

# Public Document Pack



**Helen Barrington**

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Ask for Danny Sunderland

PUBLIC

To: Members of the Appointments and Conditions of Service Committee

Monday, 16 May 2022

Dear Councillor,

Please attend a meeting of the **Appointments and Conditions of Service Committee** to be held at **2.00 pm** on **Tuesday, 24 May 2022** in Committee Room 3, County Hall, Matlock, the agenda for which is set out below.

Yours faithfully,

A handwritten signature in black ink that reads 'Helen E. Barrington'.

**Helen Barrington**  
**Director of Legal and Democratic Services**

## **A G E N D A**

### **PART I - NON-EXEMPT ITEMS**

1. To receive apologies for absence
2. To receive declarations of interest (if any)
3. To confirm the minutes of the meeting held on 3 November 2021 (Pages 1 - 4)
4. Chief Executive, Chief Officer, Local Government Service, Soulbury,

Degree and Higher apprentice 2021-22 pay agreement (Pages 5 - 18)

5. Application for the Derbyshire Adult Community Education Service (DACES) Pay Offer 2021-22 to be awarded at 1.75% (Pages 19 - 24)
6. Revised Employment Procedure: Attendance Management and Ill Health Capability (Pages 25 - 76)
7. Interim Performance Development Review (PDR) Framework 2022-23 (Pages 77 - 88)
8. Managing Director Performance Appraisal (Pages 89 - 102)
9. Derbyshire County Council's Senior Officer Accountability Framework (Pages 103 - 118)
10. Exclusion of the Public

To move "That under Regulation 21 (1)(b) of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph(s) 1 of Part 1 of Schedule 12A to the Local Government Act 1972"

## **PART II - EXEMPT ITEMS**

11. To receive declarations of interest (if any)
12. To confirm the exempt minutes of the meeting held on 3 November 2021 (Pages 119 - 122)

PUBLIC

**MINUTES** of a meeting of the **APPOINTMENTS AND CONDITIONS OF SERVICE COMMITTEE** held on 3 November 2021 at County Hall, Matlock.

## **PRESENT**

Councillor B Lewis (in the Chair)

Councillors R Flatley, R George, S Hobson, T Kemp, S Spencer and S Swann

Officers in attendance – E Alexander, E Crapper, S Davis, J Lakin, P Stone, I Stonehouse and D Wallace.

Apologies for absence were received on behalf of Councillor J Dixon

## **Declarations of Interest**

There were no declarations of interest.

**6/21** **MINUTES RESOLVED** that the minutes of the meeting held on 23 September 2021 be confirmed as a correct record and signed by the Chairman.

**7/21** **TEACHERS' PAY AWARD – 1 SEPTEMBER 2021** The regulations governing teachers' pay and conditions of service were contained in the School Teachers Pay and Conditions Document (STPCD) which was revised by the Secretary of State annually. The STPCD imposed various duties on relevant bodies in relation to the determination of teachers' pay. Any changes need to be reflected in the authority's policies for the management of teachers employed in the education support services.

The Education (School Day and School Year) (England) (Coronavirus) (Amendment) Regulations which came into force on 1 June 2021 had reduced the minimum number of sessions which must be held in the school year 2021-2022 by one day. This was to enable schools to close for the additional bank holiday to celebrate the Platinum Jubilee of Her Majesty the Queen or where schools were already closed, as was the case in Derbyshire, close on another day to compensate. The STPCD 2021 reduced the working time that all Teachers must be available for the academic year commencing in September 2021, to compensate teachers for the additional bank holiday to celebrate the Platinum Jubilee of Her Majesty the Queen.

The main changes to the Teachers Pay Policy proposed for 2021 were as follows:

- adoption of the advisory pay points for teachers on the unqualified teachers pay range as outlined in the STPCD 2021 and the uplift of the bottom 3 points by £250
- a change in the number of days that teachers must be available to work for the academic year 2021-22 because of the additional Bank Holiday to mark the Queen's Platinum Jubilee bank holiday.
- changes to the statutory provisions for teacher induction which came into force on 1 September 2021.
- The policy contains all the other continuing provisions for the determination of individual salary ranges (ISR) for teachers paid on the leadership spine, payment of responsibility and special educational needs allowances, and part time teachers' pay calculation. These elements were unchanged.

The nationally agreed Teachers' Pay Award effective from 1 September 2021 was a consolidated award of £250 to all Teachers whose full-time equivalent basic earnings were less than £24,000.

The re-introduction of the advisory points on the unqualified teachers pay range is recommended to take into consideration the potential impact on recruitment and retention, and to provide a fair approach to the implementation of the agreed consolidated pay award.

The recommendation to school Governing Boards was that they adopt the same approach and agree the increase as detailed above, considering the benefits of a consistent approach across the Authority.

It was proposed that 6 June 2022 be designated a non-working day for teachers employed by Derbyshire County Council (DCC) and not employed in Schools to celebrate the platinum jubilee of Her Majesty the Queen.

Employees of the County Council on terms and conditions other than the STPCD who work only during term-time had contractual terms which reflected the working days required to work whilst schools were in session. To acknowledge the reduction of working days for the school year 2021-22 it was proposed, following consultation with Heads of Service, that where it met operational requirements, the 6 June 2021 be allocated as a non-working day for these staff.

It had been agreed that each school and academy be able to determine its own term-dates for the 2021-22 academic year to accommodate the requirement to reduce their academic year by one day. It was proposed therefore that where employees of Derbyshire County Council worked in only

one or two specific educational establishments, then their additional non-working day would be determined at a local level by the educational establishment and in agreement by their line manager. It was proposed that part-time employees be entitled to pro rata time off to reflect the reduction in working time applicable.

**RESOLVED** that the committee agree (1) to adopt the proposed Pay Policy for teachers employed by the LA and not attached to schools which includes the advisory pay points and uplift detailed in the background information.

(2) to the recommendation to Governing Boards of the adoption of the revised pay policy which includes the re-introduction of the advisory points on the Unqualified Teachers pay range and the application of the national pay award of a consolidated award of £250 to all Teachers whose full-time equivalent basic earnings are less than £24,000 backdated to 1 September 2021;

(3) that the 6 June 2022 be designated a non- working day for teachers employed by Derbyshire County Council (DCC), and not attached to schools; and

(4) that employees of the Council on terms and conditions other than the STPCD who work only during term-time be granted an additional non-working day for the 2021-22 academic year as a result of the additional Bank Holiday to mark the Queen's Platinum Jubilee. Where it meets operational requirements, the 6 June 2022 be allocated as a non-working day for these staff. Where employees of the Council work only in one or two specific educational establishments the additional non-working day will be determined at a local level in consultation with the educational establishment and in agreement by their line manager.

**8/21      SALARY    SACRIFICE    SHARED    COST    ADDITIONAL  
VOLUNTARY    CONTRIBUTION (AVC)    SCHEME    EMPLOYER    NON-  
MANDATORY DISCRETION IN THE LOCAL GOVERNMENT PENSION  
SCHEME (LGPS) REGULATIONS** The County Council, as the scheme employer must, under LGPS regulations, formulate, publish and keep under review a statement of policy on all mandatory discretions. There were a number of other discretions, which the Council may exercise under the LGPS Regulations 2013, where a written policy was not required; however, it was appropriate that these were included to ensure clarity on the Council's stance on these matters.

The change to the non-mandatory discretions policy would include Shared Cost AVC's as outlined in appendix 2 to the report. The salary sacrifice element was a pensionable emolument and pension contributions would be

made on the basis of the notional (pre salary sacrifice) pay rather than reduced actual pay. Employees will also receive additional benefit of reduced tax and national insurance contributions that was based on their actual pay (the reduced gross salary amount).

The Council's non-mandatory discretions policy statement had been published on the Derbyshire County Council website. As the Council had agreed to implement a shared cost AVC scheme through a salary sacrifice arrangement, the discretions policy had been updated to include this.

**RESOLVED** that the committee, in its role as the employing authority, notes the update to the Council's non-mandatory discretions policy to include a salary sacrifice shared cost AVC pension arrangement for members of the LGPS.

**9/21      EXCLUSION OF THE PUBLIC RESOLVED** to move that under Section 100(a)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item of business on the grounds that in view of the nature of the business, that if members of the public were present exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 would be disclosed to them and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**SUMMARY OF PROCEEDINGS CONDUCTED AFTER THE PUBLIC HAD BEEN EXCLUDED FROM THE MEETING**

1. To consider the joint exempt report of the Director of Finance & ICT and the Director of Organisation Development & Policy on Pensions – Application for Market Supplement Payment Extensions (contains information relating to any individual)
2. To consider the joint exempt report of the Director of Public Health and the Director of Organisation Development & Policy on Public Health – Application for Market Supplement Payment Extensions (contains information relating to any individual)



Agenda Item

**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**APPOINTMENTS AND CONDITIONS OF SERVICE COMMITTEE**

**24 May 2022**

**Report of the Director of Organisation Development & Policy**

**Chief Executive, Chief Officer, Local Government Service, Soulbury,  
Degree and Higher Apprentice 2021/22 pay agreement**

**1. Purpose**

- 1.1 For the Committee to note the implementation of a one year pay agreement for Local Government Services Grades 1/2 to 16, Degree and Higher Apprentices, the Joint Negotiating Committee (JNC) for chief executives and chief officers Grades 17 and above (effective 1 April 2021) and Soulbury Committee (effective 1 September 2021).

**2. Information and Analysis**

- 2.1 The national pay agreement for Local Government Service employees, is attached at Appendix 2, the main points of the pay agreement are:
- A one year pay deal effective from 1 April 2021
  - 2.75% pay award on pay grade 1/2 at to achieve a minimum pay rate of £9.50 per hour
  - 1.75% pay award on grade 3 to grade 16

The national pay agreement for Chief Executives is attached at Appendix 3 and Chief Officers is attached at Appendix 4, the main points of the pay agreement are:

- A one year pay deal effective from 1 April 2021
- 1.5% pay award on all pay points for chief executives and chief officers (grade 17 and above)

The national pay agreement for Soulbury employees, is attached at Appendix 5, the main points of the pay agreement are:

- A one year pay deal effective from 1 September 2021
- 1.75% pay award on all pay points

- 2.2 It was agreed as part of Single Status implementation in 2010 that Derbyshire Pay Scales would be adjusted by any 'cost of living' increase agreed nationally by the relevant National Joint Committee.

In line with the relevant National Pay agreements, pay has be backdated to the 1 April 2021 for employees on Derbyshire Pay Scales, along with those on higher and degree apprentice pay scales, and to 1 September for employees on Soulbury Pay Scales. This will include backdated payments on additional hours, overtime and allowances.

### **3. Consultation**

- 3.1 The trade unions have been engaged to outline the revised Derbyshire Pay Scales for 2021/22 (Appendix 6) reflecting the national pay agreement.
- 3.2 Soulbury pay scales are set and agreed by the national negotiating body and are therefore applied as agreed by the Council.

### **4. Alternative Options Considered**

- 4.1 An alternative consideration could be to not apply the pay agreement for 2021/22, however, the requirement for employees to receive a pay agreement is detailed within employee's terms and conditions and therefore this is not a viable alternative.
- 4.2 In addition the Council could negotiate the pay agreements locally, however the Council has previously agreed to reflect the national pay agreements of the relevant national negotiating bodies for Local Government Services, Soulbury, Chief Officers and Chief Executives.

### **5. Implications**

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

### **6. Background Papers**



6.1 None

## **7. Appendices**

- 7.1 Appendix 1 – Implications.  
Appendix 2 – Local Government Service Pay 1 April 2021  
Appendix 3 – Chief Exec Pay 1 April 2021  
Appendix 4 – Chief Officer Pay 1 April 2021  
Appendix 5 - Soulbury Pay Agreement 2021  
Appendix 6 – Salary Scales 2021/22

## **8. Recommendation(s)**

- 8.1 That Committee notes the pay agreements applied as outlined within the report.

## **9. Reasons for Recommendation(s)**

- 9.1 As application of the pay agreement is a contractual requirement this recommendation fulfils our employer responsibility, and the Committee are asked to note the application of the pay agreements.

**Report Author:**  
Emma Crapper

**Contact details:**  
[emma.crapper@derbyshire.gov.uk](mailto:emma.crapper@derbyshire.gov.uk)

**Implications****Financial**

- 1.1 The Council's 2021-22 approved budget set aside an amount of £2.313m for the pay award, reflecting the assumption that it would be 'bottom loaded' only, with no general increase. This assumption was made with the expectation that Departments would pick up any additional costs. The cost to the Council of the subsequent pay agreement, which gives employees on National Joint Council (NJC) pay point 1 an increase of 2.75%, and employees on NJC pay point 2 and above an increase of 1.75%, is estimated to be £4.209m. Departments have received additional one-off funding to meet the shortfall of £1.896m in 2021-22. There is also an ongoing pressure arising in each subsequent year for £1.896m. The intention is that in 2022-23 this pressure to Departments will be reviewed through the established budget monitoring process, alongside other factors affecting the in-year position, such as demand and other inflationary pressures. These pressures will be considered together, to assess whether they are containable within existing departmental budgets.
- 1.2 The Council's 2022-23 approved budget set aside a 2% increase, amounting to £6.789m, to cover any potential pay award in this year, from a starting position for 2021-22 which assumed that the latest offer at that time, which was the July 2021 pay offer of 2.75% for employees on NJC pay point 1 and 1.75% for employees on all NJC pay points 2 and higher, was adopted. These are the increases subsequently agreed, as noted above.

**Legal**

- 2.1 The council has agreed through single status to apply pay award in line with national pay agreements as outlined within the report. The report complies with the requirement outlined in the Working For Us booklet that pay awards will be added to all pay points from 1 April each year for employees on Derbyshire Pay Scales and from 1 September for employees on Soulbury Pay Scales. Not to pay the award would be contrary to the terms and conditions of employment and a breach of the employment contract.
- 2.2 The terms of reference for ACOS require the Committee to consider proposals for changes to standards terms and conditions of employment including the local implementation of national pay awards to the Council's pay structure.

## **Human Resources**

- 3.1 The Council engaged the recognised local trade unions on the application of the national pay agreement prior to implementation of the updated 2021/22 Derbyshire Pay Scales. Employees were notified of the national pay agreement through the Our Derbyshire bulletin and payment has been successfully backdated to 1 April 2021 for Employees on Derbyshire Pay Scales 1/2 to G16 along with their normal salary in March 2022. Employees covered under the JNC chief officer and chief executive pay agreements reached in February 2022, received their backdated pay in their February pay 2022. Employees on Soulbury Pay Scales received their pay award and backdated pay to 1 September 2022 in their pay in March 2022.

## **Information Technology**

- 4.1 None

## **Equalities Impact**

- 5.1 The national pay agreements are applied consistently to all pay grades of the Derbyshire Pay Scales and Soulbury Pay Scales reflective of the relevant national negotiating bodies pay agreements. The Council's job evaluation scheme ensures that all jobs are evaluated and graded consistently to ensure equal pay for work of equal value.

## **Corporate objectives and priorities for change**

- 6.1 This proposal aligns with the people priorities outlined within the Councils People Strategy and in particular to 'Promote diversity and inclusion, enable responsive workforce plans and develop credible reward strategies' by applying pay agreement in a fair and consistent manner.

## **Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

- 7.1 None

## National Joint Council for local government services

**Employers' Secretary**  
Naomi Cooke

**Address for correspondence**  
Local Government Association  
18 Smith Square  
London SW1P 3HZ  
Tel: 020 7664 3000  
info@local.gov.uk

**Trade Union Secretaries**  
Rehana Azam, GMB  
Mike Short, UNISON  
**Address for correspondence**  
UNISON Centre  
130 Euston Road  
London NW1 2AY  
Tel: 0845 3550845  
localgovernment@unison.co.uk

**To: Chief Executives in England, Wales and N Ireland**  
**(copies for HR and Finance Directors)**  
Members of the National Joint Council  
28 February 2022  
Dear Chief Executive,

### **LOCAL GOVERNMENT SERVICES PAY AGREEMENT 2021-22**

#### **Pay**

Agreement has been reached on rates of pay applicable from **1 April 2021**.

Employers are encouraged to implement this pay award as swiftly as possible.

The new pay rates are attached at **Annex 1**. The new rates for allowances, uprated by 1.75 per cent, are set out at **Annex 2**.

The NJC has agreed to recommence the review of Term-Time Only working arrangements, which was paused at the outbreak of the pandemic.

The NJC has also agreed to enter into discussions on homeworking policies, mental health support and maternity etc leave.

#### **Backpay for employees who have left employment since 1 April 2021**

If requested by an ex-employee to do so, we recommend that employers should pay any monies due to that employee from 1 April 2021 to the employee's last day of employment.

When salary arrears are paid to ex-employees who were in the LGPS, the employer must inform its local LGPS fund. Employers will need to amend the CARE and final pay figures (if the ex-employee has pre-April 2014 LGPS membership) accordingly.

Further detail is provided in section 15 of the HR guide which is available on the employer resources section of [www.lgpsregs.org](http://www.lgpsregs.org)

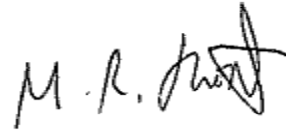
Yours sincerely,

*Naomi  
Cooke*

**Naomi Cooke**



**Rehana Azam**



**Mike Short**

## **Negotiating Committee for Chief Executives of Local Authorities**

**To: Chief Executives in England and Wales (N Ireland for information)**  
(copies for the Finance Director and HR Director)  
**Regional Directors**  
**Members of the Joint Negotiating Committee**

3 February 2022

Dear Chief Executive,

### **CHIEF EXECUTIVES' PAY AGREEMENT 2021-22**

Agreement has now been reached on the pay award applicable from **1 April 2021**.

The individual basic salaries<sup>1</sup> of all officers within scope of the JNC for Chief Executives of Local Authorities should be increased by 1.50 per cent with effect from 1 April 2021.

Employers are encouraged to implement this pay award as swiftly as possible.

This pay agreement covers the period 1 April 2021 to 31 March 2022.

#### **Backpay for employees who have left employment since 1 April 2021**

If requested by an ex-employee to do so, we recommend that employers should pay any monies due to that employee from 1 April 2021 to the employee's last day of employment.

When salary arrears are paid to ex-employees who were in the LGPS, the employer must inform its local LGPS fund. Employers will need to amend the CARE and final pay figures (if the ex-employee has pre-April 2014 LGPS membership) accordingly. Further detail is provided in section 15 of the HR guide which is available on the

Yours faithfully,

*Naomi Cooke*

*Ian Miller*

#### **Joint Secretaries**

<sup>1</sup> Basic salary should exclude other separately identified payments such as Returning Officer fees etc.

## **Joint Negotiating Committee for Chief Officers of Local Authorities**

**To: Chief Executives in England and Wales (N Ireland for information)**  
(copies for the Finance Director and HR Director)  
**Regional Directors**  
**Members of the Joint Negotiating Committee**

9 February 2021

Dear Chief Executive,

### **CHIEF OFFICERS' PAY AGREEMENT 2021-22**

Agreement has now been reached on the pay award applicable from **1 April 2021**.

The individual basic salaries<sup>1</sup> of all officers within scope of the JNC for Chief Officers of Local Authorities should be increased by 1.50 per cent with effect from 1 April 2021 (NB: the percentage increases apply to individual salaries as well as pay points, if applicable).

Employers are encouraged to implement this pay award as swiftly as possible.

This pay agreement covers the period 1 April 2021 to 31 March 2022.

### **Backpay for employees who have left employment since 1 April 2021**

If requested by an ex-employee to do so, we recommend that employers should pay any monies due to that employee from 1 April 2021 to the employee's last day of employment.

When salary arrears are paid to ex-employees who were in the LGPS, the employer must inform its local LGPS fund. Employers will need to amend the CARE and final pay figures (if the ex-employee has pre-April 2014 LGPS membership) accordingly. Further detail is provided in section 15 of the HR guide which is available on the employer resources section of [www.lgpsregs.org](http://www.lgpsregs.org)

Yours faithfully,



**Rehana Azam**

*Naomi  
Cooke*

**Naomi Cooke**

## **Joint education services circular no. 222 – Soulbury pay award for 2021**

24 February 2022

To: Chief Executives of County Councils and Metropolitan Districts and Unitary Authorities in England; Chief Executives of London Boroughs; Chief Executives of County Councils and County Borough Councils in Wales; Directors of Children's Services/Directors of Education of County Councils Metropolitan Districts and Unitary Authorities in England; Directors of Children's Services/Directors of Education of London Boroughs; Directors of Children's Services/Directors of Education of County Councils and County Borough Councils in Wales; Members of the Soulbury Committee Subscribers

Dear Sir/Madam

### **Joint education services circular no 222 Soulbury pay agreement: 2021**

Following negotiations, we can confirm that the Soulbury Committee has reached an agreement on a pay award for 2021 which is as follows:

- an increase of 1.75 per cent on all pay points on the Educational Improvement Professionals' pay spine, Young People's/Community Service Managers' pay spine and Educational Psychologists' pay spines on 1 September 2021 (to be backdated)
- an increase of 1.75 per cent on all London and Fringe area allowances on 1 September 2021 (to be backdated).

The Soulbury Committee has also agreed to discussions on a without prejudice basis to review the current Soulbury pay structure and the role of the Soulbury Officer,

A revised salary scale is attached for your information (Appendix I).

Yours sincerely

David Algie Employers Side Secretariat Employers' Side Secretary: Sarah Ward  
Local Government House Smith Square LONDON SW1P 3HZ Tel 020 7664 3188  
Fax 020 7664 3030

David Powell Officers' Side Secretary Officers' Side Secretary: David Powell  
Hamilton House Mabledon Place London WC1 9BD  
Tel: 020 7388 6191 Fax 020 7387 8458



## Salary scales 2021 to 2022

Table showing our salary scales and pay points.

Grade	Pay point	Annual salary	Hourly rate
Grades 1 and 2	1	£18,333	£9.50
Grade 3	2	£18,516	£9.60
Grade 4	3	£18,887	£9.79
Grade 5	4	£19,264	£9.99
	5	£19,650	£10.19
Grade 6	6	£20,043	£10.39
	7	£20,498	£10.63
Grade 7	8	£21,108	£10.94
	9	£21,747	£11.27
	10	£22,384	£11.60
	11	£23,021	£11.93
Grade 8	12	£23,657	£12.26
	13	£24,294	£12.59
	14	£24,932	£12.92
	15	£25,568	£13.25
Grade 9	16	£26,204	£13.58
	17	£26,841	£13.91
	18	£27,478	£14.24
	19	£28,113	£14.57
Grade 10	20	£29,184	£15.13
	21	£30,251	£15.68
	22	£31,320	£16.23
	23	£32,389	£16.79
Grade 11	24	£33,489	£17.36
	25	£34,589	£17.93
	26	£35,688	£18.50
	27	£36,788	£19.07
Grade 12	28	£37,915	£19.65
	29	£39,042	£20.24
	30	£40,172	£20.82
	31	£41,299	£21.41
Grade 13	32	£42,513	£22.04

	33	£43,727	£22.67
	34	£44,941	£23.30
	35	£46,156	£23.93
Grade 14	36	£48,007	£24.88
	37	£49,856	£25.84
	38	£51,708	£26.80
	39	£53,561	£27.76
Grade 15	40	£55,409	£28.72
	41	£57,261	£29.68
	42	£59,113	£30.64
	43	£60,962	£31.60
Grade 16	44	£62,872	£32.59
	45	£64,782	£33.58
	46	£66,690	£34.57
	47	£68,599	£35.56
Grade 17	48	£81,855	£42.43
	49	£83,901	£43.49
	50	£85,948	£44.55
	51	£87,994	£45.61
	52	£90,042	£46.67
Grade 18	53	£93,788	£48.62
	54	£96,134	£49.83
	55	£98,480	£51.05
	56	£100,824	£52.26
	57	£103,169	£53.48
Grade 19	58	£99,016	£51.33
	59	£101,491	£52.61
	60	£103,966	£53.89
	61	£106,443	£55.18
	62	£108,919	£56.46
Grade 20	63	£119,637	£62.01
	64	£122,628	£63.56
	65	£125,617	£65.11
	66	£128,610	£66.67
	67	£131,600	£68.22
Grade 21	68	£163,415	£84.71
	69	£168,317	£87.25
	70	£173,367	£89.87
	71	£178,568	£92.56

<b>Higher Level Apprenticeship scale</b>	
	2021/22
HA1	£17,564
HA2	£17,773
HA3	£17,982
HA4	£18,191
<b>Degree Apprenticeship Scale</b>	
	2021/22
DA1	£18,191
DA2	£18,400
DA3	£18,610
DA4	£18,819

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**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**APPOINTMENTS AND CONDITIONS OF SERVICE COMMITTEE**

**24 May 2022**

**Report of the Executive Director of Children's Services  
and  
Director of Organisation Development & Policy**

**APPLICATION FOR THE DERBYSHIRE ADULT COMMUNITY EDUCATION  
SERVICE PAY OFFER 2021-22 TO BE AWARDED AT 1.75%**

**1. Purpose**

- 1.1 For the Committee to consider and approve a one year pay agreement at 1.75% for Derbyshire Adult Community Education Service (DACES) employees for 2021-22.

**2. Information and Analysis**

- 2.1 DACES employees are the only group of employees not covered by national pay bargaining arrangements, therefore, pay agreements are required to be agreed locally. As a result the decision as part of Single Status implementation in 2010 that Derbyshire Pay Scales would be adjusted by any 'cost of living' increase agreed nationally by the relevant National Joint Committee is not applicable to DACES pay scales.

The local trade unions have accepted the Council's one year pay offer of 1.75% with effect from 1 September 2021. The one year offer relates to the period 1 September 2021 to 31 August 2022. This is in line with the recently agreed Local Government Services agreement which was also for 1.75% (from 1 April 2021 to 31 March 2022). The revised pay scales are attached at Appendix 2.

Around 320 employees on DACES pay conditions are included in the local pay offer. Apart from pay, officers affected are employed on Derbyshire Package terms and conditions.

- 2.2 In line with national pay agreements, pay should be backdated to 1 September 2021 and will include backdated payments on additional hours, overtime and allowances. Backdated payments and the new salary rates will be applied in June 2022 pay for this group of employees.

### **3. Consultation**

- 3.1 The trade unions have been engaged and consulted at Children's Services DJC on 9 March 2022 and are supportive of the Council's one year pay offer.

### **4. Alternative Options Considered**

- 4.1 An alternative consideration could be to not apply the pay agreement for 2021/22, however, in considering the other nationally agreed pay increases applied for 2021/22 this would not be appropriate and therefore this is not a viable alternative.
- 4.2 The Council could apply an alternative percentage uplift to DACES employees, however, this would not be consistent to that applied to those on Derbyshire, and Soulbury pay scales.

### **5. Implications**

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

### **6. Background Papers**

- 6.1 None

### **7. Appendices**

- 7.1 Appendix 1 – Implications  
Appendix 2 – DACES Salary Scales 2021/22

### **8. Recommendation(s)**

- 8.1 In line with the pay agreement for Local Government Services, it is proposed that the DACES staff on different pay terms are given a pay agreement of 1.75% from 1 September 2021 – 31 August 2022.

## **9. Reasons for Recommendation(s)**

- 9.1 Application of the pay agreement is a contractual requirement and applying the pay agreement at a 1.75% uplift will be consistent with the national pay agreements applied for Derbyshire and Soughby pay scales.

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## **Appendix 1**

### **Implications**

#### **Financial**

- 1.1 The additional costs as a result of the pay increase will be met from the grant provided by the Education and Skills Funding Agency to the Authority for the provision of Adult Education Services.

#### **Legal**

- 2.1 The Council has agreed through single status to apply pay awards in line with national pay agreements. However, there are no national pay agreements in relation to DACES staff and so pay awards are a matter to be determined locally by employing organisations.
- 2.2 The terms of reference for ACOS require the Committee to consider proposals for changes to standard terms and conditions of employment, including the local implementation of national pay awards to the Council's pay structure.

#### **Human Resources**

- 3.1 The Council has consulted with the recognised trade unions at Children's Services DJC on 9 March 2022 and are supportive of the Council's one year pay offer. If agreed, employees will receive their increase in pay and backdated pay to 1 September in their June 2022 pay.

#### **Information Technology**

- 4.1 None

#### **Equalities Impact**

- 5.1 The pay increase will be applied consistently to all pay point within the Derbyshire DACES Pay Scales in line with the local pay agreement.

#### **Corporate objectives and priorities for change**

- 6.1 This proposal aligns with the people priorities outlined within the Councils People Strategy and in particular to 'Promote diversity and inclusion, enable responsive workforce plans and develop credible reward strategies' by applying the pay agreement in a fair and consistent manner.



**Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

7.1 None

## Appendix 2 DACES Salary scale 21-22

2021-22

Increase of 1.75%

Post	Salary Points	Full Actual Salary	Teaching Hourly Rate	Hourly Rate	
				< 5 Years	> 5 Years
TUTOR	3	£20,464	£25.58	£12.69	£12.98
(3-5)	4	£21,131	£26.41	£13.10	£13.41
Access Pending Qual	5	£22,460	£28.08	£13.92	£14.25



Agenda Item

**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**APPOINTMENTS AND CONDITIONS OF SERVICE COMMITTEE**

**24 May 2022**

**Report of the Director of Organisation Development and Policy**

**Revised Employment Procedure:  
Attendance Management and Ill Health Capability**

**1. Purpose**

- 1.1 To consider and approve the revised Attendance Management and Ill Health Capability procedure.

**2. Information and Analysis**

- 2.1 The Council's employment procedures are updated and reviewed on an ongoing basis to ensure they remain relevant and up to date to ensure the Council meets its commitments outlined in the Council Plan. Work has recently been carried out to review and revise the Attendance Management and Ill Health Capability Procedure.
- 2.2 The last major review of the procedure was in November 2016, with further updates in December 2017 and July 2019 to reflect changes to the appeals process. Minor changes to terminology were made in July 2020 to reflect the HR Review.
- 2.3 The updated procedure is aligned to the Council's Wellbeing Strategy as a supportive measure for both managers and employees. Similarly, the Council's approach to Modern Ways of Working has also been considered when making amendments to the procedure.

- 2.4 The procedure has now been revised and developed in line with ACAS guidance and the Equality Act 2010 and takes account of operational experience and requirements. In addition, benchmarking has been carried out against other organisations with the aim of achieving best practice.
- 2.5 The revised Attendance Management and Ill Health Capability Procedure which is attached at Appendix 2 includes detailed manager guidance to assist implementation, which has also been revised and agreed with key stakeholders. Key stakeholders are the recognised trade unions, CMT, and the Council's Network Groups.
- 2.6 Following feedback from the recognised trade unions, further work will be undertaken to develop employee guidance including employee responsibilities, signposting to relevant resources and support they can expect from their manager.
- 2.7 The main changes to the procedures are detailed below:
- Disability related absence is not currently reportable, and the revised procedure allows for this to be recorded separately, in accordance with current guidance. However, it is not disregarded for the purposes of the attendance management process, but it may be considered a reasonable adjustment to adjust how disability related absences are managed, for example, to agree longer review periods. Implementation of a process to record disability related absence separately is dependent upon changes to SAP and will be considered following the current change freeze.
  - Additional references are made to available Mental health support and assistance.
  - The policy and supporting guidance has been reformatted into one document, providing a clearly referenced procedure and guidance to ensure all information is readily available with links and dependencies updated.
  - More detail has been included regarding the ill health capability procedure to encompass employees who may be covered by the procedure but that are not on long term absence i.e., intermittent absence or ongoing health conditions affecting an employee's ability to carry out the full duties of the role.
  - Detail has been included on the accrual of annual leave whilst absent and the right to take that leave.
  - Additional support measures have been included for example consideration of reasonable adjustments, with examples, to provide more support for employees covered by the Equalities Act.

- Detail has been included regarding the management of reasonable adjustments associated with short term / temporary adjustments, ensuring that review periods are agreed to support & enable employees to return to their full role.
- Additional advice regarding suggested timescales associated with phased returns to work has been incorporated.
- More detail added regarding the ill health retirement process, as this is an area that affected parties are generally unfamiliar with and a lack of knowledge has led to unrealistic expectations in the past.
- The notice period for Capability hearings has been extended to 14 days which corresponds with the disciplinary process.

2.8 Working with the Organisation Development and Policy Division Communications Service, the Council will publicise the revised procedure and guidance to ensure managers and employees are aware of the changes.

It is anticipated that this will include:

- An HR Manager bulletin identifying the main changes and advising managers how to access the revised procedure and guidance.
- An article in the 'Our Derbyshire' communication.
- Updating the website and Our Derbyshire

All development work referenced in this report will be dealt with by BAU teams and there are no additional financial implications.

2.9 The communications plan will be supported by manager training. This includes mandatory eLearning for managers which has now been live for just over 12 months, which focuses on manager responsibilities in relation to the procedure, and further learning to upskill managers and support them in implementing the procedure.

2.10 It is anticipated the revised procedure will be implemented with effect from 1 June 2022.

### **3. Consultation**

3.1 The procedure has been developed with extensive consultation on the revised procedure, both internally within the Council, including employee network groups, and with external stakeholders, namely the joint trade unions

#### **4. Alternative Options Considered**

- 4.1 It is accepted good practice to regularly review current employment procedures and update them where necessary. The procedure has been updated in line with feedback from our stakeholders and also current best practice advice from ACAS.

Alternative options would be not to review the procedure and continue with the existing procedure, however this would not reflect current ACAS best practice advice

#### **5. Implications**

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

#### **6. Background Papers**

- 6.1 None

#### **7. Appendices**

- 7.1 Appendix 1 – Implications.
- 7.2 Appendix 2 - The Revised Attendance management and Ill health Capability Procedure and Guidance

#### **8. Recommendation(s)**

That Committee:

- a) Approves the revised Attendance Management and Ill Health Capability Procedure which will be implemented with effect from 1 June 2022.

#### **9. Reasons for Recommendation(s)**

- 9.1 The revised procedure provides a fair procedure for employees that is supportive both to employees subject to attendance management and ill health capability procedures and for those implementing it.
- 9.2 The revised procedure includes reference to disability related absences which, in accordance with ACAS guidance, should be recorded separately to other sickness absence in order for it to be identified, as well as signposting employees to mental health and wellbeing support,

and provides advice on the implementation of reasonable adjustments. These issues are not referred to in the current procedure.

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## Appendix 1

### Implications

#### Financial

- 1.1 As referenced in section 2.8, no additional costs or savings are associated with the update and revision of the Attendance Management & Ill Health Capability Procedure.

#### Legal

- 2.1 The Employment Rights Act 1996 specifies the five potentially fair reasons for dismissal. Capability will be a potentially fair reason for dismissal where it relates to the capability of the employee for performing the work they are employed to carry out. Capability is assessed “*by reference to skill, aptitude, health or any other physical or mental quality...*”. The procedure provides a framework for managers when considering capability issues and supports the employer to act reasonably and fairly should the process result in an employee’s dismissal.
- 2.2 The ACAS Code of Practice does not apply to ill-health dismissals, but the procedure incorporates key ACAS guidance to support a fair process.
- 2.3 The procedure is a non-contractual document and does not therefore, require the agreement of the entire workforce prior to any amendments or revisions. However, this is a procedure which will apply to all employees in accordance with their existing terms and conditions of employment. Therefore, the recognised trade unions have been consulted on the suggested changes in accordance with the trade union recognition agreement.
- 2.5 The terms of reference for the Appointments and Conditions of Service Committee provide for the Committee to approve corporate employment policies and to determine terms and conditions on which all staff hold office, including procedures for their dismissal.

#### Human Resources

- 3.1 The Council will develop additional employee guidance to supplement the procedure and manager guidance to ensure employees are made fully aware of their responsibilities under Attendance Management and



Ill health Capability and of the support offered from their manager and the Council overall.

- 3.2 Additional manager training is required and Learning and Development are currently working on producing a relevant training package.

### **Information Technology**

- 4.1 HR Services will develop a SAP update to enable the separate recording of disability related absence as referred to in the revised procedure.

### **Equalities Impact**

- 5.1 Monitoring of equalities will take place throughout the implementation of the policy.

### **Corporate objectives and priorities for change**

- 6.1 The revised procedure aligns with the Council Plan and its stated headline initiative of promoting our employees' wellbeing and developing their potential.

### **Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

- 7.1 N/A

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# **ATTENDANCE MANAGEMENT AND ILL HEALTH CAPABILITY**

## **PROCEDURE & GUIDANCE**

November 2021

Version History			
Version	Date	Detail	Author
1.00	31/07/2013	Restoring Elected Member appeal process.	Nigel Hughes
1.01	05/02/2014	Additional advice record-keeping	Nigel Hughes
1.02	04/08/2014	Opportunity for accompaniment informal meetings_	Nigel Hughes
1.03	19/01/2015	Derbyshire Package Changes _	Nigel Hughes
2.00	02/02/2016	Review 1 <sup>st</sup> Draft	Nigel Hughes
2.01	11/04/2016	Additions Carry Over/Leave; No Absence	
3.00	25/05/2016	Policy review schedule	Tracey Wall
3.01	23/06/2016	Following Trade Union Consultation	Tracey Wall
3.02	26/08/2016	Following Legal Services Consultation	Tracey Wall
3.03	20/10/2016	Following SHRG comments	Tracey Wall
3.04	22/11/2016	Following Departmental Management Consultation	Tracey Wall
3.05	01/12/2017	Amendment to appeals process (delegation of function to Strategic	Tracey Wall
3.06	09/07/2019	Amendment to appeals process (transfer from Legal Services to HR	Tracey Wall
3.07	07/07/2020	Amendments to terminology only following HR Review	Roxanne Hardman
3.08	12/3/2021	Review of Policy and Procedure	Tracey Wall
3.09	7/6/2021	JM comments	Tracey Wall
3.10	10/10/2021	Amendments following Trade Union comments	Tracey Wall
4.00	2/11/2021	Amendments following Trade Union consultation	Tracey Wall
4.01	3/12/2021	Amendments following Advice and Support Team input and further Trade Union consultation	Tracey Wall
4.02	31/01/2022	Following Legal Services comments	Tracey Wall
4.03	22/03/2022	Following final Trade Union comments	Tracey Wall

## Links and Dependencies

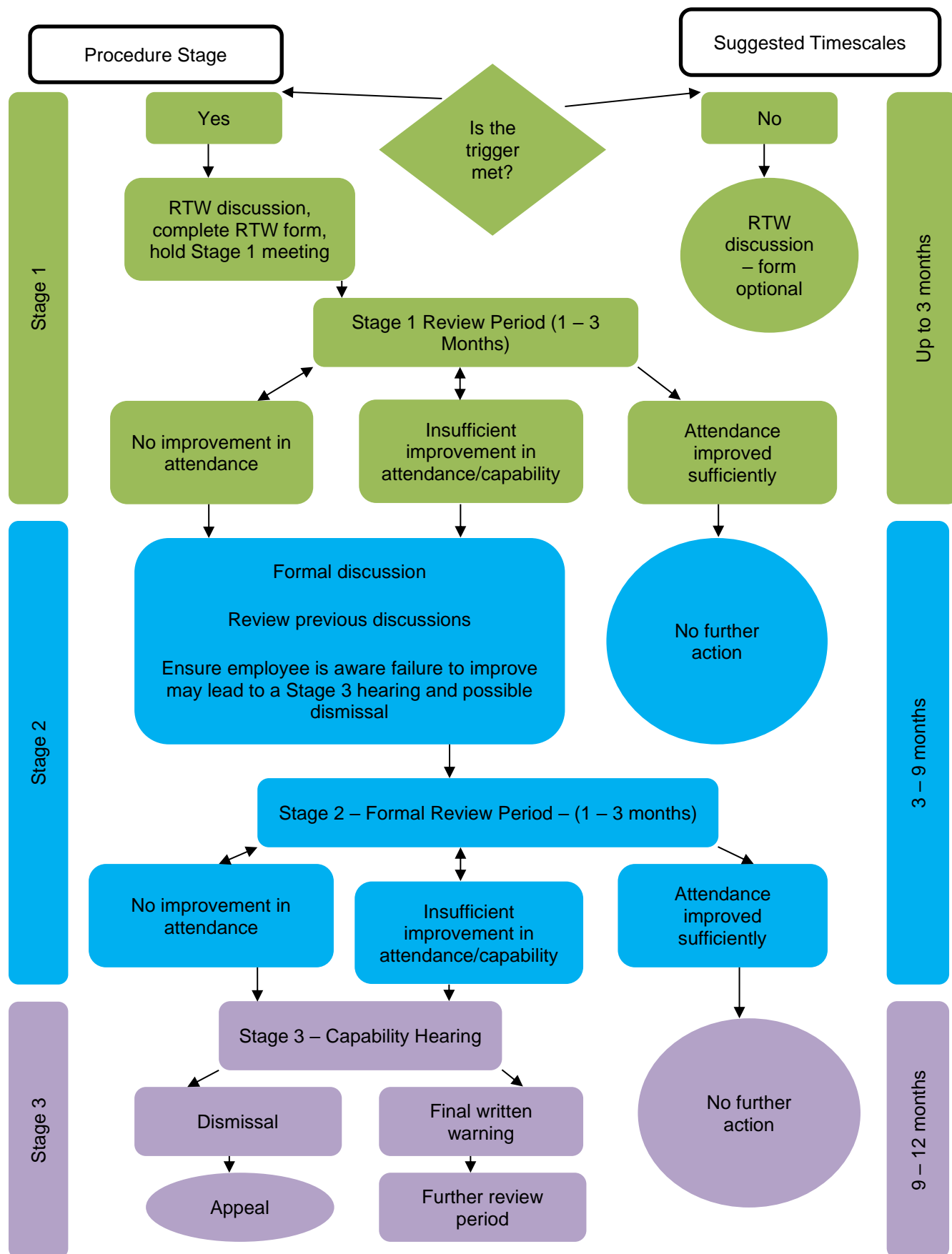
ACAS – Managing Attendance and Employee Turnover
Equality Act 2010 Code of Practice

# Attendance Management and III Health Capability Procedure and Guidance Contents

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# Attendance Management & Ill Health Capability Procedure





# **Attendance Management and Ill Health Capability Procedure**

## **1. Purpose**

The purpose of this procedure is to set out the framework by which short-term and long-term sickness absence and ill health capability is addressed. It aims to support employees in achieving and maintaining good levels of attendance and to enable employees to fulfil all aspects of their role. It also aims to provide practical support, advice, and guidance to enable those involved to fulfil their roles in the management of employees' attendance and sickness absence.

The use of this procedure will ensure the fair treatment of all employees consistent with good management practice.

## **2. Scope**

This procedure applies to all employees except those employed by schools where the Governing Body performs the function of the employer.

## **3. Key Principles**

The Council's Attendance Management and Ill Health Capability Procedure and Guidance has been reviewed in the light of and is consistent with ACAS guidance and current legal precedents. The document will be updated in line with changing advice and codes of practice and Our Derbyshire, or the website should be referred to for the most up to date version.

- The aim of the procedure is to promote high levels of attendance at work which will in turn lead to better levels of service provision.
- Following this procedure will enable sickness absence issues to be addressed in a fair and consistent manner so that employees can achieve and maintain a satisfactory level of attendance at work.
- The Council will provide appropriate support for employees who are absent due to sickness or unable to fulfill their duties due to ill health.
- Abuse of the sickness scheme may be dealt with under the Council's disciplinary procedure.
- Employees have a right to be accompanied at formal meetings, held as part of this procedure, normally by a trade union representative, an official employed by the trade union or a colleague. Consideration will also be given to allowing additional support in appropriate cases.
- Employees will be given a minimum of 7 calendar days' notice, in writing, of all formal meetings held under this procedure.
- Reasonable adjustments should be considered for employees where relevant in accordance with the Equality Act 2010.

- Neither party is allowed to electronically record meetings held as part of this procedure. The use of recording equipment by either party without consent may constitute a disciplinary matter.
- All sickness absence must be recorded accurately and in a timely manner and kept up to date in Workplace. See 'Our Derbyshire, Working Here, Sickness Absence, Absence Recording' for details on how to categorise sickness and record it in Workplace. Records of all contact should be kept on the employee's HR EDRM record, and held securely and in accordance with the employee privacy policy.

## **4. Managing Sickness Absence and Ill Health Capability**

### **Sickness reporting**

Employees have a responsibility to report their sickness absence as set out below:

- Day 1 – Employee reports absence to their manager in line with agreed timescales
- Day 4- Employee updates manager on nature / duration of the absence
- Day 7 – Employee, if still absent provides a Fit Note
- Where an employee fails to comply with these timescales' managers should contact the employee to discuss the absence

Further detail regarding the reporting of absences can be found in the guidance accompanying this document.

### **Return to work discussion**

- Return to work discussions will take place within 2 working days of an employee returning to work regardless of the length of absence
- The discussion will be 'face to face' wherever possible. Where this is not practicable, the discussion may take place via telephone
- After the meeting, the return to work documentation will be completed where appropriate
- Consideration should be given as to whether a review meeting is appropriate, as detailed below.

### **Review Process**

- Managers should review absences when the triggers have been reached:
  - Short term absence including intermittent absence – 8 working days in any rolling 12-month period (pro rata for part time staff – further detail in the guidance accompanying this document).
  - Long term absence – 28 calendar days in any 12-month period; or
  - Where there is other cause for concern on the level of patterns of absence.
- Managers will complete a record of all discussions, meetings and actions taken, ensure they are placed on the employees EDRM file, and give a copy to the employee.

### **III Health Capability**

There may be occasions when an employee is unable to carry out the full duties of their post although they are able to attend work. Advice should be sought from the Advice and Support team and Occupational Health on the most appropriate procedure to follow

In these cases, it may be necessary to continue or commence with the Attendance Management and III Health Capability procedures and further guidance can be found in appendix 1.

#### **Stage 1 Informal Meeting**

Employees may be accompanied by an official employed by the trade union, a trade union representative or colleague if they choose.

At the meeting considerations will include:

- The employee's absence record.
- The reasons for absence.
- The effects of the employee's health on their ability to carry out the role
- Up to date medical information provided by the employee.
- Referral to occupational Health, physiotherapy or counselling where appropriate.
- Temporary alternative duties where these would allow an employee to return to work – these should be clearly recorded on the meeting notes with an indication as to when the employee will be able to return to full duties.
- Ending the process where the employee has returned to work and no further action is necessary.
- Setting a review period of between 1 and 3 months, dependent on circumstances

#### **Stage 1 Review Informal Meeting**

At the end of the review there must be a discussion with the employee which should include:

- The actions taken at Stage 1.
- Steps the employee has taken to improve their attendance.
- Current available medical information from the employee and any occupational Health report where appropriate.
- Reasonable adjustments if these would help the employee to return to work or improve their attendance at work, or ability to carry out their role.
- Referral to Occupational Health where this has not been done previously.
- Reinforcement of the operational effects of absence from work.
- Removal from the process where attendance has improved to a satisfactory level or the employee has returned to work.
- Extending the review period where attendance has improved but there are still concerns about the employee's overall pattern of attendance, or where further information is awaited.
- Moving to a Stage 2 meeting

## **Stage 2 Meeting**

The employee should be invited to a formal meeting to discuss their sickness absence. They may be accompanied by an official employed by the trade union, a trade union representative or colleague. At the meeting considerations will include:

- Reviewing information in relation to the employee's absence or ability to carry out the role.
- Reviewing the outcomes of all earlier meetings.
- Further referral to Occupational Health.
- Reasonable adjustments where appropriate.
- Redeployment where the Occupational Health Physician has stated the employee is fit for alternative duties.
- Discussion about ill health retirement where appropriate.
- Setting a further review period and advising the employee that if their attendance at work does not improve or there is not a return to work within a set timescale (1 to 3 months, dependent on circumstances) it may be necessary to arrange a Capability hearing, the outcome of which may be dismissal.

## **Stage 2 Review Formal Meeting**

At the end of the review period there must be a discussion with the employee which should include:

- Reviewing information about the employee's sickness or ability to carry out the role.
- Reviewing the outcomes of all earlier meetings.
- Discuss the potential implications of their continued absence, which may lead to a Capability Hearing.
- Extending the review period where attendance has improved but there are still concerns about the employee's overall pattern of attendance, or where further information is awaited.
- Consideration of removal from the process where attendance has improved to a satisfactory level or the employee has returned to work.

## **Stage 3: Capability Hearing**

A capability hearing should be arranged if attendance at work has not improved to the required standard or if a return to work has not been agreed, or if the council is not able to sustain reduced or adjusted duties beyond the timescales agreed to return to full duties.

The employee should be advised in writing of the requirement to attend a formal hearing and be provided with a statement of case a minimum of 14 calendar days prior to the hearing.

The hearing will be chaired by a manager from the Leadership job family (Grade 15 and above) and an HR representative will advise. The decision of the Chair will be notified at the hearing.

Outcomes may include:

- Dismissal with notice (redeployment may be sought in appropriate circumstances).
- Final written warning.
- Further review period to allow time for attendance to improve.

A letter confirming the outcome of the hearing will be sent to the employee within 7 calendar days.

## **5. Appeal**

The employee has a right of appeal:

- Appeals against dismissal are to Executive Directors and must be registered in writing to the Director of Organisation Development and Policy within 7 calendar days of receipt of the written notification of the hearing decision.
- Appeals against any other outcome will be heard by a member of the Leadership job family (Grade 15 and above) and must be registered in a letter to the appellants Executive Director within the same timescales.

The employee will receive a reply to the appeal letter within 7 calendar days, acknowledging the registering of the appeal which will take place as soon as practicable. There will be a minimum of 7 calendar days' notice of the appeal date.

Any statement of case or evidence on which either management or the employee wishes to rely, will be provided to the Appeal hearing Officer and other party at least 7 calendar days prior to the hearing.

A legal advisor will be present at any appeal against dismissal.

The employee has a right to be accompanied at the appeal, normally by an official employed by the trade union, a trade union representative or a colleague.

The employee will be informed of the outcome of the appeal in writing within 7 calendar days. That outcome is the final stage within the Council's procedures.

# **Appendix 1 – Attendance Management and Ill Health Capability – Manager Guidance**

## **1. Roles and Responsibilities**

Line managers have responsibility for managing the sickness absence of their employees. This includes:

- Taking time to read the procedure and guidance.
- Ensure employees know how to make contact when reporting sickness absence
- Undertaking relevant training – including completing the ‘Managing Attendance and Sickness Absence’ E-Learning course on an annual basis.
- Carrying out Return to Work interviews.
- Holding regular review meetings in a timely manner for employees in the procedure and take appropriate actions, consider adjustments, and refer to Occupational health in line with the guidance.
- Monitor progress and discuss with the employee.
- Maintain evidence of targets and progress, confirm them in writing and keep accurate records.
- Recording sickness absences in Workplace promptly and ensuring they are kept up to date and input in accordance with the manager guidance on ‘inputting sickness for an employee’.
- Ensuring all relevant documentation is retained on the employee’s EDRM HR file.

The Advice & Support Team will provide advice, support and guidance to managers throughout the process, including:

- Support with wording of documents and correspondence where necessary.
- Attendance at hearings and appeals to support the hearing officer.
- Advice, support, and guidance in complex cases or where the case presents precedents.
- Support to the Presenting Officer with preparation of the statement of case.
- Advise on the hearing arrangements and process, and related correspondence.

The Advice and Support team advise management and therefore do not provide advice to employees on their individual situation.

Occupational Health will:

- Provide advice and guidance on employee health and sickness issues to managers, the employee and HR.
- Meet with employees and assess their fitness to work and provide appropriate reports following a referral from their line manager.
- Provide advice and recommendations on appropriate adjustments and support to assist an employee back to work.
- With the employee’s consent, obtain additional information from the employee’s GP, consultant, or other specialist.

Employees will:

- Comply with timescales, regarding notification of sickness absence, and make themselves aware of how to contact their manager.
- Provide documentation in a timely manner.
- Maintain regular contact with manager in accordance with agreed procedures. Managers with access to Microsoft Teams telephony can be contacted from any telephone.
- Attend Occupational Health appointments if reasonably requested to do so.
- Attend return to work discussions and absence review meetings as appropriate.
- Understand that failure to comply with the attendance management procedure may affect eligibility for sick pay as detailed in section 6.
- Accepts / be willing to discuss reasonable adjustments to working arrangements to facilitate a return to work.

Employees who are trade union members can seek advice on the Attendance Management and Ill health Capability Procedure from their trade union. Information in relation to the procedure can also be found on Our Derbyshire – Working Here – Sickness Absence – Attendance Management. Additionally, information regarding workplace rights, rules and best practice is available on the ACAS website.

The wellbeing strategy is available on Our Derbyshire which sets out our approach to managing and improving the wellbeing of all our employees and brings together all initiatives currently in place within the council that support and maximise the health, safety, and wellbeing of our employees.

## **2. Managing Sickness Absence**

### **2.1 First Day Contact**

Day 1 – Employee reports absence to manager in line with agreed timescales.

Employees should notify their immediate manager, personally, of their absence and the nature of their illness. Texting managers is not normally acceptable practice. However, there may be occasions when this is the most practical option, e.g., if they are contacting their manager outside of normal working hours. However, this should be followed up as soon as possible with a telephone call or personal conversation.

It is acknowledged that in exceptional circumstances, for example if an employee is hospitalised, it may be necessary for another person to contact the manager on the employee's behalf.

Employees are required to provide the information necessary for the manager to complete section 1 of the self-certification form. The manager should ask if the absence is due to industrial injury or disease or a disability. If so, this should be noted on the Self-Certification Form.

Employees should endeavor to report their absence, giving as much notice as possible, and by no later than their normal start time on the first day of absence.

Employees who are employed on a part-time basis or are shift workers or who have irregular working patterns should report their absences as determined by local guidance.

Managers are responsible for reporting/recording the absence either into the appropriate pay system or by sending monthly absence returns to HR Services.

This should be done on the first day of absence and kept up to date. Further guidance on recording absence can be found on 'Our Derbyshire, Working Here, SAP Guidance, Workplace for Managers'. It is a manager's responsibility to record sickness absence and employees should not input their own sickness via Workplace.

## **2.2 Fourth Day Contact**

If absence continues for more than 3 calendar days, then the employee should contact their manager personally on the 4<sup>th</sup> calendar day and provide further information about the nature and likely duration of their illness. Where day 4 falls on a non-working day, the employee should contact their manager on the first available day after this.

## **2.3 Day 8 - Doctor's Statement of Fitness for Work (Fit Note)**

If the employee is still absent after 7 calendar days, on Day 8, they must obtain a Fit Note which must be sent immediately to their manager. The sickness absence will date from the first day as recorded on the Fit Note i.e., any gap between the end of the self-certificate and the start of the Fit Note will be unauthorised absence.

Under normal circumstances a doctor should not back-date a medical statement, however, there are circumstances where this may be done, i.e. if an employee has an ongoing medical problem and has been unable to obtain an appointment to see their GP, then a retrospective Fit Note may be issued.

The manager should return the original Fit Note to the employee and retain a copy securely on the employee's EDRM file.

## **2.4 Return to Work - Self Certification Form**

If an absence does not exceed 7 days, the employee is required to complete the appropriate sections of the Self-Certification Form on their return.

Where an absence is long term, the manager should ensure the form is posted to the employee and that it is returned. Failure to return the form may be classed as an abuse of the scheme and may lead to sick pay being withheld.

The form should be completed in full, and employees will be asked to provide details of their illness.

Completion of the Self-Certification Form applies to all periods of sickness absence including single days.



The manager should retain the self-certification form securely as part of the employee record.

## **2.5 Maintaining Contact**

A successful return from an extended period of absence can only be achieved when contact has been maintained between the manager and the employee throughout the absence.

Keeping in touch is a good opportunity to:

- Check on the employee's wellbeing and progress.
- Support the employee and maintain their engagement.
- Talk about any relevant updates happening at work.
- Provide relevant information, e.g. in relation to sick pay.

The manager and employee should agree between them how often the contact should be and how contact should be maintained – e.g. face to face, Teams, telephone, home visits. Home visits must only be with the prior consent of the employee.

Where an employee fails to contact you within the prescribed timescales, you should contact the employee. If unsure how to proceed, contact Advice & Support Team for further advice.

To maintain contact, an employee who is to be away from home for an extended period (two weeks or more) during sickness absence should inform their manager of their contact details before departure.

There may be occasions when an employee is too ill to be able to maintain contact directly and may ask for contact to be maintained via a third party, normally a trade union representative or a close family member. Managers should seek advice from Advice and Support and from Occupational Health in such cases.

## **2.6 Return to Work Discussion**

You should hold a return to work discussion with every employee on their return to work after a period of sickness absence, regardless of the length of that absence. Ideally, this discussion will take place on the day the employee returns to work. However, if it is not possible to do this, then the conversation should take place within 2 working days. If a face to face meeting is not possible, other methods of conducting the discussion, such as a telephone discussion, or a remote meeting are acceptable. The discussion should be appropriate to the circumstances and duration of the employee's absence. During your discussion you should:

- Ascertain whether the employee has made a full recovery. (there are specific procedures established in respect of employees who are food handlers. You should ensure these procedures are adhered to.)
- Discuss whether there are any actions required, for example, adjustments either short or long term that are required to enable the

employee to carry out the job role, a workplace assessment, referral to Occupational Health, expected improvements, and if so, record them on the return to work discussion form, with the appropriate timescales for you to action.

- Bring the employee up to date on work-related issues and developments that have occurred during their absence.
- If you feel that the reason for absence requires medical investigation or if the level of absence is a cause of concern, then refer immediately to Occupational Health, using the Occupational Health referral form available on Our Derbyshire and the website. Tell the employee if you decide to do this.
- Advise the employee that they will be asked to attend a review meeting if they have hit the absence trigger of 8 days in any 12-rolling calendar month period.
- Where appropriate, remind the employee of the Council's wellbeing policies and guidance on Our Derbyshire. These include information on physical and mental health, work life balance, the counselling service and other wellbeing support. It may be appropriate to refer for physiotherapy.

You do not have to complete a return to work discussion form for every absence, but you should complete one where:

- The employee is having periods of short-term intermittent absence.
- The absence is covered by medical certification.
- The employee is in the attendance management and ill health capability review process.
- Adjustments to the job are required, in which case details of the adjustments must be documented.

When the form is completed, one copy should be retained by you on the employee's EDRM file, and one copy given to the employee.

It is good practice to hold return to work discussions after all absences, however the paperwork need only be completed in the circumstances shown above.

## **2.7 Disciplinary Suspension**

If an employee has sickness absence during a period of disciplinary suspension, they must notify their department on the first day of sickness and submit Fit Notes in the normal way. Sickness payments will be made in accordance with normal procedures.

This does not automatically mean that the disciplinary process is put on hold and you should contact the Advice & Support team for guidance on how to proceed.

## **2.8 Sickness Absence and Annual/Flexi Leave**

An employee who falls sick before or during annual leave, and the sickness

absence therefore coincides with booked leave, has the right to cancel that leave and retake it later. This right depends on the sickness absence being reported on the first day it occurs, as set out in section 2.1 and, where the sickness period starts before booked leave, the continuing sickness should also be reported on the first day it coincides with the booked leave. A fit note should be supplied where appropriate. These conditions also apply to flexi leave, but do not override the parameters of the flexible working hours scheme regarding carry over of hours.

Employees who are on long-term sickness absence continue to accrue annual leave whilst they are off and can carry over a proportion of this into the following leave year.

Additionally, employees on long-term sickness absence, have a right to apply for annual leave during their sickness absence and to be paid for it once they are on either half pay or no pay.

Further guidance and application forms on the above are available on 'Our Derbyshire, Working Here, Sickness Absence'.

### **3. Abuse of the Sickness Scheme**

In cases where abuse of the scheme is suspected, sick pay may be suspended. Employees must be notified beforehand, and the reasons explained to them. Example of abuse may include:

- Non-attendance at an In-Service Medical without reasonable cause.
- Failure to submit Doctor's Fit Notes within a reasonable time frame.
- Conduct prejudicial to the employee's recovery.
- Employees own misconduct or neglect.

Abuse of the sickness scheme can lead to disciplinary action. You must seek advice from the Advice & Support Team in these cases.

### **4. Ill Health Capability Procedure – Support Measures**

This section of the guidance advises you on fair and consistent means of dealing with employees identified as having either short-term or long-term sickness absence.

- Short term sickness absence including intermittent absence is defined as 8 working days or more sickness in any rolling 12-month period or where absence is giving management cause for concern. This is pro rata for part time staff and separate guidance is attached as appendix 6.
- Long term sickness absence is defined as being 28 consecutive calendar days or more.

The purpose in establishing these triggers is to identify those employees whose absence may be of concern. There may be cases where an employee does not meet a trigger but whose absence or health is still a cause for concern. In these cases managers should seek advice from the Advice and Support Team on the

most appropriate process. If implementing the ill health capability process, the reasons for this should be explained to the employee the reasons for this. Some examples might be:

- Employees with unusual patterns of absence.
- Employees with a deteriorating mental health condition who may benefit from Occupational Health advice.
- Employees for whom reasonable adjustments could be considered to take account of their health condition.

At all stages of the process consider whether the employee is covered by the provisions of the Equality Act 2010. If so, it is good practice to meet with the employee to ensure the appropriate support is made available. Following discussion with the Advice and Support Team, it may be considered that a reasonable adjustment may be to extend the trigger periods prior to moving into the procedure or alternatively to extend the review periods if some or all of the absence is related to a disability. Further advice on this can be obtained from the Advice & Support Team or Occupational Health.

Where an employee has a terminal or life-threatening illness or palliative care is being provided, you should contact the Advice & Support Team immediately for urgent advice.

There may be cases where continuing and progressive ill health allows attendance at work but leads to a decline in performance. Further guidance is provided in section 4.7, but in such a case, advice should be sought from the Advice & Support Team on use of the appropriate procedure.

#### **4.1 Review Process**

As the manager of an individual who has been identified as meeting a trigger or whose absence gives you cause for concern, your first step is to ascertain the details of the absence, including timings and reasons. To do this you should access individual records which should be on the employee's EDM file

Reasons for absence can be found on the self-certification forms and Doctor's Fit Notes submitted by the individual or return to work discussion forms as appropriate.

In most cases where employees meet a trigger within the procedure, there will be sufficient grounds for concern to make a review meeting necessary. However, there may be occasions when the trigger may be exceeded and a review meeting may not be appropriate, for example where the sickness is due to an event such as hospitalisation, a significant family event or where all issues have been covered as part of the return to work discussion. However, the absence should be monitored and should it become long term, a review meeting should be arranged.

In the review meeting you are looking to establish whether there are any:

- Common reasons for absence.
- Common patterns such as links to weekends/bank holidays.
- Persistent or continuing illness.

- Underlying causes.

Other issues that may also need to be considered are:

- Previous attendance record.
- Any general problems with sickness in their place of work
- Any domestic problems.
- The demands of the post and the need to cover workload.
- Re-deployment - where Occupational Health have advised that the employee is unfit to undertake certain aspects of their current role but may be able to undertake different job tasks.

In cases of intermittent absences, managers will usually be faced with absences where there appears to be no single underlying medical cause. The review process should still be followed but advice from Occupational Health may be sought, where appropriate, to ensure that there is no linked medical reason.

There may be exceptional circumstances when an individual is not prepared to discuss his/her absences with you. In such circumstances alternative arrangements should be made e.g. the employee discusses with another manager.

Managers should securely retain any documents relating to the review meeting including review form, notes, and letters as part of the employee's EDRM record, providing the employee with copies as appropriate.

## **4.2 Referral to Occupational Health**

Referrals to Occupational Health can be made at any time if you have specific concerns regarding an employee's health or wellbeing.

In cases of long-term sickness absence, you should refer the employee to Occupational Health when they have been absent continuously for 4 weeks, and you should involve the Advice and Support Team to provide guidance on the completed form. There may be occasions in respect of the following categories where it may be appropriate to defer a referral:

- Fractures which are healing normally with no complications
- Operations with no complications.
- Employees receiving chemotherapy and/or radiotherapy who are expected to return to work.
- Sickness absence relating to anxiety arising from a significant family event.
- Imminent consultation referral.
- Imminent return to work.

In all cases of long-term sickness absence, a referral to Occupational Health should be made after an employee has been absent from work continuously for three months.

In cases of intermittent sickness absence referrals should be made as and when appropriate.

You should advise the employee verbally that a referral is being made and/or issue a letter notifying employee of referral if appropriate, complete the Occupational Health referral form and forward to Occupational Health, with a copy to the Advice & Support Team.

A prompt referral is essential to ensure that:

- Any assistance required by an employee is offered quickly.
- Consideration is given to the employee returning to their substantive job by making temporary reasonable adjustments.
- Consideration is given to suitable alternative employment after medical consideration, should such a job be available.
- Management information is available to inform the review meeting which follows.

On the referral, you as manager/supervisor should provide:

- The individual employee's periods of absence over the last 2 years.
- The reasons in detail for the referral and as much factual, relevant background information as possible.
- Information provided by the employee to management about the reasons for the absence.

Also, where appropriate:

- A description of the physical and mental demands of the job on the employee.
- The frequency of such demands of the job on the employee.
- Whether the demands are likely to increase or decrease in the future.
- To which of the set questions on the referral form you require answers.

The better the quality of the information you provide to Occupational Health, the more detailed advice they will be able to provide.

The notification of appointment will be issued directly to the employee's home address and a text message confirming the date.

If you require a workplace assessment for an employee, please indicate this on the referral form. This can help identify if an issue in the workplace is affecting an employee's health, or if their health is affecting their work.

Following the in service medical, Occupational Health will provide a report to the manager who made the referral with a copy provided to the Advice & Support Team. The medical advice will provide answers to the questions indicated as relevant. Advice should be sought from the Advice & Support Team where necessary. This may include:

- That the employee is fit to return to their job.
- That the employee is unfit to work at present.
- That the employee requires a medical review at some future date.
- Whether there are underlying medical conditions necessitating absence.
- When the employee is likely to recover/return.

- Advice and guidance on support to improve attendance.
- Whether the employee is permanently incapable of carrying out their job.
- What aspects of the current role the employee can / cannot do.
- Whether the employee is fit to undertake an alternative role (should examples of such roles be provided by management).
- Whether a medical report from his/her General Practitioner / specialist is required.
- State whether the employee may be a disabled person in accordance with the Equality Act. If so and more specific advice is required contact the Advice & Support Team.

If further clarification is required, Occupational Health will provide as much advice and assistance as possible, consistent with medical confidentiality.

The content of the medical report should be discussed with the employee who will have received a copy of the report at the same time or prior to the manager.

It is your responsibility to decide on an appropriate course of action following receipt of Occupational Health advice.

In making any decision you will need to consider the following:

- The absence of a medical diagnosis or prognosis does not prevent you from taking action.
- You should not make medical judgements.
- You should not ignore medical opinion or draw conclusions at odds with medical advice.
- The operational needs of the service.
- The right of the employee to seek an independent medical opinion. Where an employee does this, it should not delay you taking the appropriate action based on the information you have already received.
- Whether the employee is a disabled person under the Equality Act, and if so, is more specific advice required from either Advice & Support or Occupational Health.

Managers should securely retain any documents relating to the occupational health referral, including forms, notes, and letters, as part of the employee record on EDRM, and provide the employee with a copy as appropriate.

### **4.3 Return to work – Phased Returns**

Prior to any phased return, advice should be sought from the Advice and Support Team. The best outcome for employees and managers is a successful return to work. Where appropriate this may be on a phased basis to integrate the employee back into the working environment. This can be a combination of working days and continued sickness absence (supported by a GP Fit Note) unless the employee specifically requests to use annual leave.

Where a phased return is implemented, there should be agreed timescales regarding how long the phased return will last. It would normally be expected that an employee would increase their working arrangements on a weekly basis until

they can fulfill their contractual hours, and this would be expected to be achieved within a four week period.

Where an employee is fit to return to work but not ready to resume their full contracted hours at the end of this period, they may wish to consider the following options:

- Reducing contractual hours on either a temporary or permanent basis (with associated reduction in pay).
- Utilising annual leave.
- Taking unpaid leave.

Return to work can be before the Fit Note expires if the employee recovers more quickly than expected and the employee does not need formal confirmation of this from their doctor. They may need some help or adjustments to return to work. If there is any uncertainty about an employee's fitness to return to work, you should contact Occupational Health for further advice.

A return to work discussion should take place to agree any rehabilitation programme that will best meet the needs both of the employee and of the service. An agreed timeframe for their implementation and how long they are expected to last should be included where appropriate. It would normally be expected that an employee can return to their full contractual hours within a four to six week period.

#### **4.4 Reasonable Adjustments**

Where an employee is unable to undertake the full job role, consider whether adjustments can be made which are practical, reasonable, and financially viable to enable the employee to continue in that job. These may be short term (temporary)\_or permanent. In the case of short term (temporary) adjustments ensure that:

- the reasons for this are explained to the employee and documented in the employee's record.
- The date of the introduction of adjustments is clearly recorded
- In the case of temporary adjustments, end dates are clear, by which the employee is expected to have returned to full duties, and details of why the arrangement cannot be considered a permanent reasonable adjustment.
- regular reviews take place to monitor progress, suggested as 4 weekly reviews.
- Details of restrictions / duties are clearly recorded
- If a permanent adjustment is being considered, the adjustments must be in relation to the substantive role. An alternative role should not be created that is surplus to establishment.

Regular one-to-one meetings and return to work meetings are useful points to review arrangements and ensure the adjustments can continue to be viable. Advice regarding adjustments and/or equipment may be sought from Occupational Health.



The duty to make reasonable adjustments requires the council to take positive steps to ensure that disabled people can access and progress in employment. This means more than avoiding treating disabled workers less favorably and taking additional steps to which non-disabled workers are not necessarily entitled. There is no requirement for the disabled person to provide a comparator. The employee concerned should always be part of the discussion around reasonable adjustments.

The council is in breach of its duty under the Equality Act 2010 if we do not apply a reasonable adjustment, once it has been identified. Where an adjustment is required it is the question of 'reasonableness' which determines if it must be made. When considering 'reasonableness' aspects to consider include:

- The effectiveness of the adjustment.
- The practicalities of the adjustment.
- The costs of the adjustment. Access to Work provides support to employees who have a disability or health condition and may be able to assist with funding. The application is submitted by the employee and managers may need to provide support.

It is good practice to undertake a workplace assessment, with Occupational health and in consultation with the individual concerned, and to agree any adjustments with the individual concerned prior to implementing them. Managers should maintain written records regarding discussions about reasonable adjustments and any resulting support put in place.

The Advice and Support team can provide further guidance.

Some examples of reasonable adjustments can be seen at Appendix 1.

#### **4.5 Temporary Alternative Work**

This may be considered in cases where medical evidence supports the view that an employee is unable to perform the full job role but is able to attend work and undertake a limited role within their job or alternative role for a temporary period.

Where temporary alternative work is identified this will normally be as part of a planned and timetabled rehabilitation package. Ensure that end dates are clear and regular reviews take place to monitor progress. Any alternative work should support the operational requirement of the service and support the individual's recovery.

The expectation is that a return to full duties of the employee's substantive role should be achieved within a three-month period. If this is not achieved, and the alternative arrangements cannot be sustained indefinitely, it may be necessary to continue to hold review meetings and progress through the stages of the attendance management and ill health capability procedure.

#### **4.6 Redeployment**

In cases where an employee is permanently unable to continue in their substantive job and it is not possible to make reasonable adjustments,

redeployment may be considered.

Redeployment should be considered where the Occupational Health Physician has advised that the employee is unfit to undertake certain aspects of their current role but may be able to undertake different job tasks. The manager, in consultation with the employee, should then take a decision as to whether redeployment is a viable option, based on an initial discussion regarding the employee's skill set.

For redeployment to be viable there needs to be a suitable redeployment opportunity i.e. a job available. This can be ascertained using the Council's job vacancy information. Employees have a shared responsibility to seek redeployment opportunities. Please take advice from the Advice and Support Team.

An employee who accepts a formal offer of redeployment under these circumstances may be covered by the Council's Redundancy, Redeployment and Protection of Earnings Policy.

#### **4.7 Employee Unable to Carry Out Full Duties of the Post / Ill Health Capability**

There may be occasions when an employee is fit to return to work or has not been absent but cannot carry out the full duties of their post although they are able to attend work. There may be other cases where employee's do not have any absences but are suffering from a health condition which leaves them unable to perform the duties of their post.

In these cases, it may be necessary to continue or commence with the Attendance Management and Ill Health Capability procedures. For example, if the council is no longer able to sustain reduced or adjusted duties, or if the employee's illness / condition means they would be likely to be considered for ill health retirement.

There are also likely to be adjustments that can be made to the employees' role to enable them to remain in employment whilst ever this is possible. Regular review meetings should be held in accordance with stages 1 and 2, and details of discussions recorded. You should ensure the employee fully understands the reasons they are being seen under the Attendance Management and Ill Health Capability procedure, even though they may have had little or no absence

Each case should be dealt with on an individual basis. Initially an informal discussion must be held, ideally as part of a 1:1 or supervision meeting. The Advice and Support Team should be contacted for further guidance on the most appropriate procedure to follow, including consideration of other options prior to the employee being brought into this procedure.

#### **4.8 Ill Health Retirement**

Where, in the opinion of an independent registered medical practitioner, an employee meets the criteria for ill health retirement, it will be the responsibility of the relevant DMT member to consider this opinion, before making a final

decision. A meeting should be held with the relevant Service Director, Advice and Support Lead, Occupational Health and Line Manager, but the decision lies with the Service Director. The Advice and Support team will provide guidance on the ill health retirement process, and more information is provided in Appendix 3. However, it should be noted that in order for ill health retirement to be approved, an employee must have first been dismissed from their employment. This is a requirement of the local government pension scheme.

#### **4.9 Case Conference**

In complex cases where an employee's absence is prolonged and no return to work is planned, or adjustments are requested that may not be reasonable you may ask the Advice & Support Team if a case conference would be appropriate. Representatives, as appropriate, from management, HR, Occupational Health, Health and Safety and Legal Services may be asked to attend to explore the issues of the case and decide the most appropriate course of action. You should ensure that, where appropriate, outcomes of any such meeting are shared with the employee at a subsequent review meeting.

### **5. Attendance Management & Ill Health Capability Procedures - Stages**

#### **5.1 Timescales**

Review periods should be at least four weeks but not longer than three months. However, in cases of short-term intermittent absence, a longer review period may be required to ensure employees are able to sustain improved attendance.

#### **5.2 Meeting and Record-Keeping Protocols**

Prior to the meetings at stages 1, 2 and 3, you should write to the employee inviting them to the meeting giving:

- A minimum of seven days' notice.
- The opportunity to be accompanied by an official employed by the trade union, a trade union representative or colleague.

It is important, and in both the employer and employee's interest to keep written records during the capability process. Capability records should be maintained in the strictest confidence and kept no longer than necessary. See the Human Resources Retention Schedule on Our Derbyshire – Information Security – Confidential Information – Records retention schedules website for guidance on how long documents associated with the capability process should be kept.

Copies of meeting records should be given to the employee and their representative (if applicable) and stored on the employees HR EDRM file.

A copy of letters relating to the capability process, from Stage 2, should be sent to the Advice & Support Team who will maintain the Case Management log of all formal capability warnings, dismissals and actions taken detailing:

- The substance of the case

- The outcomes of meetings and hearings.
- Actions taken, the date and reasons for that action.
- Whether an appeal was lodged.
- The outcome of the appeal.
- Any subsequent developments.

Please ensure that the correct documentation is issued at all stages of the process as this will evidence your actions should the outcome lead to a Capability Hearing and possible dismissal.

Template letters and statement of case are available on Our Derbyshire – Working Here- Absence – Attendance Management.

### **5.3 Stage 1 – Informal Meeting**

The initial review meeting will either take place when an employee returns to work or, where the absence is long term, whilst the employee remains absent from work. In these circumstances' meetings can take place at any mutually agreed place.

The employee should be given the opportunity to be accompanied by an official employed by the trade union, a trade union representative or a work colleague.

The purpose of the initial review meeting will be to:

- Discuss the individual's sickness absence record.
- Identify the reason for the period/s of absence and ascertain whether there are related reasons.
- Consider whether there are issues affecting the employee's attendance which you may be unaware of, both work related or in their home life
- Offer any support available, including ensuring the employee is aware of the wellbeing options available to them

Consider where applicable:

- Up to date medical information provided by the employee.
- Prospects for a phased return to work.
- Work related issues.
- Is there an acceptable explanation of the reason for absence?
- Is further monitoring required?
- Temporary alternative duties where these would allow an employee to return to work.

In addition, you should:

- Reinforce the need for good attendance.
- Where appropriate, set a date for a review meeting at the end of the monitoring period.

The following courses of action may be considered:

- Satisfactory outcome with no further action needed.
- Continue to monitor attendance at work for a stated period (between 1- 3 months).
- Occupational Health referral, physiotherapy, or counselling where appropriate.
- Where an employee is absent due to long term sickness, maintain contact during the review period and keep a log of all contact made.

For advice on completing an Occupational Health referral form, please see pages 18 and 19 of these guidelines.

Following the meeting, complete either a review meeting record form or send the employee a letter outlining the content of the discussion. The manager should keep a copy of the paperwork on the employee's EDRM record, and one copy should be given to the employee. Please ensure that there is enough information on the form to link it to the employee record (minimum requirement is a payroll number).

#### **5.4 Additional Support Available**

It is important to remember when conducting review meetings that there are several resources available which might assist an employee to return to work. These include:

- The role of Health and Safety Officers in advising on risk assessment and safe working practices.
- Support from the Council's Occupational Health Service and the Counselling Service.
- Wellbeing support – ensure the employee is aware of the wellbeing support available on Our Derbyshire or provide copies of documents for those employees without access to Our Derbyshire.
- Reasonable adjustments which might be necessary or desirable, especially where disability is involved.
- Physiotherapy services to help people remain at work/ return to work sooner.
- Rehabilitation to assist a return to work / phased return to work.
- Advice is also available on adaptations to equipment and the provision of specialist equipment as well as available funding through the DWP - Access to Work Scheme. Employees should apply to access to work themselves but will need the employer's support to do this.

#### **5.5 Review Period**

During the review period continue to monitor the employee's levels of sickness absence. Where the absences are intermittent, ensure that return to work discussions take place after each absence and that the return to work paperwork is completed.

At the end of the review period, a discussion should take place with the employee. Consideration should be given to:

Where attendance has improved to a satisfactory level –

- Advising the employee of this and that the matter is now closed.

Where the attendance has not improved-

- Reconsider the actions referred to at stage 1.
- Ascertain what steps the employee has taken to improve his/ her attendance.
- Review current available medical information from both the employee and an Occupational Health report where appropriate.
- Refer to Occupational Health if this has not already been done.
- Reinforce the expectation regarding attendance at work and the operational effects of the absence.
- Reasonable adjustments if these would help an employee to return to work or improve their attendance at work: including consideration of further review periods if some or all of the absence is related to a disability to allow for consideration of further adjustments.
- Set a further review period or consider moving to stage 2 of the process. If the intention is to move to stage 2, provide the employee with details of the process and take advice from the Advice & Support Team.
- A further review period should normally be 1 - 3 months. However, a longer review period may be deemed appropriate, for example, in cases of short-term intermittent absence

After the discussion, where appropriate confirm the outcomes to the employee in writing and retain a copy on the employees HR EDRM file.

## **5.6 Stage 2 – Formal Meeting**

From this stage of the process onwards, support will be available from the Advice & Support Team. However, you as manager will still manage the process.

Prior to any formal review meetings:

- Write to the employee giving a minimum of seven days' notice.
- Inform the employee of their right to be accompanied by an official employed by the trade union, a trade union representative or colleague.

At the meeting:

Unless the review meeting date has already been set, you should write to the employee as above.

- Ensure the employee understands the stage of the process they are at – Stage 2.
- Reconsider the actions referred to previously.
- Consider any mitigating circumstances that may be affecting the employee's attendance.

In addition, where appropriate:

- Ensure that reasonable adjustments are considered for an employee with a disability.
- Consider redeployment where the Occupational Health Physician has advised that the employee is unfit to undertake certain or all aspects of their current role but may be able to undertake different job tasks. If it is felt appropriate to seek redeployment, the following actions need consideration:
  - Working with the employee and the advice and support team to identify suitable alternative job roles, throughout the council.
  - Advising the employee to check Our Derbyshire and the DCC website for details of vacancies or arrange for the internal vacancy bulletin to be sent if access is not available.
  - Considering whether it is appropriate at this stage to ask Occupational Health to refer the case to an Independent Registered Medical Practitioner for an opinion on whether the criteria for ill health retirement are met.
  - In appropriate cases inform the employee of the Ill Health Retirement Procedure and provide a copy of the Employee Guide to it. The employee should be made aware that certain criteria have to be met and under Local Government Pension Regulations the decision on ill health retirement is subject to the opinion of an independent medical practitioner.
- Notify the employee that the level of absence cannot be contained and that failure to improve their attendance may lead to dismissal.
- Set a review period of between 1 and 3 months.

After the meeting confirm the outcomes of the meeting to the employee in writing and retain a copy.

## **5.7 Review Period**

During the review period continue to monitor the employee's sickness levels. Where the employee is absent due to long term sickness, ensure contact is maintained in a mutually agreed way. Hold return to work discussions after all sickness absences and complete the return to work discussion form.

Following the review period an informal discussion should take place with the employee to consider: -

Where attendance has improved:

- Advising the employee of this and recording that the matter is now closed.
- Holding the employee at stage 2 of the process for a further monitoring period.

Where the attendance has not improved:

- Reconsider the actions referred to previously.
- Ensure up to date medical information is available from Occupational Health (within the last 3 months in most circumstances).
- In cases of long-term sickness absence consider setting a further review period where you are:

- Waiting for a response from the Independent Registered Medical Practitioner in relation to ill health retirement.
- Waiting for completion of treatment or recovery from an operation that may allow the employee to return to work.
- Allowing further recovery time where it is anticipated that this will allow the employee to return to work.
- In these situations it may be appropriate to hold a further informal review/ discussion to revisit outcomes and continue to consider suitable alternative employment.
- Advise the employee that a Capability Hearing will now be arranged.

After the discussion, where appropriate, confirm the outcomes of the meeting to the employee in writing and retain a copy.

### **5.8 Stage 3 – Capability Hearing**

This should only be arranged if stages 1 and 2 of the process have been completed.

The capability hearing will be chaired by a manager from the Leadership Job Family (Grade 15 and above), who has had no previous involvement in the case. He/she will be supported by the Advice & Support team.

The Hearing Officer must make arrangements for the hearing including:

- Room booking.
- Arrangements for a notetaker.

They will also:

- Chair the hearing.
- Decide on the outcome and
- Confirm the decision in writing.

A member of the Advice and Support Team will provide support to the Hearing Officer, before, during and after the hearing.

The employee should be notified in writing of the following, giving a minimum of 14 calendar days' notice:

- A formal hearing is being held and of the requirement to attend.
- Purpose of the hearing and details of the ill health capability case.
- Location, date, and time of hearing.
- Name of officer chairing the hearing.
- That a decision may be taken to dismiss on the grounds of capability.
- The right of accompaniment by his/ her nominated representative.
- The right of appeal against any decision taken.

Two copies of the statement of case should also be provided to the employee prior to the hearing date, allowing enough time for the employee to discuss matters with their nominated representative.



Options for delivering the letter are:

- Handed to the employee
- Delivered by hand to the home address
- Sent to home address by recorded delivery

Copies may also be emailed to the employee's email address to supplement the above options

The case will be presented by you as the manager who has been involved in the case.

At the hearing the manager will detail the actions taken to improve the employee's attendance, including details of all the support given. Witnesses may be called where appropriate. The employee will also have opportunity to submit a statement or make a verbal presentation in support of his/her case. The procedure for the hearing is set out in Appendix 2.

The outcomes of the hearing may be:

1. Dismissal with contractual notice (During the notice period seek suitable alternative employment in cases where the employee wishes to be considered for this and medical grounds support it).
2. Final written warning with a further review period normally of up to 3 months in cases of long-term sickness.
3. Final written warning with a further review period which may be more than 3 months in cases of short-term intermittent sickness.

The employee has the right of appeal against these outcomes.

The decision may also be taken that none of the above actions are appropriate and that the employee should have a further review period.

Where there is a further review period under outcomes 2 and 3 and a return to work is not achieved or if alternative employment has not been identified, a further hearing will need to be convened to consider appropriate action including dismissal.

The outcome should be confirmed in writing to the employee and a copy provided to HR Services for the employees' personnel file.

## **6. Appeal**

An employee may appeal within 7 calendar days of receiving written notification of the Capability Hearing decision.

- An appeal against dismissal must be registered in a letter to the Director of Organisation Development & Policy within 7 calendar days of receipt of the written notification of the hearing decision.
- An appeal against any other outcomes must be registered in a letter to the appellant's Executive Director within the same timescales.

Appeals will be heard by an Executive Director or a member of their Departmental Management Team, normally from a different Department to that in which the original hearing was heard.

The employee will receive a reply to the appeal letter within 7 calendar days, acknowledging the registering of the appeal. The appeal will take place as soon as practicable. There will be a minimum of 7 calendar days' notice of the appeal date.

An appeal against an outcome other than dismissal will be heard by a member of the Leadership Job Family (grade 15 and above).

Any statements of case or evidence on which either management or the employee wishes to rely, will be provided to the Appeal Hearing Officer and other party at least 7 calendar days prior to the hearing.

The Presenting Officer will call witnesses where appropriate. Legal and HR advisers may attend the appeal. The employee will be entitled to be accompanied at the appeal, by a trade union representative or colleague and will also be able to call witnesses.

The appeal may be upheld in the employee's favour or the original decision confirmed. The employee nominated representative and the Presenting Officer should be informed in writing of the decision within 7 calendar days. The decision will be final.

## **7. Specific Circumstances**

### **7.1 Disability Related Absences**

Disability is defined under the Equality Act 2010 as a physical or mental impairment that has a 'substantial' and 'long term' negative effect on an individual's ability to carry out normal daily activities.

It is often appropriate to manage disability related absences differently to other types of absence, and for that reason, these should be recorded separately to assist in that process.

#### *Detail of recording process to follow*

The council is not obliged to disregard disability related sickness absences as part of the attendance management procedure; however, it may be a reasonable adjustment to treat some or all such absences with particular consideration depending on each individual circumstance including making reasonable adjustments to the application of the attendance management procedure.

Disability related sickness absence is counted as sickness absence but should be recorded separately to ensure this can easily be identified.

Whilst managers are still expected to meet employees in line with normal attendance management procedures, to ensure we are doing everything possible

to secure their return to work, in some cases it may be reasonable to extend review periods prior to moving individuals into the next stage of the process. As part of that dialogue, line managers should encourage employees who consider themselves to have a disability, to record this on SAP to ensure they are offered the appropriate support. Any such discussion should focus on how the employee's disability may impact on their ability to carry out their role, rather than the nature of the disability.

This does not mean disability related absences should be ignored for the purposes of attendance management.

For example, an employee who is diagnosed with a long-term health condition may take a number of short-term absences after diagnosis whilst they learn to manage their condition. The expectation would be that they need to be seen under attendance management procedures to ensure they are receiving all the support they need, but it may be appropriate to keep the individual in stage 1 of the procedure and not to escalate to stage 2.

An employee with a long-term condition who cannot attend work even after considering all reasonable adjustments, would still be expected to progress through the procedure, and in some cases, will progress to a stage 3 hearing.

It should also be kept in mind that the council has a separate disability leave policy specifically for employees covered by the Equality Act 2010, for appointments in relation to assessment, treatment, rehabilitation, or training for a condition covered by the Act.

## **7.2 Pregnancy Related Absences**

If an employee's sickness absence is pregnancy related, the council must ensure that it complies with its duties towards pregnant employees. So, although the absence is taken into account for sick pay purposes, such absences would not normally be taken into account in respect of meeting triggers and progressing through the attendance management procedure. However, it is good practice to meet with employees after a period of pregnancy related sickness absence to ensure that appropriate support is offered. A pregnancy risk assessment should be completed as soon as an employee notifies you that they are pregnant.

Managers should bear in mind that if such an absence occurs after the beginning of the employee's fourth week before their expected week of childbirth, then the employee's maternity leave will be automatically triggered.

## **7.3 Elective Surgery**

In cases of elective surgery annual leave should be utilised in the first instance. This includes cosmetic procedures for example laser eye treatment. Should an employee become ill and unfit for work following such procedures, the usual attendance management procedures will apply.

## **7.4 Mental Health Support**

The council aims to create a culture of positive mental wellbeing through raising

awareness, providing support, training and risk assessment to assist with employee's mental health. The Our Derbyshire, your wellbeing page has a number of links and a wide range of information and support regarding mental health, including mental health first aiders.

Additionally, Public Health plays an important role in the prevention of mental health issues and the promotion of good mental wellbeing. A range of information, resources and contacts to support mental health and wellbeing can be found on the Council website. The link can be found here – Social care and health – Health and Wellbeing – Mental health and wellbeing

### **7.5 Failure to engage with the procedure**

Where an employee refuses to engage in the process, advice should be sought from the Advice and Support Team. It may be that any meetings or hearings go ahead in the employee's absence, but this should only happen once other options have been exhausted.

## **Appendix 2**

### **Examples of some reasonable adjustments**

Making adjustments to premises – for example, widening doorways or moving furniture for a wheelchair user.

Allocating some of an individual's duties to another worker – for example the occasional requirement to use a step ladder to reach high places could be allocated to another employee for someone suffering from vertigo.

Transferring the employee to fill an existing vacancy – for example considering redeployment where no reasonable adjustment would enable the employee to continue in the current role.

Altering working hours – for example, considering part time working, or amended start times to avoid rush hour travel.

Assigning the employee to a different place of work – for example, relocating a workstation to an accessible location.

Arranging for training in the use of equipment – for example, additional software for a visually impaired employee.

Arranging for training for other employees – for example, training on conducting meetings to allow a hard of hearing employee to participate fully.

Providing information in accessible formats – for example, modifying instructions into braille or audio tape, or arranging for instructions for individuals with learning disabilities to be conveyed orally or in Easy Read.

Acquiring or modifying equipment – for example, adapted keyboards for employees with arthritis, a large screen for a visually impaired employee, or an adapted telephone for someone with a hearing impairment.

Providing a reader or interpreter – for example, an employer arranges for a colleague to read hard copy post to a worker with a visual impairment at times during the working day. Alternatively, the employer might hire a reader.

Providing supervision or other support – for example, an employer provides a support worker or arranges help from a colleague, in appropriate circumstances, for someone whose disability leads to uncertainty or lack of confidence. These are examples only and are not intended as a definitive list.

Allowing another person to attend meetings held under the procedure, for example a support worker or someone with knowledge of the disability and its effects

## **Appendix 3**

### **The Capability Hearing – Procedure**

The Capability Hearing is chaired by the Hearing Officer and proceeds as follows: -

- i) The Presenting Officer puts the case in the presence of the employee and may call witnesses.
- ii) The employee (or representative) has the opportunity to ask questions of the Presenting Officer regarding the evidence given by him/her and any witnesses whom he/she may call.
- iii) The Hearing Officer has the opportunity to ask questions of the Presenting Officer and witnesses.
- iv) The employee (or representative) puts his/her case in the presence of the Presenting Officer and calls such witnesses as he/she wishes.
- v) The Presenting Officer has the opportunity to ask questions of the employee and his/her witnesses.
- vi) The Hearing Officer has the opportunity to ask questions of the employee and his/her witnesses.
- vii) The Presenting Officer and the employee have the opportunity to sum up their case if they so wish, with the Presenting Officers submission being received first
- viii) The Presenting Officer and the employee withdraw.
- ix) Any advisors to the Hearing Officer should remain in the room while a decision is made.
- x) The Hearing Officer deliberates, only recalling the Presenting Officer and the employee to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return even if only one may be concerned with the point giving rise to doubt.
- xi) After careful consideration of all the information the Hearing Officer recalls both parties and states the action deemed appropriate. Should there be occasion where this is not possible due to the need to review details of the case, the Hearing Officer may defer the decision.

## **Appendix 4**

### **III Health Retirement**

Under Local Government Pension Regulation (LGPS), an Independent Registered Medical Practitioner will be asked to provide an opinion on whether an employee is, on the balance of probabilities:

‘permanently incapable of discharging efficiently the duties of their employment because of ill health or infirmity of mind or body’

In some circumstances the Independent Registered Medical Practitioner may certify that a permanent incapacity prevents an employee from undertaking their normal role but does not lead to a reduced likelihood of being incapable of undertaking any \*gainful employment. In these circumstances, pension benefits are **not** payable.

Where there is a reduced likelihood of undertaking gainful employment, there are 3 Tiers of III Health Retirement which allow for differing levels of pension payments:

#### **Tier 1:**

Where an employee is permanently unable to carry out their own job and has no reasonable prospect of being capable of undertaking any gainful employment before the age of 65.

#### **Benefits payable under Tier 1**

Based on the period of membership enhanced up to the age of 65.

#### **Tier 2:**

Where an employee is permanently unable to carry out their own job, and is unlikely to be capable of undertaking any gainful employment within 3 years of leaving, but likely to be able to do so after that period, but before the age of 65.

#### **Benefits payable under Tier 2**

Based on the period of membership, plus an enhancement of 25% of the remaining years up to the age of 65.

#### **Tier 3:**

Where an employee is permanently unable to carry out their own job but is likely to be capable of undertaking any gainful employment within 3 years of leaving, unless they have by then reached the age of 65, if this is sooner. Tier 3 is subject to review after 18 months and will normally cease in any case after 3 years, (unless aged 65 within that 3 year period).

#### **Benefits payable under Tier 3**

Based on the period of membership only, with no enhancement, and payable for a maximum of 3 years.

\*Under LGPS regulations, '**Gainful Employment**' means any paid employment for not less than 30 hours a week for at least one year.

### **The role of the Independent Medical Practitioner**

The LGPS states that a Certificate of Permanent Incapacity shall be issued by an independent registered medical practitioner who:

- Is qualified in Occupational Health medicine.
- Is approved by the appropriate Administering Authority.
- Has not previously been involved in the case.
- Is not or never has been the representative of any party in that case.

It is the role of the Independent Registered Medical Practitioner to give an opinion, having considered all the medical evidence available, on whether an employee meets the criteria for ill health retirement.

The council will then consider all the evidence available, including the opinion of the Independent Registered Medical Practitioner, before coming to a decision on the continuing employment of the employee and consequent payment of retirement benefits where applicable.

### **When is Ill Health Retirement Considered?**

The Independent Registered Medical Practitioner's opinion is normally sought before ill health capability dismissal is considered.

To reach this point, it would need to be established that:

- There is no apparent prospect of a return to the existing post in the foreseeable future.
- The possibility of redeployment has been fully explored and none has been found.

and the following actions would need to have been taken:

- Advice of a medical prognosis will have been requested from occupational Health.
- Possible further referrals for medical guidance from Occupational Health have taken place and further reports on the employee's progress and on Equality Act implications have been considered.
- A series of reviews and meetings will have taken place under the Attendance Management and Ill Health Capability Procedure.



## Appendix 5

### **Can I Appeal Against the Council's Decision Not to Agree to the Payment of Ill Health Retirement Benefits, or to the Level of Benefits Payable?**

If you are dissatisfied with the council's decision, there is a **right of appeal** via the Internal Disputes Resolution Procedure under the LGPS.

You can exercise this right of appeal following confirmation of the council's decision. The appeal considers whether the LGPS provisions have been applied correctly and whether the appropriate procedures have been followed in reaching a decision. Any appeal must be registered within 6 months of notification of the decision.

To appeal you need to follow the stages below (please see flow diagram at page 38)

#### **Stage 1**

Obtain a factsheet and a form to complete from the Pensions Section at County Hall who will be able to help you with any queries you may have about your rights. You should send the form directly to the Director of Legal Services with a covering letter setting out the grounds of your appeal.

*This stage is a formal review of the initial decision and an opportunity to reconsider the matter and, where appropriate, change the decision, for example where certain relevant facts or evidence were not taken into account or where there has been a mistake or oversight.*

#### **Stage 2**

If you are still dissatisfied after receiving the Stage 1 decision, you should complete a second copy of the form and send it to the council's Pensions Section.

Pensions Committee will consider appeals at this stage or, where the Committee has some previous involvement in the case, members of the Licensing and Appeals Committee will consider the appeal. The Committee will reconsider the decision and check the Regulations have been applied correctly and that sound impartial procedures were used to reach the decision.

**Further Stages** – if you are still dissatisfied you may choose to contact:

1. The Pensions Advisory Service (TPAS) which is available to assist you with a difficulty you have been unable to resolve with the council.
2. The Pensions Ombudsman who settles disputes and investigates complaints that TPAS has not been able to resolve.

#### **Preserved Benefits**

If you leave your job and have preserved pension benefits you will be notified of the value at the date of leaving by Pensions Section. Preserved benefits can be

paid from the age of 60, but may be actuarially reduced, depending on your age and the number of years' service in the Pension Scheme.

Payment of preserved pension benefits before the age of 60 can be made on the grounds of permanent ill health. If you develop a medical condition, or you have a medical condition that deteriorates following the end of your employment, a medical assessment will be undertaken to determine whether you have a permanent incapacity which would prevent you from undertaking the role in which you were working when you left the council.

You should contact the Pensions Section at County Hall for details of how to proceed with a request for payment of preserved benefits on the grounds of ill health.

If the application is refused, you may appeal under the Internal Dispute Resolution Procedure.

### **Useful Addresses:**

Pensions Section  
Finance & ICT Division  
Commissioning, Communities and Policy Department  
Derbyshire County Council  
County Hall  
Matlock  
DE4 3AG

Director of Legal Services  
Commissioning, Communities and Policy Department  
Derbyshire County Council  
County Hall  
Matlock  
DE4 3AG

The Pension Advisory Service  
120 Holborn  
London  
EC1N 2TD

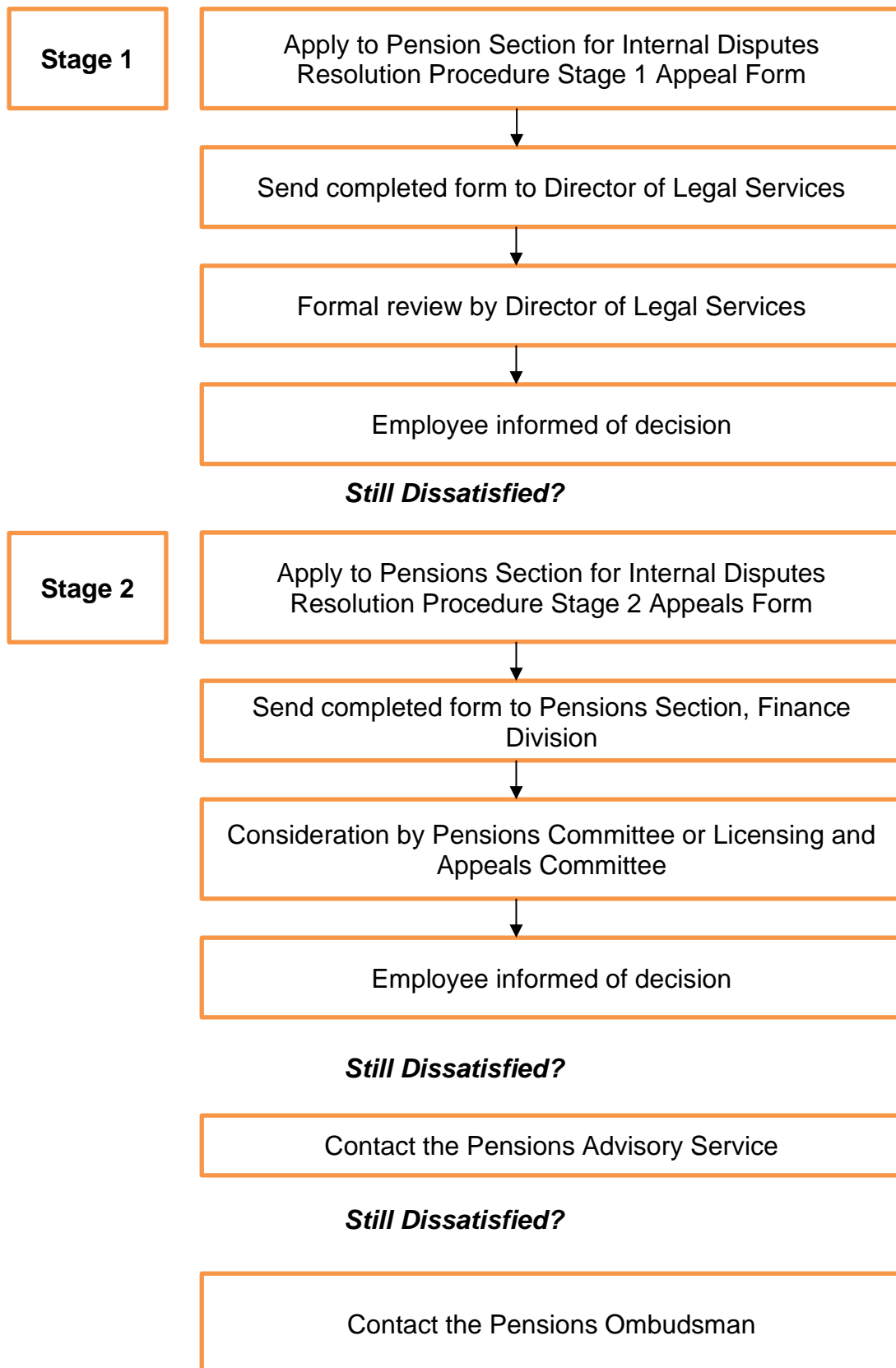
Pensions Ombudsman  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU

**THIS GUIDE IS PROVIDED TO ASSIST AND INFORM EMPLOYEES ABOUT ILL HEALTH RETIREMENT.**

**NOTHING IN IT OVERRIDES THE REGULATIONS OF THE LGPS, THE PROVISIONS OF WHICH MAY BE AMENDED FROM TIME TO TIME.**

**LOCAL GOVERNMENT PENSION SCHEME**

## Internal Disputes Resolution Procedure Employee Appeals Against IHR Decision



## Appendix 6

### Guidance and examples for part time workers – pro rata triggers

The trigger for a full-time worker (37 hours) is 8 **working** days and this is pro rata for part time workers. However, due to differing work patterns, for example a worker contracted for 18.5 hours per week may work 2.5 days per week (2 full days plus a half day), 3 part days per week or 5 half days a week, it can be difficult to work out the actual trigger using working days, and a more useful method can be to base it on working weeks.

Non-working days do not count towards triggers.

Basing the calculation purely on working days can be inaccurate for those employees working a small number of hours but working every day if based on FTE.

For an employee working 37 hours over 5 days, the trigger is 8 working days which equates to 1.6 weeks.

The calculation is 8 (trigger days) multiplied 7.4 (hours per day) divided by 37 (contracted hours) = 1.6 weeks.

In the scenarios below, assume all employees are off sick from 1 November onwards.

Days per week worked Regardless of hours)	Trigger days
5	8
4	6.4
3	4.8
2	3.2
1	1.6

#### Scenario 1 – full time

Daily hours are 7.4

Trigger days for full time – 8

Contracted hours – 37

$7.4 \times 8 / 37 = 1.6$  weeks

Therefore, this employee would meet a trigger on the 8<sup>th</sup> **working** day of absence

#### Scenario 2 – 18.5 hours per week, 5 mornings per week

Daily hours are 3.7

Trigger days for 5 days per week = 8

Contracted hours – 18.5

$3.7 \times 8 / 18.5 = 1.6$  weeks

Therefore, this employee would meet a trigger on the 8<sup>th</sup> **working** day of

absence

**Scenario 3 – 18.5 hours per week, Monday Tuesday, Wednesday morning**

Daily hours are 6.16 (average)

Trigger days for 3 days per week = 4.8 days

Contracted hours – 18.5

$6.16 \times 4.8 / 18.5 = 1.6$  weeks

Therefore, this employee would meet a trigger on the 5<sup>th</sup> **working** day of absence

**Scenario 4 – 14.8 hours per week – working Thursday and Friday**

Daily hours are 7.4

Trigger days for 3 days per week = 3.2 days

Contracted hours – 14.8

$7.4 \times 3.2 / 14.8 = 1.6$  weeks

Therefore, this employee would meet a trigger on the 4<sup>th</sup> **working** day

**Scenario 5 – 24 hours per week – rota system, 4 from 7**

Daily hours are 6

Trigger days for 4 days per week – 6.4 days

Contracted hours – 24

$6 \times 6.4 / 24 = 1.6$  weeks

Therefore, this employee would meet a trigger on the 7<sup>th</sup> **working** day

**Scenario 6 – 5 hours per week – 1 hour a day Mon - Fri**

Daily hours are 1

Trigger days for 5 days per week – 8

Contracted hours – 5

$1 \times 8 / 5 = 1.6$  weeks

Therefore, this employee would meet a trigger on the 8<sup>th</sup> **working** day

**Scenario 7 – 5 hours per week – 5 hours per day on a Monday**

Daily hours are 5

Trigger days for 1 day per week – 1.6 days

Contracted hours – 5

$5 \times 1.6 / 5 = 1.6$

Therefore, this employee would meet a trigger on the second **working** day

**Part time workers - Sickness absence  
triggers - examples**

Day	Date	Contracted hours						Scenario 7
		Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5	Scenario 6	
			18.5 (mornings only M-F)	18.5 (Monday, Tuesday, Wednesday am)	14.8 (Thursday. Friday)	24 (rota - 4 from 7)	5 (Mon - Fri am)	5 (Mondays only)
Mon	01-Nov	7.4	3.7	7.4	7.4	6	1	5
Tues	02-Nov	7.4	3.7	7.4	7.4	6	1	0
Wed	03-Nov	7.4	3.7	3.7	0	0	1	0
Thurs	04-Nov	7.4	3.7	0	0	6	1	0
Fri	05-Nov	7.4	3.7	0	0	6	1	0
Sat	06-Nov	0	0	0	0	0	0	0
Sun	07-Nov	0	0	0	0	0	0	0
Mon	08-Nov	7.4	3.7	7.4	7.4	6	1	5
Tues	09-Nov	7.4	3.7	7.4	7.4	6	1	0
Wed	10-Nov	7.4	3.7	3.7	0	0	1	0
Thurs	11-Nov	7.4	3.7	0	0	6	1	0
Fri	12-Nov	7.4	3.7	0	0	6	1	0
Sat	13-Nov	0	0	0	0	0	0	0
Sun	14-Nov	0	0	0	0	0	0	0
Mon	15-Nov	7.4	3.7	7.4	7.4	0	1	5
Tues	16-Nov	7.4	3.7	7.4	7.4	0	1	0
Wed	17-Nov	7.4	3.7	3.7	0	0	1	0
Thurs	18-Nov	7.4	3.7	0	0	6	1	0
Fri	19-Nov	7.4	3.7	0	0	6	1	0
Sat	20-Nov	0	0	0	0	6	0	0
Sun	21-Nov	0	0	0	0	6	0	0
Mon	22-Nov	7.4	3.7	7.4	7.4	0	1	5
Tues	23-Nov	7.4	3.7	7.4	7.4	0	1	0
Wed	24-Nov	7.4	3.7	3.7	0	0	1	0
Thurs	25-Nov	7.4	3.7	0	0	6	1	0
Fri	26-Nov	7.4	3.7	0	0	6	1	0
Sat	27-Nov	0	0	0	0	6	0	0
Sun	28-Nov	0	0	0	0	6	0	0
Mon	29-Nov	7.4	3.7	7.4	7.4	0	1	5
Tues	30-Nov	7.4	3.7	7.4	7.4	0	1	0

Trigger hit



**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**APPOINTMENTS & CONDITIONS OF SERVICE COMMITTEE**

**24 MAY 2022**

**Report of the Director of Organisation Development & Policy**

**Interim Performance Development Review (PDR) Framework 2022/23**

**1. Purpose**

- 1.1 To outline the performance management process for senior leaders in the form of a Performance Development Review (PDR) framework for roles at grade 14 and above.

**2. Information and Analysis**

- 2.1 Aligned to the Council's People Strategy and following a review of the current My Plan process, in May 2021 a trial of a revised approach for senior leaders was launched. This aimed to develop a high performance culture and ensure alignment with the newly defined leadership behaviours and associated competency framework for senior leaders.
- 2.2 The approach aimed to address some of the key feedback from stakeholders with regard to the current My Plan process, namely:
- My Plan has evolved to focus on process and a tick box exercise rather than quality of the conversations between managers and employees.
  - Feedback received suggested that "regular conversations and feedback are more effective at driving performance and motivation than a 'big' meeting once or twice a year".
  - Focus is needed on 'quality conversations', and developing managers who have the skills and confidence to have them."
  - There is a desire for recording and tracking My Plan meetings on a system, all in one place, accessible by employees and managers.

- 2.3 As commissioned and sponsored by the Head of Paid Service, the trial of the Performance Development Review (PDR) framework commenced in 2021/22 and will continue into 2022/23 for colleagues at Grade 14 and above (including Executive Directors). In addition, those colleagues at grade 13 or below who have elected to be part of the process following discussion with their line manager have been included. As this was an officer decision that did not require a change to policy, this was not reported to ACOS at this time. Following the appointment of the Managing Director who has line management responsibility for the Executive Directors, this framework would now also apply to the Executive Directors, some of whom are officers specified within Appendix 9 for which members are responsible for dismissal and appointments. Therefore, it is now appropriate for this matter to be brought to the attention of the ACOS Committee.
- 2.4 The PDR framework aims to enable everyone to understand how they contribute to the organisation's success and link their individual objectives to our Council and service plans. In response to the feedback in the current My Plan approach, it provides an annual cycle focusing on clear goals, discussing career aspirations, feedback and tailoring development plans to support individual learning. It encompasses regular check-ins on a monthly basis centred on two-way discussion and the PDR new digital app is an easily accessible on-line tool which captures the PDR information for the manager and their team.
- 2.5 The Council's current My Plan approach has continued and remains in place for the rest of the employees and consideration will be given to the wider approach to employee performance management during 2022/23.

### **3. Consultation**

- 3.1 As during 2021/22, feedback will be sought from employees and leaders throughout 2022/23 as the PDR framework is applied.
- 3.2 Feedback will be considered to determine the approach to be deployed during 2023/24, with engagement and consultation with joint trade unions as appropriate. Any resultant changes to policy will be reported to ACOS for consideration.

### **4. Alternative Options Considered**

- 4.1 The current trial could be ceased and the current My Plan approach could be reapplied to all employees. However My Plan focuses



predominantly on employee development as opposed to performance management and setting of clear and smart objectives. This process does not also align with the development of the leadership behaviours and the competency framework for senior leaders and it is important the organisation responds to the feedback received through the My Plan review.

## **5. Implications**

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **6. Background Papers**

- 6.1 None.

## **7. Appendices**

- 7.1 Appendix 1 – Implications
- 7.2 Appendix 2 – Interim Performance Development Review (PDR) Framework 2022/23

## **8. Recommendation(s)**

That Committee:

- a) Notes the interim PDR framework currently being trialled by all senior leaders at grade 14 and above and the intention to review the approach for 2023/24.

## **9. Reasons for Recommendation(s)**

- 9.1 Ensure a consistent PDR approach for all senior leaders, aligned to the Council's competency framework.
- 9.2 Enable a comprehensive approach to performance management focused on ensuring line of sight through clear objective setting, developing capability linked to career aspirations and development planning.

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**Contact details:** [jen.skila@derbyshire.gov.uk](mailto:jen.skila@derbyshire.gov.uk)

## **Appendix 1**

### **Implications**

#### **Financial**

1.1 None

#### **Legal**

2.1 As outlined in the report.

#### **Human Resources**

3.1 As outlined within the report

#### **Information Technology**

4.1 A digital PDR form has been developed with support from ICT to improve the effectiveness of the current trial of the framework. Future system requirements will be considered aligned to the longer-term approach along with any associated funding requirements.

#### **Equalities Impact**

5.1 None

#### **Corporate objectives and priorities for change**

6.1 The framework enables objectives setting to align to the council and service plans across the organisation and support the overall Council ambition.

#### **Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

7.1 None

# **INTERIM PERFORMANCE DEVELOPMENT REVIEW (PDR) FRAMEWORK 2022/23**



February 2022

Version History			
Version	Date	Detail	Author
1.0	06 04 22	First draft	Jen Skila
2.0	12 05 22	Final draft	Sally Pearson

Links and Dependencies	
Council Plan	
Strategic Dashboard	
Service Plans	
People Strategy	
My Plan Policy	
MD Appraisal Process	

# Interim Performance Development Review (PDR) Framework 2022/23

## 1. Introduction

- 1.1 This guidance is for the Performance Development Review (PDR) framework for 2022/23, following a trial of the process during 2021/22. This is applicable to colleagues at Grade 14 and above (including Executive Directors), or for those colleagues below grade 13 where they have elected to be part of the process following discussion with their line manager.

## 2. Context

- 2.1 Aligned to the Council's People Strategy, this interim approach aims to enable the development of a high-performance culture whereby:

- Everyone understands how they contribute to our success and can link their individual goals to our Council and service plans
- We all know what great looks like and what is expected of us: we know 'what' we need to do and 'how' we need to do it
- We understand how performance is measured and we will support and coach our teams to achieve high performance and address under performance
- Everyone drives their own development, creating a high-performing environment where everyone realises their potential career aspiration
- We all have regular, open and honest conversations to share feedback and check-in on progress
- We review the performance and potential of our employees at an organisational level, linking this to the strategic workforce plan, developing succession plans and understanding future leaning needs

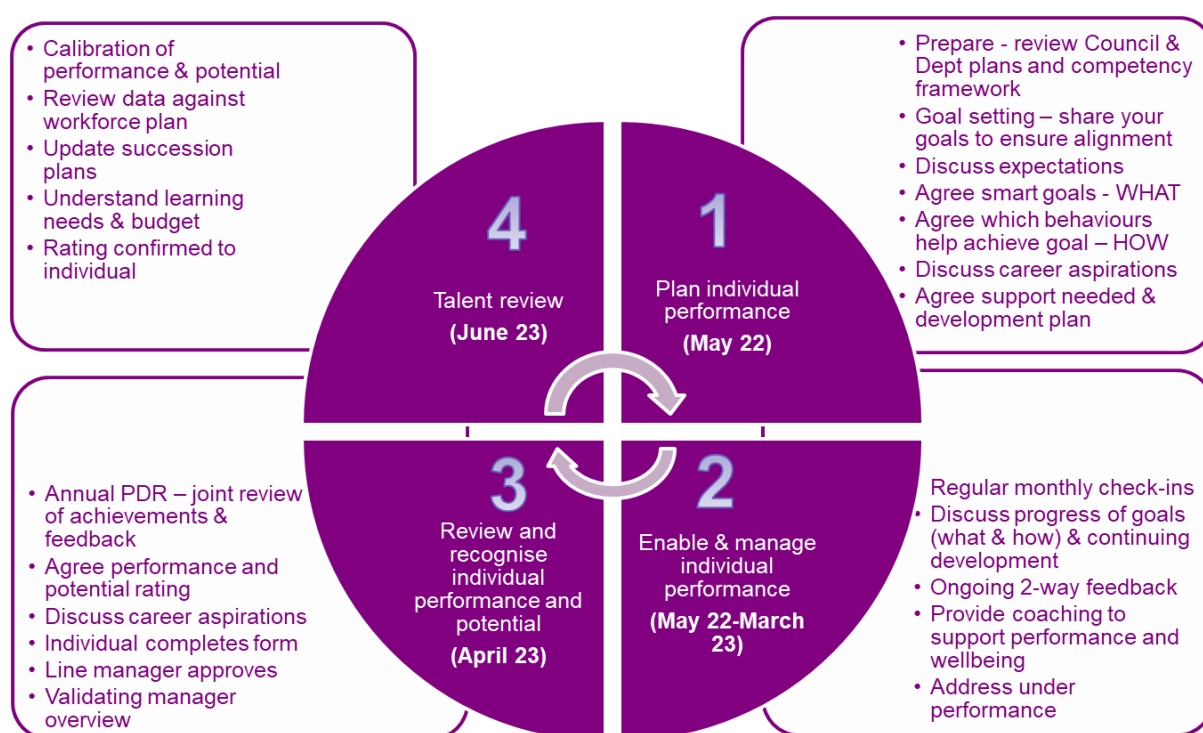
- 2.2 Following development of the Council's competency framework for Senior Leaders, a trial of the PDR framework was undertaken in 2021/22. The competency framework has been built into the PDR (Performance and Development Review) process to ensure both performance against objectives and the behaviour demonstrated to deliver the required outcomes are considered.

2.3 The approach will continue in 2022/23 to enable full completion of the PDR cycle and enable revisions as a result of feedback and learning to be further tested during the framework in 2022/23.

2.4 The Council's current My Plan approach has continued and remains in place for all remaining employees and consideration will be given to wider approach to employee performance management during 2022/23.

### 3. The PDR Framework

3.1 The framework consists of the following stages:



#### 3.2 Stage 1 – Plan Individual Performance

The start of the year is the opportunity to discuss expectations and agree goals for the coming year.

In preparation for the PDR:

- Line Manager shares their goals to have line of sight to the Council and service plans.
- Employee drafts their goals in the digital app before the PDR meeting, considers career aspirations and possible development needs.

The PDR meeting between line manager and employee will take place to discuss and jointly agree:

- Goals (what) and identify the competencies (how) required to deliver them.
- Discuss career aspirations and any development needs to support the employee.
- Employee updates the digital app to reflect the conversation to include goals with supporting competencies, career aspirations and development needs
- Employee creates personal development plan to support the achievement of both their goals and career aspirations.

### 3.3 Stage 2 – Enable and Manage Individual Performance

Monthly check-ins throughout the year aim to maintain focus and support for:

- individual wellbeing
- progress towards goals and personal development plans
- feedback
- address any under performance

It is also recommended to arrange a check-in halfway through the year to check progress and realign goals if necessary.

The check-in is a two-way process for both line manager and employee.

### 3.4 Stage 3 – Review and Recognise Individual Performance and Potential

The end of year review will consider the performance of the individual over the last 12 months and their potential rating.

The meeting between line manager and employee will take place to discuss and agree:

- Line Manager and employee jointly review goals and competencies
- Provisional rating required for each goal (up to 5 goals)
- Reflect on progress towards career aspiration and discuss current aspirations
- Review progress on the personal development plan
- Discuss any feedback from key stakeholders

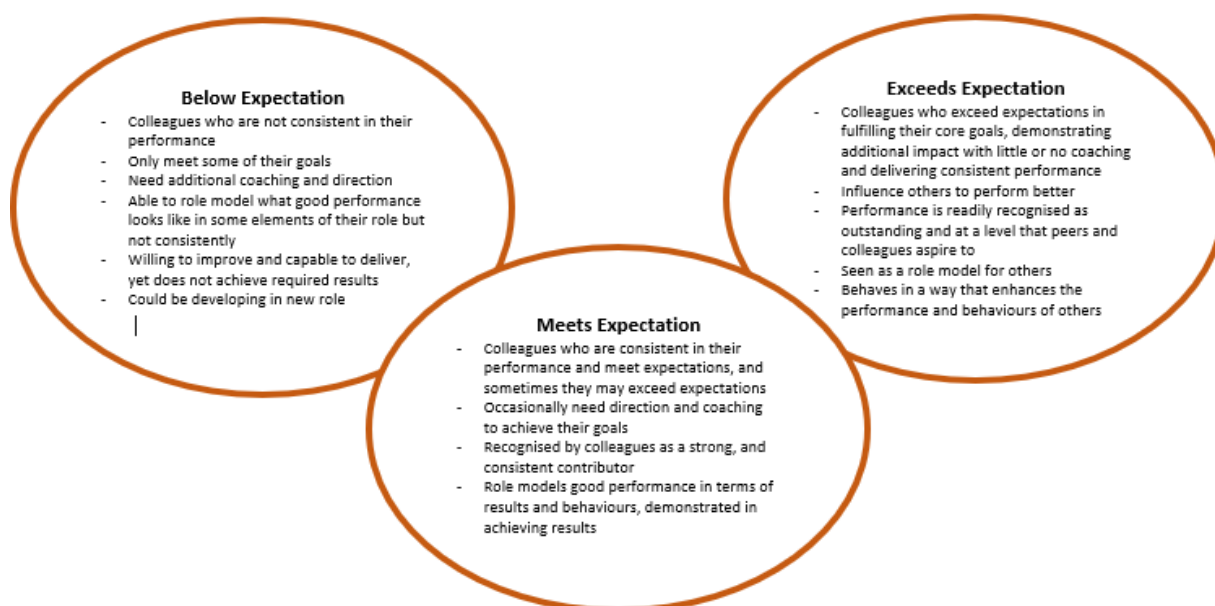
- Overall provisional performance rating agreed (line manager's ultimate decision)
- Overall provisional potential rating agreed (line manager's ultimate decision)
- Employee will complete their PDR digital app to reflect the conversation and add an overview of the year from their perspective
- The line manager will authorise it and add a summary comment
- The 'validating manager' (the line manager's manager) will also complete a short summary, having sight of the provisional PDR outcomes, ensuring senior leaders are closer to performance within their teams

In addition, for Executive Directors, 360-degree feedback will be sought as part of this stage.

Both performance and potential ratings will be provisional at this stage until the calibration within the talent review.

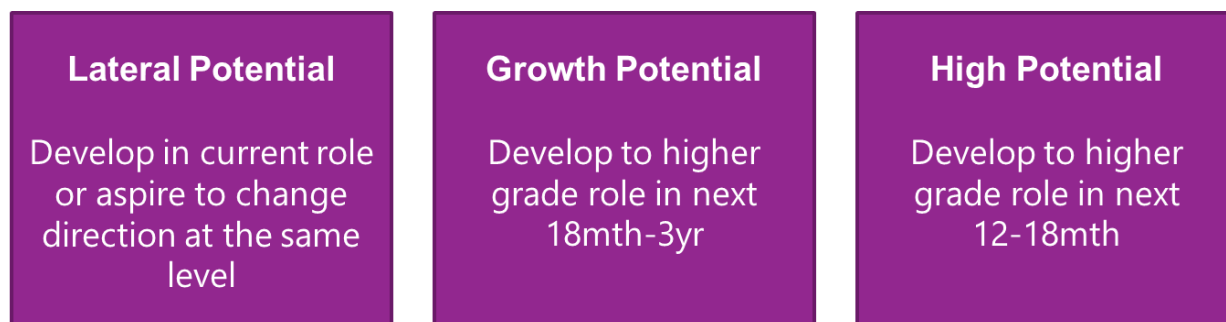
There shouldn't be any surprises as the conversations throughout the year will ensure that all the above have been discussed on a regular basis.

Employee performance can be rated as follows:





Employee potential can be rated as follows:



### 3.5 Stage 4 – Talent Review

A talent review is a meeting where organisation leaders discuss employee performance and potential; to identify the talent and succession plan for business-critical roles.

The purpose of the talent review will be to:

- Calibrate performance and potential ratings to ensure a consistent approach across divisions and departments
- Final ratings will be confirmed to employees after the review
- Review the performance and potential by department and across the whole organisation
- Create succession plans for business-critical roles

## 4. Review Process

- 4.1 As during 2021/22, feedback will be sought from employees and leaders throughout 2022/23 as the PDR framework is applied.
- 4.2 Changes to the framework may occur throughout 2022/23 in response to feedback to ensure the framework meets its aims. Any changes will be fully communicated to leaders, employees and joint trade unions.
- 4.3 Feedback will be considered to determine the approach to be deployed during 2023/24, with engagement and consultation with joint trade unions as appropriate.

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Agenda Item

**FOR PUBLICATION**

**APPOINTMENTS AND CONDITIONS OF SERVICE COMMITTEE**

**24 MAY 2022**

**Report of the Director of Organisation Development and Policy**

**Managing Director Performance Appraisal**

**1. Purpose**

- 1.1 To seek approval for the Managing Director Performance Appraisal Process and to also note that the performance appraisal of the Council's four Executive Directors will now be undertaken by the Managing Director with effect from 1 June 2022.

**2. Information and Analysis**

- 2.1 It is a contractual obligation on both the most senior officer in the Council and Derbyshire County Council to engage in a regular process of performance appraisal. The responsibility for appraising the most senior officer at Derbyshire County Council lies with the Leader of the Council and, where deemed appropriate, facilitated by independent external advice. The ACOS Committee's role is to ensure that the Leader of the Council is undertaking effective performance monitoring of that officer. The detailed content of appraisal interviews is treated as confidential to the participants, but it is considered helpful for the objectives set for the Managing Director, not performance against them, are shared with the Executive Directors during their performance appraisal.

In June 2019, the ACOS committee was presented with an Executive Director appraisal process which set out how the Leader of the Council would undertake the performance appraisal of the four Executive Directors employed in the collective leadership model at that time. The Leader subsequently applied the policy to the four Executive Directors

focusing on clarifying what the Executive Directors were expected to achieve and deliver in their role, whilst identifying any continuing developmental needs which, if met, would maintain a high level of performance.

- 2.2 ACOS committee will be aware of the approval to the revised Senior Officer leadership model in September 2021 and the introduction of the Managing Director role to the Councils structure with effect from 1 January 2022. It has therefore been necessary to develop a new Managing Director Appraisal Policy, which can be found at Appendix 1.

ACOS committee will note that the Policy now only applies to the Managing Director role and as such the Managing Director will now assume responsibility for undertaking Performance Appraisal for the four Executive Directors within the Council. Led by the Managing Director, supported by the Director of Organisation Development and Policy, the Executive Director appraisal will be undertaken by utilising the Council's standard Performance Development Review (PDR) framework, but with the addition of the Managing Director seeking feedback from the Leader of the council and opposition group leaders.

A report will be presented annually by the Director of Organisation Development and Policy to a meeting of the ACOS committee confirming that the appraisal process for the Managing Director has been completed.

- 2.3 In light of the previous leadership model, the terms of reference for ACOS also provide for ACOS to fulfil the governance role in ensuring the leader of the Council is undertaking effective performance monitoring of the Executive Directors. Therefore, the terms of reference will need to be revised accordingly and referred to the Governance, Ethics and Standards Committee and full Council for agreement.

- 2.4 It is proposed that paragraph 7 of the terms of reference for ACOS be amended to read as follows:

“Fulfil the governance role in ensuring the Leader of the Council is undertaking effective performance monitoring of the Managing Director”

### **3. Consultation**

- 3.1 The Managing Director and the Leader of the Council have been engaged in the development of this process, facilitated by the Director of Organisation Development and Policy.

- 3.2 Executive Directors have also been engaged in the revised approach to their Performance Appraisal approach.

#### **4. Alternative Options Considered**

- 4.1 Do nothing. The existing Executive Director Appraisal Policy does not set out the performance appraisal process for the Managing Director appointed on 1 January 2022, so doing nothing is not an option
- 4.2 The Leader to continue to undertake the Executive Directors Performance Appraisal. This was not considered appropriate as line management of the Executive Directors is undertaken by the Managing Director which includes undertaking performance appraisals.

#### **5. Implications**

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

#### **6. Background Papers**

- 6.1 None identified.

#### **7. Appendices**

- 7.1 Appendix 1 – Implications.
- 7.2 Appendix 2 – Managing Director Appraisal Process.

#### **8. Recommendation(s)**

That Committee:

- a) Approves the Managing Director Appraisal Process.
- b) Notes the performance appraisal of the Executive Directors be undertaken by the Managing Director with effect from 1 June 2022.
- c) proposes that the terms of reference for ACOS be amended as detailed in the report and referred to the Governance, Ethics and Standards Committee and then full Council for approval.

#### **9. Reasons for Recommendation(s)**

- 9.1 Approval of the new Managing Director Appraisal Process provides a framework for the Council and the Managing Director to undertake

performance appraisal of the Managing Director. The terms of reference for ACOS need to be amended to reflect the revised process.

**Report Author:** Emma Crapper

**Contact details:** Emma.crapper@derbyshire.gov.uk

## **Appendix 1**

### **Implications**

#### **Financial**

1.1 None.

#### **Legal**

2.1 As outlined in the report.

#### **Human Resources**

3.1 As outlined in the report.

#### **Information Technology**

4.1 None.

#### **Equalities Impact**

5.1 None.

#### **Corporate objectives and priorities for change**

6.1 The process enables objective setting to align to the council and service plans across the organisation and support the overall Council ambition.

#### **Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

7.1 None.

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# MANAGING DIRECTOR APPRAISAL PROCESS

Version	Date	Detail	Author
1.0	25.02.22	First draft	Emma Crapper
2.0	7.04.22	Helen Barrington Comments	
3.0	25.04.22	Emma Crapper amends	
4.0	09/05/22	Emma Crapper amends following engagement with the Leader	

Links and Dependencies
Council Plan
Strategic Dashboard
Service Plans

# PROCESS FOR APPRAISAL OF THE MANAGING DIRECTOR

## 1. Introduction

- 1.1 This Appraisal process is in line with the guidance set out in the Joint Negotiating Committee for Local Authority Chief Executives National Salary Framework & Conditions of Service Handbook. The focus of this process should be on clarifying what the Managing Director is expected to achieve and deliver whilst identifying any continuing developmental needs which, if met, would maintain a high level of performance. The process of setting goals should be by agreement and the result should be to identify goals which are relevant and challenging but achievable.
- 1.2 The process should not become complex. At all times it needs to focus clearly on a few basic issues: what the Managing Director's job is; what has been done well; what could have been done better; the success of the collective leadership model; the behaviours that have been successfully demonstrated to support delivery of goals; the major issues over the next year; and what developmental needs the process clearly identifies.

## 2. Responsibility for Appraisal

- 2.1 The responsibility for appraising the Managing Director lies with the Leader of the Council utilising independent external advice where both parties agree. It is a contractual obligation on both the Managing Director and the employing council to engage in a regular process of appraisal.
- 2.2 The management of the appraisal process for the Managing Director lies with the Director of Organisation Development and Policy. This includes arranging the meetings, providing any necessary supporting information and sourcing external assistance for the process.
- 2.3 When conducting the appraisal the Leader needs to bear in mind at all times that the Managing Director is employed by the council as a

whole, not by the controlling group and is therefore required to serve all of the council.

### **3. Aims of Appraisal**

The appraisal will be undertaken in the form of a Performance and Development Review (PDR).

- To identify and clarify the key objectives, priorities and targets of the council and appropriate timescales for their achievement over the next 12 months.
- Agree what the Managing Director should personally achieve over the next twelve months and identify required standards of performance through development of clear goals, in order to deliver the council's key objectives, priorities and targets. Wherever possible standards of performance should be expressed in ways which can be monitored objectively aligned to the leadership behaviours which will enable successful delivery of the agreed goals.
- Discuss positive achievements over the past twelve months and identify whether the goals have been met, not met or exceeded, including the Managing Directors and Executive Directors contribution to the collective leadership model.
- Over the past twelve months where goals have not been met, identify the factors preventing the achievements of agreed goals.
- Discuss developmental requirements. The Managing Director will have strengths and weaknesses and the parties should identify the professional development necessary to equip the Managing Director with the requisite skills to meet the council's objectives. The parties should be proactive and anticipate future developmental needs in the context of the council's changing priorities. This discussion could lead to the design of a formal programme of continuous professional development (CPD). Equally this discussion may lead to agreement on changes to the working relationship between leading members and the Managing Director. It should not be assumed that it is only the Managing Director who may need to adjust his/her approach to the working relationship.

- 3.1 The PDR should be set in the context of the council's objectives, priorities and targets, generally expressed in corporate or departmental plans. Appraisal targets when taken as a whole should be related to agreed targets for the council as a whole.

#### 4. The Appraisal Cycle

Performance Appraisal Review and Monitoring	Timescales
<b>Formal Annual Performance and Development Review (PDR) meeting</b> - to review progress against objectives at the end of the year and to set objectives for the forthcoming year	April
<b>Informal Half year Performance and Development Review (PDR) Meeting</b> – To cover progress against objectives at six monthly point and to refine priority performance areas. This will be undertaken by the Leader.	September

In addition to the formal review meetings set out above, there is an expectation that any concerns from either side would be raised during the course of the appraisal cycle and regular one to one meetings.

#### 5. Key elements of the Appraisal Process

- Continuous two-way monitoring of performance against objectives.
- Preparation for an annual performance and development review (PDR) and informal half year performance and development review (PDR).
- A formal annual PDR meeting where recent and current performance, feedback from stakeholders using 360 feedback process, future objectives and development needs are discussed.
- Agreement on action required from either party to ensure required performance is achievable.
- A continuing process of informal discussion regarding performance and regular one to ones.

The process is set out at Appendix 1.

## **6. The PDR and Afterwards**

- Both parties should be well informed and prepared for the PDR meeting.
- The process should be two-way.
- The interview should be free from interruptions and notes should be taken when necessary.
- The parties should concentrate as far as possible on established facts rather than unsubstantiated opinions.
- Targets which are realistic and capable of being monitored should be agreed.
- Any agreed personal development plans should be implemented within the agreed timescale.
- The Managing Director should be given a reasonable opportunity to correct any shortfalls in performance.
- A date for the next review should be agreed.

## **7. External Assistance**

- 7.1 Where external assistance in facilitating the appraisal process is agreed, it will be commissioned by the Director of Organisation Development and Policy, using an agreed specification to provide an independent perspective. Any objections to the identified independent adviser must be raised, in writing, with the Director of Organisation Development and Policy and be well founded.

## **8. Other Matters**

- 8.1 The detailed content of PDR meetings should normally be treated as confidential to the participants, unless both parties agree that it would be helpful for this to be shared more widely. It is important however that the agreed organisational goals for the Managing Director are cascaded to Executive Directors through the Executive Director PDR process to support provision of line of sight when considering the

Council's wider employee performance management approach. It will also be reported to the Appointments and Conditions of Service Committee that the annual formal PDR meeting has taken place.

- 8.2 It should not be assumed that the process for appraising the Managing Director should be followed in precise detail for other staff. There is a fundamental difference between Elected Members appraising the Managing Director and managers appraising their teams. The principles, nevertheless, are the same.

## Appendix 1

### **Managing Director Appraisal Process**

#### **Pre – Formal PDR Meeting**

- Director of Organisation Development and Policy commissions the external independent adviser to the process using an agreed specification. Relevant paperwork and information provided to the external independent adviser.
- Managing Director given 28 days' notice of formal PDR meeting.
- The external independent adviser seeks feedback on agreed criteria, developed in consultation with Director of Organisation Development and Policy, in advance of the formal meeting from;
  - Leader
  - Managing Director
  - Corporate Management Team
  - All Cabinet Members
  - Leaders of the Main Opposition Groups
  - Two external partners to be agreed with the Leader and the MD

The feedback may be collated by face to face discussions or by completion of questionnaires and the method adopted will be agreed in advance. The Director of Organisation Development and Policy will facilitate any further requests for information from the external independent adviser.

The external independent adviser collates the feedback and shares, in writing, with the Leader and Managing Director in advance of the formal PDR meeting.

### PDR Meeting - Individual

- The external independent adviser meets with the Leader individually to discuss the Managing Director performance against set goals and identify potential new goals for the coming cycle, taking into account the feedback from stakeholders as set out above.
- The external independent adviser meets individually with the Managing Director to discuss performance against set goals and identify potential new goals for the coming cycle, taking into account the feedback from stakeholders as set out above.
- The external independent adviser facilitates the PDR meeting with the Leader and Managing Director to evaluate performance against set goals from the previous 12 months and identify new goals for the coming cycle.
- The external independent person records the discussion.

### Post annual PDR Meeting

- The external independent person provides a written record of the outcome of the Managing meeting which details performance against set goals and the new goals for the coming cycle and is shared with the Leader and Managing Director.
- A copy will be provided to the Director of Organisation Development and Policy to place on the Managing Director file.
- Should significant performance issues through this process be identified, the Leader will seek advice from the Director of Organisation Development and Policy.





Agenda Item

**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**APPOINTMENTS AND CONDITIONS OF SERVICE COMMITTEE**

**24 May 2022**

**Report of the Managing Director**

**Derbyshire County Council's Senior Officer Accountability Framework**

**1. Purpose**

- 1.1 For the Committee to approve the proposals to adopt the senior officer accountability framework detailed in the report for the purpose of future job design.

**2. Information and Analysis**

- 2.1 A report was submitted to Full Council on 15 September 2021 relating to the proposal to introduce a permanent senior officer operating model. To strengthen the proposed operating model, it was recommended that a clear senior leadership accountability framework was developed to provide clarity on role boundaries and to ensure accountability levels are clearly defined between the Executive Directors, Directors and Assistant Directors.
- 2.2 Full Council approved the Director of Organisation Development & Policy to commission an independent review of the council's senior pay and grading framework to provide the following:
- Up to date and relevant comparator benchmarking for roles graded 16 to 20 of the Derbyshire Pay structure reflective of market conditions which supports the Council to re-design the current pay line.
  - Create an effective grading structure aligned to job evaluation points which enables all grades and pay points to be utilised

resolving the issue associated with Grade 19 which is unusable in the current pay structure.

- Support the Council to create role/level descriptors for grades 16 to 21 of the Derbyshire Pay structure.
- Advise upon and evaluate all Executive Director, Director and Assistant Director roles, currently grades 16, 17, 18 and 20 of the Derbyshire Pay structure (in line with the agreed framework) against the new senior pay and grading framework in phase two and in accordance with agreed timescales.
- Develop and recommend a future process for changes to senior roles that sets out clearly when changes applied to job portfolio of responsibilities may require role profiles to be re-evaluated, for future application.
- Provide a report to Full Council for approval of all re-evaluated roles, in conjunction with an officer report gaining approval of the revised senior pay and grading framework.

- 2.4 A politically balanced Appointments and Conditions of Service working group was established with its first meeting taking place in October 2021. The purpose of the group was to consider and provide recommendations to the Appointments and Conditions of Service (ACOS) Committee on the Councils senior accountability framework.
- 2.5 A trade union workstream was also established in October 2021 to enable the Council to engage with trade unions to consider information relating to the senior accountability framework taking into account the independent report.
- 2.6 Korn Ferry were commissioned following a procurement process to undertake the review which commenced in October 2021.
- 2.7 The Council utilise the Korn Ferry Hay job evaluation method which considers the required Know-How, Problem Solving and Accountability of roles to ascertain the total job size for all roles within the Derbyshire pay structure.
- 2.8 Korn Ferry supported the Council to develop level descriptors providing a high-level description and more detailed descriptors. The level descriptors provide the Council with a framework to enable clarity on role boundaries and to ensure accountability levels are clearly defined between the Managing Director, Executive Directors, Directors and Assistant Directors.
- 2.9 The level descriptors at Appendix 2 form the basis of the Councils accountability framework and will support the Councils organisation

design principles for senior leadership roles and provides the basis of accountabilities, knowledge, skills and experience for job design.

- 2.10 As noted in 2.2 the scope of Korn Ferry's remit included the provision of market pay data and development of a grading structure. The level descriptors and pay benchmarking data were provided to enable us to create an effective pay and grading structure, however, the ACOS working group was of the view that the pay and grading structure should not be reviewed for senior roles in isolation to the remainder of the workforce.
- 2.11 Korn Ferry undertook independent evaluations of the senior roles in scope of the review i.e. roles in the Derbyshire pay structure grades 16 to 20, utilising the job information provided by the Council including job descriptions, organisational charts, budgetary and staffing information. As part of the evaluation Korn Ferry took into account the relative size of similar roles within similar size Councils in the UK to provide the Council with a job evaluation reference level.
- 2.12 All roles evaluated had standardised collective leadership responsibilities within the job and person profile to ensure synergy and consistency across the profiles.
- 2.13 The job evaluation outcomes demonstrated that reference levels remain appropriate based on the current role portfolios.
- 2.14 A service level agreement outlining the evaluation process, timescales and costing has been developed jointly with Korn Ferry and the Council and will be used for evaluations undertaken throughout the current contract in place with Korn Ferry for senior roles. It is also recommended that the standardised collective leadership responsibilities (at Appendix 3) used in this review be utilised in the job and person profiles for all future roles developed, evaluated and advertised to ensure consistency.
- 2.15 The ACOS working group have considered the collective leadership responsibilities, level descriptors, pay benchmarking and grading framework options at various meetings throughout the review. The ACOS working group support the proposals within the report.

### **3. Consultation**

- 3.1 An informal engagement session was held with the senior officers impacted by the review on 14 October 2021 to outline the approach and the review timeline. If approval is given by the Appointments and

Conditions of Service (ACOS) Committee to proceed to Full Council as outlined within the report a further engagement meeting will be arranged to outline the level descriptors prior to Full Council.

- 3.2 As there are no contractual changes or changes to role requirements being proposed in the scope of this review there is no requirement for formal consultation or contractual changes.
- 3.3 A trade union workstream was established with its first meeting taking place in October 2021 to engage with them on the review. Several meetings have been held with trade unions to keep them informed on the progress of the review and to seek their feedback on the senior accountability framework with a further meeting held on 16 May 2022 to outline the proposed approach being submitted to the ACOS Committee.

#### **4. Alternative Options Considered**

- 4.1 The Council could choose not to adopt the level descriptors proposed. However, these descriptors provide a consistent basis and framework for accountabilities, knowledge, skills and experience for future job design and will support more efficient recruitment and a consistent Council-wide role structure in the future.

#### **5. Implications**

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

#### **6. Background Papers**

- 6.1 None applicable.

#### **7. Appendices**

- 7.1 Appendix 1 – Implications  
Appendix 2 – Senior officer level descriptors  
Appendix 3 – Collective Leadership responsibilities

#### **8. Recommendation(s)**

That the Committee:

- a) Approves the adoption of the level descriptors for future use in job design to provide a consistent basis and framework for accountabilities.
- b) Supports the development of clear service level agreement with Korn Ferry for future evaluations.
- c) Approves that the standardised collective leadership responsibilities within job and person profiles used in this review be utilised for future roles developed, evaluated and advertised to ensure consistency.
- d) Agrees that the review of the senior pay and grading framework is complete and that no changes to the pay and grading structure will be made at this time for the reasons set out in the report.
- e) Agrees that an update report will be submitted to Full Council at its meeting on 13 July 2022.

## **9. Reasons for Recommendation(s)**

- 9.1 The adoption of the level descriptors provides the basis of the Council's organisation design principles and the accountability framework for senior leadership roles which enables accountability levels to be clearly defined. This would also support the Council's performance management approach.

**Report Author: Pete Buckley**

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## **Appendix 1**

### **Implications**

#### **Financial**

- 1.1 Given there are no changes proposed to the pay and grading framework, there are no financial implications at this stage.

#### **Legal**

- 2.1 The terms of reference for the Appointments and Conditions of Service Committee provide for the Committee to take key policy decisions in relation to job evaluation and to determine terms and conditions on which all staff hold office as well as considering proposals for changes to standards terms and conditions. The matter does need to be referred back to Full Council following the resolution of the 15<sup>th</sup> September 2021 to update them with the outcomes from the ACOS Committee.

#### **Human Resources**

- 3.1 Employees affected by the review have been engaged on the reasons for the review at the outset and trade unions have been engaged throughout the review via a trade union workstream.
- 3.2 The level descriptors provide the Council with an accountability framework providing clarity on role boundaries and to ensure accountability levels are clearly defined between senior leaders. The level descriptors will support the Councils organisation design principles for senior leadership roles and provides the basis of accountabilities, knowledge, skills and experience for job design.

#### **Information Technology**

- 4.1 None

#### **Equalities Impact**

- 5.1 None

#### **Corporate objectives and priorities for change**

- 6.1 This proposal aligns with the people priorities outlined within the Councils People Strategy and in particular supports the priority 'To engage, nurture and develop our people and our future potential' by

having a clear accountability framework to support our performance management approach.

**Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

7.1 None

## Appendix 2 - Senior Officer Level descriptors

Role	Level descriptor
Managing Director	The Managing Director will act as the Head of Paid Service and Chair of the Council's Corporate Management Team, with overall corporate responsibility for the Council. As the Council's most senior officer, the Managing Director is responsible for providing effective strategic leadership, corporate governance, performance management and direction across the Council, aligned to the Council's strategic aims. They will provide strategic advice to the Leader of the Council, Cabinet and Elected Members on the strategy, vision and performance of the Council acting as the Council's principal adviser. The Managing Director will support the Leader of the Council to represent the whole Council locally, regionally and nationally, promoting the authority through developed and sustained relationships with key external stakeholders. In addition, the Managing Director will ensure the core principles of collective leadership and partnership are maintained through responsive, positive and sustained relationships between Cabinet Members, Executive Directors and Senior Leaders.
Executive Director	Roles are Executive level Directors reporting to the Managing Director and will be leading a major cross-cutting area of the Council. They are personally and actively involved in shaping the organisational vision and strategy as part of Executive leadership team and will set organisation-wide frameworks and policies. This involves ensuring that the Council's strategic aims and objectives are met. Role holders will be expected to scan the external environment and anticipate the impact of external forces on the long-term development of organisational strategy. They will think strategically to integrate large areas of activity and ensure cohesion across the Council aligned to the strategic aims and priorities and are critical to the achievement of major transformation.
Director	Roles are Directors, reporting to an Executive Director, leading major and diverse group of functions that have notable size, magnitude, and breadth (or a major corporate function) to achieve priorities and the



	<p>organisational strategic aims. Thinking is about supporting the organisational leadership of the Council, by developing the policies and strategic plans for their remit to realise objectives, and to consider how to turn broad aims into reality. Accountable for delivery, effectiveness, and outcomes across the Council, the roles are critical to the achievement of transformational change and improved performance.</p>
Assistant Director	<p>Roles are Assistant Directors, leading substantial functions and services that are related in their aims and purpose, to achieve operational priorities and the organisational strategic aims. The role holder will need to co-ordinate and integrate a number of sub functions within the function/service to ensure a cohesive and joined-up service is delivered, and will be expected to set operational priorities and manage relationships. Thinking is about developing the policies and plans for their functions aligned to Council priorities, and considering how to turn broad aims into reality. Accountable for delivery, effectiveness, and outcomes across the Council, the roles are critical to the achievement of transformational change and improved performance.</p>

### Appendix 3 – Collective Leadership responsibilities

	Managing Director	Executive Director	Director	Assistant Director
<p><b>Shaping the Future</b></p> <p>Page 112</p>	<p>Provide strategic, visionary leadership for the Council contributing to the delivery of the Council's strategic aims</p> <p>Act as a proactive lead member of the Corporate Management Team, contribute to the strong and effective corporate management of the Council's services.</p>	<p>Provide strategic, visionary leadership for the Council contributing to the delivery of the Council's strategic aims.</p> <p>Act as a proactive member of the Corporate Management Team, contribute to the strong and effective corporate management of the Council's services.</p>	<p>Provide strategic, visionary leadership for the Council contributing to the delivery of the Council's strategic aims.</p> <p><i>For CMT members only</i> Act as a proactive member of the Corporate Management Team, contribute to the strong and effective corporate management of the Council's services.</p> <p><i>For non-CMT members</i> Act as a proactive member of the council's senior leadership team, contributing to the strong and effective management of the council's services</p>	<p>Provide strategic leadership in transformational change programmes, organisational redesign and remodelling of services supporting the Council's strategic aims.</p> <p>Act as a proactive member of the council's extended senior leadership team, contributing to the strong and effective management of the Council's services</p>

	<p>Support the democratic process, providing advice to elected members on the appropriate response to local, regional, national and international matters that have implications for the services.</p> <p>Seek to improve the overall reputation of the Council, representing the Council at appropriate local, regional and national forums.</p> <p>Provide leadership and direction for the development and delivery of a sustainable medium-term financial strategy and plan.</p>	<p>Support the democratic process, providing advice to elected members on the appropriate response to local, regional, national and international matters that have implications for the services.</p> <p>Seek to improve the overall reputation of the Council, representing the Council at appropriate local, regional and national forums.</p> <p>Provide leadership and direction for the development and delivery of a sustainable medium-term financial strategy and plan.</p>	<p>Support the democratic process, providing advice to elected members on the appropriate response to local, regional, national and international matters that have implications for the services.</p> <p>Seek to improve the overall reputation of the Council, representing the Council at appropriate local, regional and national forums.</p> <p>Provide leadership and direction for the development and delivery of a sustainable medium-term financial strategy and plan.</p>	<p>Support the democratic process, providing advice to elected members on the appropriate response to local, regional, national and international matters that have implications for the services.</p> <p>Seek to improve the overall reputation of the Council, representing the Council at appropriate local, regional and national forums.</p> <p>Contribute to the development and delivery of a sustainable medium-term financial strategy and plan.</p>
	<b>Managing Director</b>	<b>Executive Director</b>	<b>Director</b>	<b>Assistant Director</b>
<b>Leading and Working Through Others</b>	<p>Ensure effective and open communication and good working relations with the corporate management team, members, directorates, external agencies and partnerships, to eliminate silo working to support delivery of the Council's strategic aims.</p>	<p>Ensure effective and open communication and good working relations with the Managing Director, corporate management team, members, directorates, external agencies and partnerships, to eliminate silo working to support delivery of Council's strategic aims.</p>	<p>Ensure effective and open communication and good working relations with the Managing Director, corporate management team, members, directorates, external agencies and partnerships, to eliminate silo working to support delivery of Council's strategic aims.</p>	<p>Ensure effective and open communication and good working relations with the Managing Director, corporate management team, members, directorates, external agencies and partnerships, to eliminate silo working to support delivery of Council's strategic aims.</p>

Develop and implement effective communication and engagement arrangements with service users, stakeholders and partnership agencies in order to develop a high level understanding of the roles and delivery of services and to facilitate input to the development of related strategies and plans.

Promote an organisational culture that is positive, forward-looking, embraces change, outcomes orientated and community focused in an environment which is fair, supportive and open enabling employees to feel empowered and valued.

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**Delivers Results**

Seek to deliver services within budget engaging and consulting with stakeholders, partners, communities and employees to ensure services are outcome focussed and provide value for money, reflecting the Council's wider strategic objectives and securing the financial viability of the authority.

Ensure national standards and relevant statutory requirements are met and the Council's Code of Conduct is adhered to.

Champion and embed a performance and quality assurance culture that delivers results through rigorous open challenge, personal accountability and continuous improvement.

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<p>Ensure performance oversight and compliance with the Council's Health &amp; Safety policy/procedures and that of any resources for which the role is responsible for, providing safe working environments and developing practice to maintain the physical and mental health of employees.</p> <p>Champion and lead the management of risk in relation to service delivery and own and hold accountability for the corporate risk management framework, utilising risk and asset management practice to embed a culture of innovation in the use of resources and shared learning across service boundaries and partnerships.</p> <p>Champion and comply with the Council's policies on information security including the ICT Security Policy, Internet and Email Policy and Safe Haven Guidance.</p>	<p>Ensure performance oversight and compliance with the Council's Health &amp; Safety policy/procedures and that of any resources for which the role is responsible for, providing safe working environments and developing practice to maintain the physical and mental health of employees.</p> <p>Champion and lead risk in relation to service delivery and own and hold accountability for the corporate risk management framework, utilising risk and asset management practice to embed a culture of innovation in the use of resources and shared learning across service boundaries and partnerships.</p> <p>Champion and comply with the Council's policies on information security including the ICT Security Policy, Internet and Email Policy and Safe Haven Guidance.</p>	<p>Ensure performance oversight and compliance with the Council's Health &amp; Safety policy/procedures and that of any services for which the role is responsible for, providing safe working environments and developing practice to maintain the physical and mental health of employees.</p> <p>Champion and lead risk in relation to service delivery and own and hold accountability for the corporate risk management framework, utilising risk and asset management practice to embed a culture of innovation in the use of resources and shared learning across service boundaries and partnerships.</p> <p>Champion and comply with the Council's policies on information security including the ICT Security Policy, Internet and Email Policy and Safe Haven Guidance.</p>	<p>Ensure compliance with the Council's Health &amp; Safety policy/procedures and that of any services which the role is responsible for, providing safe working environments and developing practice to maintain the physical and mental health of employees</p> <p>Champion and lead the management of risk in relation to service delivery and own and hold accountability for the corporate risk management framework, utilising risk and asset management practice to embed a culture of innovation in the use of resources and shared learning across service boundaries and partnerships.</p> <p>Champion and comply with the Council's policies on information security including the ICT Security Policy, Internet and Email Policy and Safe Haven Guidance.</p>
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By virtue of paragraph(s) 1 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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