

Fit for Work Policy

Through appropriate support and management action, Waverley aims to maximise employees' attendance in order to maintain a high performing staff team to deliver excellent services to the community.

The Policy aims to ensure fair, equitable and consistent treatment of staff, reduction of costs associated with sickness absence and compliance with the Equality Act (previously Disability Discrimination Act) and acknowledges the recommendations in the ACAS Code on Absence Management for clear standards of performance and procedures. This Policy is to be read in conjunction with the Health and Safety Policy.

Waverley is responsible for providing a working environment that supports staff to perform safely and to a high standard.

While it is recognised that employees may occasionally be absent due to sickness, any absence has an impact on:

- other members of staff.
- our ability to deliver high quality services

Therefore, the aim of this Fit for Work Policy is to:

- set out systematic procedures for maximising fitness for work.
- give a clear performance standard for attendance.
- clearly indicate the consequences of not meeting the performance standard for attendance.

Where possible, the manager will:

- actively support the employee to maximise their level of fitness for work, for example:
 - discuss options such as working from home, part time working, temporary or permanent reduction in hours/duties/redeployment to help the employee continue to work rather than be absent.
 - provide reasonable support to those with ill health to return to work at full capacity at the earliest opportunity.
- take action where attendance levels fall below required performance standard.
- apply the Fit for Work procedures fairly and consistently.

Where possible, each member of staff will:

- actively support their own fitness for work
- comply with the Fit for Work performance standards and procedures.

Advice and Support

Staff are encouraged to make their line manager aware of any difficulties they may have in maintaining attendance or performance at work, due to ill health. There are a number of ways in which Waverley can support staff. Examples include:

- Information on flexible working
- Advice on physical adjustments to the workplace where required

- Redeployment where possible
- A confidential counselling service
- Stress Management Policy

Performance Standard for Attendance

In line with the national average public sector attendance (see section 'Overview' below), Waverley's performance standard for attendance is as follows.

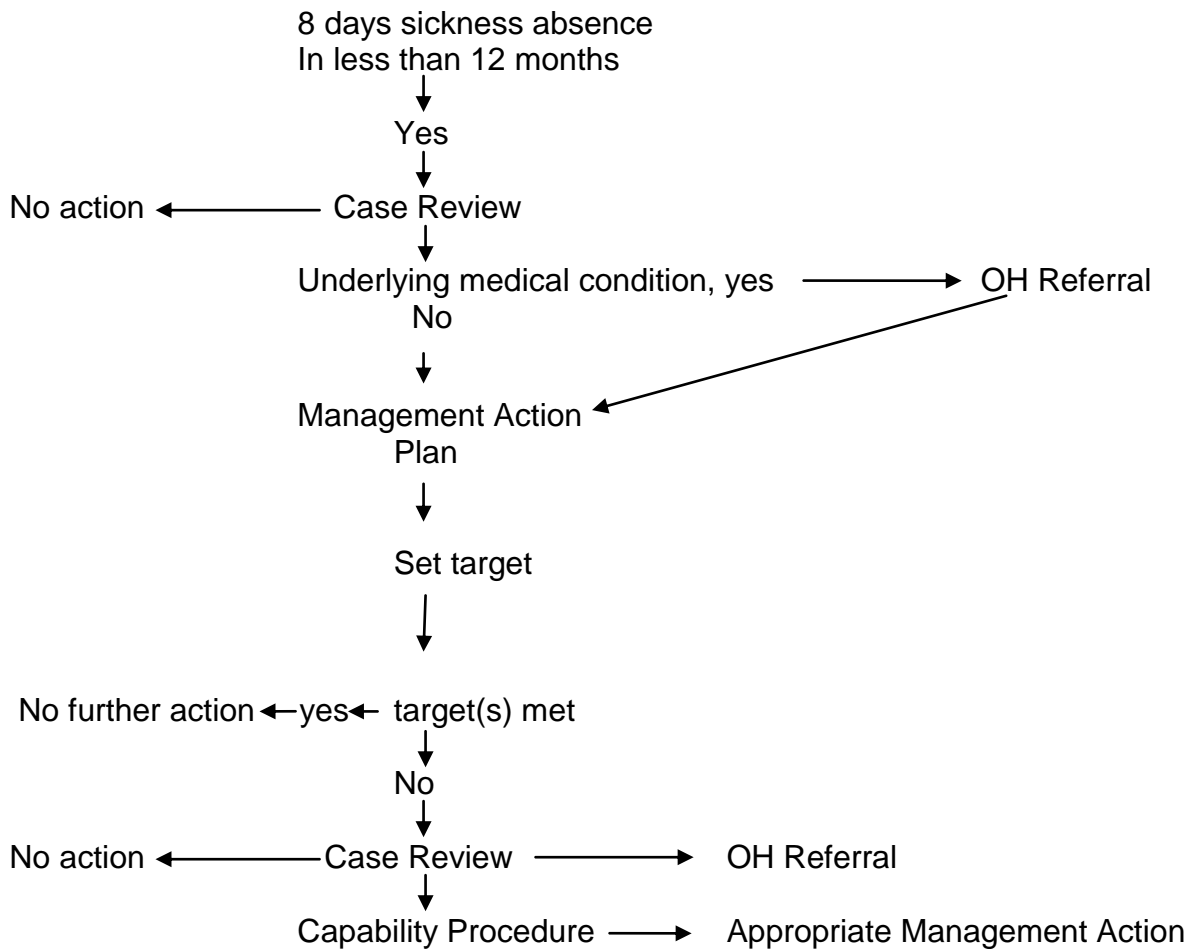
If an individual Waverley employee does not have an underlying medical condition, as advised by Waverley's Occupational Health Adviser, the employee will be expected to have (pro rata for part time staff who do not work a five day week):

not more than 8 days sickness absence per year.

If an employee has 8 days sickness absence in less than a 12 month period (pro rata for part time staff who do not work a 5 day week), their manager will:

- conduct a Case Review i.e. investigate the detail of the reason(s) for absence and the impact on the service and colleagues plus determine any support measures to maximise employee's fitness for work (e.g. reduction in hours etc).
- and, at the return to work interview, decide on one of the following three actions and confirm it in writing to the employee: (please refer to Section: Return to Work Interview)
- No further action anticipated (e.g. in cases such as an operation or other event which is not expected to result in further sickness absence).
- Occupational Health referral to obtain advice on an underlying medical condition and appropriate attendance target (e.g. employee indicates they have a physical or mental impairment which may have a substantial and/or long term effect their ability to carry out their normal duties to the performance standard required.) The manager will then refer to CMT for authorisation to refer to Occupational Health.
- Management Action Plan which may include the following:
 - Attendance: set a target. This would normally be no more than 2 days sickness absence for the next 3 months. If this target is not met, see section below.
 - Duties: set clear performance standards for duties/competencies.
 - Advice and support (as detailed above)

If an employee has an underlying medical condition, as advised by Waverley's Occupational Health Adviser, the manager will ask the Occupational Health Adviser for an assessment to assist the manager to set an appropriate attendance target.



Case Review = investigate: - reason(s) for absence
 - impact on service and colleagues
 - advice and support measures to maximise employee's fitness for work

Consequences of not meeting performance standard

Waverley is committed to providing excellent services and developing a high performing team through operating first-class human resources policies and practices. Most staff are able to meet the required performance standards referred to above without the need for support and the Council has a strong track record of successfully supporting those staff who do need support, to meet the required standards.

Those staff who have an underlying medical condition will continue to be monitored and supported in the light of advice from our Occupational Health provider.

On the occasions when fit for work issues are not resolved through the detailed procedures set out in this policy, they will ultimately be progressed using the formal stages of the Capability Procedure starting at Stage Two of that procedure (first written warning).

Overview

Waverley actively manages sickness absence and has a low level of sickness absence.

To put sickness absence in context, it is useful to look at Waverley's overall performance target in relation to sickness absence together with the average level of employee sickness absence in the UK, both of which inform Waverley's expectation for an individual employee's attendance.

The Executive agreed in April 2010, that Waverley will have overall target of an average of 5.5 days sickness absence for the organisation as a whole. Waverley's Performance Management Framework contains a number of National Indicators and locally defined indicators that assist Members and officers in identifying current improvements, priorities and progress against the objectives set out in the Council's Corporate Plan.

The 2010 CIPD Absence Management Report states that the average level of employee absence in the UK is 7.7 days per year. In the public sector that figure is 9.6 days per year, in the non-profit sector it is 8.3 days and in the private sector it is 6.9 days (manufacturing) 6.6 (services).

The CBI report in May 2011 shows a public sector average of 8.1 days a year compared with 5.9 days in the private sector.

Sick Pay

The Fit for Work Policy is to also be read in conjunction with the Sick Pay Policy.

PROCEDURE

Our Fit for Work procedure is designed to provide clear processes and procedures to:

- maximise attendance and high quality service delivery
- minimise work related causes of sickness absence
- ensure all employees are aware of their rights and obligations under this policy
- ensure all managers apply the policy consistently
- obtain medical advice through Occupational Health where appropriate
- offer employee support through the Employee Assistance Helpline
- apply the formal capability procedure.
- consistently review and record levels of sickness absence across the Council.
- comply with the Equality Act (previously Disability Discrimination Act)

The procedures cover the following:

- **Special Considerations**
 - **Disability**
 - **Maternity**
 - **Confidentiality**
- **Responsibilities**
 - **Employees**

- **Managers**
- **Reporting Absence**
- **Keeping in Touch**
- **Medical/Fitness for Work Certificates**
- **Trigger Points**
- **Short Term Absence**
- **Long Term Absence**
- **Return to Work Discussion**

Special considerations

While actively supporting the employee to maximize their level of fitness for work, managers are required to be aware of the following:

Disability related absence

The Equality Act (previously Disability Discrimination Act) gives legal protection against discrimination of disabled people. The Act places responsibilities on all employers when either recruiting or employing disabled people. Where the effects of an employee's disability results in sickness absence, Waverley's Occupational Health Advisor will give advice on the detail of Waverley's responsibilities in terms of 'reasonable adjustments to be made' in relation to sickness absence management

This action means that the individual's attendance record will be assessed differently from other employees and will inform management action in relation to that level of attendance.

Maternity related sickness absence

Managers need to ensure that employees are not discriminated against as a result of maternity related sickness. The Pregnant Workers Directive provides that maternity related sickness absence during protected periods must not be taken into account as grounds for subsequent dismissal. The protected period is from notification of inception of pregnancy to the end of the woman's maternity leave. The Maternity and Parental Leave Regulations 1999 also give protection from detriment or dismissal in connection with pregnancy. Dismissal for pregnancy related absence/illness is automatically unfair.

Confidentiality

The reasons for sickness absence may sometimes be very personal or private. This may make it difficult to explain the sickness absence to an immediate manager. If this is the case the employee may, exceptionally, wish to talk either to a more senior manager within their team or with a Human Resources Business Partner.

Information relating to an employee's health is only disclosed to those who have a direct involvement in dealing with the case and/or are involved in Waverley's sickness absence monitoring process.

Responsibilities

Employees' responsibilities:

- take appropriate steps to look after their own health and wellbeing.
- actively maximise their level of fitness for work, for example:
 - discuss options such as working from home, part time working, temporary or permanent reduction in hours/duties/redeployment to help them continue to work rather than be absent
- follow the required absence notification/recording procedures (see below).
- take appropriate steps to aid their own recovery.
- co-operate with their manager in any Case Review.
- co-operate with their manager to support their return to full capacity.
- attend an Occupational Health appointment, or be available for an Occupational Health telephone consultation, when requested to do so.

Managers' responsibilities:

- Provide a working environment that is conducive to enabling staff to perform safely and to a high standard.
- actively support the employee to maximise their level of fitness for work, for example:
 - discuss options such as working from home, part time working, temporary or permanent reduction in hours/duties/redeployment to help the employee continue to work rather than be absent
 - provide reasonable support to those with ill health to return to work at full capacity at the earliest opportunity.
- take action where attendance levels fall below required performance standard
- action the fit for work processes detailed in this document when the health of a member of their staff impacts on their ability to fulfill the requirements of their job.
- follow the required absence recording procedures
- keep in touch with absent employees.
 - The manager will consult with the employee to ensure that:
 - the manager is always aware of the date on which the employee is due to return to work.
 - Any measures to support the employee's return to work are in place.
- obtain information needed to inform the support to be provided on the employee's return to work (e.g. OH reports)
- support employees through their return to work, acting on advice provided.
- reassessing the employee's work if any changes are recommended. (risk assessment and reasonable adjustments).
- hold return to work discussions after each absence
- remind employees of the Private Medical Insurance Scheme and Employee Assistance Helpline, if appropriate
- review sickness absence of their teams regularly and consistently
- set attendance targets and follow, where appropriate, the formal Capability procedure.
- Action their duties as manager as required by the Stress Management Policy and First Aid Policy, as appropriate
- [Stress Management Policy](#)

- apply the Fit for Work procedures fairly and consistently.

Reporting absence

If an employee is unable to attend work due to ill health, they are required to inform the sickness reporting line by telephone before their normal time of arrival (see detail below).

If an employee becomes sick during the working day and leaves work before their normal finishing time they must notify their line manager and contact the sickness reporting line.

The current arrangement is as detailed below. However, the Council reserves the right to amend this, with reasonable notice, as required. An employee must:

- telephone FirstCare Ltd on 0333 321 0270 at least one hour before their normal time of arrival on the day on which they are absent, giving the reason for absence and likely duration of absence;
- complete a self-certificate form on their day of return (including days which are not your normal working days). Their Supervisor will supply them with this form;
- send a Doctor's Certificate to their Supervisor if they are absent for more than seven days. They will need to request this Certificate from your Doctor.
- telephone FirstCare Ltd again on the day they return to work to close their absence.

In the event of an accident at work it is important to ensure that the accident reporting procedure is followed.

Keeping in touch

Employees are required to continue to inform the sickness reporting process of their absence and expected return to work date.

For arrangements relating to long term absence, see the Long Term Absence section.

Medical / Fitness for Work certificates

Employees are required to submit one of the following medical certificates to their line manager. NB: this is a requirement under the Sick Pay Policy.

- A Doctor will issue a fit for work certificate if an employee has been absent due to sickness for more than 7 calendar days.
- For less than 7 calendar days, the employee will complete a self certificate form which will be sent to them by the HR Admin Team on the employee's return to work.

Trigger points

A manager has a responsibility to monitor and take immediate action in the following circumstances:

- Where there are concerns about an employee's absences, absence levels or absence patterns.

- Frequent Absence – 8 days in 12 months (pro rata for part time staff)

SHORT TERM ABSENCE

Frequent short term absence is usually unpredictable and sometimes attributable to minor ailments that may be unrelated. See above trigger points.

Return to work interview for short term absence

Return to work interviews are a key factor in reducing absence rates and improving communication between managers and employees. The manager will hold a return to work interview in private with the employee on their first day back at work. The return to work interview will be recorded on a return to work discussion form and signed by both the employee and manager.

The manager will also confirm the return to work discussion in writing to the employee and, if addressing an absence of more than 8 days in a 12 month period, keep a copy on the employee's personal file. If addressing an absence of less than 8 days in a 12 month period, the manager will retain the copy.

The purpose of the meeting is to: examine the reasons, pattern and nature of the absence with a view to finding whether there is an underlying medical condition or other issues contributing to the level of absence, identify ways to support the employee to operate at full capacity, set targets for attendance and explain the consequences of those targets not being met.

The meeting will include the following, as appropriate:

- the levels and pattern of attendance.
- the underlying causes of the absence
- the likelihood of a recurrence of the illness, if known.
- what absence monitoring, in the form of return to work discussions, has taken place previously.
- suggestions from the employee on managing and improving the situation.
- whether medical advice from their GP/Consultant has been sought (NB: OH will expect the employee to have seen their GP)
- whether management action or other support is needed e.g. referral to OH, . **NB: CMT will decide when an OH referral is appropriate**
- Support measures : Employee Assistance Helpline, training or development opportunities, workplace equipment, flexible working arrangements, working from home, temporary or permanent reduction in hours/duties or other reasonable adjustments.
- The impact on the service of this employee's level of fitness for work
- a target for improvement of attendance, which will be set by the manager.
- monitoring arrangements.
- the timescale for review
- the likely action that may follow if the level or pattern of absence continues to give cause for concern.

If monitoring during the review period shows that the employee's attendance is no longer a cause for concern, the employee should be notified.

If monitoring during the review period shows that the employee's level and/or pattern of sickness absence continues, the manager will discuss the matter with the Head of Service who will decide on the next step which may include an OH medical referral and/or a Case Review which may trigger the Capability Procedure.

The manager will explain to the employee the reasons and possible outcomes of an OH referral and/or the Capability Procedure.

Referrals to Occupational Health

Corporate Management Team (CMT) receive regular information regarding employee sickness absence.

The purpose of a referral to Occupational Health is to obtain professional advice about the employee's fitness to perform their current job. It also enables Waverley to seek independent guidance as to any reasonable adjustments that can be made to support an employee with health issues to work at full capacity.

Waverley is entitled to request that an employee attends a medical assessment with OH and employees are contractually obliged to do this. However, employees do have a right under the Access to Medical Records Act 1988 to either see the Occupational Health report before it is sent to Waverley, or to refuse to allow information to be sought from their GP. In such cases, employees will be made aware that decisions will then be taken in the light of the information that is available to Waverley.

OH Reports

OH will send a confidential report to the HR Business Partner who will copy it to CMT and the relevant Head of Service. The Head of Service will discuss the report with the relevant manager.

This report is usually received within one week of the consultation.

On receipt of the OH report the Head of Service, supported by the HR Business Partner, will determine the most appropriate course of action. Options for support might include a mutually agreed and recorded phased return to work plan, temporary redeployment or permanent redeployment.

Managers will discuss the OH advice with the employee and provide them with a copy of the medical report from OH.

If OH indicate that the employee is permanently incapable of performing their normal job, the Council will consider ill health retirement and discuss this with the employee.

LONG TERM ABSENCE

The key principle is to ensure that a balance is achieved between the needs of the employee and the requirements of the service. Long-term absence is generally defined as a continuous period of absence lasting at least 4 weeks.

If an employee is on long term sickness absence, their manager will hold a case review on a regular basis and decide on one of the following actions:

- No further action (e.g. in cases such as an operation which is not expected to result in further sickness absence and a return to work date is clear)
- Set a target date to return to work, as advised by Occupational Health. If this target is not met, the Head of Service will conduct a Case Review. If appropriate, the Capability Procedure will be applied, starting at Stage Two of that procedure (first written warning) (add link).

Where an employee is absent through long-term sickness, there is a shared responsibility for the employee and the line manager to keep in regular contact with one another. The manager should determine the most appropriate way to stay in contact with the employee given the anticipated length of sickness and the individual circumstances of the case e.g. by letter, by telephone or through home visits. Home visits should only be undertaken with the employee's prior consent.

On each occasion the manager and employee should agree the date and form of their next contact. The line manager is advised to keep a record of all contacts made with the employee. Advice on how to maintain contact with the employee can be obtained from HR / OH; and in cases where an employee is off work with stress related illness, this guidance should always be sought.

The employee is required to keep their line manager informed of their ongoing medical condition. This will help inform discussions about reasonable adjustments that might enable the employee to return to work as soon as possible. The employee will also inform the manager when they anticipate returning to work.

Return to work interview for long term absence

Return to work following long term absence will require active support. The detail of this support will depend on individual circumstances and will be clarified with the employee prior to their return.

Possible discussion/action prior to return

- In certain circumstances, an OH referral will need to be undertaken in advance of the employee returning to work in order for any adjustment to be in place on the employee's first working day.
- Options for support might include a mutually agreed and recorded phased return to work plan, temporary redeployment or permanent redeployment.
- update the employee on key developments during their absence.
- review risk assessments and make any changes that are recommended.

- Offer appropriate support, where needed, to facilitate the employee's smooth return to work: the Employee Assistance Helpline, training or development opportunities, workplace equipment, flexible working arrangements, or other reasonable adjustments.
- confirm the timescale for review
- confirm monitoring arrangements

Return to work interviews are a key factor in reducing absence rates and improving communication between managers and employees. The manager will hold a return to work interview in private with the employee. As indicated above, some elements of this will need to be discussed in advance of the employee's return and some will be on their first day back at work. The return to work discussions will be recorded (on a return to work discussion form for those elements discussed on the first day back at work) and signed by both the employee and manager.

The manager will also confirm the return to work discussion in writing to the employee and keep a copy on the employee's personal file.

The discussion may include the following, as appropriate:

- welcome the individual back to work and let them know they are a valued and appreciated member of staff.
- review of the reason for absence and confirmation that they are fit to work
- identifying the next step in the absence management process.
- updating the employee on key developments during their absence.
- reviewing risk assessments and make any changes that are recommended.
- offering appropriate support, where needed, to facilitate the employee's smooth return to work: the Employee Assistance Helpline, training or development opportunities, workplace equipment, flexible working arrangements, or other reasonable adjustments.
- the timescale for review
- monitoring arrangements
- The impact on the service of this employee's level of fitness for work
- the likely action that may follow if the level or pattern of absence continues to give cause for concern.

Phased Return

If OH has advised a phased return to work, the manager, in consultation with HR, will agree with the employee how this is to be organised in a way which is both supportive and ensures the needs of the service are met. The Head of Service will confirm the details in writing to the employee. This will normally be before the employee's return to work.

The expectation is that the employee will return to full capacity within six weeks. If an employee does not return to full capacity within the specified period, these arrangements should be reviewed.

The employee's salary will be calculated on a pro rata basis to reflect their hours worked during this phased return. The normal hours of work which are not fulfilled will be dealt with as sickness absence.

Temporary redeployment

Where there is confirmation that the employee is currently unfit to carry out the full duties of their post, but could be temporarily redeployed to alternative work, OH will advise on the length of time the adjustment will be required.

In addition they will make recommendations about the kind of work the employee should be capable of performing and any particular tasks or duties that should be avoided. In these circumstances the manager should take guidance from their Head of Service before making a decision. Any temporary redeployment will need to be discussed and agreed with the employee and arrangements/terms and conditions of employment confirmed in writing by the Head of Service or, if the temporary changes result in a change of salary or sick pay, the letter will be written by the Head of Organisational Development. A copy of the letter will be held in the employee's personal file.

Where possible temporary redeployment will be offered to an employee to support their return to work. Where temporary redeployment is not possible, however, a manager is able to refuse this request and require the employee to remain on sick leave until they are fit to return to their normal duties. In these circumstances normal sick pay arrangements will apply.

Permanent redeployment

Where OH advises that the employee is permanently incapable of carrying out the duties of their current post and recommends that they are redeployed to a reasonable alternative, the report will include recommendations about the kind of work the employee should be capable of performing, as well as any particular tasks or duties that should be avoided.

The manager will take active steps to find suitable alternative posts for the employee. Advice can be sought from the Head of Service.

Where redeployment is not immediately or obviously available, the Capability Procedure will be followed, starting at Stage two of the procedure (first written warning).

Where dismissal from their current job is a possible outcome this will be explained. Redeployment opportunities can continue to be sought during the notice period.

A further referral to OH will be considered to establish whether ill health retirement pension benefits, if applicable, would be appropriate.

Inability to return to work

Permanently incapable for work

OH may issue advice that recommends that an employee be retired on the grounds of ill-health. This would be where the medical practitioner has established that the employee:

- Is permanently incapable of discharging efficiently the duties of his/her employment because of ill-health or infirmity of mind or body AND,
- Has a significantly reduced likelihood of being capable of obtaining other employment, whether in local government or elsewhere, before state retirement age.

OH would arrange for a certificate confirming the above to be provided by a registered medical practitioner who has not previously been involved in the case. The medical practitioner would also provide an opinion as to which of the of ill-health pension benefits the Council should award. This will be discussed in detail with the employee by the Head of Service and HR Business Partner and will be linked to the pension regulations applicable at that time.

In these circumstances managers are required to follow the procedures for holding a meeting under stage four of the Capability Procedure (dismissal). The manager must notify the employee that OH have advised that the employee may be retired on grounds of ill health and invite them to attend a meeting under the stage four of the Capability Procedure (dismissal). The notification must ensure that the employee is clear about the purpose of the meeting and the issues to be addressed, including the fact that termination of employment for reasons of ill health is to be considered at that meeting.

Managers are advised to seek guidance from their HR Business Partner when a 'permanently incapable for work' report is received.

Appeals

As with any decision to terminate employment, an employee has the right of appeal against the decision to terminate his/her employment on the grounds of ill health. The employee should write to their Head of Service within 10 working days of the receipt of the letter notifying them that their employment will be terminated on the grounds of ill health. Since appeals are part of the formal procedure, the appeal will be dealt with under the procedure for appeals set out in the Capability policy.

Serious illness

In all cases of serious illness, the Head of Service is to notify the Chief Executive who will personally write a letter to the employee.

Handling cases of terminal illness/death in service

In the case of a terminally ill employee, there is a particular need to consider the individual circumstances of the case in a compassionate and sensitive way which, as far as is reasonable:

- takes account and acknowledges the wishes of the employee and, if appropriate, their family.
- makes advice and information about the options open to the employee and their family readily available to them, as appropriate .

Advice about death in service and/or superannuation benefits for the employee or their dependents should be sought from HR.

An employee and their family should be given a named manager as their key contact point, in order to ensure that they are responded to promptly and efficiently, with dignity and compassion.

Arrangements for sick pay

Where it is agreed that an individual is eligible for sick pay, the sick pay policy will be applied.

Person/policy/fit for work policy

Pathways to Retirement : Policy

By law, the default retirement age is ended with effect from 1st October 2011 and was phased out over a transitional period from 6th April to 30th September 2011.

Therefore, Waverley is replacing its Policy for Employment Over the Age of 65 with a new 'Pathways to Retirement' Policy.

In accordance with recommended practice, Waverley will facilitate the transition from work to retirement, for both the individual and the council, in a planned and supportive way.

The aim of this policy is:

- To clarify when staff can retire from Waverley and highlight retirement choices.
- To recognise that not all staff will wish to retire at the same time.
- To retain high performing staff until they choose to retire.
- To comply with local government pension regulations.
- To comply with the legislation regarding the cessation of default retirement age.
- To apply the principles of diversity and equal opportunities, with regard to age in particular.

There is now greater choice for employees, in discussion with their managers, to work together to agree an appropriate date to retire. Under The Pathways to Retirement Policy, as part of the annual appraisal, managers and employees will be expected to discuss their future career development including, where appropriate, retirement plans.

Whatever option is considered, Waverley will continue to support colleagues through our retirement preparation programmes and actively support requests for flexible retirement (i.e. access to pension and continue to work on reduced hours) and/or flexible working where appropriate.

Some employees may become eligible to draw their pension when they reach the age of 60 and may wish to consider retirement at this stage. Other employees may wish to retire at 65 or at a later date.

As indicated above, discussions about possible retirement options should take place in appropriate cases between managers and employees in the appraisal meeting. In the vast majority of cases, decisions will be reached mutually at a time which works for the service (based on outstanding work commitments) and the employee, taking into consideration the employee's intentions.

However, there may come a time when managers may have suitable grounds to initiate a termination of employment, which may not be mutually agreeable.

Where it is not possible to mutually agree, in law, this would mean that Waverley would follow a formal process, as for any other termination of employment. The formal procedure means using one of the five fair reasons for dismissal (capability, redundancy, conduct, illegality or 'some other substantial reason'). Managers will need to ensure that their decisions do not discriminate against an employee because of age, disability, or any other unfair reason.

In summary, Waverley will consistently apply the majority of its policies and procedures to all staff, irrespective of age.

An example of where this will not be the case is in 'Insured Benefits' By law, these benefits (such as **private medical insurance**) will be exempt from the principle of equal treatment on the grounds of age and Waverley will cease to provide or offer these benefits once the employee has reached State Pension Age even if they decide to continue working beyond that age.

Detailed guidance is provided for managers when discussing retirement options with employees.

PROCEDURE/GUIDANCE

Pathways to Retirement

If a member of staff wishes to retire, one of the following will apply:

Options following the workplace discussions

Where an employee indicates that they wish to retire at some future date, they may discuss adjusting their working hours, reducing their duties or altering their role leading up to retirement. If an employee confirms that they wish to retire, they will be asked to put this in writing to the line manager.

NB: The manager is responsible for making arrangements for the implementation of the agreed outcome.

- **Continue working** - One option is to continue working in the same capacity until the agreed retirement date.
- **Flexible working** - An employee may opt to:
 - apply to work more flexibly (including part-time working) or
 - apply for another role within the Council.

All such requests will be actively supported wherever possible in accordance with the provisions of the Flexible Working Policy. (add link)

- **Flexible retirement** – requests for flexible retirement will be actively considered and will be progressed in line with the Flexible Retirement Policy. **(add link)**
- **Retire** – leave Waverley and access pension, if eligible to do so.
- **Resign** – leave Waverley.

As part of the above process, Waverley will clarify for the employee their pension entitlement.

RETIREMENT GUIDANCE

1. Workplace discussions in conjunction with annual appraisal

Open discussion, between managers and employees about future plans, conducted in an atmosphere of trust, can help facilitate the transition from work to retirement for both the individual and the council. This will allow employees to have conversations in good time with their managers, and with sufficient information, to be able to make the right decisions about their future plans including retirement.

The purpose of the meeting, in addition to considering work objectives, will be to discuss retirement or flexible working options. It will enable the employee and their manager to identify the course of action and what options are available. This part of the meeting will be held in an informal and supportive manner.

Irrespective of the age of an employee, forward looking discussions about career aspirations, can help a manager to best identify how they can support these aspirations through development and other options. A framework may be useful for carrying out these discussions:

- Performance to date against targets, activities and outcomes
- Personal Development or training needs
- Service / Team future plans in line with Service priorities
- Aims and aspirations of the employee
- Future performance in line with Waverley's appraisal process.

Objectives, targets and work expectations will vary for all employees in line with the appraisal process. All performance would be managed in line with the annual appraisal objectives and council's management standards. In situations, where the level of poor performance becomes unsustainable, the normal process of capability policy will need to be initiated.

A useful exercise is to ask employees about plans and aims for:

- the short term
- the medium term
- the long term.

This will help managers to organise training and development and appropriate succession plans. It also allows employees to focus their future goals. When discussing future plans, managers also need to think about their resources, including the requirements of the job, local skills-mix.

As with all appraisals, the outcome of the workplace discussion must be recorded and given to the employee.

Pensions

An employee, who is a member of the Local Government Pension Scheme is entitled to remain in the Scheme until they reach 75 years of age, if they decide to continue working.

Fairness and inclusion

Over time, employees may experience more medical conditions. This may result in the need to make adjustments to support any individual needs. We also fully expect that employees of all ages will have fair access to workplace opportunities to allow them to progress and develop in their role. This includes promotion, secondment, training and other development opportunities.

It should be noted that there will be an ongoing review of the cost of reasonable adjustments in the workplace/ equipment due to health issues under the Equality Act (previously DDA).

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Disciplinary Policy

Waverley aims to help and encourage all employees to achieve and maintain high standards of performance and attendance by actively managing staff through clear processes and procedures. The Policy aims to ensure fair, equitable and consistent treatment of staff whose performance is below the required standard because of misconduct.

For issues of attendance, this policy should also be read in conjunction with the Absence Management Policy and/or Whistle Blowing Policy, where appropriate.

For issues of capability, e.g. cannot achieve a satisfactory level of performance or attendance through no fault of his/her own, for example as a result of poor health, please refer to the Capability Policy.

Overview

Discipline is essential to the continued well-being of the Council. Managers are able to apply sanctions against an employee whose actions are unacceptable and employees need to be aware that managers are dealing with such matters fairly and consistently.

The disciplinary procedure should not be viewed as only a means of imposing sanctions and is designed to emphasise and encourage improvement in an employee's conduct.

As described above, this policy aims to set Waverley's performance and attendance standards. If performance or attendance standards are not met, the option to dismiss remains, as a last resort.

NB:

- The procedures for Redundancy, Capability and Discipline for the Head of Paid Services are covered by the National Conditions of Service Handbook for Local Authority Chief Executives.
- Section 151 Officer and Monitoring Officer are not covered by the processes below. The procedures for Capability and Discipline for these posts are covered by the National Conditions of Service for Local Authority Chief Executives.
- Directors are not covered by the processes below and are covered by the National Conditions of Service for Local Authority Chief Officers.
- Trade Union Officials: employees holding Trade Union office are subject to the procedure below. However, no disciplinary action beyond an oral warning will be taken until the circumstances of the case have been discussed with a full-time official of the Union concerned. This does not, however, prejudice the right of the Council to suspend the employee concerned pending investigation, if that action is considered appropriate. The term 'Trade Union Official' refers to any employee holding elected office in a Trade Union recognised by the Council.

PROCEDURE

- This procedure is based on the ACAS Code on Disciplinary Procedures.
- Employees can expect to have regular discussions with their manager so that standards of performance or attendance can be discussed and reviewed.
- Any shortcomings in the employee's performance or attendance will be investigated and raised as promptly as possible with them and the underlying reasons discussed, with the opportunity to state their case before any decision is made.
- The investigation will gather factual, measurable evidence.
- Employees will receive appropriate support, coaching, training and resources to help them achieve and maintain a satisfactory level of performance within an agreed timeframe.
- The employee will have the right to be accompanied by a work colleague or trade union representative at all formal stages of the procedure.
- If the employee or accompanying person cannot attend a formal meeting, another meeting will be arranged, to take place within five working days of the original date. This timescale can be extended with mutual agreement.
- The employee will receive a written explanation of any action taken. If this is a warning, the employee will also receive an explanation of what improvement is expected, within what timescale, and when and how their performance/attendance will be reviewed and the consequence of the required improvement not being met.
- If an employee has difficulty reading, or if English is not their first language, the manager will explain the content of any written correspondence to them orally and/or use a translation service if appropriate.
- If the employee has a disability, all elements of the procedure will take this into account, including whether any reasonable adjustment is needed.
- The employee will have the right to appeal against any disciplinary penalty imposed.
- The procedure may be implemented at any stage that the Council reasonably requires.

Powers to Take Action under the Disciplinary Procedure

Action under this procedure may be taken by the following levels of manager supported by Human Resources:

(Please read the procedures detailed below before taking action)

Written Warning – may be given by a Line Manager to the employee subject to the disciplinary procedure and in consultation with the Head of Service.

Final Written Warning - may be given by the relevant Head of Service to the employee subject to the disciplinary procedure.

Suspension – may be decided by a Strategic Director.

Dismissal - may be given by a Strategic Director in consultation with the Chief Executive to the employee subject to the disciplinary procedure.

Disciplinary action against a Head of Service will be taken by a Strategic Director in the first instance.

The Leader of the Council and the Portfolio Holder for Human Resources will be informed of any formal action taken at the earliest opportunity.

Initial Review

The day to day supervision of employees is outside the scope of this procedure. It is the responsibility of all managers to monitor their staff and ensure that employees understand what is expected of them with regard to both work performance and attendance standards.

The first stage in dealing with poor job performance or attendance is to determine whether the matter is one of capability or misconduct. The Disciplinary procedure is used if the employee fails to reach the required standard of performance or attendance as a result of negligence, deliberate misconduct or deliberate lack of effort.

Investigation

Before disciplinary action is taken, an investigation will be carried out in order to gather factual, measurable evidence.

In many cases, the manager will carry out the investigation together supported by an Auditor and HR Business Partner.

In more complex or serious cases, the investigation will be carried out by an independent manager nominated by the employee's Head of Service supported by an Auditor and HR Business Partner.

The Council reserves the right to nominate any other person to conduct the investigation where it is considered appropriate.

The person leading the investigation is known as the Investigating Officer.

The employee will be notified in writing that an investigation is to be undertaken and that its purpose is to establish the facts and determine whether there is a case to be progressed under the Disciplinary Procedure.

(see also Section: Suspension)

The investigatory interview is not disciplinary action. The employee has the right to be accompanied by a trade union representative or work colleague.

The investigation will be conducted as quickly as possible and, in most cases, it will be expected to be completed within 20 working days. If this is not the case, the employee will be informed and given an explanation for the delay and informed when the investigation is expected to be completed.

As soon as is reasonably practicable after the conclusion of the investigation (normally within 5 working days), the employee will be notified in writing that the investigation is complete.

The Investigating Officer will decide, on the evidence gathered, whether there is a case to be progressed under the Disciplinary Policy.

The Investigating Officer would present the investigation to the Disciplinary Hearing.

Suspension

There may be instances where suspension with pay is necessary while an investigation is carried out. This would normally be in cases where the allegation if upheld would constitute gross misconduct.

Suspension will only be implemented after careful consideration by a Strategic Director and with the support from the HR Business Partner and will be kept under review. Suspension does not represent disciplinary action and does not involve any prejudgement or assumption of guilt.

Any decision to suspend will be confirmed in writing by the Strategic Director with support from the HR Business Partner. The written confirmation will state the nature of the allegation, that the suspension is precautionary and is not a disciplinary act, pending the outcome of the investigation and any subsequent disciplinary proceedings. Reference will be made to the Whistle Blowing Policy if relevant.

Disciplinary Hearing

The intention of the hearing is to ensure that every opportunity is given for the employee to state their case.

The line manager (or delegated representative), or in more serious or complex cases, the Strategic Director (or delegated representative), will notify the employee in writing at least 48 hours before a hearing takes place. If the allegations are serious and the employee requests more time to prepare their case, then a further 3 working days notice may be given. The letter will contain details of:

- The reason for the hearing
- A full copy of the investigation report
- The date, time and location of the hearing
- The right of the employee to be represented or accompanied by a Trade Union representative or some other person of their choice. If the representative is an employee of Waverley, Waverley will co-operate wherever possible to allow them time to attend the hearing. They should seek permission from their manager to attend.

The procedure for the Hearing will be as follows:

- (a) The disciplinary hearing will normally be conducted by the immediate line manager - except in an alleged case of gross misconduct when it would be conducted by a Strategic Director - together with the HR Business Partner (or their delegated representative).
- (b) The Investigating Officer will present the investigation report giving reasons why the employee's conduct is thought to warrant disciplinary action.
- (c) The employee will be entitled to ask questions relating to the alleged misconduct, to put their case and call witnesses.
- (d) The person accompanying the employee has the right to address the hearing to put the employee's case, sum up the case and respond on the employee's behalf, if the employee has indicated that they wish them to do so.
- (e) If the employee is unable to attend and it is reasonable to continue with the hearing, the employee's representative will be invited to attend and respond on behalf of the employee.
- (f) If the manager considers that further investigation or discussion is necessary, the hearing may be adjourned for a specific time.
- (g) At the conclusion of the hearing, the manager and HR Business Partner will adjourn to consider the information. In serious or complex cases, the adjournment will be until the following working day.

The employee will be informed of the decision verbally and in the presence of their representative and, if appropriate, their right of appeal.

The decision will be confirmed in writing by the manager, or for more complex cases, the Strategic Director, within five working days of the Hearing.

Performance (Formal: Stage One)

When the manager is concerned about an employee's performance or conduct, the manager should carry out an investigation (see above section: Investigation) to gather factual, measurable evidence and then hold a meeting (not a disciplinary hearing) with the employee to:

- discuss where the employee is not meeting the required standard of performance or conduct, with specific factual, measurable examples as evidence

The manager will:

- discuss what action is required to remedy the situation
- set specific targets and a timescale for improvement
- set a timescale for review
- explain that the formal process will apply if the performance or attendance standard is not achieved.

The manager will then give the employee an Improvement Action Plan in writing which will be regularly reviewed and assessed by the manager in conjunction with the employee. A copy of this Action Plan will be kept on the employee's personal file.

If the required performance standards are met, the manager will confirm this with the employee in writing and a copy will be kept on the employee's personal file.

If the required standard of performance is not met, the matter will be dealt with under the formal stage two of this procedure.

(Formal) Stage Two – First Written Warning

This stage applies where an improvement has not been achieved through the initial review. The line manager will write to the employee to detail the nature and evidence of the poor performance and the reasons why this is not acceptable.

The letter will invite the employee to a Disciplinary Hearing to discuss the problem and will inform them of their right to be accompanied by a trade union representative or work colleague.

At the meeting, the manager will discuss their concerns with the employee and confirm the required performance standards with the member of staff and a time period over which improvement will be expected.

The manager will also confirm how the individual's performance will be monitored and when review(s) will take place.

The manager will warn the employee that a failure to improve within the required timescale could result in a final written warning and ultimately, dismissal.

The employee will be advised of their right of appeal.

This information will be confirmed in writing by the manager to the employee as a first written warning no later than ten working days after the meeting. The written warning will state:

- the nature of the offence
- the decision that a first formal written warning is being given and that it will be recorded on the employee's file
- the period of time that the warning will remain on the employee's file
- the improvement required and the timeframe for this to take place
- the employee's right of appeal against this decision
- that the employee is advised to consult their Trade Union Representative or some other person of their choice

If the employee does appeal, an appeal meeting will be held and the employee will again have the right to be accompanied by a trade union representative or work colleague.

The employee will be informed in writing of the decision of the appeal.

NB: Where an employee is persistently unwilling or unable to attend a meeting, the Council will make a decision based on the available evidence, in the employee's absence.

A first written warning under this procedure will remain 'live' for six months, i.e. the performance standard set is to be achieved during that six month period. This may be extended in appropriate circumstances (e.g. where a period of training is required which will not be completed within six months or where a 12 month period is required to monitor sickness absence).

A copy of the letter will be kept on the employee's personal file until the process is no longer 'live'(i.e. the performance standard has been met) and thereafter will be removed and retained on a strictly confidential management file but will not be further used in any formal process.

If the employee's performance improves adequately within this period, then the process will terminate at this stage. The manager will confirm this with the employee in writing.

If performance remains unsatisfactory, then Stage Three of this procedure (final written warning) will be invoked by the manager. If it becomes apparent that the performance target has not been met, e.g. in the case of attendance, the next stage of the procedure would be invoked before the end of the 6 (or 12) month period.

(Formal) Stage Three – Final Written Warning

This stage can be applied where:

- a further offence occurs after a First Written Warning

or

- the first offence is such that it does not warrant dismissal but is serious enough to take stringent action.

The Head of Service (or designated representative) will write to the employee to detail the nature of the poor performance or attendance and the reasons why this is not acceptable. The letter will invite the employee to a Disciplinary Hearing to discuss the problem and will inform them of their right to be accompanied by a trade union representative or work colleague.

At the Disciplinary Hearing, the Head of Service (or designated representative), supported by Human Resources, will discuss their concerns with the employee and confirm the performance or attendance standards with the member of staff and a time period over which improvement will be expected. The Head of Service will also confirm how the individual's performance will be monitored and when review(s) will take place.

The Head of Service will warn the employee that a failure to improve within the required timescale could result in dismissal.

The employee will also be advised of their right of appeal. This information will be confirmed in writing to the employee by the Head of Service within ten days of the meeting.

A final written warning under this procedure will remain 'live' for twelve months, although this may be extended in exceptional circumstances such as where further concerns are raised about the employee's performance or attendance but these are not sufficiently serious to invoke Stage Four of this procedure (dismissal, demotion or redeployment) and the Council is able to reasonably expect that an extended period will enable the employee to reach the required standard of performance.

A copy of the letter will be kept on the employee's personal file until the warning is no longer 'live' and thereafter will be removed and retained on a strictly confidential management file but will not be further used in any formal process.

If the employee's performance improves adequately within this period, then this will be confirmed in writing by the Head of Service and the process will terminate at this stage.

If performance or attendance remains unsatisfactory, then Stage Four of this procedure will be invoked by the Head of Service. If it becomes apparent that the performance target has not been met, e.g. in the case of attendance, the next stage of the procedure would be invoked before the end of the 12 month period.

(Formal) Stage Four – Dismissal (or demotion or redeployment if available)

Where a further offence occurs after a final written warning or after a warning for a serious breach of discipline, the employee may be dismissed.

The Director (or designated representative) will write to the employee to detail the nature of the poor performance or attendance and the reasons why this is not acceptable.

The letter will invite the employee to a Disciplinary Hearing to discuss the problem and will inform them of their right to be accompanied by a trade union representative, work colleague or other person of their choice.

If, following the Disciplinary Hearing, it is considered that dismissal is warranted, the decision to dismiss will be made in consultation with the Chief Executive. The dismissal of an employee will be confirmed in writing within two working days, signed by the Strategic Director.

The written confirmation will state:

- the reason(s) for the dismissal
- the employee's right of appeal against the decision and that any appeal should be submitted within ten working days
- the period of notice and the arrangements for the completion of such notice
- that the employee is advised to consult their Trade Union Representative or some other person of their choice.

The Leader of the Council and the Portfolio Holder for Human Resources will be informed at the earliest opportunity of the action taken.

(Summary Dismissal – see below)

Gross Misconduct

Gross misconduct is a misconduct, whether by direct action or via the abuse of technology, of such a nature that the Council cannot reasonably allow the continued presence of the employee at the place of work and would therefore result in **summary dismissal** (see below).

Examples of gross misconduct which include examples which have led to the dismissal of local authority employees include:

- Unauthorised removal of Council property
- Stealing from the Council, its members, staff or the public or other offences of dishonesty
- Malicious damage to Council property
- Corrupt or improper practice i.e. where an employee uses their official position for private advantage or for the private advantage of some other person, or when an employee obtains benefit indirectly from a fraud carried out for the direct benefit of a third party
- Physical violence or bullying
- Serious misuse of the Council's property or name
- Deliberately accessing, on the Council's computer system, internet sites containing pornographic, offensive or obscene material
- Serious insubordination
- Unlawful discrimination or harassment
- Bringing the organisation into disrepute
- Serious breaches of health and safety regulations

This list is not exhaustive and it is acknowledged that there may be other offences of similar gravity which would constitute gross misconduct.

If in the light of preliminary investigation it is considered that the case is one of possible gross misconduct, a decision will be taken to either:

- Hold a disciplinary hearing to consider summarily dismissing the employee

Or

- Suspend the employee pending further investigations, followed by a hearing to consider dismissal if it is decided that an offence of gross misconduct has been committed by the employee.

In all cases of gross misconduct, the Strategic Director has the authority to dismiss. However, The Head of Strategic HR and the Chief Executive will be consulted before this decision is finalised.

The Leader of the Council and the Portfolio Holder for Human Resources will be informed at the earliest opportunity of any action taken.

Summary Dismissal

If the employee is summarily dismissed, the written confirmation (See Dismissal Section above) will confirm:

- The decision to summarily dismiss.
- The detail on which the decision was based.

- The fact that summary dismissal means that the final date of employment is the date on which letter is written.
 - With no contractual notice.
 - No payment of outstanding annual leave or flexi leave.
 - An invoice will be sent for any overpayment of salary.
- The right of appeal.

Appeal Procedure (Disciplinary)

Stage One or Stage Two (Appeal)

If an employee wishes to appeal against formal action taken against them under this procedure, they must write to the manager who conducted the disciplinary meeting, with specific reason(s) for the appeal and within ten working days of being notified of the formal outcome of the meeting.

The purpose of the appeal is not to re-hear all the evidence presented at the initial meeting but to consider the employee's specific grounds for appeal and decide whether the initial decision taken was reasonable and consistent with other decisions made by Waverley in similar circumstances.

The employee's Head of Service will identify another Senior Officer, normally either a Head of Service or Strategic Director, who has not previously been involved in the detail of the case or the meeting, to chair the appeal on behalf of Waverley and give a final decision.

The employee will be invited to an appeal meeting which will be arranged as soon as is reasonable practical – usually to take place within one month of the receipt of the appeal. They will be informed of their right to be accompanied by a work colleague or trade union representative.

At the appeal meeting, the Senior Officer chairing the appeal will consider the information presented at the original meeting, together with any new evidence presented, and will allow the employee to comment on this. Any documentation produced as evidence should normally be exchanged at least three working days prior to the hearing date.

The employee will present their case first and once both sides have presented their case, the manager chairing the appeal and their adviser will adjourn to consider the decision.

The Senior Officer chairing the appeal can withdraw the penalty imposed and/or impose a less penalty, but can not increase the penalty.

The outcome of the appeal will be confirmed in writing, to the employee and copied to the relevant Head of Service, by the Senior Officer chairing the appeal within five working days of the appeal hearing.

Dismissal (Appeal)

Appeal against dismissal should be made in writing by the Appellant or their representative, to the Strategic Director who notified them of the dismissal, within ten

working days of receiving the letter terminating their employment. Their letter must indicate the reason(s) for the appeal. The reason(s) will be confined to the evidence presented at the disciplinary hearing and/or the reasonableness of the decision. No new evidence will be accepted unless, in exceptional circumstances, both parties agree to do so.

On hearing the appeal, the panel may confirm the decision to terminate employment or amend the terms or decide to re-engage the employee from the date of the original decision to dismiss (so that there is no break in continuous service). The decision of the panel will be given at the Appeal Hearing and/or in writing within three working days of the Appeal Hearing.

There is no further right of appeal.

The procedure for the appeal will be as follows:-

- (a) the Chief Executive will appoint an Appeals Panel (the membership of the panel is prescribed in Part 3 of the Constitution relating to Responsibility for Council functions,) which will meet within 20 working days from the date the letter of appeal is received;
- (b) the Appellant will be given notice in writing at least five working days in advance of the time and place of the hearing and will be allowed to be represented by their Trade Union Representative or some other person of their choice and will be able to call witnesses and produce documents relevant to the hearing;

The parties present for the duration of the Appeal Hearing will be as follows:

- Appeals Panel, Adviser and Secretary to the Appeals Panel
- Appellant and representative
- Chair of the Disciplinary Hearing and HR representative(s)

If all parties agree, the Investigating Officer(s) will also be present for the duration of the Appeal Hearing.

The witnesses for the Appellant and/or the Chair of the Disciplinary Hearing will be called to answer questions by the above parties and then be asked to leave.

- (c) the Appellant (or representative) will put their case and call witnesses.
- (d) the other parties will have the opportunity to ask questions of the Appellant and their witnesses.
- (e) the Chair of the Disciplinary Hearing will put their case and may call witnesses to answer questions from the above parties, ask them to leave and sum up their case.
- (f) the Appellant will sum up their case.
- (g) the Appellant and their representative, the Chair of the Disciplinary Hearing, Investigating Officer and HR representatives will then withdraw;

(h) the Appeals Panel, Adviser to the Appeals Panel together with the officer (who will not have been involved at any earlier stages of the process) appointed as Secretary to the Appeals Panel, will deliberate in private.

Where necessary, the Appeals Panel may require all other parties to be recalled if there are specific issues to be clarified.

At the conclusion of the hearing, the Appeals Panel will adjourn to consider the information. The adjournment will be until the following working day.

On hearing the appeal, the panel may:

- Uphold the decision of the Chair of the Disciplinary Hearing
- Amend and replace the decision of the Chair of the Disciplinary Hearing with an alternative decision
 - Re-instate and demote to a lower graded post
 - Re-instate and redeploy to an equivalent post (same terms and conditions of employment)
 - Reinstate to the same post with the same terms and conditions of employment

The Appeal Panel may decide to issue a final written warning with one of the above alternative decisions.

- Uphold the Appeal

The decision of the panel will be given at the meeting and will be confirmed in writing by the Chief Executive (or representative) on behalf of the Appeals Panel in writing within five working days of the meeting.

There is no further right of appeal.

Capability Policy

Waverley aims to help and encourage all employees to achieve and maintain high standards of performance and attendance by actively managing staff through clear processes and procedures. The Policy aims to ensure fair, equitable and consistent treatment of staff whose performance is below the required standard because of a lack of capability.

For issues of attendance, this policy should also be read in conjunction with the Absence Management Policy.

Overview

The policy and procedure deals with situations where:

- an employee's health makes it no longer possible for them to carry out their work to the required standard,
- and/or where an employee is unable to maintain a satisfactory level of work performance,
- and where this is not a matter of misconduct.

As described above, this policy aims to set Waverley's performance and attendance standards. If performance or attendance standards are not met, the option to dismiss remains, as a last resort. Under law, capability (defined either as performance or attendance related) constitutes a fair reason for dismissal.

NB:

- The procedures for Redundancy, Capability and Discipline for the Head of Paid Services are covered by the National Conditions of Service Handbook for Local Authority Chief Executives.
- Section 151 Officer and Monitoring Officer are not covered by the processes below. The procedures for Capability and Discipline for these posts are covered by the National Conditions of Service for Local Authority Chief Executives.
- Directors are not covered by the processes below and are covered by the National Conditions of Service for Local Authority Chief Officers.

PROCEDURE

- Employees can expect to have regular discussions with their manager so that standards of performance or attendance can be discussed and reviewed.
- Any shortcomings in the employee's performance or attendance will be investigated and raised as promptly as possible with them and the underlying reasons discussed, with the opportunity to state their case before any decision is made.
- The investigation will gather factual, measurable evidence.
- Employees will receive appropriate support, coaching, training and resources to help them achieve and maintain a satisfactory level of performance within an agreed timeframe.
- The employee will have the right to be accompanied by a work colleague or trade union representative at all formal stages of the procedure.

- If the employee or accompanying person cannot attend a formal meeting, another meeting will be arranged, to take place within five working days of the original date. This timescale can be extended with mutual agreement.
- The employee will receive a written explanation of any action taken. If this is a warning, the employee will also receive an explanation of what improvement is expected, within what timescale, and when and how their performance/attendance will be reviewed and the consequence of the required improvement not being met.
- If an employee has difficulty reading, or if English is not their first language, the manager will explain the content of any written correspondence to them orally and/or use a translation service if appropriate.
- If the employee has a disability, all elements of the procedure will take this into account, including whether any reasonable adjustment is needed.

Powers to Take Action under the Capability Procedure

Action under this procedure may be taken by the following levels of manager supported Human Resources.:

(Please read the procedures detailed below before taking action)

Written Warning – may be given by a Line Manager to the employee subject to the capability procedure.

Final Written Warning - may be given by the relevant Head of Service to the employee subject to the capability procedure.

Dismissal - may be given by a Strategic Director in consultation with the Chief Executive to the employee subject to the capability procedure..

The Leader of the Council and the Portfolio Holder for Organisational Development will be informed of any formal action taken at the earliest opportunity.

Initial Review

The day to day supervision of employees is outside the scope of this procedure. It is the responsibility of all managers to monitor their staff and ensure that employees understand what is expected of them with regard to both work performance and attendance standards.

The first stage in dealing with poor job performance or attendance is to determine whether the matter is one of capability or misconduct. The Capability procedure is used where the employee is clear about what is required of them, has received all appropriate training and support but still cannot achieve a satisfactory level of performance or attendance through no fault of his/her own, for example as a result of poor health.

If on the other hand, the employee fails to reach the required standard of performance or attendance as a result of negligence, deliberate misconduct or deliberate lack of effort, this will be dealt under the Disciplinary Procedure as misconduct.

Performance (Formal: Stage One)

When the manager is concerned about an employee's performance, the manager should gather factual, measurable evidence and then meet with the employee to:

- discuss where the employee is not meeting the required performance standard, with specific factual, measurable examples as evidence
- discuss what action is required to remedy the situation
- set specific targets and a timescale for improvement
- set a timescale for review
- explain that the formal process will apply if the performance or attendance standard is not achieved.

The manager will then give the employee an Improvement Action Plan in writing which will be regularly reviewed and assessed by the manager in conjunction with the employee. A copy of this Action Plan will be kept on the employee's personal file.

If the required performance standards are met, the manager will confirm this with the employee in writing and a copy will be kept on the employee's personal file.

If the required standard of performance is not met, the matter will be dealt with under the formal stage two of this procedure.

Attendance

Issues of absence due to sickness or disability will be dealt with through the Absence Management Policy. The formal stage addressing capability will start at Stage Two of this Capability Procedure (i.e. first written warning).

(Formal) Stage Two – First Written Warning

This stage applies where an improvement has not been achieved through the initial review. The line manager will write to the employee to detail the nature of the poor performance and the reasons why this is not acceptable.

The letter will invite the employee to a meeting to discuss the problem and will inform them of their right to be accompanied by a trade union representative or work colleague.

At the meeting, the manager will discuss their concerns with the employee and confirm the required performance standards with the member of staff and a time period over which improvement will be expected.

The manager will also confirm how the individual's performance will be monitored and when review(s) will take place.

The manager will warn the employee that a failure to improve within the required timescale could result in a final written warning and ultimately, dismissal.

The employee will be advised of their right of appeal.

This information will be confirmed in writing by the manager to the employee as a first written warning no later than ten working days after the meeting.

If the employee does appeal, an appeal meeting will be held and the employee will again have the right to be accompanied by a trade union representative or work colleague.

The employee will be informed in writing of the decision of the appeal.

NB: Where an employee is persistently unwilling or unable to attend a meeting, the Council will make a decision based on the available evidence, in the employee's absence.

A first written warning under this procedure will remain 'live' for six months, i.e. the performance standard set is to be achieved during that six month period. This may be extended in appropriate circumstances (e.g. where a period of training is required which will not be completed within six months or where a 12 month period is required to monitor sickness absence).

A copy of the letter will be kept on the employee's personal file until the process is no longer 'live' (i.e. the performance standard has been met) and thereafter will be removed and retained on a strictly confidential management file but will not be further used in any formal process.

If the employee's performance improves adequately within this period, then the process will terminate at this stage. The manager will confirm this with the employee in writing.

If performance remains unsatisfactory, then Stage Three of this procedure (final written warning) will be invoked by the manager. If it becomes apparent that the performance target has not been met, e.g. in the case of attendance, the next stage of the procedure would be invoked before the end of the 6 (or 12) month period.

(Formal) Stage Three – Final Written Warning

This stage applies where:

- the performance or attendance standard has not been met, due to a lack of capability, within the required timeframe after a first written warning. When an attendance target is not met, the full time period set to achieve the target does not need to apply.
- or, a demonstration of a lack of capability is serious enough to warrant applying stage three of this procedure.

The Head of Service (or designated representative) will write to the employee to detail the nature of the poor performance or attendance and the reasons why this is not acceptable. The letter will invite the employee to a meeting to discuss the problem and will inform them of their right to be accompanied by a trade union representative or work colleague.

At the meeting, the Head of Service (or designated representative), supported by Human Resources, will discuss their concerns with the employee and confirm the performance or attendance standards with the member of staff and a time period over which improvement will be expected. The Head of Service will also confirm how the individual's performance will be monitored and when review(s) will take place.

The Head of Service will warn the employee that a failure to improve within the required timescale could result in dismissal.

The employee will also be advised of their right of appeal. This information will be confirmed in writing to the employee by the Head of Service within ten days of the meeting.

A final written warning under this procedure will remain 'live' for twelve months, although this may be extended in exceptional circumstances such as where further concerns are raised about the employee's performance or attendance but these are not sufficiently serious to invoke Stage Four of this procedure (dismissal, demotion or redeployment) and the Council is able to reasonably expect that an extended period will enable the employee to reach the required standard of performance.

A copy of the letter will be kept on the employee's personal file until the warning is no longer 'live' and thereafter will be removed and retained on a strictly confidential management file but will not be further used in any formal process.

If the employee's performance improves adequately within this period, then this will be confirmed in writing by the Head of Service and the process will terminate at this stage.

If performance or attendance remains unsatisfactory, then Stage Four of this procedure will be invoked by the Head of Service. If it becomes apparent that the performance target has not been met, e.g. in the case of attendance, the next stage of the procedure would be invoked before the end of the 12 month period.

(Formal) Stage Four – Dismissal (or demotion or redeployment if available)

This stage applies when:

- a promoted employee is not capable of meeting the required standard of performance despite support and training, or having refused support or training (consider demotion).
- performance or attendance still fails to improve after a final written warning, or where performance or attendance levels have worsened before the end of the review period.
- or, a demonstration of a lack of capability is serious enough to warrant applying stage four of this procedure.

The Director (or designated representative) will write to the employee to detail the nature of the poor performance or attendance and the reasons why this is not acceptable.

The letter will invite the employee to a meeting to discuss the problem and will inform them of their right to be accompanied by a trade union representative or work colleague.

If the Director (or representative) is not satisfied that the employee's level of performance or attendance will improve within a reasonable timeframe, the employee will be dismissed with notice or, in exceptional circumstances where it is not possible for the employee to work their notice, a payment equivalent to their notice period. Alternatively, demotion to the

pay grade paid prior the promotion, or lower or redeployment to an alternative post, at the same pay grade or lower, may be considered as appropriate, at the discretion of the Council, if any suitable posts are available.

The employee will be informed in writing by the Director (or designated representative), as soon as possible, of:

- the reasons for decision, the date on which their employment will terminate,
- or that demotion or redeployment will apply, giving the detail of the terms and conditions that will apply and the possible consequences of refusing the offer,
- and of their right to appeal.

NB: If the decision is 'demotion', the employee's salary will not be protected and the salary for the post will apply.

If the decision is 'redeployment', the procedure detailed in the Redeployment Policy will apply.

If the decision is dismissal, the employee will be given notice or, in exceptional circumstances, pay in lieu of notice.

Investigation (Capability)

Before disciplinary action is taken, an investigation will be carried out in order to gather factual, measurable evidence.

In many cases, the manager will carry out the investigation, with advice and support from their HR Business Partner.

In more complex or serious cases, the investigation will be carried out by an independent manager nominated by the employee's Head of Service together with an HR Business Partner (or their nominated representative). The Council reserves the right to nominate any other person to conduct the investigation where it is considered appropriate.

The person leading the investigation is known as the Investigating Officer.

The employee will be notified in writing that an investigation is to be undertaken and that its purpose is to establish the facts and whether there is a case to be progressed under the Capability Procedure.

The investigatory interview is not disciplinary action. The employee has the right to be accompanied by a trade union representative or work colleague.

The investigation will be conducted as quickly as possible and, in most cases, it will be expected to be completed within 20 working days. If this is not the case, the employee will be informed and given an explanation for the delay and informed when the investigation is expected to be completed.

As soon as is reasonably practicable after the conclusion of the investigation (normally within 5 working days), the employee will be notified in writing that the investigation is

complete. The Investigating Officer will decide whether, on the evidence gathered, whether there is a case to be progressed under the Capability Procedure.

Appeal Procedure (Capability)

Stage One or Stage Two (Appeal)

If an employee wishes to appeal against formal action taken against them under this procedure, they must write to the manager who conducted the disciplinary meeting, with specific reason(s) for the appeal and within ten working days of being notified of the formal outcome of the meeting.

The purpose of the appeal is not to re-hear all the evidence presented at the initial capability meeting but to consider the employee's specific grounds for appeal and decide whether the initial decision taken was reasonable and consistent with other decisions made by Waverley in similar circumstances.

The employee's Head of Service will identify another Senior Officer, normally either a Head of Service or Strategic Director, who has not previously been involved in the detail of the case or the capability meeting, to chair the appeal on behalf of Waverley and give a final decision.

The employee will be invited to an appeal meeting which will be arranged as soon as is reasonable practical – usually to take place within one month of the receipt of the appeal. They will be informed of their right to be accompanied by a work colleague or trade union representative.

At the appeal meeting, the Senior Officer chairing the appeal will consider the information presented at the original meeting, together with any new evidence presented, and will allow the employee to comment on this. Any documentation produced as evidence should normally be exchanged at least three working days prior to the hearing date.

The employee will present their case first and once both sides have presented their case, the manager chairing the appeal and their adviser will adjourn to consider the decision.

The Senior Officer chairing the appeal can withdraw the penalty imposed and/or impose a less penalty, but can not increase the penalty.

The outcome of the appeal will be confirmed in writing, to the employee and copied to the relevant Head of service, by the Senior Officer chairing the appeal within five working days of the appeal hearing.

Dismissal (Appeal)

Appeal against dismissal on grounds of capability should be made in writing by the employee, or their representative, to the Senior Officer within ten working days of receiving the letter terminating the employment. This letter must indicate the reason(s) for the appeal.

Within ten working days of the appeal letter being received, the Senior Officer, or his/her designated representative, will then arrange for an appeal meeting to be heard. The meeting will be held with the employee and, if the employee so wishes, their representative.

The appeal will be heard by the Senior Officer (or their representative) who has not been involved in the decision to terminate the employment, or the Chief Executive (or her representative), together with Human Resources.

On hearing the appeal, the panel may confirm the decision to terminate employment or amend the terms or decide to re-engage the employee from the date of the original decision to dismiss (so that there is no break in continuous service). The decision of the panel will be given at the meeting and/or in writing within three working days of the meeting.

There is no further right of appeal.

File: person policy/ capability

Grievance Policy

Waverley aims to maintain a high performing staff team to deliver excellent services to the community through fair, equitable and consistent treatment of staff.

If an employee has a grievance, and attempts to resolve the matter informally have not been successful, the employee concerned can raise a grievance via this Grievance procedure.

This Policy meets the requirements of the following legislation: Employment Rights Act 1996, Employment Relations Act 1999 and Employment Act 2008 and acknowledges the recommendations in the ACAS Code for Grievances at Work.

NB: There is a separate Policy for Collective Grievances.

GRIEVANCE PROCEDURE

1. INTRODUCTION

Grievances are uncertainties, complaints or problems about work that concern staff sufficiently that they feel the need to raise the concern(s) with their employer.

Waverley endeavours to resolve any grievance informally and as soon as possible.

Waverley recognises its statutory responsibilities in relation to grievances at work and recognises the value of having in place an effective and speedy grievance procedure that provide all employed with the right to seek redress for grievance relating to their employment (see paragraph 2.1 below for details of matters that are not covered by these procedures).

To that end, Waverley follows the practical guidance set out by the Advisory, Conciliation and Arbitration Services (ACAS).

The aim of Waverley's procedure, the details of which are set out below, is to settle the grievance promptly, fairly and as near as possible to the point of origin.

The approach to resolving grievances includes the overriding principle that a manager may not be involved in determining a grievance if it reaches the formal stage, if they are directly or indirectly involved. In that event, appropriate alternative arrangements to deal with the grievance should be agreed with the employee raising the grievance together with, if appropriate, their representative.

2 THE PROCEDURE

2.1 Informal

Where an employee is aggrieved on any matter relating to their employment (other than action under the disciplinary procedure or the job evaluation, or grading of his/her post or his/her position on the pay scales, for which there are separate appeals procedures) they should discuss the matter with their immediate line manager.

The line manager should reply orally to the grievance as soon as possible and, in any case, within seven days. (At that stage the Line Manager may wish to consult with the Head of Service, Director and/or Human Resources representative as appropriate). The employee should be informed that they have the right to take the grievance to the next (formal) stage. If the employee is not satisfied that the line manager has responded fairly and reasonably to the grievance, they may raise the matter as a formal grievance.

2.2 Formal

At all stages of the formal procedure the following will apply;-

Representation - The employee has the right to be accompanied by a Trade Union Representative (if the employee is a member of a trade union) or another work colleague of their choice at any formal grievance hearing.

Human Resources – The Director (or their designated representative) should consult their HR Business Partner once a grievance reaches the formal stage.

Staff Side – The HR Business Partner will inform Staff Side of grievances once the formal stage is reached.

Appeals – There will be no appeals stage outside of Waverley but there may be a right to refer the matter to the Employment Tribunal Service where it has not been possible to reach a resolution internally.

2.3 First Stage

If the employee is dissatisfied with the reply, they may then raise the matter with their Head of Service (or, in their absence, their designated representative). This should be done in writing within 10 working days of the reply, setting out the details of the grievance and why the line manager's informal response was not satisfactory.

Alternatively the employee may wish to report the grievance to their Staff Side Representative in order that the matter can be raised jointly with Staff-Side involvement or by the Staff-Side Representative acting on the employee's behalf.

The Head of Service (or, in their absence, their designated representative) should arrange to meet with the employee and, if appropriate, the employee's representative at the earliest opportunity at a mutually agreed time.

The Head of Service (or, in their absence, their designated representative) should reply to the grievance in writing as soon as possible and, in any case, within ten working days of the meeting. If it is not possible, for reasons of carrying out further investigations or seeking advice, to respond to the grievance within that time, a holding reply must be sent within five days which gives an indication of when a final response will be received.

2.4 Second Stage / Appeal

If the employee continues to be dissatisfied with the reply, the employee can write to their Director within ten working days of the reply, outlining the reason(s) why grievance will then be considered by the Director (or their designated representative) and the Strategic Head of HR (or their designated representative).

The employee, and representative if appropriate, will be invited to attend an appeal meeting as will those officers who have considered the grievance at the first formal stage. Both parties will be given the opportunity to explain their conclusions from the first stage meeting. The appeal meeting will be held at the earliest opportunity at a mutually agreed date for all parties involved.

Ordinarily this would be the end of the grievance procedure. However, where there are points of principle, an employee may wish to go to the final stage of this procedure.

2.5 Final Stage

However if an employee who has raised the grievance remains dissatisfied and if in particular broader points of principle are involved, efforts would be made to resolve the matter on behalf of the employee who has raised the grievance, through the machinery of the Joint Consultative Committee or alternatively with trade union (s) involved.

In a response to a request from Staff Side and if it is considered appropriate to deal with the matter in this way, the Chief Executive and the Strategic Head of HR will meet with Trade Union representatives. The aim will be to reach an agreement on the issues related to the grievance and any changes that may be necessary to redress the particular situation or to avoid a similar circumstance(s) in the future. The employee who raised the grievance would be notified in writing of the outcome of any such meeting.

Exceptionally and where it is agreed that an important issue(s) of principle arises, both parties may agree that the conciliation services of ACAS should be employed.

3 WHERE EMPLOYMENT HAS ENDED (MODIFIED PROCEDURE)

Where employment has ended and an ex-employee is aggrieved about any matter relating to their employment, they should submit a written statement to the Strategic Head of HR who will carefully consider the statement, consulting other officers, if appropriate. The Strategic Head of HR will respond in writing within 10 working days. If the issues raised are complex and it is not practicable to respond within 10 working days, a letter will be sent explaining this and a timescale will be provided for a formal response.

Person/Policy/Grievance Policy

Collective Grievance Policy

Waverley aims to maintain a high performing staff team to deliver excellent services to the community through fair, equitable and consistent treatment of staff.

If two or more employees have an identical grievance, and attempts to resolve the matter informally have not been successful, the employees concerned can raise a grievance via this Collective Grievance procedure.

This Policy meets the requirements of the following legislation: Employment Rights Act 1996, Employment Relations Act 1999 and Employment Act 2008 and acknowledges the recommendations in the ACAS Code for Grievances at Work.

Introduction

Waverley aims to maintain a high performing staff team to deliver excellent services to the community through fair, equitable and consistent treatment of staff. If you are unhappy about any aspect of your employment, you should discuss this with your line manager, who will attempt to resolve the situation on an informal basis. If you feel unable to approach your line manager directly, you should speak to your Head of Service and HR Business Partner who will discuss with you ways of dealing with the matter.

We endeavour to resolve any collective grievance informally, as soon as possible and through mediation if appropriate.

Where attempts to resolve the matter informally are not successful, it may be appropriate for you to raise a formal grievance under Waverley's grievance procedure. If you and another employee (or more than two of you) have identical grievances and you all wish them to be addressed in the same grievance process, you and your colleagues can raise a grievance via this collective grievance procedure.

You and all your colleagues raising the collective grievance must agree (without any pressure being exerted on staff members to join the collective process) to do this. You and your participating colleagues will be entitled to one grievance hearing and (if applicable) one appeal hearing. If you and your colleagues do not agree to this arrangement or if your grievances are not identical, the Grievance Policy will apply on an individual basis.

If you and your colleagues are all members of the same trade union, your trade union representative (if you all wish them to do so) can raise the grievance on your behalf. Alternatively, you and your colleagues can agree to nominate one of you to act on behalf of all of you. If there is no one nominated representative, you and your colleagues will be entitled to address concerns individually at the grievance hearing, but you will have no additional right to be accompanied beyond having your colleagues present.

The right to be accompanied

As discussed above, you and your colleagues have the right to be represented at the collective grievance meeting and any subsequent appeal either by a jointly nominated colleague or Unison, the recognised Trade Union.

At any hearing or appeal hearing, your chosen representative (if applicable) will be allowed to address the meeting, respond on behalf of you or your colleagues to any view expressed in the hearing and sum up the case on your behalf. However, both the hearing and appeal hearing are meetings between Waverley, as the employer, and the group of employees bringing the collective grievance.

Where the chosen representative is unavailable on the day scheduled for the meeting or appeal, the meeting can be rescheduled, provided that you can propose an alternative date that falls within 5 working days of the original date.

Conducting the grievance procedure

Everyone involved in the process is to be treated with dignity and respect. Waverley will not tolerate abusive or insulting behaviour from anyone taking part in or conducting grievance procedures and will treat any such behaviour as misconduct under the disciplinary procedure.

PROCEDURE

Formal grievance procedure

Making the complaint

The first stage of the formal collective grievance procedure is for you and your colleagues to put your complaint in writing to the Chief Executive. This written statement will form the basis of the subsequent hearing and any investigations, so it is important that you set out clearly the nature of your grievance and indicate the outcome that you are seeking. If your grievance is unclear, you may be asked to clarify your complaint before any meeting takes place.

Your complaint should be headed "Formal collective grievance". Your grievance can be submitted as one document and must:

- identify you and each of your colleagues who wish to raise the grievance;
- identify any nominated trade union representative or colleague to represent you all;
- state that you have all voluntarily consented to use the collective grievance procedure; and
- confirm that you understand that the grievance will give each of you the right to one collective grievance meeting, one identical outcome and (if applicable) one appeal meeting and one identical appeal outcome.

Before proceeding to a full collective grievance hearing, it may be necessary to carry out investigations of any allegations made by you. If any evidence is gathered in the course of these investigations, you will be given a copy of the investigation report at least 5 working days in advance of the hearing for you to consider your response. In exceptional circumstances, you may be notified that evidence contained in the investigation report is to remain confidential.

Where there is an outstanding disciplinary issue concerning one or more of the group raising the collective grievance, advice will be sought from the Strategic Head of HR whether to suspend the disciplinary proceedings pending the outcome of the collective grievance.

The collective grievance hearing

The hearing will be held as soon as is reasonably practicable and, subject to any need to carry out prior investigations, and normally within 5 working days of the receipt of your written complaint. It will be conducted by the Chief Executive (or representative) and Strategic Head of HR (or representative)

At the meeting, you and your colleagues will be asked to explain the nature of your complaint and what action you feel should be taken to resolve the matter. Where appropriate, the meeting may be adjourned to allow further investigations to take place.

If you are unable to attend the hearing due to circumstances beyond your control, you should inform the Chief Executive as soon as possible. If you fail to attend without explanation, or if it appears that you have not made sufficient attempts to attend, the hearing may take place in your absence.

While you will be given every opportunity to explain your case fully, you should confine your explanation to matters that are directly relevant to your complaint.

Outcome

The Chief Executive (or representative) will reply to the collective grievance in writing within 5 working days of the meeting. If this is not possible, due to further investigations or the need to seek further advice, the Chief Executive (or representative) will indicate in writing, within 5 working days of the hearing, when a final response will be received.

If you and your colleagues are dissatisfied with the outcome, you may make a formal appeal.

Appeal

Your appeal should be made in writing to the Chief Executive clearly stating the grounds of your appeal, ie the basis on which you believe that the outcome of the collective grievance should be challenged. This should be done within 5 working days of the written notification of the outcome of the collective grievance. An appeal meeting will be arranged using the conciliation services of ACAS and will take place as soon as can be arranged.

If, following the collective grievance outcome, some employees are satisfied with the outcome and do not wish to proceed to an appeal, the request for an appeal should clearly identify those withdrawing from the process and those wishing to pursue the appeal. If only one employee wishes to pursue the appeal, Waverley's individual, and not collective, grievance procedure will apply to the appeal.

If you are unable to attend the appeal meeting because of circumstances beyond your control, you should inform the Chief Executive of this as soon as possible. If you fail to attend without explanation, or if it appears that you have not made sufficient attempts to attend, the hearing may take place in your absence.

Following the appeal meeting, you will be informed of the outcome within 5 working days. The outcome of this meeting will be final.

Person/policy/collective grievance

Redeployment Policy

Waverley acknowledges that there may be occasions when there is a need for staff to be redeployed due to reorganisation of the service, lack of capability or following medical advice. This complies with relevant legislation.

Waverley aims to retain the skills and experience of staff, when redeployment is needed, through clear processes and procedures for managing redeployment.

The Policy aims to ensure fair, equitable and consistent treatment of all our staff.

This policy should be read in conjunction with the Disciplinary, Capability Policy and Fit for Work Policy, if appropriate.

As described above, this policy aims to retain the skills and experience of our staff. However Waverley recognises that, as a last resort, the option to dismiss remains.

PROCEDURE

The following Procedures set out the process for dealing with the redeployment of staff and the circumstances where action may be necessary.

If an employee is informed that their post is at risk of redundancy due to reorganisation of the service or that they are to be redeployed on medical advice, or is being considered for redeployment due to the level of performance under the Capability Policy, their Head of Service will inform them that they will be notified of any suitable redeployment opportunities.

'At Risk' Register

A confidential 'At Risk' Register is kept by the Head of Service Team (HoST) and maintained by the Head of Organisational Development. The Risk Register informs all the Heads of Service of any employees who are identified for potential redeployment for any of the reasons indicated above.

These employees are given priority in application and interview for any suitable vacancies in advance of any other candidate. External recruitment will be postponed until the employees on the 'At Risk' Register have been considered.

Employees will be invited to apply for any posts where:

- the salary is up to and including their current grade* and
- they match the essential requirements for the post, or would do so given suitable training.

*Please note :

- for the purposes of this policy, the employee's current grade is determined by the job evaluation points score for their post.
- If the redeployment is demotion, the redeployment will be to a grade equivalent to the grade paid prior to the promotion, or lower.

Suitable alternative employment

When determining whether an offer is suitable employment, the following will be considered, in consultation with the employee:

- the person specification for the post
- the training, skills, experience and qualifications of the employee
- the re-training and additional support required
- the employee's previous job
- whether the new post would represent a justifiable reduction in status and/or salary.
- Whether the new post would require a justifiable change in hours or pattern of work.
- whether the location of the new role is considered reasonable either due to a mobility clause in the contract of employment or for some other substantial reason.
- any evidence which shows that similar offers have previously been regarded as suitable.

The offer of redeployment will clarify the following:

- Job description, grade, terms and conditions of employment, location, any difference in remuneration compared to the employee's current remuneration, any difference in hours/pattern of work compared to the employees current hours/work pattern.
- Four week trial period. However this may be:
 - **longer** if training reasonably requires longer period, during which employee can decide if they consider the alternative employment suitable.
 - **Shorter** if it is evident to both parties that the role is not suitable, then, with the agreement of both parties, the trial period will cease early.
- The implications of the redeployment being unsuccessful.

If the Council decides that the employee has unreasonably refused an offer of suitable alternative employment before, during or at the end of a trial period, it may be judged that the employee has resigned from the post and therefore the employee will not be entitled to a redundancy payment.

Salary Protection

Any employee who is redeployed into a suitable alternative post will have their salary protected when the grade for the suitable alternative post is not more than one pay band lower than their substantive post.

However, salary protection will be for a period of no more than two years, after which the employee will be paid the evaluated maximum pay point for the suitable alternative post which applies at that time. NB this would therefore be pay point 'a' and not pay point a**.

The salary protection (sometimes referred to as a salary being 'red circled') means that no further increments or annual pay awards will be applied to the employee's salary until the salary linked to the post into which they have been redeployed rises to the same level as the salary they are being paid.

An employee's salary will be protected, as above, if the reason for redeployment is due to either reorganisation of the service or following medical advice i.e. reasons linked to health.

However, If the redeployment is a demotion (see Capability Policy), the employee's salary will not be protected and the salary for the post into which the employee is redeployed will apply.

Trial Period (refer to section on suitable alternative employment)

As required by the Employment Rights Act 1996, the redeployment will be subject to a four week trial period (or longer, if specific training needs are identified which require an extended period) during which both the employee and the line manager will assess the suitability of the post. If an extension to the trial period is required, this will not normally be longer than an additional month.

If the outcome of the trial period is unsatisfactory and the job is deemed not to be a suitable redeployment, every effort will be made to redeploy the employee into another suitable alternative role. However, this will depend on the vacancies available at that time.

Redundancy – unsuccessful redeployment

An employee who is not successfully redeployed will be dismissed on grounds of redundancy. However, if the Council decides that an employee has unreasonably refused an offer of suitable alternative employment before, during or at the end of a trial period, it may be judged that the employee has resigned from the post and therefore the employee will not be entitled to a redundancy payment.

Restructuring Policy

The aim of this policy is to ensure that:

- **Waverley continues to offer high quality, value for money services through effective and efficient service delivery and**
- **where service restructures are required to achieve this, they are carried out in a consistent and fair manner, that staff and Staffside are consulted at the earliest opportunity and**
- **Waverley complies with its legal obligations in terms of staff consultation, redundancy, redeployment and Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).**

Context

As an organisation, Waverley has an obligation to constantly review the efficiency of its service delivery.

The drivers for restructuring within the Council are various and include:

- the constant scrutiny on the efficiency and effectiveness of our services and the drive for continuous improvement
- the need to add value to our services in the context of ongoing budget changes
- the annual Star Chamber process in which efficiency savings are planned for the coming financial year
- external factors such as Government policy or customer expectations

Procedure

When restructuring a service, the Head of Service will consider the following options:

- Implement improvements to service delivery.
- Change (either enhance, reduce or terminate) the service that is being delivered
- Transfer the service to another organisation (TUPE transfer) or possibly transfer the service back to the council
- Respond to changes in government policy or customer expectations of particular services

All these options will affect staff working within the service.

The Head of Service will identify the need to restructure the service and will take this to Corporate Management Team (CMT) for agreement and to obtain authorisation to commence consultation with the staff.

The equality implications of restructuring for both service and staff must be carefully considered and the Head of Service will be required to complete an EQIA to assess any impact on gender, race, disability or any other groups covered by the Equality Act.

If the proposal is agreed by CMT, the Head of Service will, together with the HR Business Partner, begin the consultation process with Staffside and the employees (see section on staff consultation process).

The Head of Service will keep CMT informed on the progress of the consultation process and on its conclusion, will seek authorisation from CMT, the Executive and, where appropriate, full Council to proceed with the proposed restructure.

Once Council approval has been obtained, the Head of Service, together with the HR Business Partner and in consultation with Staffside, will implement the new structure as outlined within this procedure.

The following letters communicating the implications of the restructure to staff should be written at the appropriate stage in the process:

- At the start of the consultation process letters will be sent to all staff indicating the proposed restructure and the changes that the Head of Service intends to propose to Council. The letter will clarify the impact those proposals are likely to have on each employee's post and whether they are likely to be at risk of redundancy or redeployment as a result of the restructure.
- After approval by the Executive, letters will be sent to all staff confirming the outcome and whether they will be at risk of redundancy or redeployment as a result of the restructure.
- After full Council, letters will be sent to those staff affected giving them notice of termination of their employment on the grounds of redundancy, should redeployment not be available.

Staff consultation process

The purpose of consultation is to provide as early an opportunity as possible for staff to be made aware of the service issues under consideration and be part of the discussion about what the options might be. It is important that staff are kept informed by their Head of Service as soon as the need for a reorganisation of the service is considered. Consultation must be meaningful ie give sufficient time for all affected to respond to the proposed changes and propose alternative options.

Legal requirements for consultation exist where 20 employees or more are to be made redundant over a period of 90 days or less. The European directive gives employees the right to be informed about the business' economic situation and to be informed and consulted about employment prospects and about decisions which may lead to substantial changes in work organisation or contractual relations.

The formal consultation process will be as follows:

If there is a delay between staff being made aware of the need for the reorganisation and a draft plan being available for consultation, regular updates should be given by the Head of Service to keep staff informed. The Head of Service may decide its appropriate to brief staff on the proposal to go to CMT (or Star Chamber) in advance of the commencement of the formal consultation.

- When the proposal to restructure the service has been agreed by CMT (or Star Chamber), the Head of Service will write to all staff in the service area affected informing them of the need for the restructure, the possible impact on their post, the start of the formal consultation process and will invite them to a team meeting to discuss this. A representative from Staffside and one of the HR Business Partners should also attend this meeting . (Template letters are available on Backstage for all letters referred to in this document).
- At the meeting the proposed structure would be discussed with those involved. Staff will be invited to comment and suggest other proposals, and a further meeting (or meetings) will be held to enable them to feedback their proposals. Any proposals made by staff should be workable propositions which can be delivered in

the timeframe and budget available and will be fully considered by the Head of Service. Notes of these meetings will be circulated to staff by the Head of Service.

- Staff who are likely to be directly affected by this reorganisation should be spoken to individually before the group meeting. The HR Business Partner and the member of staff's representative should be invited to these meetings.
- The Head of Service and HR Business Partner should continue to hold individual consultation meetings throughout the consultation process with those who are likely to be affected.
- The Head of Service must ensure that staff on long term sickness, maternity leave or secondment are included in the consultation process.
- The Head of Service should keep CMT updated throughout the consultation process.
- After consultation has concluded staff should be informed of the outcome and informed that a report will be going forward to the Executive for approval.
- After approval by the Executive, the Head of Service will write to all staff detailing the outcome and informing staff whether they are likely to be at risk of redundancy or redeployment as a result of the restructure.
- If redeployment is not available and redundancy is the only option, this will need to be approved by full Council.
- After full Council, the Head of Service will write to those staff affected giving them notice of termination of their employment on the grounds of redundancy, should redeployment not be available.

Job descriptions

As part of the consultation process the Head of Service will draw up the job descriptions for any new posts and where necessary, revise existing job descriptions and submit them for evaluation (add job evaluation policy link). Staff will have the right, as part of the consultation process to consider and comment on the proposed job descriptions.

Confirmation of the new structure

After consultation has been concluded, the Head of Service will take the draft proposal to CMT, the Executive and where appropriate, full Council, for approval.

As part of the consultation process, the Head of Service, together with the HR Business Partner and in consultation with Staffside, will identify which staff will and which staff will not, be affected by the restructure.

Individual meetings will be held with staff affected to inform them of the Council's decision and the Head of Service will confirm in writing that they are at risk of redundancy or redeployment.

The Head of Service should also write to staff within the Service who are not directly affected, to confirm this is the case.

In circumstances where a new post is being proposed by where it is unclear whether a job description is sufficiently different from one of the existing job descriptions, an assimilation exercise will be carried out. This will involve the Head of Service, together with the employee, making an assessment of the match between the old job description and the new. If a match of more than 80% is established the employee may be assimilated into that post. If more than one person could be assimilated into a post, then a competitive selection process will be put in place and any unsuccessful staff may be made vulnerable to redundancy.

Selection Process

Where it is apparent that the restructure will result in either fewer posts within the service or the same number of posts but substantial changes to job roles, the Head of Service, together with the HR Business Partner and in consultation with Staffside, will plan a fair and transparent selection process designed to identify those with the ability to best contribute to the future success of the Service .

The selection process will be carried out in the following circumstances;

- Where posts have been deleted and staff are at risk of redundancy
- Where posts have not been deleted but a substantial change to the service means that a selection process is needed to allocate staff fairly to the new roles.
- Where only one person is being considered for a new role, a selection process would still be put in place to establish that they meet the criteria for the new post.

The selection process will be "ringfenced" to include only those directly affected by the restructure and is likely to include a paper based review such as an application form and/or a formal interview process. When determining the appropriateness of selection measures, this should include consideration of the level, grade and requirements of the job, whilst ensuring that the measures enable fair and consistent assessment.

The selection criteria may include work performance, competence, potential, sickness absence, capability or disciplinary record. Selection criteria used should be relevant to the requirements of the job in the new structure and to the Service.

In circumstances where the selection concerns people in the same role, on the same payband, the redundancy selection matrix will apply.

Redeployment/Redundancy

In a situation where staff are not appointed to a suitable post within the restructure, the Head of Service will write to the member of staff explaining that they are vulnerable and giving them notice of the termination of their employment on the grounds of redundancy. During that notice period every effort will be made to redeploy them according to the redeployment policy.

If it is necessary to make staff redundant, the redundancy payment policy will apply.

Restructuring that results in a TUPE transfer

If a service is transferred to another organisation, it is likely that the Transfer of Undertakings (Protection of Employment) Regulations 2006 will apply. Any Head of Service considering this, must take advice from their HR Business Partner at the outset.

Waverley has a duty to inform and consult 'appropriate representatives' of employees affected by a TUPE transfer. Consultation should start when the Head of Service is contemplating the transfer.

Staff who are sufficiently assigned to the service would transfer automatically with continuous service and all their fundamental terms and conditions protected, including the terms contained in any collective agreements.

At the beginning of the consultation process, the Head of Service should write to all staff within the Service (ie those directly and indirectly affected), with a copy to Staffside, informing them of the following:

- The fact that the transfer is to happen,
- The approximate date and reason for the transfer.
- The legal, economic and social implications (eg relocation) of the transfer.
- Any measures which Waverley envisages will be taken because of the transfer in relation to employees who will remain after the transfer (eg the possibility of redundancies for remaining staff) If there are no measures this has to be stated.
- Any measures which the receiving organisation envisages in relation to employees who are transferring under the TUPE regulations.

Following the Restructure

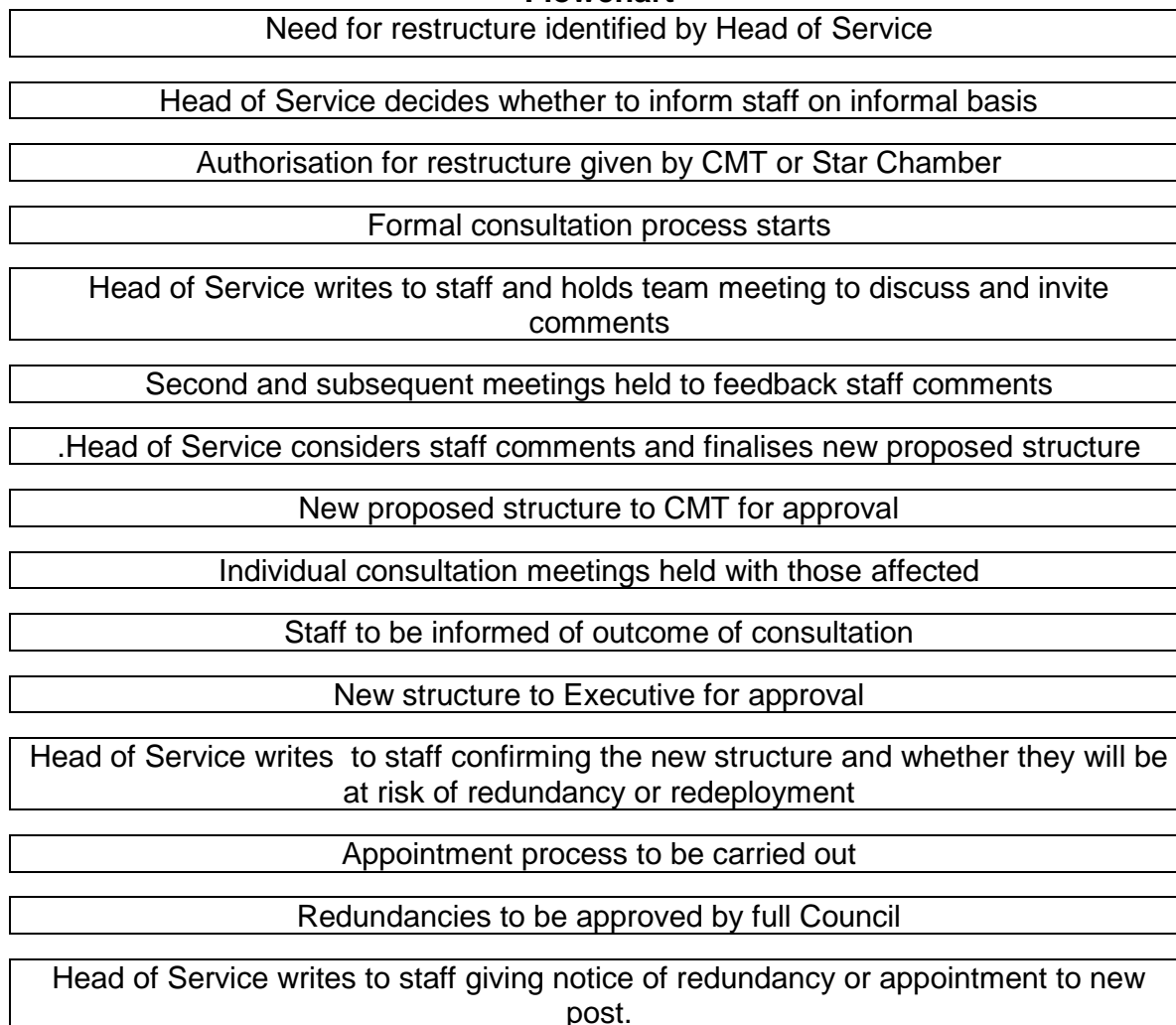
Following the restructure the Head of Service should identify any steps which are necessary to ensure the success of the new structure. These may include:

- Identifying training needs.
- Continuing to communicate with staff the service objectives of the new structure and identifying successes.
- Ensuring new reporting lines are communicated to customers and the rest of the organisation.
- Setting up a review process to deal with 'teething troubles' and issues as they occur.
- Conducting a review of the success of the new structure after an appropriate period of time.

Appeal Process

Where an individual feels that they have been unfairly treated during the restructuring process, they can appeal using the Grievance Procedure.

Flowchart



Car User Policy

The aim of this policy is to ensure that:

- There are clear, consistently applied criteria for entitlement to a car allowance;
- Waverley staff are able to carry out their duties around the Borough and are adequately compensated for any mileage costs they incur plus;
- the Council complies with its responsibilities under Health and Safety legislation and that as an organisation we make every effort to reduce our carbon footprint.

This policy covers employees who may be required to use their own vehicles for work purposes and considers “essential users”, “lease car holders” and “casual users”.

This policy applies to new staff who join Waverley from 1st January 2012 and existing staff who take up new contracts from that date and whose contracts already indicate that the allowance will be reviewed annually.

PROCEDURE

Roles and responsibilities

Managers’ responsibilities include:

- Promoting this policy and helping staff to avoid unnecessary journeys and minimise waste.
- Ensuring that claims are authorised appropriately.
- Reviewing staff travel and ensuring allowances remain appropriate.

Employees’ responsibilities include:

- Planning their work and journeys to avoid unnecessary travel.
- Accurately recording journey details and submitting claims appropriately and promptly.
- Making use of the most efficient methods of transport – considering time, cost and environmental impacts.

All users

- Anyone who drives for Waverley in either their own car or a pool car, must hold a current, full driving licence. Staff will be asked to show us their driving licence, which will be verified by the DVLA before they start driving for us. If a member of staff gets any points on their licence, or are banned from driving they must notify their Head of Service immediately.
- If you use your own vehicle it must be adequately insured, including cover for business use. Your vehicle must be roadworthy and serviced in accordance with the manufacturer’s recommendations and must have a valid MOT Certificate (if applicable) and must have a valid Road Fund Licence. You must notify your Head of Service immediately if, at any time, any of these circumstances do not apply.
- Waverley will check driving licences, MOT Certificates (if applicable) and insurance documents on an annual basis.

- All staff who drive for Waverley must adhere to the safety notes for car drivers in 'Using a Car on Waverley Business' (link to Backstage).
- All staff are required to plan their workload, as far as is reasonably practical, to minimise the number of journeys they make as part of their jobs. For example, meetings such as site visits in particular parts of the Borough should be organised so that they take place on the same day.
- All journeys should be planned to minimise the impact on the council's finances and on the environment. For example, using public transport if appropriate and sharing lifts wherever practicable.

Essential Car User Allowance

The essential car user allowance takes the form of an annual lump sum, paid in monthly instalments through salary. In addition to the lump sum, reimbursement is made for necessary business mileage. These rates are reviewed annually and are based on rates set by the National Joint Consultative Council (NJC).

The following criteria will determine eligibility for an essential user allowance:

- The job cannot be performed without immediate access to, and frequent use of, a vehicle, and
- the line manager can demonstrate a genuine job requirement to undertake several trips on most (ie an average of three or more) days of the week.

If someone does not meet the above criteria but can demonstrate that their mileage is in excess of 2,000 per year, their case will be reviewed by the Head of Service and the Essential Car User Allowance may be paid, if appropriate, with effect from the date agreed by the Head of Service.

This criteria will be calculated on a pro rata basis for part time staff.

Payment of the allowance will be reviewed each year in April by the Head of Service to ensure that staff still meet the criteria for the allowance. Where staff no longer meet the criteria, payment of the allowance will cease.

Staff who are not entitled to an essential car user allowance but feel they meet the criteria should raise this with their Head of Service.

Essential users must make sure their vehicles are roadworthy and covered by appropriate insurance whenever they drive on council business.

Where it is not possible for an employee to use a car for more than three months for reasons such as the result of an accident; mechanical defect or the absence of an employee through illness, the lump sum payment will not be paid.

Essential Car Users will be issued with a red car parking permit, which will enable them to park in any Waverley car park (except in Godalming) whilst on Waverley business and in the car park at The Burys whilst in the office. It does not guarantee a space. Users should refer to the car park guidance on Backstage for the full terms and conditions about the use of the car parks.

Urgent Use

Staff who are required to deal with an urgent matter that requires them to drive for Waverley at short notice and who are not Essential Car Users would be authorised by the Head of Service to use their own car on a Casual user basis or, in exceptional circumstances, to use a taxi which would be paid for by Waverley.

Staff who use their own cars on this basis must make sure their vehicles are roadworthy and covered by appropriate insurance. They must also be insured for business use.

Casual users and the pool car

Pool cars are available for staff who need to drive on Waverley business on a less frequent basis and should be used in the first instance.

When a pool car is not available, the Head of Service may authorise use of the member of staff's own car on a Casual user basis. Casual users must make sure their vehicles are roadworthy and covered by appropriate insurance whenever they drive on council business. They must also be insured for business use.

Casual users will receive reimbursement for business mileage at the casual user mileage rate. These rates are reviewed annually and in recent years have been based on rates set by the National Joint Consultative Council (NJC). ([link to rates on Backstage](#)).

Casual users will not be eligible for a car parking permit and will be required to pay and display, if necessary, whilst on Waverley business for which they will be reimbursed.

Lease car users ([see link to Lease car terms and conditions on Backstage](#))

Lease cars are provided primarily for the Council's official business, therefore the Council reserves the right, in exceptional circumstances, to require the vehicle to be used other than by the nominated employee.

Maternity Leave

The lump sum Essential Car User Allowance will continue to be paid during maternity leave.

Lease cars will be retained during maternity leave, with arrangements made by the lease car holder to pay any additional contribution during the period of unpaid maternity leave.