence relating to the case and the outcome of previous stages of the procedure.

5.3.4 Copies of all relevant documents will be circulated by Human Resources to all those attending the appeal no later than 3 working days before the date of the hearing.

5.4 The Role of Human Resources

5.4.1 The Hearing Manager will be accompanied by an HR Officer. It is the HR Officer's role to advise on procedure, to advise on ensuring consistency of decision making and equity of treatment. The HR Officer may also ask questions of clarification of either side. If possible, the HR Officer supporting the Hearing Manager will not have previously been involved in the case.

5.4.2 The Responding Manager may also be accompanied by an HR Officer. It is their role to advise the manager and answer any questions on the circumstances of the case.

5.4.3 Either HR Officer may take the notes of the hearing unless the Hearing Manager decides that an additional note-taker should be present.

5.5 Witnesses

- 5.5.1 Original witnesses are not required to attend the appeal hearing. The employee can only recall witnesses or ask new witnesses to attend the appeal hearing if their contribution relates to new evidence that is relevant to the grounds of appeal.
- 5.5.2 The employee must notify the Head of HR no later than 5 working days before the hearing if they intend to call a witness. It is the employee's responsibility to arrange their witness's attendance at the hearing.
- 5.5.3 Witnesses will only be present in the hearing when giving evidence.

5.6 Step 2 - Appeal Hearing

- 5.6.1 Appeal hearings will not rehear the whole case, but will focus on the grounds of appeal. Further evidence may be introduced by either side if it is relevant to the grounds for the appeal and provided it is received within the specified timescale of 3 working days before the date of the hearing.
- 5.6.2 The Hearing Manager will ensure that all the parties have the relevant documents and ensure that both sides understand the grounds of appeal that are to be considered.
- 5.6.3 The employee or their representative will set out the grounds of the appeal, calling any witnesses and referring to the documents that have already been submitted.
- 5.6.4 At the conclusion of the case for the appeal, the Responding Manager, the Hearing Manager and the HR Officer may question the employee or their representative.

5.6.5 The Responding Manager will then respond to the case for appeal.

5.6.6 At the conclusion of their response they may be questioned by the employee or their representative, the Hearing Manager and the advising HR Officer.

5.6.7 Both parties will make final statements which summarise the key points of their case. The employee will sum up after the Responding manager. It is not appropriate for new evidence to be presented at this stage.

5.6.8 The Hearing Manager will then close the hearing to consider the matter, advised by the HR Officer.

5.6.9 At any time during the hearing either party can make a request for an adjournment to the Hearing Manager.

5.7 Step 3 - Written Notification of Outcome

5.7.1 The decision will be confirmed to the employee in writing within 3 working days of the appeal hearing. If the decision can be made on the day the employee will also be notified verbally. The decision made at the appeal will be final and there is no further right of appeal within East Herts Council.

5.7.2 The employee cannot use the Grievance Policy by way of further challenge to the decision.

5.7.3 No increased penalty will result from an appeal being raised.

5.7.4 When an appeal is against a decision to dismiss, the dismissal will have taken effect in accordance with the original decision, either summarily or by notice. Should the appeal be successful the member of staff will be reinstated with full back pay or, if it is considered that disciplinary action less than dismissal is appropriate this will be

implemented and backdated to the date of the original decision.

6. Policy Review and Amendment

- 6.1 This Policy shall be reviewed after three years or sooner in line with legislation and best practice to reflect the best possible level of support and management.

Appeal Submission Form

Date.....

I am writing to appeal against the recent decision that was made to:

Please give details of which policy was used, what decision was made and who made the decision.

My grounds of appeal are:

Please outline your grounds of appeal.

Resolution sought:

Please outline the outcome you are looking for.

(Name)

Please send the completed Appeals Submission form to the Head of HR and Organisational Development within 10 working days of the date of the written notification of the decision.