

# Employment Committee

Minutes of the meeting held on Wednesday 13 June 2018 at the Town Hall, Royal Leamington Spa at 6.00 pm.

**Present:** Councillors Barrott, Mrs Bunker, Cain, Day, Mrs Evetts, Mrs Falp, Gallagher, Mobbs and Parkins.

## 1. Apologies and Substitutes

- (a) No apologies for absence were received.
- (b) Councillor Cain substituted for Councillor Doody.

## 2. Appointment of Chairman

It was proposed by Councillor Gallagher, seconded by Councillor Day and

**Resolved** that Councillor Mrs Bunker, be appointed as Chairman of the Committee for the 2018/19 municipal year.

## 3. Declarations of Interest

There were no declarations of interest.

## 4. Minutes

The minutes of the meetings held on 21 March 2018 were taken as read and signed by the Chairman as a correct record.

## 5. Minutes – Members/Trades Unions Joint Consultation & Safety Panel

The minutes of the meeting on 7 March 2018 were taken as read, and the recommendation in Minute 24 was approved.

## 6. Site Delivery Officer – Permanent Post

The Committee considered a report from Development Services which set out the proposals to make the existing temporary Site Delivery Officer into a permanent post.

In January 2018 the Employment Committee agreed to replace a vacant Senior Planner post with a new permanent Site Delivery Officer. This increased the number of Site Delivery Officers in the Policy and Projects Team to two permanent posts and one temporary post. The two permanent posts (focusing on South of Warwick and East of Kenilworth) were currently filled. The third temporary post (which was expected to focus on the development areas south of Coventry) was vacant and a recruitment exercise in March failed to identify any suitable candidates.

It was now considered that the temporary post should be a permanent role. This was because the site delivery work for the area south of Coventry was expected to require full time resources for many years to



## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

come and because the Local Plan committed to a partial review for the area to the south of Coventry.

Initially the site delivery work for the area south of Coventry work would focus on planning and supporting high quality development proposals and infrastructure (including across the border with Coventry City Council). Once planning proposals were approved, the work required a focus on ensuring funding and delivery of infrastructure, work to ensure developments across the area were coordinated and ongoing negotiations with developers, local communities and other agencies to ensure high quality development were delivered in a timely way.

The adopted Local Plan commitment to a partial review for the area to the south of Coventry, was potentially in advance of a more comprehensive Local Plan review and sought to enable the potential and impacts of a new link road and HS2 to be taken into account. The Site Delivery Officer was expected to play a key role in this partial review. Work on the review would take at least two years and would of course require ongoing resources to plan for its implementation. This work therefore had resource implications beyond the end of the current temporary arrangement.

It was hoped that by making the post permanent, it would be more attractive to high quality candidates thereby increasing the likelihood of a successful recruitment.

**Resolved** that the existing temporary Site Delivery Officer (2.5 years) within Development Services be established as a permanent post

### **7. Administration Officer Visiting Team**

The Committee considered a report from Finance that proposed to increase the establishment by half a post in order to create a Full Time Administration Officer for the Revenues Visiting Team

In recent years there had been a substantial increase in the volume of new property being built within the District and this was going to continue with the Local Plan outlining a further 17,000 domestic properties to be built over the next 11 years.

This large increase in workload through the increased property build would place greater demand and pressure on the visiting team and therefore generated the need for greater administrative support

The number of banded domestic properties had increased by 3279 since 1 April 2012, and over a third of this had occurred in the last 12 months and over two thirds in the last three years.

Unreported new properties would have a negative financial impact on the Council with potential losses of New Homes Bonus, Council Tax income, Business Rates income and opportunities that arose from Business Rates retention. Delayed billing presented payment issues for customers and could lead to an adverse effect on the collection rate.

## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

The Committee was mindful that within the proposals there was a shortfall in funding for this post of £3300 but noted that this would be built in as part of budgeting process.

The Committee also noted that the number of staff required for this role would be monitored going forward to ensure service could be delivered.

**Resolved** that the establishment is increased by 0.5 FTE of a permanent post to create a full time Administration Officer for the Revenues Visiting Team.

### **8. Staffing Proposals for the Rough Sleepers Initiative**

The Committee considered a report from Housing that sought approval for the establishment of a number of fixed term posts to support.

On 30 March 2018, Government announced a new £30m fund to tackle rough sleeping across the 80 councils with the most significant numbers of people sleeping rough. Rough sleeping nationally had increased by 160% since 2010 although locally a 75% rise had been experienced. With a rough sleeping figure of 21 last autumn (the Government's annual official figures), Warwick District Council was contacted by the Minister for Housing, Communities and Local Government (MHCLG) on 11 April 2018 and invited to participate.

It was confirmed at the meeting that the bid had been successful for 2018/19, but the decision for 2019/20 was awaited. However the Executive had agreed to underwrite the second year which enabled the initiatives to be viable and to assist in making the posts more attractive to applicants during the recruitment process.

There were recognised gaps in the provision of services to rough sleepers across healthcare, housing related support and accommodation provision. Advisors from MHCLG together with statutory and voluntary sector partners confirmed five elements which together were considered to be key to tackle rough sleeping in Warwick District.

The first element was the provision of a rough sleepers co-ordinator as senior manager to co-ordinate the work of statutory and voluntary sector partners across the District in taking forward work and plans to tackle rough sleeping.

The second was the introduction of a Housing First officer, who would be an intensive support worker to assist rough sleepers with complex needs to maintain accommodation whilst accessing and receiving treatment to combat addiction problems.

Thirdly the provision of an additional outreach worker who would provide dedicated time across Warwick District, making contact with people sleeping rough and forming bespoke person plans with a view to enabling the transition to accommodation, treatment and engagement with services.

## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

The fourth and fifth elements related to the provision of shared supported Housing and a direct access hostel.

This approach provided the Council, with its partners, the opportunity to assist rough sleepers to transition from the streets into accommodation and support. The development of new services and co-ordination activities required additional staff to operate the new services that were to be delivered by the council.

It was proposed that the the Rough Sleepers' Co-ordinator would report directly to the Housing Strategy and Development Manager whilst the Hostel Services Manager would report directly to the Housing Advice and Allocations Manager. A proposed structure for the hostel staff was set out at Appendix 1 to the report.

The Head of Housing informed the Committee that one of the posts had been graded at a lower salary than expected which would reduce the overall cost of the work. She also informed Members that the adverts were ready to be placed the day after the meeting if the Committee approved the recommendations, with a view to having the officers in post by September.

### **Resolved that**

- (1) a Rough Sleepers' Co-ordinator x 1.0 FTE (full-time equivalent) post in the Housing Strategy Team, for a fixed term from 1 August 2018 to 31 March 2020, be approved; and
- (2) in the Sustaining Tenancies Team, the following posts for a fixed term from 1 September 2018 to 31 March 2020, as set out below be approved:
  - Homeless Services Manager x 1 FTE
  - Assistant Homeless Services Manager x 2 FTE
  - Homeless Support Workers x 12 FTE
  - Housing First Support Officer x 1 FTE

## **9. Disciplinary Procedure for Statutory Officers**

The Committee considered a report from Democratic Services that brought forward proposals for amendments to the Constitution in respect of the disciplinary procedures for statutory officers at Warwick District Council following legislative changes; and consideration of the need to appoint a Sub-Committee for specific matters.

The report followed the discussions by this Committee on 13 September 2017 when it considered the appointment of a Sub-Committee, as currently set out within its Constitutional remit "*that contains at least one member of each of the registered political groups to deal with employment related matters that fall within the jurisdiction of elected members.*"

## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

During consideration of the item, members were concerned because one of the registered political groups, namely the Whitnash Residents' Association (WRA), only had one Member on the Committee and Liberal Democrat Group had no members on the Committee. This would mean that in the event that WRA Member could not attend a sub-committee meeting, there was no alternative Member of that political group to act as a substitute. Therefore the Committee deferred a decision until the next meeting, pending a written report to provide clarification on the duties the sub-committee would perform and on the situation regarding membership. This report provides that detail that was requested by the Committee.

The role of the required Sub-Committee was understood to relate to three specific areas of work set out within Officer Employment Procedure Rules:

- (1) the recruitment of Chief Officers (defined within Article 12 of the Constitution as Heads of Service, Deputy Chief Executives and Chief Executive);
- (2) disciplinary and potential dismissal of Chief Officers; and
- (3) to consider right of appeal to members in respect of disciplinary action and dismissal.

In respect of the recruitment of Chief Officers; at present the interviews were undertaken by the Employment Committee as a whole. Normally a maximum of five Councillors from the Committee tended to attend these meetings. This was to ensure the number of people present was not disproportionately large. Technically all members of the Committee were entitled to attend and non-attendance was recorded as part of the annual report to Council.

It should be noted that the final decision to appoint to the role of Chief Executive (as Head of Paid Service), Deputy Chief Executive & Monitoring Officer (As the Monitoring Officer) or Head of Finance as (Chief Finance Officer) (who were statutory officers) had to be made by Council on recommendation from Employment Committee (or a Sub-Committee of Employment Committee).

The same principles applied for the disciplinary and potential dismissal of Chief Officers. However following legislative updates, regarding statutory officers there was a need for a further stage of consideration within the Council's Constitution; dismissal of a Statutory Officer might not be given by the Council until the recommendation of the Employment Committee (or a Sub-Committee of it) had been considered by an Independent Panel of at least two Independent Persons. Independent Persons were persons appointed under section 28(7) Localism Act 2011 for the purposes of the Code of Conduct for Members.

It was recommended that the recruitment, disciplinary and potential dismissal of any Chief Officers should be undertaken by a Sub-Committee of Employment Committee of no less than four and no more than six Councillors. This was to enable the effective management of arranging such a hearing, ensuring the process did not become onerous for the parties involved. This was particularly important for consistency in approach and questioning during each process, and to digest and consider

## EMPLOYMENT COMMITTEE MINUTES (Continued)

potentially complicated matters in relation to disciplinary and potential dismissal of Chief Officers.

Any Sub-Committee appointed would need to be politically proportionate to the size of each political group on the Council, at that time.

The need for a Sub-committee did not specifically need to be set out within the terms of reference for the Committee because any Committee was entitled by law to appoint a sub-committee (made up of members of the Committee) and delegate work to it that it felt appropriate. However due to the nature of the matters being considered and to ensure clarity it was felt that the Constitution (née Council) should direct the Committee to appointment a Sub-Committee for such matters and detail what those specific matters would be.

Statutory officers had certain protections in law against dismissal due to the nature of their roles within the local authority. These statutory protections were changed due to the by regulations in 2015 and minor modifications were made at the time to the Council's Constitution to reflect this. The Joint National Council for Local Authority Chief Executives had since updated the Chief Executives' Handbook to reflect changes to the statutory provisions for dealing with matters of discipline. The handbook included a model disciplinary procedure to be followed when an allegation was made relating to the conduct or capability of a Head of Paid Service or there was some other substantial issue that required investigation, except where parties locally had agreed to vary it.

The main changes were:

- a) the period for which a Statutory Officer may be suspended was not limited but that it shall be reviewed every two months;
- b) the Head of Paid Service or the Monitoring Officer could suspend another Statutory Officer in an emergency;
- c) provisions relating to the dismissal of the Head of Paid Service applied equally to the Monitoring Officer and Chief Finance Officer;
- d) no notice of dismissal of a Statutory Officer could be given by the Council before the recommendation of the Disciplinary Sub-Committee to dismiss had been considered by an Independent Panel of at least two Independent Persons; and
- e) where a Disciplinary Sub-Committee was considering the proposed dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer it must include at least one member of the Executive.

The requirement for the involvement of the Independent Persons, appointed under section 28(7) Localism Act 2011 for the purposes of the Code of Conduct for Members, was included following the initial regulation publication. However following a further review it was considered appropriate that further changes were made, in the light of the model procedure suggested in the Chief Executives' handbook.

As part of considering the Sub-Committee issue, officers had taken the opportunity to reflect on the current remit of Employment Committee. This highlighted a number of small administrative functions that were within the remit of the Committee which should be amended or removed.

## EMPLOYMENT COMMITTEE MINUTES (Continued)

Currently the Committee was required "To make arrangements for Councillors to determine appeals of employees where the relevant policy allows an appeal to elected Members". It was considered that this should be removed as the normal practice was for officers to make these arrangements to enable the appropriate meetings to take place.

The Committee was required "To organise a disciplinary hearing to receive the evidence of such a person and to decide the outcome of such a hearing in accordance with the Officer Employment Procedure Rules". It was considered that the organisation of such hearings was the role of officers. A small revision was therefore proposed as set out at Appendix 1 to the report.

**Recommended** to Council that it amends the Constitution as set out at Appendix 1 to the minutes.

**Resolved** that the disciplinary procedure for statutory officers as set out at Appendix 2 to the minutes, be approved.

### 10. **People Strategy Update**

The Committee considered a report from Human Resources that updated it on progress made on the People Strategy Action Plan as discussed at the People Strategy Steering Group (PSSG).

The purpose of the People Strategy was to support the Council's Fit for the Future programme of work. Its aim was to ensure that the approaches to resourcing, learning and development, cultural change and organisational development were designed to deliver the workforce that the Council requires. The People Strategy Action Plan underpins the People Strategy and reports progress to SMT, CMT, People Strategy Steering Group and Employment Committee.

The proposed changes to the Grievance, Disciplinary and Capability Policy had been consulted with Unison, Joint Communication Forum and Members/Trades Union Joint Consultation & Safety Panel. They correlated with the existing ACAS guidelines and would affect all staff excluding Chief Officers as defined within Article 12 of the Constitution.

The proposal was to amend the appeal process to one internal appeal only; there would be no second appeal. As a result Councillors would no longer be involved in grievance appeals in relation to bullying/harassment, or disciplinary appeal in relation to dismissals.

An appeal could be made on various grounds, including new evidence, challenging evidence, undue severity or inconsistency of the penalty or if the individual felt a grievance had not been satisfactorily resolved. The one appeal process was more in-line with other Councils and aimed to support staff and managers through a difficult time to ensure the outcome was less drawn-out. This would support the Employment Committee and its commitment by not having to train Councillors whenever an appeal went forward.



## EMPLOYMENT COMMITTEE MINUTES (Continued)

Support for managers and staff proceeding through any kind of formal procedure would be provided, for example Occupational Health referral, Counselling, Mediation, 1-1 support (ESO's or Line/other managers), HR and Unions.

The introduction of the new Long Term Sickness and Ill Health Capability Policy and Procedure had been consulted with Unison, Joint Communication Forum and Members/Trades Union Joint Consultation Panel.

This policy was to support staff and managers with a defined policy independent to our 'Managing Attendance' and 'Capability' policies. Long term sickness was defined as at least four weeks continuous absence or intermittent absence that amounted to 20 working days in a 12 month period (pro rata for part time staff) and would be managed under this policy. The policy outlined ongoing support and processes to manage long term absence: regular review meetings; occupational health referrals; counselling; reasonable adjustments that may facilitate a return to work and phased return.

The policy addressed the issues around unused annual leave where employees were unable to take their annual leave within the current leave year due to long term sickness. If there was not enough time remaining within the leave year for the leave entitlement to be taken, or the absence spanned for more than one leave year, then the employee would be able to carry over statutory entitlement of up to 20 days from the remaining accrued leave (pro-rata for part time employees); 20 days was the European statutory minimum leave entitlement. This was a change to existing policy where employees could carry over full contractual entitlement (23 - 31 days dependant on continuous service). The aim of this amendment was to manage the impact of accrued leave due to long term sickness on the individual, team and organisation.

Full consultation had taken place with the unions and training/briefing sessions would be planned including case studies to work through examples and highlight how this policy can support individuals.

The Committee was supportive of the revised policies which it felt were good. However it was of the opinion that at a hearing the individual should be accompanied by a senior manager or HR representative and not a colleague. In addition in the acknowledgment it stated "Normally and where possible" and it was agreed this should be amended to remove the where possible.

### **Resolved** that

- (1) the amendments to the Grievance, Disciplinary and Capability Policies (Appendix 3 and 3a to the minutes), be approved; and
- (2) the 'Long Term Sickness and Ill Health Capability Policy and Procedure' (Appendix 4 to the minutes) be approved.





**EMPLOYMENT COMMITTEE MINUTES (Continued)**

**11. Public & Press**

**Resolved** that under Section 100A of the Local Government Act 1972, the public and press be excluded from the meeting for the following items, by reason of the likely disclosure of exempt information within paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below.

Minute No.	Para Nos.	Reason
12	1	Information relating to an individual
12	2	Information which is likely to reveal the identity of an individual.


**12. Cultural Services Admin Support Officer**

The Committee considered a report from Culture sought to make permanent the Admin Support Officer post within Cultural Services.

**Resolved** that the existing temporary Admin Support Officer Post be changed on the establishment to permanent subject to Executive agreeing the additional funding.

(The meeting ended at 7.09 pm)

Signature redacted

  
CHAIRMAN  
12 September 2018



**Warwick District Constitution  
Part 3  
Responsibility for Functions  
Section 2 Council Functions**

- F. **EMPLOYMENT COMMITTEE** (11 Members One of whom will be the Leader as a representative of their political group)

To exercise delegated powers as follows (note i to iii, v and vi not included as not relevant to this matter):

- iv. ~~To make arrangements for Councillors to determine appeals of employees where the relevant policy allows an appeal to elected Members~~
- vii. To appoint an *Independent Investigator* ~~person~~ in relation to disciplinary investigations (including capability) involving the Head of Paid Service and Statutory Officers.
- viii. To appoint a sub-committee, at an appropriate time that will
  - (a) ~~viii organise a~~ *undertake* disciplinary hearings to receive the evidence of ~~such a person~~ *Independent Investigator* and to decide the outcome of such a hearing in accordance with the Officer Employment Procedure Rules;
  - (b) ~~ix~~ appoint or dismiss chief officers (*excluding statutory officers*) in accordance with the Officer Employment Procedure Rules;
  - (c) ~~xii The Committee (or sub-committee if acting on behalf of the Committee) To~~ recommend to Council the appointment or dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer in line with the Officer Employment Procedure Rules;
  - (d) *determine the suspension of a statutory officer and if the suspension continues, to review this decision (or the urgent decision to suspend by the Head of Paid Service or Monitoring Officer) at least every two months.*
- xi ~~to appoint a sub-committee that contains at least one member of each of the registered political groups to deal with employment related matters that fall within the jurisdiction of elected members.~~

NB1: Where the committee (or a sub-committee of it) is involved in the appointment, discipline or dismissal of Statutory Officers, it must include a member of the Executive, *that will normally be the Leader.*

NB2: Where it is proposed that a statutory officer is dismissed prior to Council determining the decision it must be considered by a Panel of at least two Independent Persons as defined under the Localism Act 2011.

## **Section 4 Scheme of Delegation**

An additional delegation to the Chief Executive and Monitoring Officer (individually) to enable them to suspend the statutory officers within the Council, where they consider it is an emergency to do.

### **Part 4 Rules of Procedure Officer Employment Procedure Rules**

#### **6. Disciplinary Action**

##### **(a) Head of Paid Service, Chief Finance Officer and Monitoring Officer**

*Statutory Officers can be suspended on full pay whilst an investigation into alleged misconduct takes place, such suspension to be reviewed after two months and every month thereafter.*

*In an emergency, the Head of Paid Service or the Monitoring Officer may suspend a Statutory Officer. In other cases, only the Employment Committee may suspend a Statutory Officer, or extend the suspension.*

*No disciplinary action may be taken in respect of a Statutory Officer except in accordance with a recommendation in a report made by a designated independent investigator.*

~~A politically balanced Sub-Committee group of no fewer than three four members and no greater than six (along with two Independent Persons) will be appointed by the Employment Committee to consider any allegations of discipline. The Head of Paid Service may be suspended on full pay by the Employment Committee whilst an investigation takes place. The Statutory Officers may be suspended by the Head of Paid Service. In all cases the suspension will last no longer than two months.~~

##### **(b) Chief Officers**

Preliminary investigations into any disciplinary matters will be conducted by the Head of Paid Service. Where the preliminary investigation determines there is a potential case to answer, a Sub Committee of no fewer than *four* three elected members will be established by the Employment Committee, as set out in the JNC Constitution conditions of service and salaries for Chief Officers.

##### **(c) Other Officers**

Councillors will not be involved in disciplinary action against any Officer below a Chief Officer.

## EMPLOYMENT COMMITTEE MINUTES (Continued)

### 7. Dismissal

#### **(a) Head of Paid Service, Monitoring Officer & Chief Finance Officer**

The dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer must be recommended by Employment Committee and ratified by Council.

*Where a Sub-Committee is considering the proposed dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer it must include at least a member of the Executive.*

*When a recommendation to dismiss the Head of Paid Service, Monitoring Officer or Chief Finance Officer is made by a Sub-Committee, the Head of Paid Service or the Monitoring Officer will convene a panel of at least two independent persons appointed under section 28(7) Localism Act 2011 to consider the proposed recommendation of the Sub-Committee prior to any recommendation for dismissal being made to Council. ~~Where a committee or sub-committee of the council is to consider the possible dismissal of the head of paid service, the monitoring officer or the chief finance officer it must include~~*

- ~~• At least two independent members appointed in accordance with section 28(7) Localism Act 2011 and~~
- ~~• The Leader.~~

The committee or sub-committee must be appointed at least 20 working days in advance of the scheduled hearing.

~~If the committee or sub-committee is of the view that dismissal is appropriate the committee or sub-committee may only make a report to Council with its recommendation for dismissal. The committee or sub-committee is not empowered to give any notice of dismissal.~~

In cases where dismissal is recommended the final decision will be taken by council, who must consider any advice, views or recommendations from the committee or sub-committee, the conclusions of any investigation into the proposed dismissal, and any representations from the officer concerned.

~~Notice of dismissal of the head of paid service, the monitoring officer, or chief finance officer shall only be given where the Leader of the Executive advises the proper officer appointed for the purpose that the Executive have a well founded and material objection to the appointment of that person.~~

*Notice of dismissal of a Statutory Officer shall only be given where no well-founded objection has been received from any member of the Executive. This shall be provided by the Leader to the officer appointed for the purpose of this procedure.*

## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

*No notice of dismissal of a Statutory Officer may be given by the council before the proposal has been considered by an Independent Panel of at least two members appointed under section 28(7) Localism Act 2011.*

*No notice of dismissal may be given without the prior approval of the council.*

### **(b) Chief Officers**

The dismissal of Chief Officers will be made by a Sub Committee of the Employment Committee, as set out in the JNC Constitution conditions of service and salaries for Chief Officers.

NB. Where a meeting of the Employment Committee is required under these terms the meeting will take place under Council Procedure rules with the press and public excluded as per the Access to Information procedure rules of the Constitution.

### **8. Appeals**

The Council's disciplinary capability and related procedures, as adopted allow the right of appeal to a sub-committee in respect of disciplinary matters.

*If the Sub-Committee takes action short of dismissal, the Statutory Officer may appeal to a Sub-Committee of the Employment Committee. The Sub-Committee (or no less than four Councillors who have not previously considered the case) will consider the report of the Independent Investigator and any other relevant information considered by the Disciplinary Sub-Committee, e.g. new information, executive objections (if relevant), outcome of any further investigation, etc. The Statutory Officer will have the opportunity to appear at the Sub-Committee and make representations, although the appeal hearing will usually take the form of a review of the disciplinary decision rather than a re-hearing.*

*The Sub-Committee will give careful consideration to these matters and conduct any further investigation it considers necessary to reach a decision.*

*The decision of this Sub-Committee will be final.*

**DISCIPLINARY PROCEDURE FOR STATUTORY OFFICERS**

In this procedure, 'Statutory Officer' means the Head of Paid Service (Chief Executive), the Monitoring Officer (Deputy Chief Executive & Monitoring Officer) and/or the Chief Finance Officer (Head of Finance & Section 151 Officer).

**1. Issues requiring investigation**

Where an allegation is made relating to the conduct or capability of a Statutory Officer or there is some other substantial issue that requires investigation, the matter will be considered by the Disciplinary Sub-Committee (DSC).

Other structures are necessary to manage the whole process, including an Independent Panel should there be a proposal for the dismissal of a Statutory Officer. This will be comprised of independent persons, appointed in accordance with The Local Authorities (Standing Orders) (England) Regulations 2001 as amended.

**2. Timescales**

It is in the interests of all parties that proceedings be conducted expeditiously. It is recognised that it would be inappropriate to impose timescales that could in practical terms be difficult to achieve.

**3. Suspension**

Suspension will not always be appropriate as there may be alternative ways of managing the investigation.

However, the DSC will need to consider whether it is appropriate to suspend the Statutory Officer. This may be necessary if an allegation is such that if proven it would amount to gross misconduct. It may also be necessary in other cases if the continuing presence at work of the Statutory Officer might compromise the investigation or impair the efficient exercise of the Council's functions.

In any case, the Statutory Officer shall be informed of the reason for the proposed suspension and have the right to present information before such a decision is taken.

The Head of Paid Service or the Monitoring Officer has the delegated power to suspend another Statutory Officer immediately in an emergency if an exceptional situation arises whereby allegations of misconduct by that Statutory Officer are such that their remaining presence at work poses a serious risk to the health and safety of others or the resources, information or reputation of the authority.

The continuance of a suspension should be reviewed after it has been in place for two months and every month thereafter.



## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

### **4. Right to be accompanied**

Other than in circumstances where there is an urgent requirement to suspend a Statutory Officer, they will be entitled to be accompanied at all stages.

### **5. Considering the allegations or other issues under investigation**

The DSC will, as soon as is practicable inform the Statutory Officer in writing of the allegations or other issues under investigation and provide them with any evidence that the DSC is to consider, and of their right to present oral evidence.

The Statutory Officer will be invited to put forward written representations and any evidence including written evidence from witnesses they wish the DSC to consider. The DSC will also provide the opportunity for the Statutory Officer to make oral representations. At this initial consideration of the need to investigate further, it is not anticipated that witnesses will be called. The discretion to call witnesses lies solely with the DSC.

The DSC will give careful consideration to the allegations or other issues, supporting evidence and the case put forward by the Statutory Officer before taking further action.

The DSC shall decide whether:

- the issue requires no further formal action under this procedure; or
- the issue should be referred to an Independent Investigator

The DSC shall inform the Statutory Officer of its decision without delay.

### **6. Appointment of an Independent Investigator**

The DSC will be responsible for appointing an Independent Investigator, providing the necessary facilities, paying the remuneration and providing all available information about the allegations.

The Independent Investigator should be selected from the list maintained by the National Joint Secretaries.

### **7. The Independent investigation**

The ACAS Code of Practice on Discipline and Grievance requires there to be an investigation to establish the facts of the case before proceeding to the disciplinary hearing. For Statutory Officers, this should be carried out by an Independent Investigator operating on the basis of an independent investigation using their powers to access information and witnesses.

Once appointed it will be the responsibility of the Independent Investigator to investigate the issue / allegation and to prepare a report stating in their opinion whether (and, if so, the extent to which) the evidence they have obtained suggests that there is evidence to support further action under this procedure. While it is not the role of the Independent Investigator to decide what action may be taken under this procedure, they may, in cases concerning

## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

potential misconduct, give a view as to the seriousness of the matter and in any case, set out a range of actions which they consider to be available to the DSC.

### **8. Receipt and consideration of the Independent Investigator's report by the DSC**

The DSC will consider the report of the Independent Investigator, and also give the Statutory Officer the opportunity to state their case and, to question witnesses, where relevant, before making a decision.

Having considered any other associated factors the DSC may:

- Take no further action
- Recommend informal resolution or other appropriate procedures
- Refer back to the Independent Investigator for further investigation and report
- Take disciplinary action against the Statutory Officer short of dismissal
- Propose dismissal of the Statutory Officer to the Council

### **9. Action short of dismissal**

The DSC may agree to impose no sanction, or to take action short of dismissal, in which case the DSC will impose an appropriate penalty / take other appropriate action.

### **10. Where dismissal is proposed**

Proposal to dismiss on the grounds of misconduct and for other reasons such as capability or some other substantial reason

The DSC will inform the Head of Paid Service that it is proposing to the council that the Statutory Officer be dismissed (unless it is the Head of Paid Service that the DSC is proposing to dismiss, in which case the DSC will inform the Monitoring Officer) and that the executive objections procedure should commence.

#### *Executive objections procedure*

The Head of Paid Service (or Monitoring Officer as the case may be) will notify all members of the executive of:

- The fact that the DSC is proposing to the council that it dismisses the Statutory Officer
- Any other particulars relevant to the dismissal
- The period by which any objection to the dismissal is to be made by the leader on behalf of the executive, to the Head of Paid Service (or Monitoring Officer as the case may be)

At the end of this period the Head of Paid Service (or Monitoring Officer as the case may be) will inform the DSC either:

- that the leader has notified their that neither they nor any member of the executive has any objection to the dismissal
- that no objections have been received from the leader in the period or
- that an objection or objections have been received and provide details of the objections

The DSC will consider any objections and satisfy itself as to whether any of the objections are both material and well founded. If they are, then the Committee





## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

will act accordingly, i.e. it will consider the impact of the executive objections on its proposal for dismissal, commission further investigation by the Independent Investigator and report if required, etc.

Having satisfied itself that there is no material and well-founded objections to the proposal to dismiss, the DSC will inform the Statutory Officer of the decision and put that proposal to the Independent Panel along with the Independent Investigator's report and any other necessary material.

### *The role of the Independent Panel*

Where the DSC is proposing dismissal, the proposal needs to go before the Independent Panel. The Independent Panel must be appointed at least 20 days before the Council meeting which would consider the proposal to dismiss.

Both parties should be present or represented at the Panel meeting (the DSC might be represented by its Chair or other nominated person at the meeting). The Panel should receive any oral representations from the Statutory Officer, and should invite any response on behalf of the DSC to the points made, and may ask questions of either party.

The role of the Independent Panel is to offer any advice, views or recommendations it may have to the Council on the proposal to dismiss. The Independent Panel should review the decision and prepare a report for Council. This report should contain a clear rationale if the Panel disagrees with the recommendation to dismiss.

### *The role of the Council*

The consideration by the Council will take the form of a review of the proposal that the Statutory Officer should be dismissed, and must take into account:

- Any advice, views or recommendations of the Independent Panel
- The conclusions of the investigations into the proposed dismissal
- Any representations from the Statutory Officer

The Statutory Officer will have the opportunity to appear before the Council and make representations to the Council before a decision is taken.

### **Redundancy, Permanent Ill-Health and the expiry of Fixed Term Contracts**

Proposed dismissals on the grounds of redundancy, permanent ill-health and the expiry of a fixed term contract where there has been no commitment to renew it, do not require the involvement of an Independent Investigator or Independent Panel.

However, the authority should follow appropriate and fair procedures in these cases and have mechanisms in place, including appropriate delegated authorities, to manage such eventualities. In addition, dismissals for all reasons including those set out in this paragraph must be approved by the Council itself.



## EMPLOYMENT COMMITTEE MINUTES (Continued)

### **11. Appeals against dismissal**

Where the DSC has made a proposal to dismiss; the review by the Council will also fulfil the appeal function.

### **12. Appeals against action short of dismissal**

If the DSC takes action short of dismissal, the Statutory Officer may appeal to the Appeals Sub-Committee. The Appeals Sub-Committee will consider the report of the Independent Investigator and any other relevant information considered by the DSC, e.g. new information, executive objections (if relevant), outcome of any further investigation, etc. The Statutory Officer will have the opportunity to appear at the Appeals Sub-Committee and make representations, although the appeal hearing will usually take the form of a review of the disciplinary decision rather than a re-hearing.

The Appeals Sub-Committee will give careful consideration to these matters and conduct any further investigation it considers necessary to reach a decision.

The decision of the Appeals Sub-Committee will be final.

A handwritten signature in black ink, appearing to be 'JB' or similar initials, located in the bottom right corner of the page.

**(Extract from Disciplinary Policy)**

***THE PROCEDURE***

**STAGE 1 – DISCIPLINARY INVESTIGATION**

Before taking formal action, it is imperative that an investigation takes place into any suspected breach of discipline. This should be undertaken in a timely manner and not delayed for undue reason. The employee's line manager will conduct the investigation and may be accompanied by a colleague or member of the HR department.

**NB:** HR reserves the right to appoint an independent investigator / manager at this stage if deemed necessary.

The purpose of an investigation is to establish the facts surrounding the alleged misconduct and establish whether formal action should be taken. It should include the following:

- Interviewing the people involved; employee, witnesses etc
- Looking at relevant information such as personnel files, appraisal records

Where employees are required to attend an interview as part of any investigation, due regard will be given to the employee's rights and confidentiality.

**Right to be accompanied**

Employees have the right to be represented/accompanied by either a Trade Union representative or work colleague at all stages of the investigatory and disciplinary procedure. The person accompanying will be allowed to confer with the employee and address the hearing meeting but not answer questions on the employee's behalf.

The employee should be informed of the reason for the investigation and their right to be accompanied at the start of the meeting. Where an employee is experiencing difficulties arranging representation, they may request that the meeting is rescheduled to a mutually convenient alternative time. This time must be as soon as possible and no later than 5 working days after the original date. Any delay beyond this point is at the manager's discretion.

**Disciplinary Investigation Report**

Following the completion of a disciplinary investigation, the Investigating manager should submit a disciplinary investigation report to the manager hearing the potential disciplinary. The purpose of which is to provide a recommendation that either:

- No disciplinary hearing required as a disciplinary sanction is not warranted, or
- A disciplinary sanction may be warranted and a disciplinary hearing conducted

## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

The investigating manager will then notify the employee in writing of the outcome of the investigation where possible within 5 working days.

### **STAGE 2 - DISCIPLINARY HEARING**

If the outcome of the investigation recommends that a disciplinary sanction may be warranted a disciplinary hearing should be convened, where possible within 7 working days of the investigatory report being submitted. The meeting can be rescheduled and held at a later date if both parties are in agreement to the delay but must not be any later than 7 working days after the original scheduled date. The hearing will be conducted by the line managers peer (or line manager's manager, not previously involved in the case).

The notification of the requirement to attend a disciplinary hearing will be confirmed in writing to the employee at least 5 working days in advance of the hearing and will contain details of:

- Who will be conducting the hearing
- A copy of WDC's disciplinary policy and procedure
- Time, date and location of the meeting
- Reason for the hearing
- Employee's right to be accompanied by a Trade Union representative or work colleague
- Arrangements in relation to any documents to be forwarded prior to the hearing (if not already enclosed) e.g. witness statement
- Copy of the investigation report

Any documentary evidence to be used at the time of the disciplinary hearing by the employee in their defence should be submitted at least three days before the hearing. (This condition may be waived in exceptional circumstances)

The manager who conducted the investigation will present their case at the disciplinary hearing, but will not adjudicate or be part of the decision making process.

The manager conducting the Hearing should be accompanied by a colleague or member of HR department.

During the hearing, the employee should be:

- Reminded of their rights under the Disciplinary Procedure and how the hearing will be conducted
- Advised of their companion's rights
- Told the extent of the allegations
- Allowed to hear the evidence including any details from reports and statements previously supplied
- Given the opportunity to state their case to respond to allegations or concerns and to draw attention to any circumstances relevant to their situation before any decision is made.
- Allowed to ask questions relating to the investigation
- Allowed to call any witnesses
- Able to confer with their companion at any point and where appropriate seek a short adjournment

## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

Should the employee refuse to discuss the allegations they should be advised that due regard will be taken of their silence and a decision reached on the evidence available.

The Disciplinary Hearing **must** be adjourned before a decision is made.

### **Outcome of Disciplinary Hearing**

Once a decision has been made regarding the outcome of the disciplinary hearing, the hearing will be either reconvened or a letter written to inform the employee of the outcome. This will include:-

- whether disciplinary action is warranted or whether no action will be take
- The perceived nature of the misconduct
- The disciplinary penalty issued and how long it will last
- The nature and timescale of the improvement expected
- The likely consequences of further misconduct
- Their right of appeal in accordance with the Council's Disciplinary Appeals procedure.

Details of the disciplinary outcome will be confirmed in writing to the employee within 7 working days after the hearing.

***NB:*** *There may be occasions where an employee is repeatedly unable or unwilling to attend a meeting. This may be for various reasons, including genuine illness or a refusal to face up to the issue. All the facts will need to be considered and a reasonable decision taken on how to proceed*

*Where an employee continues to be unavailable to attend a meeting a decision will be made on the evidence available to them at the time of the hearing by the line manager*

### ***Disciplinary Sanctions***

The level of sanction applied will take account of all relevant factors; in particular the seriousness of the employee's alleged misconduct. The period during which any warning remains applicable will be exclusive of any absence from work or unpaid leave greater than four consecutive weeks

If, following the disciplinary hearing, it is decided that disciplinary action will be taken; one of the following sanctions will be applied:

1. Verbal Warning (in writing)
2. First Written Warning
3. Final Written Warning
4. Dismissal/Demotion/Re-deployment

### **VERBAL WARNING (CONFIRMED IN WRITING)**

A verbal warning will be appropriate when conduct or performance does not meet acceptable standards.

It will be live on file for 6 months but disregarded for disciplinary purpose after this period of time.

## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

This warning will be taken into account if any further acts of misconduct or failure to satisfactorily improve occur during this period.

### **FIRST WRITTEN WARNING**

A first written warning will be appropriate when:

- issues previously addressed have not been resolved
- more serious breaches of rules or standards of conduct or performance have arisen whether or not they have been addressed previously

It will be live on file for 1 year but disregarded for disciplinary purpose after this period of time.

This warning will be taken into account if any further acts of misconduct or failure to satisfactorily improve occur during this period.

### **FINAL WRITTEN WARNING**

A final written warning will be appropriate where:

- misconduct of a more serious nature arises but on the merits of the case it is decided that dismissal is not appropriate.
- more serious breaches of rules or standards of conduct or performance have arisen whether or not they have been addressed previously

It will be live on file for 1 year but disregarded for disciplinary purpose after this period of time.

In exceptional circumstances, it may remain live on file for a longer period or indefinitely.

### **DISMISSAL/DEMOTION/RE-EMPLOYMENT**

It is essential that HR and the Chief Executive are informed prior to a dismissal taking place. The employee should receive the decision to dismiss in writing. Other options such as demotion or redeployment will be explored beforehand if deemed appropriate.

Dismissal will be appropriate where:

- There has been an instance of misconduct of any kind in situations where a Final Written Warning has already been issued.

An employee dismissed in this way is entitled to be paid in lieu of the appropriate period of notice as set out in their conditions of employment.

### **Gross Misconduct/ Summary Dismissal**

An employee dismissed in this way will be dismissed without notice or payment in lieu of notice.



## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

### **DISCIPLINARY APPEALS PROCEDURE**

#### **APPEAL (To next level of Manager or Manager's peer – not previously involved with the case)**

If the employee wishes to appeal against the outcome of the hearing, the employee should do so in **writing** to the manager's manager stating the reasons for their dissatisfaction and grounds for appeal no later than 7 working days after the outcome letter is received.

#### **Appeal Hearing**

The employee will be sent a letter inviting them to attend an appeal hearing giving them no less than 7 working days notice.

The notification of the requirement to attend an appeal hearing will be confirmed in writing to the employee at least 5 working days in advance of the hearing and will contain details of:

- Who will be conducting the hearing
- A copy of WDC's disciplinary policy and procedure
- Time, date and location of the meeting
- Reason for the hearing
- Employee's right to be accompanied by a Trade Union representative or work colleague
- Arrangements in relation to any documents to be forwarded prior to the hearing (if not already enclosed) e.g. witness statement
- Copy of the investigation report

If the employee or their representative cannot attend, the hearing may be rescheduled by mutual agreement

The hearing will be conducted by the manager. The employee will give their reasons for appealing, providing any relevant evidence. There will be the opportunity to ask questions for further clarification. The Manager hearing the appeal must adjourn and carefully consider the best course of action.

The outcome from the meeting might be the following:

1. Disciplinary appeal is upheld or disciplinary appeal is not upheld
2. Request additional information/clarification

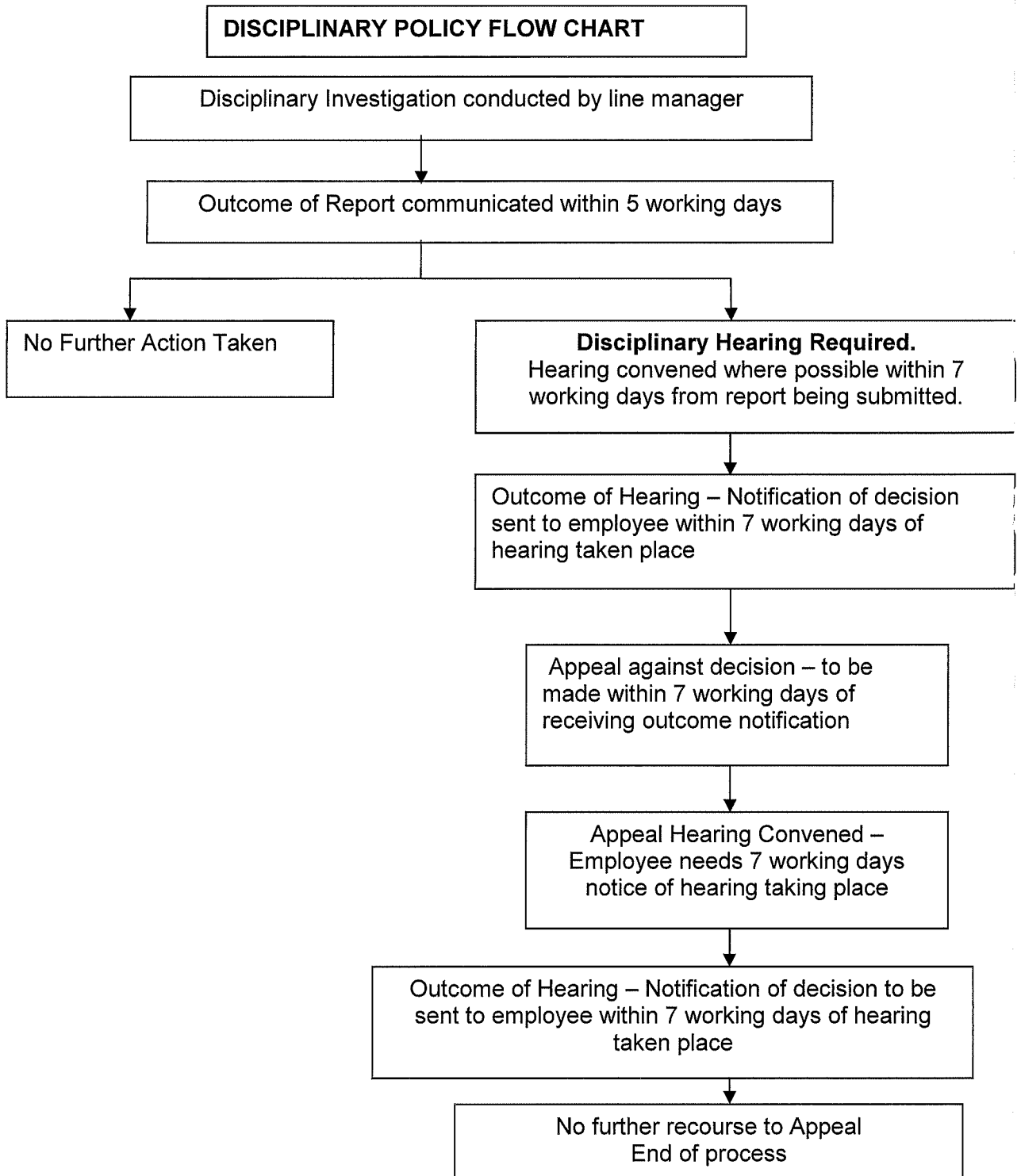
#### **Outcome of Appeal Hearing**

The outcome of the appeal hearing will be confirmed in writing where possible within 7 working days of the hearing taking place unless additional information/clarification is requested then the manager will keep the employee fully informed as to their progress")

***The decision of this appeal hearing is final and constitutes the completion of the disciplinary appeal.***



**EMPLOYMENT COMMITTEE MINUTES (Continued)**





## **GRIEVANCE PROCEDURE**

### **THE INFORMAL GRIEVANCE STAGE**

The council will endeavour to address matters informally with the member of staff raising the grievance. HR, or the line manager or manager appointed to review the grievance will aim to give the employee the opportunity to address matters informally and look for early resolution, prior to invoking stage 1 of the grievance procedure.

### **STAGE 1 - RAISING A FORMAL GRIEVANCE**

Where informal approaches have been unsuccessful, the employee can raise a formal grievance by writing to their Line Manager (or to the next level of management where the grievance relates to their immediate Line Manager). The employee should provide all details e.g. people involved, description, dates, times and events. Where appropriate the employee should make suggestions regarding their desired outcome.

N.B. Any issues/concerns must be raised within 3 months of an event occurring (subject to extenuating circumstances)

***NB:*** HR reserve the right to appoint an independent investigating officer at this stage if deemed necessary

### **Acknowledgement**

Normally, within 2 working days of receiving the **written grievance**, the Line Manager must acknowledge receipt of the grievance and explain the procedure to be followed.

The manager, after consultation with HR, will arrange a meeting to hear the grievance normally within 5 working days.

### **Grievance Hearing**

The employee will be sent a letter inviting them to attend a grievance hearing giving them no less than 7 working days notice. The letter will inform the employee of their right to be accompanied / represented by a Trade Union official or colleague of their choice, during the hearing. If the employee or their representative cannot attend, the hearing may be rescheduled by mutual agreement

The employee's line manager (or the next level of line management if the grievance relates to the immediate line manager) will hear the grievance and may be accompanied by a senior manager or member of the HR department with a view to resolution. The employee will re-iterate their grievance, providing any relevant evidence and suggested resolutions. There will be the opportunity to ask questions for further clarification. The Line Manager hearing the grievance must adjourn and carefully consider the best course of action.



## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

**NB;** *If the outcome of the grievance hearing is further investigation the following steps must be followed: -*

- *Conduct an investigation – (this may be the starting point of a grievance complaint prior to the grievance hearing taking place.)*
- *This may include appointing an independent investigating officer who will produce an investigation report*
- *Reconvene grievance meeting, putting in writing to all parties to consider the findings of the investigation report*

*Follow stage 1 above.*

### **Outcome of Grievance Hearing**

The outcome of the grievance hearing will be confirmed in writing where possible within 7 working days of the hearing taking place unless further investigation needs to take place then the manager will keep the employee fully informed as to their progress.

The outcome from the meeting might be the following:

1. Grievance is upheld and a solution is put forward
2. Grievance is not upheld
3. Investigate the grievance further
4. Request additional information/clarification

NB – complex cases may fall outside these timescales, however in such cases, all parties should endeavour to communicate any reason for delay in writing.

### **STAGE 2 – APPEAL (to next level of Manager or Manager’s peer)**

If the employee wishes to appeal against the outcome of the hearing, the employee should do so in **writing** to the manager’s manager stating the reasons for their dissatisfaction and grounds for appeal no later than 7 working days after the receipt of outcome letter is received.

Then follow the appeal process outlined below:-

#### **Acknowledgement**

Where possible and within 2 working days of receiving the **written appeal**, the Line Manager must acknowledge receipt of the appeal and explain the procedure to be followed.

The manager, after consultation with HR, will arrange a meeting to hear the appeal where possible within 5 working days.

#### **Appeal Hearing**

The employee will be sent a letter inviting them to attend an appeal hearing giving them no less than 7 working days notice. The letter will inform the employee of their right to be accompanied / represented by a Trade Union official or colleague of their choice, during the hearing. If the employee or their representative cannot attend, the hearing may be rescheduled by mutual agreement



## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

The hearing will be conducted by the Manager with a view to resolution. The employee will explain their grounds of appeal, providing any relevant evidence and suggested resolutions. There will be the opportunity to ask questions for further clarification. The Manager hearing the appeal must adjourn and carefully consider the best course of action.

The outcome from the meeting might be the following:

1. Grievance appeal is upheld or grievance appeal not upheld
2. Propose a solution
3. Further investigation of points raised at appeal
4. Request additional information/clarification

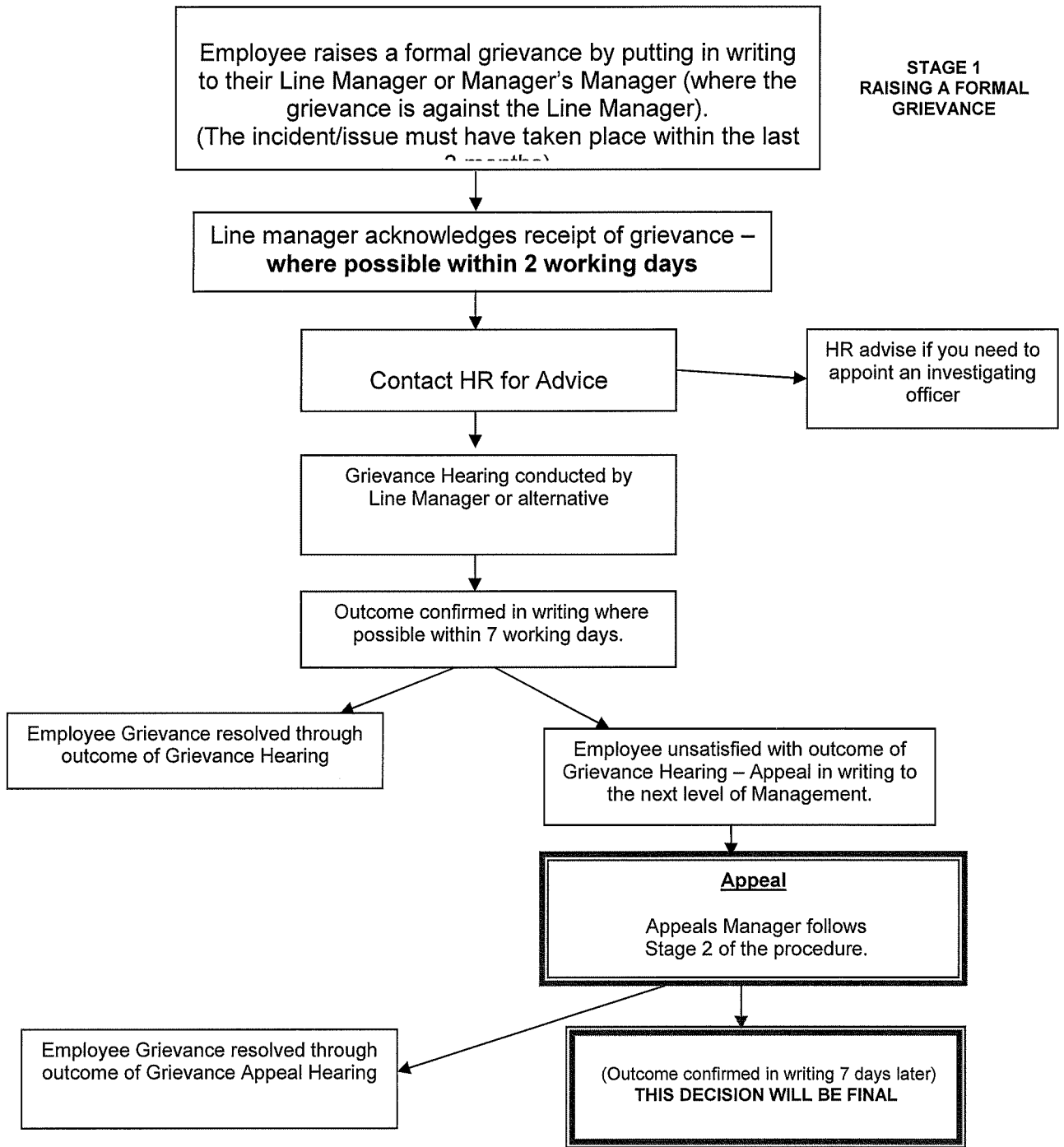
### **Outcome of Appeal Hearing**

The outcome of the appeal hearing will be confirmed in writing within 7 working days of the hearing taking place unless further investigation needs to take place when the manager will keep the employee fully informed as to their progress

***The decision of this appeal hearing is final and constitutes the completion of the grievance procedure.***



**EMPLOYMENT COMMITTEE MINUTES (Continued)**



*JJB*



# **Long Term Sickness and Ill Health Capability Policy and Procedure**

*JB*

## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

### **LONG TERM SICKNESS AND ILL HEALTH CAPABILITY POLICY**

#### **1. INTRODUCTION**

This document sets out our procedures for the management of long term sickness absence in a fair and consistent way.

Long term sickness absence can vary from short intermittent periods of ill-health to a continuous period of long-term absence of four weeks or more, and have a number of different causes (for example, injuries, recurring conditions, or a serious illness requiring lengthy treatment).

We wish to ensure that the reasons for sickness absence are understood in each case and investigated where necessary. In addition, where needed and reasonably practicable, measures will be taken to assist those who have been absent by reason of sickness to return to work.

Any information you provide to us about your health will be processed lawfully. We recognise that such data is sensitive and will handle it in a confidential manner.

#### **2. APPLICATION OF THIS POLICY AND PROCEDURE**

This policy and procedure should be used where the following triggers are reached:

- The employee has been off sick for more than 20 working days (pro rata) and where there is no imminent prospect of a return to work, or
- Where frequent short-term sickness absence (20 days within a 12 month period (pro rata)) may be attributable to an underlying, long-term medical condition.

Due regard will be given to the Equality Act 2010 and ACAS guidance concerning disability discrimination in the workplace, where the reasons for absence may be related to a disability.

Whilst all situations are different, it is expected that most cases of long term absence will normally be resolved within 12 months. Most situations will, of course, take less time than that.

Managers will need to demonstrate that they are managing long term sickness absence by making positive decisions in line with this guidance. Managers should make a decision on the most appropriate action following discussion with the employee and taking advice from HR as necessary. Action will normally be decided on and communicated at an Absence Review Meeting. However, it may not always be necessary to hold a meeting first. For example, it may be more appropriate to inform the employee of the need to make a referral to Occupational Health via HR in order that the professional medical opinion can be discussed to reach an informed decision at an Absence Review Meeting. This action may be communicated in a variety of ways, i.e. letter, telephone conversation or email.

Long term absence is handled most effectively through early interventions and actions. This enables the manager to identify what practical support can be provided to facilitate a return to work.



## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

Managers have the right to initiate and maintain reasonable contact with the employee in order to inform their decisions. Employees are expected to co-operate with such contact and failure to do so may result in decisions being made based on the limited information available at that time.

### **3. ROLES AND RESPONSIBILITIES**

#### **EMPLOYEES**

Employees are responsible for their health and wellbeing and for minimising their own absence from work where possible. Employees are responsible for adhering to the requirements stated within this policy and the Attendance Management Policy, particularly in terms of sickness notification, providing doctors notes/Fit Notes and keeping in regular contact with their manager.

#### **MANAGERS**

Managers have a duty of care for the health, safety and welfare of their staff and should:

- Work supportively in conjunction with HR and the Council's nominated occupational health provider to support staff with sickness absence.
- Be responsible for managing sickness effectively and ensuring absence is monitored and recorded for their team.
- Carry out return to work discussions and other review meetings, promoting a positive working environment, motivating and managing their team to maximise attendance.
- Monitor triggers and absence patterns and to identify where irregularities have occurred.

Senior managers are responsible for ensuring that managers who are managing sickness absence issues attend the appropriate training. Senior managers should also ensure that absence issues are treated equitably and consistently within their area of responsibility.

#### **HUMAN RESOURCES**

HR will provide specialist advice and support to managers and staff in dealing with absence issues. HR may attend any meetings held under the informal or formal stages of this procedure and will also:

- Provide statistical information to support the management of absence.
- Actively support managers when trigger points are reached. Any information held will be in line with the requirements of the Data Protection Act and GDPR and confidentiality maintained.
- Work with managers and staff to facilitate a return to work, including provision of advice, support and referrals to Occupational Health.
- Provide appropriate training to support managers who are managing sickness absence issues
- Provide information updates to managers and staff on sickness issues, for example, to advise of changes in legislation and best practice.

### **4. PROCEDURE**

Managing sickness under this policy involves holding regular sickness review meetings with the member of staff. The following methods may also be followed:

- Holding keeping in touch meetings;
- Discussing and reviewing the length and reasons for absence;
- Establishing the need for occupational health appointment



## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

- Meeting to review occupational health report
- Reviewing any reasonable adjustments
- Establishing a return to work date
- Facilitating a return to work/improve attendance levels.
- Implementing a phased return to work
- Redeployment

More details regarding the above methods are given below.

### **KEEPING IN TOUCH**

During long term sickness absence, it is important that managers keep in touch with their member of staff and provide appropriate support and interventions to facilitate a return to work.

It is also important that employees keep in touch with their manager at agreed regular intervals and ensure any changes in health or expected date of return are discussed.

Regular review meetings (e.g. monthly) will normally be held with the manager (HR may also attend these meetings) and may be arranged at work, at the employee's home or another agreed location. An employee has the right to be accompanied to these meetings by a recognised trade union official or a work colleague – if this is not possible, there may be an option to be accompanied by an HR approved individual for support (for example a family member).

In some situations, (e.g. where there is a known date of return to work), meetings may be held at longer intervals by agreement. Further contact can also be maintained by telephone and/or email.

The purpose of the meeting may include:

- Enquire after the health of the absent employee; discuss the nature and likely prognosis and duration of the absence.
- Consider referral of the individual to Occupational Health. The purpose and process of this and the potential outcomes should be explained.
- Discuss the outcome of a referral to Occupational Health that has already been made.
- Agree future contact arrangements; contact should be maintained regularly via phone calls, or meetings, or visits.
- Discuss whether any assistance can be provided and give details of any useful contacts such as the trade unions and the confidential counselling service.

The details discussed and any actions agreed should be recorded and acted upon. Managers should send any documentation to the employee.

If the employee is expected to return to work within a short, specified time, then a meeting may not be necessary. Such situations may include an employee who has undergone an operation where the condition and recovery is straightforward. Managers should, however, monitor the situation in case the sickness absence becomes more prolonged or complicated than expected and a meeting arranged whenever appropriate.



## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

### **FACILITATING A RETURN TO WORK**

In order to provide appropriate support and facilitate a return to work, the manager in conjunction with HR may need to:

- Seek medical advice through the nominated Occupational Health provider (which could be a nurse or physician) and / or from the individual's G.P. or medical consultant about the employee's health to establish when / whether a return to work is likely and how the manager can reasonably help to facilitate this.
- Discuss and make reasonable adjustments that may facilitate a return to work or to retain an individual at work.
- Consider whether alternative duties / or a phased return to work is beneficial.
- Consider redeployment as a potential alternative to ending employment where appropriate.

If an employee is not considered fit to undertake their normal duties for a short period of time, but it is recommended via a Fit Note or Occupational Health that they could do other work; they may be requested to undertake other appropriate work. Such requests will only be made in consultation with independent medical advice and where appropriate following a risk assessment.

### **PHASED RETURNS**

If an employee is recovering from illness and it is recommended by Occupational Health or their GP that a phased return to work would be beneficial, the manager will discuss this with the employee and HR. A phased return allows an employee to resume work, starting on reduced hours for a short period, building up hours gradually to normal full time hours. The employee will receive their usual basic pay during this phased return which would normally be for up to a maximum of four weeks. There may be exceptions when a longer phased return is recommended and this will be with agreement from the manager and HR. (NB – usual basic pay will only be paid in accordance to the four week phased return period. Should a phased return go beyond four weeks, employees may be asked to use alternative methods to accommodate this, e.g. annual leave to be taken for normal hours not worked).

If the employee is not able to return to full time work at the end of a phased return period, flexible working arrangements may be considered upon request. For example, if the employee wanted to reduce their normal working hours either permanently or for a temporary period, an application could be made through the flexible working procedure or through the Council's VRT policy and, if approved, this request could result in a permanent or temporary contractual change.

A return to work following an extended period of sick leave can be facilitated by a graduated build up to normal contracted hours. Where either a doctor's Fit Note or an OH report includes the option of a phased returned to work; managers should meet with the employee to establish a pattern of return to work and anticipated timescales, subject to agreed reviews.

Each case must be considered in the light of the individual circumstances but it would be unusual for a phased return to extend beyond 4 weeks. HR will support managers in establishing a reasonable approach to phased hours to be worked, taking into account any advice or guidance given by the GP or Occupational Health and operational needs.



## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

### **REFERRAL TO OCCUPATIONAL HEALTH**

Occupational Health can assist Managers and employees by:

- Providing a specialist occupational health assessment and advice to both parties about the effect of any health condition or other relevant problem on current and future fitness for their work or attendance.
- Providing advice about how job modification, alternative work or workplace rehabilitation may help the employee return safely to work and so cut short avoidable continuing sickness.
- Obtaining reports or advice from the employee's GP (with appropriate consent) and/or specialist to help facilitate safe rehabilitation at work
- Providing specialist medical assessment to facilitate health & safety risk assessments where this becomes necessary in the management of individual cases.

Following a discussion of the purpose, process and the potential outcomes of a referral with the employee, managers should consider referring the employee to Occupational Health via HR to ascertain the employee's medical condition, including fitness for work, timescale for return, and any limits on the ability of the employee to perform their job.

Occupational Health may liaise with the employee's GP and/or Consultant, and if so will arrange this direct with the employee. Employees must, where possible attend the Occupational Health appointment arranged for them. Failure to attend may result in a recharge of the appointment to the employee. It is in the best interest of all concerned to try and resolve sickness absence matters early and co-operatively, as early intervention is usually more effective in achieving a successful return to work.

Managers do not have to wait until the end of a Fit Note or a formal attendance warning in order to make a referral to occupational health, as often an early referral may be more beneficial to the employee in assisting their return to work.

Managers must liaise with HR to arrange the referral to be made to Occupational Health.

Following receipt of the report from Occupational Health, managers should discuss the report and the implications arising from the report with the employee. HR may also be involved in this discussion. Please note that any advice given and suggested adjustments contained within a report are recommendations and the opinion of the Occupational Health Advisor / Physician. It is a management decision as to whether or not these can be accommodated.

The potential outcomes arising from an Occupational Health appointment(s) will normally fall into the following categories:

**EMPLOYMENT COMMITTEE MINUTES (Continued)**

<b>Outcome</b>	<b>Action required</b>
Fit for work: no adjustments likely to be required	Managers should confirm with the employee the arrangements for a return to work.
Fit for work: temporary / Permanent adjustments recommended	Managers should discuss with the employee the adjustments outlined and whether or not they can be accommodated. If the adjustments cannot be accommodated managers should endeavour to facilitate the continuation of the employee's employment through the alternative actions outlined below such as redeployment.
Temporarily unfit for work:- <ul style="list-style-type: none"> <li>• Report from GP/Specialist</li> <li>• OHA/OHP review to be arranged</li> </ul>	Managers should maintain regular contact with the employee and monitor the situation. Once a GP/Specialist report is received a further outcome report should be received from Occupational Health and managers will need to consider the advice given at that stage. If the employee fails to give their consent to a GP/Specialist report, OH will need to give their advice and managers will need to consider their actions stemming from that advice without the benefit of a GP/Specialist report.  If the situation does not become clear within a foreseeable period of time the situation will be reviewed in conjunction with HR and the line manager to ascertain whether the absence can be sustained.
Not fit for work in the foreseeable future (OH Physician decision only).	Where the medical advice is that the employee cannot continue to carry out their current duties due to their physical or mental health, managers should endeavour to facilitate the continuation of their employment through the alternative actions outlined below such as redeployment before taking action to end the employment on the grounds of incapability due to ill health.  If the employee is a member of the Local Government Pension Scheme and has at least two years pensionable service, they may be eligible for retirement on the grounds of ill health. If this is the case their employment may be terminated with a pension.

**REASONABLE ADJUSTMENTS / ADAPTATIONS**

Consideration should be given to any reasonable adjustments to the duties, hours of work, shift pattern, work environment etc. that might enable the employee to return to work or attend regularly. Advice should be sought from HR regarding any adjustments affecting the employee's contract of employment. Any changes made to the contract of employment must suit the business needs of the service. If there are any health and safety issues / risks

## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

for which advice is needed, managers should contact HR in the first instance for further advice and guidance.

### **REDEPLOYMENT**

Where the employee is unable to return to their substantive post, either permanently or for the foreseeable future, attempts should be made over a reasonable period of time to find suitable alternative employment. Details of this process are available in the redeployment agreement. HR will provide guidance regarding the redeployment process.

If after a reasonable period, of up to 12 weeks, no suitable employment can be identified, it may be appropriate to consider the appropriateness of continuing employment. Redeployment will still be actively explored during the notice period.

### **LONG TERM SICKNESS AND ANNUAL LEAVE**

Employees on long term sick leave will still accrue their annual leave. If they return to work before the end of the leave year they can request to take their remaining accrued contractual leave within the leave year.

If there is not enough time remaining within the leave year for the leave entitlement to be taken, or the absence spans more than one leave year, then the employee will be able to carry over up to 20 days (148 hours) from the remaining accrued leave. 20 days is the minimum leave entitlement stipulated under the European Working Time Directive. This should be pro rata for part time employees. Any annual leave days that have already been taken in that leave year should be deducted from the 20 days.

If an employee has had a period of long term sickness absence that spans more than one holiday leave year, a maximum of 20 days may be carried over from each leave year in which the employee is absent (pro rata for part time employees) although this holiday may not be carried over indefinitely and will usually be lost after 18 months from the end of the holiday year in which the days were accrued.

During a period of long term sickness, should an employee wish to take annual leave, this should be agreed and signed off with the line manager and HR should be informed.

### **ILL HEALTH EARLY RETIREMENT UNDER THE LGPS**

If medical advice indicates that the employee is medically unfit to undertake the duties of their current post and there are no suitable redeployment opportunities and the employee is a member of the LGPS, early retirement on the grounds of ill health may be considered. Under the Local Government Pension Scheme (LGPS), an employee eligible for early pension benefits due to ill health must:

- Have at least two years pensionable service, or have equivalent transferred rights from another pension scheme; *and*
- Be certified as medically 'unfit' for work by an independent occupational health physician.

Further advice and guidance on this process can be obtained from the HR.

## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

### **5. ENDING THE CONTRACT OF EMPLOYMENT**

Having due regard to all the circumstances of the case consideration may be given to terminating the contract of employment of an employee on long term sickness absence on the following grounds:

- The employee does not meet the criteria for early retirement on grounds of ill-health
- Redeployment is not appropriate or it has not been possible to redeploy the employee
- The employee has exhausted the alternatives offered for rehabilitation.
- Medical opinion has established that it is unlikely that the employee will return to work and maintain an appropriate attendance record within a reasonable period of time.
- Keeping a role vacant for a further period would be detrimental to the service.

### **6. FORMAL STAGES / ILL HEALTH CAPABILITY STAGES**

This process should be undertaken in conjunction with HR.

Managers will need to commence formal reviews of absence under this procedure when the employee's absence:

- Has met or exceeded a sickness absence indicator, or
- Is otherwise of concern e.g. the impact of the absence is causing ongoing service delivery difficulties or there is a trend of absences occurring on particular days of the week, etc.

Even though sickness triggers may have been met, it may not always be appropriate to immediately proceed to a First Stage Meeting. There may also be cases where medical advice is indicating there is no prospect of the employee being able to return to work within the foreseeable future or a reasonable timeframe. In such instances it may be appropriate to progress straight to the Final Stage Meeting. All cases can differ greatly and therefore advice should be sought from HR.

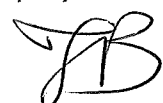
### **THE FIRST STAGE MEETING**

A First Stage Meeting is the first formal step in addressing sickness absence under this procedure. The manager should normally contact the employee to explain the need for this meeting before liaising with HR to write to them formally under this Procedure. HR will support the progression of this process as follows:

#### **WRITE TO THE EMPLOYEE AND INVITE THEM TO THE FIRST STAGE**

- Provide seven calendar days' notice of the meeting and a copy of the Procedure;
- Advise of the entitlement to be accompanied by a \*\*trade union representative or work colleague;
- Provide the relevant background information prior to the meeting including (where appropriate) a copy of Occupational Health advice, and sickness absence record.

*\*\*If the employee's chosen trade union representative or work colleague is unable to attend the scheduled meeting, the employee may propose an alternative date provided it is reasonable and no more than 7 calendar days after the original date and another meeting will be arranged. If the employee*



## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

*fails to attend the re-arranged meeting, a decision may be taken in their absence.*

### **THE FIRST STAGE MEETING AND DISCUSSION:**

This will include:

- The absence record and the impact that this is having on the team/service delivery
- The implications of further/continued absence
- Likely date of a return to work, and, where the absence relates to an underlying medical condition or serious/recurring illness, the latest medical advice and prognosis
- Any support and agreed objectives that may be required to improve attendance e.g. reasonable adjustments where the absence is disability related
- Any representations made by the employee.

### **DECISION / OUTCOME OF MEETING**

Following the **First Stage Meeting** the manager may:

- Issue a notice to improve, with a monitoring period/programme agreed which requires **a sustained, acceptable attendance pattern that meets the needs of the business**, with a specific target which must be maintained for a period of 12 months for either long term or intermittent absence. Within the period the employee should be advised that if their attendance does not meet the required standard, then the matter may be referred to a **Final Stage Meeting** and their employment may be at risk.
- Not issue a notice to improve, as it is believed there are extenuating circumstances as to why the warning should not be issued. This should be discussed with HR in the first instance.

In considering the above, managers should accommodate any reasonable adjustments required for disability related conditions, please seek advice from HR.

### **THE OUTCOME - RECORDING THE DECISION**

- Confirm the outcome and any actions to be taken in writing to the employee. Agree actions and ensure that the implications of further absence/unsatisfactory improvement are made very clear, including the possibility of escalation to a **Final Stage Meeting**;
- The outcome letter must advise the employee of the right of appeal where a formal notice to improve has been issued. An appeal, usually to the manager's manager, must be lodged within 14 calendar days of being informed of the decision. There is no right of appeal against the implementation of a monitoring programme/period.

### **MONITOR, IMPROVEMENT SATISFACTORY OR ESCALATE**

During a monitoring period after the First Stage Meeting, managers should discuss this as part of routine 1:1 meetings or arrange to meet regularly with the employee to review progress and how any subsequent absence should be considered.

Depending upon the circumstances, either during or at the end of the notice to improve period, a decision should be taken as to what further action is necessary. Where there has been satisfactory improvement, this should be

## EMPLOYMENT COMMITTEE MINUTES (Continued)

confirmed and the employee informed that the current notice to improve has finished/been completed. Where improvement has **not** been satisfactory –

### **EITHER**

1. Consider what is expected/acceptable and whether to extend the timescales for reviewing the notice to improve (e.g. there has been encouraging improvement and continuing signs of further improvement);

2. **OR**

The case should be escalated to a **Final Stage Meeting**. This will be appropriate where one or more of the following might apply:

- A notice to improve has already been issued but targets have not been met and/or absence continues to be of concern;
- The absence relates to an underlying medical condition or serious illness and the likely return to work date has been delayed and the absence can no longer be sustained;
- Occupational Health has provided evidence that supports a recommendation that the employee can no longer carry out a substantial part of their current duties and/or should not return to their existing post, or that they will not be able to return to work in the foreseeable future or sustain regular attendance within a period of time that the manager considers to be reasonable. Redeployment will be considered, if appropriate and available, taking into account advice from Occupational Health (**Note: Occupational Health advice may be sought at any time and therefore redeployment may occur at any part of the formal stage**). This may be either on a permanent or temporary basis. Where permanent redeployment is appropriate but is not available, or the employee unreasonably refuses an offer of redeployment, a **Final Stage Meeting** will be held.

### **THE FINAL STAGE MEETING**

A **notice to improve** does not need to expire before matters can be escalated to a Final Stage Meeting under this procedure however, advice should be sought from HR in cases where it is proposed to shorten the review period under the notice. Managers will need to **obtain up-to-date occupational health advice** as previously scripted above in the First Stage process. Thereafter:

#### **WRITE TO THE EMPLOYEE AND INVITE THEM TO THE MEETING:**

The meeting will normally be chaired by a manager more senior than the manager who issued the notice to improve and who holds the authority to terminate employment.

- Provide 14 calendar days' notice of the meeting
- Advise of the entitlement to be accompanied by a trade union representative or work colleague
- Provide the relevant background information prior to the meeting including a copy of Occupational Health advice and sickness absence record
- Note \*\*above re: reorganising meetings where trade union representatives cannot attend.

#### **THE FINAL STAGE MEETING AND DISCUSSION:**

This will include:

- The absence record and the measures, targets and criteria that were used to assess improvement
- Review of the up to date Occupational Health report

## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

- Review of the actions that have been taken to date (including any reasonable adjustments required) and any further adjustments that may have been recommended
- The impact that the absence has had on the team/service delivery; and
- any representations made by the employee.

### **THE DECISION / OUTCOME OF MEETING**

Following the **Final Stage Meeting** the manager may EITHER:

#### **1. Re-affirm the notice to improve – where:**

- A notice to improve has previously been issued and, in exceptional circumstances, a further period of recovery or further consideration of redeployment and/or reasonable adjustment can be agreed. If this is agreed, the notice to improve must be reaffirmed (and extended with a specific target which must be maintained for a period of up to 12 months) and the employee advised that the Final Stage Meeting will be reconvened if an improvement is not achieved or sustained. Regular monitoring should be put in place and, once issued, an employee will remain under review for the duration of the further notice to improve, regardless of whether or not they have returned to work or had any further periods of absence.

**OR**

#### **2. Terminate employment – where:**

- Evidence suggests that an improvement is unlikely to be achieved or sustained within a reasonable period
- Redeployment and/or adjustments are either not appropriate or available
- Consideration has been given to all the advice available, including up to date medical advice and management decide that the employee is likely to be permanently incapable of carrying out their current duties or a significant/material part of their duties (or incapable of carrying out duties within a reasonable period)
- Medical evidence indicates that the employee is unlikely to be able to return to work in the foreseeable future.

The relevance of each of the factors above will depend on the reason and pattern of absence.

### **THE OUTCOME - RECORDING THE DECISION**

- Confirm the outcome in writing;
- Where the outcome is termination of employment, appropriate notice and appeal rights must be given.
- The employee may be entitled to pension benefits, subject to the relevant pension scheme rules (early consideration of an application for 'Ill Health Early Retirement' - IHER should be considered wherever possible)

### **RIGHT OF APPEAL AND NOTICE ON TERMINATION OF EMPLOYMENT**

The employee will be advised of their period of notice on the termination of their employment (which may be paid in lieu but subject to tax and national insurance deductions) together with their right of appeal against the decision to dismiss. The employee will receive full pay during their notice period.





**EMPLOYMENT COMMITTEE MINUTES (Continued)**

An employee may appeal the decision to terminate their employment which must be submitted **(along with the grounds for the appeal)** to HR in writing within 14 calendar days of the receiving the decision. The Appeal will usually be heard by a manager more senior than the manager who made the decision to dismiss or Head of Service or, in exceptional circumstances, by another Head of Service. The decision reached will be final.

A handwritten signature in black ink, appearing to be 'JFB', located in the bottom right corner of the page.