



## Employment and Appointments Committee

**Date:** Thursday, 24 November 2016

**Time:** 6.00 pm

**Venue:** Committee Room 3 - Wallasey Town Hall

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### AGENDA

**1. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members are asked to consider whether they have any disclosable pecuniary and /or any other relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

**2. MINUTES (Pages 1 - 4)**

To approve the accuracy of the minutes of the meeting held on 11 October, 2016.

**3. EMPLOYMENT AND APPOINTMENTS PANEL (Pages 5 - 24)**

The minutes of the Employment and Appointments Panels' meetings for:

- Assistant Director: Community Services, held on 15 August, 2016;
- Assistant Director: Health and Care Outcomes, held on 1 September, 2016;
- Assistant Director: Commissioning Support, held on 23 September and 11 and 27 October, 2016;
- Transformation Director, held on 23 September, 3 and 27 October and 4 and 14 November, 2016,

are submitted for information.

4. **HR POLICY UPDATES (PROBATIONARY POLICY AND MANAGING PERFORMANCE POLICY) (Pages 25 - 62)**
5. **ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR (PART 1)**
6. **EXEMPT INFORMATION - EXCLUSION OF MEMBERS OF THE PUBLIC**

The public may be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information.

RECOMMENDED –

That in accordance with section 100A (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business, on the grounds that they involve the likely disclosure of exempt information as defined by the relevant paragraphs of Part 1 of Schedule 12A to that Act. The public interest test has been applied and favours exclusion.

7. **ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR (PART 2)**

## EMPLOYMENT AND APPOINTMENTS COMMITTEE

Tuesday, 11 October 2016

Present: Councillor AER Jones (Chair)

Councillors P Davies L Rennie  
G Davies P Gilchrist  
AR McLachlan

Deputies Councillors W Clements (In place of JE Green)  
B Mooney (In place of M McLaughlin)

### 6 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Committee were requested to declare whether they had any disclosable pecuniary interests and/or any other relevant interest in the item on this agenda and, if so, to declare it and state the nature of such interest.

No such declarations were made.

### 7 MINUTES

The Committee were requested to approve the accuracy of the minutes of the meeting of 25 July 2016.

**Resolved – That the minutes of the meeting of 25 July, 2016, be approved.**

### 8 CHIEF OFFICER STRUCTURE: CHILDREN'S SERVICES

The Committee considered the report of the Chief Executive proposing a Chief Officer structure for Children's Services following the outcome of the Ofsted Inspection. It was reported that the Director of Children's services would report directly to the Chief Executive on an interim basis.

The report introduced by the Head of Human Resources and Organisational Development set out the issues and risks associated with grading, recruitment and retention of senior Children's Services management posts.

She indicated that recommendation (2) as detailed within the report was a recommendation outlined within the Ofsted report as the department had been unable to recruit and retain the post on a permanent basis and it was felt that this would provide the longer term stability required for the service.

A benchmarking exercise had been undertaken and that compared to other local authorities, Wirral Council needed to consider a higher grade for the role to attract someone with the experience required.

The Director of Children's Services (DCS) highlighted the significant work ahead for the department and stressed the importance of retaining a person who would take Children Services forward. To improve outcomes for vulnerable Children children's social care and early help and intervention needed to work together to prevent children, wherever possible, needing social care. Going forward there would be an increased focus on prevention and intervention to reduce the number of children in care. The approach in Children's services needed to address the needs of children across the spectrum of vulnerability.

The DCS also referred to benchmarking the structures of other Councils such as Knowsley and Sunderland who were in a similar position. The Chief Executive commented that in looking at what had worked well elsewhere it was evident that the Chief Executive had played an active role in the improvement journey; therefore as set out within the recommendations to the report, the Director of Children's Services would report straight to him.

In relation to the recommendations set out within the report the Chief Executive explained that he felt this was the right structure for Children's Services at Wirral and it was imperative that Wirral now secured the right people for the posts. He further emphasised that the proposed titles of the post and salaries were comparative in the market to attract the right people.

In response to a Member's question, the Chief Executive indicated that the structure would be reviewed at a later stage, following the longer term delivery of the Improvement Plan.

The Chair indicated that he was very supportive of the recommendations and agreed with the need to appoint the right person with experience to the post.

In response to a Member's concern, the Head of Human Resources and Organisational Development indicated that the retained recruitment consultants had a good national reputation and would conduct a wide ranging search.

Feedback from the recruitment consultants has previously been that the pay at a senior level was not always at a level to compete in the market.

The Head of Human Resources and Organisational Development indicated that the salaries as detailed within the report were comparative with other Authorities and it was felt that this was pitched at a level to attract the right people for the posts at this time, although it was a very competitive marketplace.

A Member commented that the post once appointed needed to be adequately supported and that as Councillors they were all corporate parents and therefore had a responsibility to ensure the department and its senior officers felt supported.

The Chair stressed the need for a regional agreement across the Northwest on salaries for these posts and that the relevant organisations needed to agree this to avoid Councils having to race against neighbouring authorities.

On a motion by Councillor P Davies, seconded by Councillor McLachlan, it was -

**Resolved (unanimously) – That**

- (1) the revised line management arrangements for Children’s Services in the new operating model as detailed in appendix 1 to the report be noted;**
- (2) the re-grading and re-designation of the vacant post ‘Assistant Director: Children’s Care Services’ to Deputy Director: Children’s Care Services to ensure the level of remuneration reflected the size and scope of the role in line with market rates, will attract high quality candidates and supports retention to provide the longer term stability required for the service be approved;  
(Grade D2 Salary range: £82,741 to £91,935)**
- (3) the re-grading and re-designation of the current post of Assistant Director: Children’s Services to Deputy Director: Children’s Services. This will ensure the level of remuneration reflects the size, scope and influence of this role in also provide a long term stability required for the service be approved;  
(Grade D2 Salary range £82,741 to £91,935)**
- (4) a politically proportionate Appointments Panel, in accordance with the terms of reference set out in Appendix 2 of the report for the post of Deputy Director: Children’s Care Services to be advertised internally and externally and to commence the recruitment process immediately be established; and**
- (5) the Head of Human Resources and Organisational Development be authorised to commence a recruitment exercise for the post of Deputy Director: Children’s Care Services.**

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## **EMPLOYMENT AND APPOINTMENTS PANEL (ASST DIRECTOR - COMMUNITY SERVICES)**

Monday, 15 August 2016

Present: Councillor P Davies (Chair)  
Councillors D Burgess-Joyce AR McLachlan  
G Davies M McLaughlin  
P Gilchrist L Rennie

### **1 APPOINTMENT OF CHAIR**

Cllr McLachlan moved that Cllr P Davies be appointed as Chair, this was seconded by Cllr G Davies and agreed unanimously by the Panel.

**Councillor Phil Davies in the Chair.**

*Note: Prior to the formal meeting commencing, a letter issued to the Members of the Panel from Mr Brace was discussed. It was agreed that a formal response would be provided after the meeting to allow due consideration of the points raised therein.*

### **2 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members were asked to consider whether they had any disclosable pecuniary interests and/or any other relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

No such declarations were made.

### **3 EXEMPT INFORMATION - EXCLUSION OF MEMBERS OF THE PUBLIC**

**Resolved –That in accordance with section 100 (A) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business, on the grounds that it involved the likely disclosure of exempt information as defined by paragraph 1 of Part 1 of Schedule 12A (as amended) to that Act. The public interest test had been applied and favoured exclusion.**

### **4 APPOINTMENT OF ASSISTANT DIRECTOR - COMMUNITY SERVICES**

The Strategic Director of Transformation and Resources provided summary of job description and key requirements for the role of Assistant Director, Community Services.

The Chief Executive and the Strategic Director of Transformation and Resources presented confidential feedback to the Panel on each of the shortlisted candidates following the technical assessment.

The Panel discussed the scope of the post and the key requirements of the role. It was noted that whilst the shortlisted applicants had demonstrated key strengths, a wider field of candidates be sought.

Cllr P Davies formally proposed that the role of Assistant Director, Community Services be advertised externally.

Seconded by Cllr McLachlan.

**Resolved (unanimously) – That the role of Assistant Director, Community Services be advertised externally.**

# **EMPLOYMENT AND APPOINTMENTS PANEL (ASST DIRECTOR: HEALTH AND CARE OUTCOMES AND ASST DIRECTOR: ADULT AND DISABILITY SERVICES)**

Thursday, 1 September 2016

Present: Councillors B Berry AER Jones  
A Brighthouse I Lewis  
G Davies AR McLachlan  
P Davies

## **1 APPOINTMENT OF CHAIR**

On a motion by Councillor Adrian Jones, seconded by Councillor George Davies, it was –

**Resolved – That Councillor Phil Davies be appointed Chair of this Panel.**

## **2 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members of the Panel were requested to declare whether they had any disclosable pecuniary interests and/or any other relevant interest in the item on this agenda and, if so, to declare it and state the nature of such interest.

No such declarations were made.

## **3 EXEMPT INFORMATION - EXCLUSION OF MEMBERS OF THE PUBLIC**

On a motion by the Chair, seconded by Councillor George Davies it was -

**Resolved - That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined by paragraph 1 of Part I of Schedule 12A (as amended) to that Act.**

## **4 APPOINTMENT OF ASSISTANT DIRECTOR - HEALTH AND CARE OUTCOMES AND ASSISTANT DIRECTOR - ADULT AND DISABILITY SERVICES**

The Panel interviewed one short-listed candidate for the post of Assistant Director: Health and Care Outcomes.

On a motion by the Chair, seconded by Councillor George Davies it was –

**Resolved (unanimously) – That Jason Oxley, currently Acting Head of Delivery, Adult Social Services, Wirral Council, be appointed to the post of Assistant Director: Health and Care Outcomes.**

The post of Assistant Director: Adult and Disability Services was not appointed to and remained vacant.

# **EMPLOYMENT AND APPOINTMENTS PANEL (ASSISTANT DIRECTOR: COMMISSIONING SUPPORT)**

Friday, 23 September 2016

Present: Councillors G Davies AER Jones  
D Elderton AR McLachlan  
J Green

Deputies: Councillors P Davies (In place of M McLaughlin)  
P Gilchrist (In place of A Brighouse)

## **1 APPOINTMENT OF CHAIR**

On a motion by Councillor George Davies, seconded by Councillor McLachlan, it was –

**Resolved – That Councillor Phil Davies be appointed Chair for this meeting.**

## **2 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members of the Panel were requested to declare whether they had any disclosable pecuniary interests and/or any other relevant interest in the item on this agenda and, if so, to declare it and state the nature of such interest.

No such declarations were made.

## **3 EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC**

On a motion by the Chair, seconded by Councillor George Davies it was -

**Resolved - That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined by paragraph 1 of Part I of Schedule 12A (as amended) to that Act.**

## **4 APPOINTMENT OF ASSISTANT DIRECTOR: COMMISSIONING SUPPORT**

The Chief Executive outlined to the Panel what the Assistant Director: Commissioning Support role would be and the qualities required of the potential post holder.

The Panel then considered which of the 9 candidates should be long listed for the next stage of the selection process for the post of Assistant Director: Commissioning Support.

The Head of Human Resources and Organisational Development informed the Panel that technical assessments would take place on 3 October, with the Panel meeting on 11 October to short list. She suggested that subject to the progress of one of the candidates for the Transformation Director post, there could be the possibility of adding them to the long list for this Assistant Director: Commissioning Support post.

On a motion by the Chair, seconded by Councillor McLachlan, it was –

**Resolved (unanimously) – That the following 6 candidates be long listed for the next stage of the process – candidate numbers 1, 2, 3, 4, 5 and 6.**

# **EMPLOYMENT AND APPOINTMENTS PANEL (ASSISTANT DIRECTOR: COMMISSIONING SUPPORT)**

Tuesday, 11 October 2016

Present: Councillor P Davies (Chair)  
(deputising for M McLaughlin)

Councillors A Brighthouse AER Jones  
G Davies AR McLachlan  
D Elderton A Sykes

## **5 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members of the Panel were requested to declare whether they had any disclosable pecuniary interests and/or any other relevant interest in the item on this agenda and, if so, to declare it and state the nature of such interest.

No such declarations were made.

## **6 EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC**

On a motion by the Chair, seconded by Councillor Ann McLachlan it was -

**Resolved - That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined by paragraph 1 of Part I of Schedule 12A (as amended) to that Act.**

## **7 APPOINTMENT OF ASSISTANT DIRECTOR: COMMISSIONING SUPPORT**

The Panel considered the technical assessments which had been prepared by the recruitment consultants, Penna. Ms Amanda Riley from Penna introduced the report in relation to each of the six candidates, who had been long listed in the selection process and made recommendations as to which of the candidates should be short listed.

The Panel then considered which of the 6 candidates should be short listed for the next stage of the selection process for the post of Assistant Director: Commissioning Support.

The Head of Human Resources and Organisational Development informed the Panel that next stage would take place on 27 October 2016. The morning would involve interviews and exercises. The panel would meet and receive feedback from the morning with an option to deselect before the formal final Appointments panel in the afternoon.

On a motion by the Chair, seconded by Councillor McLachlan, it was –

**Resolved (unanimously) – That the following 3 candidates be short listed for the next stage of the process – candidate numbers 1, 2 and 4.**

# **EMPLOYMENT AND APPOINTMENTS PANEL (ASSISTANT DIRECTOR: COMMISSIONING SUPPORT)**

Thursday, 27 October 2016

Present: Councillors A Brighthouse AR McLachlan  
G Davies M McLaughlin  
D Elderton A Sykes  
AER Jones

## **8 APPOINTMENT OF CHAIR**

On a motion by Councillor George Davies, seconded by Councillor McLachlan, it was –

**Resolved – That Councillor Adrian Jones be appointed Chair of this Panel.**

## **9 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members of the Panel were requested to declare whether they had any disclosable pecuniary interests and/or any other relevant interest in the item on this agenda and, if so, to declare it and state the nature of such interest.

No such declarations were made.

## **10 EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC**

On a motion by the Chair, seconded by Councillor George Davies it was -

**Resolved - That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined by paragraph 1 of Part I of Schedule 12A (as amended) to that Act.**

## **11 APPOINTMENT OF ASSISTANT DIRECTOR: COMMISSIONING SUPPORT**

The Panel received feedback from the Head of Human Resources and Organisational Development and from those Members who had met the three candidates during the morning.

The Panel considered which of the three candidates should be invited to attend for final interview for the post of Assistant Director: Commissioning Support.

On a motion by Councillor G Davies, seconded by the Chair, it was –

**Resolved (unanimously) – That candidate numbers 1 and 2 be invited to attend for final interview that afternoon, and candidate number 4 be deselected from the recruitment process.**

Having interviewed the two short listed candidates, it was moved by the Chair, seconded by Councillor G Davies and then –

**Resolved (unanimously) – That Nicola Butterworth, currently Senior Manager, Commissioning and Contract Management at Cheshire West and Chester Council, be appointed to the post of Assistant Director: Commissioning Support.**

# EMPLOYMENT AND APPOINTMENTS PANEL (TRANSFORMATION DIRECTOR)

Friday, 23 September 2016

Present: Councillors G Davies J E Green  
P Davies AER Jones  
P Gilchrist AR McLachlan

Deputies: Councillor A Hodson (In place of A Sykes)

## 1 APPOINTMENT OF CHAIR

On a motion by Councillor George Davies, seconded by Councillor McLachlan, it was –

**Resolved – That Councillor Phil Davies be appointed Chair of this Panel.**

## 2 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Panel were requested to declare whether they had any disclosable pecuniary interests and/or any other relevant interest in the item on this agenda and, if so, to declare it and state the nature of such interest.

No such declarations were made.

## 3 EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC

On a motion by the Chair, seconded by Councillor George Davies it was -

**Resolved - That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined by paragraph 1 of Part I of Schedule 12A (as amended) to that Act.**

## 4 APPOINTMENT OF TRANSFORMATION DIRECTOR

The Chair welcomed Amanda Riley and Yvonne Skingle from the recruitment consultants, Penna who explained how the initial sifting of candidates had worked and the next stage of the process which would involve a technical assessment.

The Chief Executive outlined to the Panel what the Transformation Director role would involve, the type of candidate which was being sought and how they would fit into the new operating model.

The Panel then considered which of the 51 candidates should be long listed for the next stage of the selection process for the post of Transformation Director.

The Head of Human Resources and Organisational Development suggested that one or two of the candidates might be suitable candidates for the position of Assistant Director: Commissioning Support.

On a motion by the Chair, seconded by Councillor McLachlan, it was –

**Resolved (unanimously) – That the following 8 candidates be long listed for the next stage of the process – candidate numbers 1, 3, 4, 5, 7, 11, 12 and 13.**

# EMPLOYMENT AND APPOINTMENTS PANEL (TRANSFORMATION DIRECTOR)

Monday, 3 October 2016

Present: Councillor P Davies (Chair)

Councillors G Davies AER Jones  
P Gilchrist AR McLachlan  
JE Green A Sykes

## 5 MEMBERS' CODE OF CONDUCT

Members of the Panel were requested to declare whether they had any disclosable pecuniary interests and/or any other relevant interest in the item on this agenda and, if so, to declare it and state the nature of such interest.

No such declarations were made.

## 6 EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC

On a motion by the Chair, seconded by Councillor George Davies it was -

**Resolved - That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined by paragraph 1 of Part I of Schedule 12A (as amended) to that Act.**

## 7 APPOINTMENT OF TRANSFORMATION DIRECTOR

The Chair welcomed Amanda Riley from the recruitment consultants, Penna, she informed the Committee that of the eight candidates long listed, two had since withdrawn and so six candidates were seen for technical assessment.

Out of the six candidates assessed, Penna was recommending only one for interview.

The Chair expressed disappointment that out of eight candidates short listed only one was recommended for interview. Members expressed their concerns at the prospect of just interviewing one candidate.

Amanda Riley informed the meeting that a further search could be undertaken which would delay the recruitment process by a minimum of one month and that this would have to be a completely fresh search. The candidate

recommended for interview would be informed of the delay and that they would still be put forward for interview, should this approach be agreed.

On a motion by the Chair, duly seconded, it was –

**Resolved – That Penna be requested to carry out a further focussed search for any other candidates who may apply for the post and the recruitment process be delayed until this has happened.**

# EMPLOYMENT AND APPOINTMENTS PANEL (TRANSFORMATION DIRECTOR)

Thursday, 27 October 2016

Present: Councillors G Davies AR McLachlan  
P Gilchrist A Sykes  
AER Jones

Deputy: Councillor M McLaughlin (In place of P Davies)

Apologies Councillor JE Green

## 8 APPOINTMENT OF CHAIR

On a motion by Councillor George Davies, seconded by Councillor McLachlan, it was –

**Resolved – That Councillor Adrian Jones be appointed Chair of this Panel.**

## 9 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Panel were requested to declare whether they had any disclosable pecuniary interests and/or any other relevant interest in the item on this agenda and, if so, to declare it and state the nature of such interest.

No such declarations were made.

## 10 EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC

On a motion by the Chair, seconded by Councillor George Davies it was -

**Resolved - That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined by paragraph 1 of Part I of Schedule 12A (as amended) to that Act.**

## 11 APPOINTMENT OF TRANSFORMATION DIRECTOR

The Head of Human Resources and Organisational Development welcomed Yvonne Skingle from the recruitment consultants, Penna, and she gave an overview of each of the six new candidates who had applied for the post of Transformation Director.

The Panel then considered which of the six candidates should be long listed for the next stage of the selection process.

**Resolved (unanimously) – That candidates 2, 4, 5, 6 and 7, along with the one candidate previously short listed be put forward for the next stage of the selection process.**

# EMPLOYMENT AND APPOINTMENTS PANEL (TRANSFORMATION DIRECTOR)

Friday, 4 November 2016

Present: Councillor AER Jones (Chair)  
Councillors G Davies AR McLachlan  
P Gilchrist A Sykes

Deputy: Councillor M McLaughlin (in place of P Davies)

Apologies: Councillor JE Green

## 12 MEMBERS' CODE OF CONDUCT

Members of the Panel were requested to declare whether they had any disclosable pecuniary interests and/or any other relevant interest in the item on this agenda and, if so, to declare it and state the nature of such interest.

No such declarations were made.

## 13 EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC

On a motion by the Chair, seconded by Councillor George Davies it was -

**Resolved - That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined by paragraph 1 of Part I of Schedule 12A (as amended) to that Act.**

## 14 APPOINTMENT OF TRANSFORMATION DIRECTOR

The Assistant Director: Human Resources and Organisational Development informed the meeting that Yvonne Skingle from Penna could not be in attendance at the meeting, and arrangements had been made for her to address the Committee and respond to comments by speakerphone.

She informed the meeting that she had interviewed the five new candidates on Wednesday 2<sup>nd</sup> and gave an appraisal of each in turn.

The Panel considered which of the candidates should be short listed for the selection day process and on a motion by the Chair, seconded by Councillor George Davies, it was –

**Resolved (unanimously) – That the following three candidates be short listed to attend the selection day on Monday, 14 November, 2016 – candidate numbers 2, 3 and 4.**

The Panel then discussed the approach to the political group one to one interviews and it was agreed that with each group taking a different approach it would not be appropriate to try and introduce a themed approach to these.

The Assistant Director: Human Resources and Organisational Development also informed the meeting that the selection Panel might have to meet in a venue other than the Town Hall, Wallasey for operational reasons.

# EMPLOYMENT AND APPOINTMENTS PANEL (TRANSFORMATION DIRECTOR)

Monday, 14 November 2016

Present: Councillor AER Jones (Chair)  
Councillors G Davies AR McLachlan  
P Gilchrist A Sykes

Deputies: Councillors M McLaughlin (In place of P Davies)  
L Rennie (In place of JE Green)

## 15 MEMBERS' CODE OF CONDUCT

Members of the Panel were requested to declare whether they had any disclosable pecuniary interests and/or any other relevant interest in the item on this agenda and, if so, to declare it and state the nature of such interest.

No such declarations were made.

## 16 EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC

On a motion by the Chair, seconded by Councillor George Davies it was -

**Resolved - That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined by paragraph 1 of Part I of Schedule 12A (as amended) to that Act.**

## 17 APPOINTMENT OF TRANSFORMATION DIRECTOR

The Panel received feedback from the Chief Executive and from those members of the three political groups who had met the three candidates during the morning.

The Panel then considered which of the three candidates should be invited to attend for final interview for the post of Transformation Director.

On a motion by the Chair, seconded by Councillor McLachlan, it was –

**Resolved – That candidate numbers 2 and 4 be invited to attend for final interview that afternoon.**

Having interviewed the two short listed candidates, it was moved by the Chair, seconded by Councillor Lesley Rennie and then –

**Resolved (unanimously) – That this Panel RECOMMENDS to Council that Paul Satoor, be appointed on a permanent basis to the post of Transformation Director, on the grade SD, subject to two written references and other relevant pre-employment checks.**



**Employment and Appointments Committee  
24 November 2016**

<b>REPORT TITLE</b>	<b>HR POLICY UPDATES (PROBATIONARY POLICY AND MANAGING PERFORMANCE POLICY)</b>
<b>REPORT OF</b>	<b>ASSISTANT DIRECTOR: HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT</b>

**1.0 REPORT SUMMARY**

1.1 This report sets out proposed changes to the Council's Probationary Policy and Performance Management Policy and supporting procedures.

**2.0 RECOMMENDATIONS**

2.1 That Employment and Appointments Committee approves changes to the Council's Probationary Policy and Performance Management Policy and supporting procedures.

**SUPPORTING INFORMATION**

**3.0 REASONS FOR RECOMMENDATIONS**

3.1 To ensure that Council's Human Resources (HR) policies are up to date, legally compliant and enable managers to manage day to day employee issues in the workplace

**4.0 OTHER OPTIONS CONSIDERED**

4.1 No other options were considered.

**5.0 BACKGROUND INFORMATION**

5.1 The Council's HR policies are subject to an ongoing review to ensure they remain fit for purpose, legally compliant and provide a valuable and workable resource for employees and managers on employment related issues in the workplace. In the past couple of years, changes and updates have been made to a number of key policies including disciplinary, grievance and attendance management policies.

5.2 Earlier this year work commenced to review the probationary and performance capability policies, both of which have been in place for a long time. These policies are linked. The Probationary Policy provides a framework for managers to manage performance of new employees and the Performance Management Policy sets out how managers should address concerns of underperformance for employees no longer in their probationary period.

## PROBATIONARY POLICY AND PROCEDURE

- 5.3 It is common practice for organisations to have a probationary policy for new employees. By setting a probationary period, an employer can alert a newly recruited employee that his or her performance will be under continuous review during the first weeks and months of employment and that continued employment is subject to satisfactory completion of the probationary period.
- 5.4 Probationary periods have no legal status and an employee who is on probation has the same statutory employment rights as other employees. It is the length of continuous service that defines an employee's statutory employment rights, including his or her rights in the event of dismissal
- 5.5 The Council's policies and procedures have been reviewed and benchmarked to ensure it meets best practice in Local Authorities and large organisations.
- 5.6 A number of and a range of changes have been proposed to the policies and procedures on this basis. The key changes are:

<b>Current Policy</b>	<b>Revised Policy</b>
Different probation periods for different roles depending on conditions of services (craft, green book)	Probation period of 6 months for all employees.
No extension to probation specified	Provision to extend once for up to another six month period
No provision for longer probationary period for roles where qualification or professional standards required in first year	Professional standards probation period is 12 months with ability to extend (e.g. Social Work)
No definition of probation included	Definition included
Notice period for end of probation or ending probation early – contractual	Notice period statutory 1 week based on length of service
No right to be accompanied	Right to be accompanied by TU rep or workplace colleague at final stage probation meeting
Detail of management responsibilities limited	Specified role of manager in more detail and role of employee
Insufficient detail on process for confirming employee in post or terminating employment	Specific detail included for confirming employee in post and terminating employment
Appeal process not specified.	Provision for review of decision not to confirm appointment by senior manager

## PERFORMANCE MANAGEMENT POLICY

- 5.8 It is proposed to change the title of this policy from Performance Capability to Performance Management. This is more than a title change. Its purpose is to reflect the requirement of managers to manage performance of employees and for employees to understand that it is a requirement of management to do so.
- 5.9 This policy and procedures set out the process for managers to follow if there are concerns about an employee's performance.
- 5.10 The aim of the policy and procedures is to improve performance where it is not meeting the required standards by; ensuring that required standards are made clear, appropriate support is provided and the employee has the opportunity to improve over a reasonable timeframe. It retains informal and formal stages. A failure to improve performance to the required level may in some circumstances lead to dismissal and so it is important the Council is clear on how under performance is managed in order that employees are given the opportunity to improve, are treated fairly and the risks to the organisation are minimised.
- 5.11 The Council's policy and procedures have been reviewed and benchmarked to ensure it meets best practice in Local Authorities and large organisations.
- 5.12 A number of and a range of changes have been proposed to the policies and procedures on this basis. The key changes are:

<b>Current Policy</b>	<b>Revised Policy</b>
Name - Performance Capability Procedure	Name - Performance Management Procedure
Informal process does not have specific outcomes including action plan	Action plan and specific outcomes for informal process with meeting required at the end of informal process.
Three different levels of capability (capability, serious and gross) with procedures for each	One procedure with ability to move into appropriate formal stage for serious concerns as appropriate.
Informal stage and four formal stages with appeal.	Informal stage and two formal stages with appeal
Timescales not specified	Up to 3 months at informal stage Guidance for timescales of 3-6 months at formal stages which will depend on nature of the issue.
No information about grounds for appeal	Clarity around potential grounds for appeal.
Performance Improvement plan lacks detail	Performance Improvement Plan includes more detail on what is required.

- 5.13 In order to deliver our plans, and deliver the best possible services within the resources available, the Council needs to develop a stronger performance management culture. This starts with expectations and objectives for every employee through appraisal: regular performance meetings, clarity of required professional standards where appropriate and the development of employees and managers with a strong emphasis on leadership and management, culture and behaviours.
- 5.14 The proposed policy and procedures deals with one aspect of performance management which is addressing concerns of under-performance. The purpose is always to improve performance, but we need to be clear how we manage when an employee is not meeting those expectations, the impact on the workplace and service and the consequences.
- 5.15 The proposed policy and procedure retains the clear principle that employees must be given the support and time to improve should performance fall below the required standard. The policy will enable the Council to manage these issues in line with how other organisations are operating in a way that is fair and transparent.

### **Communication and Training**

- 5.16 Subject to this Committee accepting the recommendations, the policies will be published on the Council's intranet by the end of November 2016.
- 5.17 The documentation required for managers has been reviewed and updated. We have also developed checklists, guidance and Frequently Asked Questions (FAQs) to support the operation of these policies.
- 5.18 We will also ensure all managers and employees are aware of changes through manager's brief and cascaded via team meetings.
- 5.19 Line Managers will be invited to an initial briefing about the policies. There is e-learning module for Performance Management in development which will be mandatory for line managers to ensure there is an understanding of this policy.
- 5.20 From January 16, it is planned to deliver further dedicated training to all line managers on what is required to manage team and individual performance effectively. Again, this will be mandatory. This will have a wider focus on the key principles of performance management and the skills managers will require. This is part of wider culture change programme.

### **6.0 FINANCIAL IMPLICATIONS**

- 6.1 There are no financial implications. Training on new policies will be delivered from existing resources.

### **7.0 LEGAL IMPLICATIONS**

- 7.1 There are no specific legal implications arising out of this report.

## 8.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

8.1 There are no specific staffing, ICT or Assets implications arising out of this report.

## 9.0 RELEVANT RISKS

9.1 There are no specific risks arising out of this report.

## 10.0 ENGAGEMENT/CONSULTATION

10.1 In developing the managing performance policy specifically, a workshop was held with a group of experienced managers drawn from services across the Council to listen to issues they had experienced in operating the current policy and to identify how policy and practice may be improved.

10.2 The trade unions were consulted on both policies.

## 11.0 EQUALITY IMPLICATIONS

11.1. Equality Impact Assessment (EIA)

(a) Is an EIA required? Yes

<https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments/equality-impact-assessments-2014-15-0>

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## APPENDICES

Appendix 1 Probationary Policy and Procedure

Appendix 2 Performance Management Policy and Procedure

## REFERENCE MATERIAL

N/A

## SUBJECT HISTORY (last 3 years)

Council Meeting	Date

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## Probationary Policy

### 1. What is 'Probation'?

Probation is process of regularly reviewing the overall standards of a new employee in areas such as work performance, conduct, behaviour and attendance during the specified probationary period, in order to establish if they are suitable to work for Wirral Council. The organisation believes that the use of probationary periods increases the likelihood that new employees will perform effectively in their employment.

### 2. Who does the policy apply to?

This Policy applies to all new appointments to the local government service.

### 3. What is the length of probation?

All new appointments to the local government service are subject to a probationary period of six months in the case of all employees.

Where there are professional standard to be achieved for roles such as social workers, teachers, the probationary period will reflect the requirements specified by the professional body.

In certain circumstances probationary periods may be extended.

### 4. Right to be accompanied

(Where appropriate page 6) An employee has the right to be accompanied by a Trade Union Representative or workplace colleague at their final probation meeting and at the probationary review meeting, where an employee has not been confirmed in post. A Human Resources representative will also be present.

### 5. Commitment to Equality

Please identify which, if any, of the following Equality Duties this policy addresses:

Eliminate  
unlawful  
discrimination,  
harassment  
and  
victimisation

To advance equality  
of opportunity

To foster good  
relations between  
different groups of  
people

## 6. Supporting Documentation

Probationary Report form	Probationary report form for recording interview details
Probationary Period – Raising Concerns	Letter advising of required areas of improvement
Probationary Period - Extension	Letter advising of required areas of improvement and extension of probationary period
Probationary Period – Non conformation of appointment	Letter of confirming unsuccessful completion of probationary period and non confirmation to post
Probationary Period - Satisfactory Completion	Letter for satisfactory completion of the probationary period

## 7. Related Policies

- Attendance Management Policy and Procedure
- Performance Management Policy and procedure
- Disciplinary Policy and procedure
- Grievance Policy and Procedure
- Dignity at Work Policy

## 6. Consultation

Trade Unions have been consulted on the revised Probation Policy and Procedure .

## 7. Communication and Awareness

This policy is considered:

**Internal**  
[For Members, Officers and Contractors]



**External**  
[For our Residents, Customers and Service Users]



All managers must be aware this Policy and Procedure. It is an integral part of a manager's job to manage performance and address issues of underperformance.

Where there are concerns about performance that may be dealt with under this policy and Procedure, managers must also ensure employees are aware of this them.

All employees and managers are expected to comply with the terms of this Policy and Procedure.

## 8. Monitoring and Review

The table below sets out the ownership and review schedule for this policy. However it may be necessary to review as and when required, for example, due to legislative changes or if an issue arises around its effectiveness.

<b>Document Ownership</b>	
<b>Policy owned by:</b>	Head of Human Resources & Organisational Development
<b>Policy written by:</b>	N/A
<b>Date policy written:</b>	N/A
<b>Policy due for 1<sup>st</sup> review:</b>	October 2016

<b>Version Control Table</b>			
All changes to this document are recorded in this table.			
<b>Date</b>	<b>Notes/Amendments</b>	<b>Officer</b>	<b>Next Scheduled Review Date</b>
Oct 2016	<ul style="list-style-type: none"> <li>Revised Probationary Policy and procedure</li> </ul>	Sue Blevins/Marria Saleemi	October 2019



## **Probationary Procedure**

### **1. What is 'Probation'?**

Probation is process of regularly reviewing the overall standards of a new employee/or new post in areas such as work performance, conduct, behaviour and attendance during the specified probationary period, in order to establish if they are suitable to work for Wirral Council. The organisation believes that the use of probationary periods increases the likelihood that new employees will perform effectively in their employment.

### **2. Who does the policy apply to?**

This Policy applies to all new appointments to the local government service.

### **3. What is the length of probation?**

All new appointments to the local government service are subject to a probationary period of six months in the case of all employees.

Where there are professional standard to be achieved for roles such as social workers, teachers, the probationary period will reflect the requirements specified by the professional body.

In certain circumstances probationary periods may be extended.

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

(Where appropriate) An employee has the right to be accompanied by a Trade Union Representative or workplace colleague at their final probation meeting and at the probationary review meeting, where an employee has not been confirmed in post. A Human Resources representative will also be present.

## **5. Roles and Responsibilities**

### **5.1 Manager**

On appointment to a post a manager should:

- i. Ensure the employee is made aware of their role and the standards expected of them, and provide them with any appropriate induction and training.
- ii. Notify the employee that they are being assessed through a probationary period.
- iii. Set clear standards which will be monitored during the Probationary period.
- iv. Undertake regular face to face reviews/supervision of new employees and set up a monitoring system whereby regular informal reports are produced about new employees standards and performance on at least monthly basis. The manager

should make and keep a note of the date, time and conclusions reached at all meetings arranged under this Procedure.

- v. Identify any concerns about the employee's failure to meet the required standards and feedback to the employee in order for them to improve and identify any additional training or support required.
- vi. In the case of disability, ensure that any potential reasonable adjustments which may support the employee are discussed and considered
- vii. Where appropriate If there is clear evidence prior to the end of the period of probation that suggests there are significant concerns about the employee's ability to undertake the role, the manager will discuss with situation with a member of the Human Resources Department with a view to bringing the probationary period to an end at an earlier date.
- viii. Conduct the final probation meeting on or shortly before the date on which the employee's probationary period comes to an end.
- ix. a) Confirm the employee's appointment to the post, **only** if the manager is satisfied as to the employee's suitability for the post,  
  
**or**  
  
b) Confirm the employee has not achieved the probation standards expected, and despite regular supervision and or additional training/support, the employee has not improved and therefore a decision has been made not to confirm in post either during or at the end of the probationary period. In these circumstances the manager should be confident that they have acted reasonably and that all alternatives have been explored, e.g. an extension of the probationary period to allow more time for improvement. NB managers may seek advice from more senior manager when considering non confirmation in post
- x. Where a decision has been made not to confirm the employee in post, the manager will meet with the employee, giving five working days' notice of the meeting in writing. The manager will set out clearly the reasons why the employee has not successfully completed the probationary period and will give the employee the opportunity to present his/her case including any mitigating circumstances.
- xi. If the employee's probationary period is unsatisfactory the manager should advise the Resources Team who will arrange to terminate the employee's employment.
- xii. When an employee has not been confirmed in post, the manager will inform the employee of the right to a review of their probationary period. This will be by a more senior manager. A request for a review should be made by the employee, in writing, to the specified senior manager, within seven working days of receipt of the decision.
- xiii. If the employee requests for a review of their probationary period when not confirmed in post, a **senior manager** should review all of the documentation that has been considered by the manager who decided not to confirm the employee in the post. A meeting should be held with the employee to allow them to put forward

evidence to support their case. The **probation review meeting** should be arranged within ten working days of receiving the request from the employee. The employee may be accompanied at the meeting by a Trade Union Representative or workplace colleague and a Human Resources Representative will also attend the meeting. Possible outcomes of meeting could be: confirm in post, extend probationary period, not confirm in post.

***NB: The manager is responsible under this Procedure for ensuring that all new employees are properly monitored during their probationary period. If any problems arise, the manager should address these promptly. This will ensure that the employee is aware that some aspect of standards or performance during the probationary period is unsatisfactory and should prevent the problem from escalating.***

## **5.2 Employee**

- i. To demonstrate, during the probationary period, that they are suitable for the post.
- ii. To listen to feedback, engage in the regular review meetings and identify/seek support to improve identified areas of concern.
- iii. To request a review of their probationary period where they have not been confirmed in post, if they wish to do so. This should be in writing to the specified senior manager within ten days of receipt of decision.

## **5.3 Trade Union / Workplace colleague**

Where appropriate, a Trade Union representative / work colleague can support and/or represent an employee at the final probationary meeting, where concerns have been raised during the probationary period.

## **5.4 Human Resources**

The role of HR to provide advice and guidance to managers on policies, procedures and legislation to address concerns identified during the probationary period, including attendance at relevant meeting convened by the manager e.g.

- Final probation meeting, where concerns have been previously raised with the employee.
- Probationary review meeting, with a more senior manager

## **6. Equality Act**

When considering probationary periods and the extension of probationary periods for new employees, managers must be aware of the Equality Act 2010 and the potential implication on the employment of the new employee. It may be necessary, during the probationary period to taken an employee's disability into consideration when considering poor performance. This should also be taken into consideration when deciding if to extend the probationary period.

The Equality Act 2010 outlines the protected characteristics, which are

- Disability

- Sex
- Race
- Age
- Gender Reassignment
- Sexual Orientation
- Religion and Belief
- Pregnancy and Maternity
- Marriage and Civil Partnership

***NB Managers should seek advice from HR if you have concerns on the management of probation and the application of the Equality Act.***

## **7. Notice periods during Probation**

During probation, the employer may terminate the employee's contract of employment by giving one week's notice.

Once the probationary period has been completed, the notice periods will be as defined in the employee's contract of employment.

## Probation Procedure Appendices

### Appendix 1 – Standard Documentation

<b>Standard Documentation</b>	
<u>Probationary Report form</u>	Probationary report form for recording interview details
<u>Probationary Period – Raising Concerns</u>	Letter advising of required areas of improvement
<u>Probationary Period - Extension</u>	Letter advising of required areas of improvement and extension of probationary period
<u>Probationary Period – Non conformation of appointment</u>	Letter of confirming unsuccessful completion of probationary period and non confirmation to post
<u>Probationary Period - Satisfactory Completion</u>	Letter for satisfactory completion of the probationary period
<u>Probationary Period - Flowchart</u>	Flow chart outlining the probationary process

## Appendix 2

### Guidance for managers undertaking Probationary Meetings

#### Planning a probationary meeting

The manager should ensure that the meeting is held in a suitable private venue free from interruption. The employee should be informed of the interview in advance and given the reason for the meeting.

#### Purpose of probationary meetings

The meeting should be sensitively-handled, with the aim of:

- Seeking the view of the employee of how they feel they are progressing
- Provide feedback and if required:
  - highlight any concerns/issues about performance/conduct/ attendance
  - Seek to identify and training and support required for the employee
  - Agree an action plan confirming support to be delivered, expectation of future standards expected and timescale for review of progress made

#### Undertaking a Probationary Meeting

1. Use open and probing questions to encourage the employee to engage in the probationary meeting such as

- How do you feel you are progressing?
- What support do you feel may help you?
- What can you do to improve your performance?

2. Encourage the employee to elaborate on any generalities in their answers or statements which may conceal details of the problem (e.g. by not letting such statements as 'I'm worried about the lack of planning in my department' pass without encouraging the employee to explain why he or she is worried about it, and how the supposed lack of planning is apparent).
3. Being alert to factors possibly contributing to the problem (e.g. the employee's relationships with colleagues, fears of inadequacy, failure, lack of promotion or career development, or redundancy, insufficient training, domestic problems).
4. Explore possible solutions and agree an action plan with the employee, including for example: appropriate training, supervision or shadowing, monitoring outcomes, and subsequent discussion of progress.

#### Possible Outcomes of a probationary meeting

##### Option 1 – Confirm in post

##### Option 2 – Extend the Probationary Period

The organisation reserves the right to extend an employee's period of probation at its discretion. This will be limited to one extension and the total period of probation will normally be no longer than 12 months.

An extension may be implemented in circumstances where the employee's performance, conduct behaviour or attendance during probation has not been entirely satisfactory but it is thought likely that an extension to the probationary period may lead to an improvement. In circumstances where the employee has been absent from the workplace for an extended period during probation it may be appropriate to extend the probationary period.

Before extending an employee's probationary period, the manager must consult with the HR Employee Relations Team. If an extension to the probationary period is agreed, the organisation will confirm the terms of the extension in writing to the employee, including:

- the length of the extension and the date on which the extended period of probation will end;
- Specify the reason/reasons for the extension
- Provide details of how and why this has fallen short of the required standards;
- the standards that the employee is required to achieve by the end of the extended period of probation;
- any support, for example further training, that will be provided during the extended period of probation; and
- Issue a letter confirming the outcome, including failure to meet required standards may result in the termination of their contract of employment

### **Option 3 - Confirm that the termination of the contract**

Confirm in writing that the employee has failed to reach the required standards in the agreed timeframe, and that as a result their employment is terminated on the ground of ***Unsatisfactory completion of Probationary Period.***

In some cases it may be appropriate to offer alternative employment to an individual, where the reasons for failure to meet expected standards is related to an equality issue such as a disability e.g. an employee with dyslexia who has not been provided with access to suitable technology to assist in improving performance.



## Performance Management Policy

### 1. Policy Statement

The Authority will endeavour, wherever possible, to ensure that all employees are aware of, and fully understand, the expectations and standards operating within the organisation.

The Performance Management Policy and Procedure have been developed to ensure that unsatisfactory performance or failure to achieve the standards set are responded to in a fair and effective manner in accordance with the principles of natural justice.

Performance is assessed by reference to skill or aptitude.

### 2. Background

Capability is a potentially fair reason for dismissal under s98 (2)(a) of the Employment Rights Act 1996.

This Policy and Procedure should be used when an employee's performance has been identified as falling below an acceptable level. Its purpose is to provide a framework for resolving the issue, ideally through the improvement of the employee's performance.

Before this Policy and Procedure is engaged, the employee should receive feedback from his/her manager setting out the concerns about his/her performance. Informal discussions should already have taken place between the employee and his/her manager about how his/her performance can be improved. The Policy and Procedure is designed to be used when such informal discussions do not lead to the employee improving his/her performance to an acceptable level.

***NB Where the performance management concerns are so significant, managers may consider entering the formal procedure immediately.***

Where an employee's poor performance is believed to be the result of deliberate negligence, or where serious errors have been made by him/her to the detriment of the organisation, the organisation may decide to use its disciplinary procedure instead.

### 3. Commitment to Equality

Please identify which, if any, of the following Equality Duties this policy addresses:

<p>Eliminate unlawful discrimination, harassment and victimisation</p> <p><input checked="" type="checkbox"/></p>	<p>To advance equality of opportunity</p> <p><input type="checkbox"/></p>	<p>To foster good relations between different groups of people</p> <p><input type="checkbox"/></p>
---	---	--

### 4. Supporting Documentation

- Performance Management Procedure
- Performance Management – Flowchart
- Template Letters
- Manager's guidance – Performance Management Procedure

### 5. Related Policies

- Probationary Policy and Procedure
- Attendance Management Policy and Procedure
- Performance Appraisal
- Disciplinary Policy
- Dignity at Work Policy
- Officer Appeals Procedure

### 6. Consultation

Trade Unions have been consulted on the revised Performance Management Policy.

### 7. Communication and Awareness

This policy is considered:

**Internal**  
[For Members, Officers and Contractors]

**External**  
[For our Residents, Customers and Service Users]

All managers must be aware this Policy and Procedure. It is an integral part of a manager's job to manage performance and address issues of underperformance.

Where there are concerns about performance that may be dealt with under this policy and Procedure, managers must also ensure employees are aware of this them.

All employees and managers are expected to comply with the terms of this Policy and Procedure.

## 8. Monitoring and Review

The table below sets out the ownership and review schedule for this policy. However it may be necessary to review as and when required, for example, due to legislative changes or if an issue arises around its effectiveness.

<b>Document Ownership</b>	
<b>Policy owned by:</b>	Head of Human Resources & Organisational Development
<b>Policy written by:</b>	N/A
<b>Date policy written:</b>	N/A
<b>Policy due for 1<sup>st</sup> review:</b>	October 2016

<b>Version Control Table</b>			
All changes to this document are recorded in this table.			
<b>Date</b>	<b>Notes/Amendments</b>	<b>Officer</b>	<b>Next Scheduled Review Date</b>
December 2014	<ul style="list-style-type: none"> <li>Revised Policy Format</li> </ul>	Tony Williams	Jan 2014
Oct 2016	<ul style="list-style-type: none"> <li>Revised Policy Performance Capability renamed Performance Management</li> </ul>	Sue Blevins/Marria Saleemi	October 2019

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## Performance Management Procedure

### 1. Introduction

This procedure sets out how concerns about performance will be managed in the organisation.

It is designed to be used when holding informal discussions with an employee, and also when informal discussions between the manager and employee do not lead to the employee improving their performance to an acceptable standard.

The procedure includes an informal stage, with two formal stages.

This procedure will help managers work with employees to improve performance. If this is not possible, it sets out other processes that can be followed such as redeployment or dismissal on the grounds of capability.

Where an employee's poor performance is believed to be deliberate, or if their errors have had a serious and detrimental impact on the council or if the employee 'won't do' the task / role, the disciplinary procedure could be used instead.

### 2. Right to Representation

Employees are entitled to be accompanied by a Trade Union Representative or work colleague at any of the formal stages of the procedure. Where appropriate the employee may request to be represented during informal process

### 3. Roles and Responsibilities

#### 3.1 Manager

***Managers should meet with employees and discuss performance as part of their day to day management responsibilities.***

- i. Ensure the employee is made aware of their role and the standards expected of them, and provide them with any appropriate induction and ongoing training.
- ii. Undertake regular face to face reviews/supervision. The manager should make and keep a note of the date, time and conclusions reached at all meetings arranged under this procedure.
- iii. Identify any concerns about the employees failure to meet the required standards and feedback to the employee in order for them to improve and identify any additional training or support required, in a timely manner.
- iv. If there is clear evidence that suggests there are significant concerns about the employee's ability to undertake the role, the manager will discuss with issues with the employee.

- v. Conduct the meetings with the employee, and where relevant HR representative and Trade Union representative/Work colleague, arranged under this Procedure.

### **3.2 Employee**

- i. To demonstrate the knowledge and skills to undertake the role
- ii. To listen to feedback, engage in the regular supervision process and identify/seek support to improve any identified areas of concern
- iii. Where relevant , to arrange support from a trade union representative or work colleague,

### **3.3 Trade Union Representative / Workplace colleague**

A Trade Union representative / work colleague can support and/or represent an employee at relevant formal meetings arranged under this procedure. Where appropriate the employee may request to be represented during the informal process

### **3.4 Human Resources**

To provide advice and guidance to managers on policy, procedures and relevant legislation to address concerns identified, including attendance at relevant meeting convened by the manager.

## **4. Informal Process**

It is good management practice for managers to be having regular and ongoing conversations with their employees, in order to highlight and discuss performance and in particular raise any issues / concerns.

If these conversations do not lead to the employee improving their performance to an acceptable standard, managers should invite the employee to an informal meeting to discuss their performance. The meeting should not come as a surprise to the employee as they would have already discussed any performance issues during previous conversations e.g. supervision meetings. It is recommended that managers keep a record of the discussions.

There is no requirement to have a representative from HR present at meetings held at the informal stage of the Procedure. Where appropriate the employee may request to be represented during informal meetings

Where performance is deemed to have improved to the required standard, no further action will take place.

Where the required standards of work have not been met, a formal performance review meeting will be arranged in line with Stage 1 of the Procedure.

## **5. Formal Performance Management Procedure**

## 5.1 Stages of Formal Procedure

There are 2 stages in the formal procedure.

### Stage 1

Where there has been no significant and/or sustained improvement in performance during the informal process

or

Where there has been a repeated pattern of informal performance management concerns raised, that have not resulted in a significant and sustained improvement

or

Where the poor performance has a **substantial** impact on the service provision

### Stage 2

Where there has been no significant and/or sustained improvement in performance during the formal review period (following a stage 1 meeting) consideration should be given to dismissing the employee on the grounds of Performance Capability.

## 5.2 Potential Disciplinary Concerns

In most cases, where poor performance is so significant that a manager is concerned about the employees '*fitness to practice*', serious consideration should be given to referring the matter into the disciplinary procedure as Gross Misconduct for example Neglect of Duty.

Other examples of serious issues may include safeguarding, budget, monetary or health and safety issues. In these circumstances support should be sought from the Employee Relations team based within Human Resources at this point. (Please refer to the [Disciplinary Policy](#) for a more detailed list of potential conduct that may constitute gross misconduct)

## 5.3 Performance concerns of a serious nature

There may be some cases regarding serious performance management issues, where managers may continue to manage the issues under the Performance Management Procedure, and can proceed straight to formal process and /or are able to vary the timeframe for review, with advice from Human Resources.

APPENDIX 2

5.4 Performance Management Meetings

Process	Attendees at Meeting	Guidance on Time Scales	Process	Meeting	Possible Outcomes
Informal Process	Line manager and employee (where appropriate, the TU rep/work colleague)	Up to 3 months	Monitor Performance during informal process	Performance Review Meeting at the end of the Informal Process	<ul style="list-style-type: none"> <li>• Take out of informal process</li> <li>• Remain in informal process</li> <li>• Move into formal process and discuss and implement Performance improvement Plan (PIP)</li> </ul>
Move into formal process stage 1	Line Manager (with appropriate HR support) employee and Trade Union Representative or work colleague	3 - 6 months <i>depending on the nature of the concerns</i>	<ul style="list-style-type: none"> <li>• Monitor Performance during stage 1</li> </ul>	Performance Review Meeting at end of formal stage 1	<ul style="list-style-type: none"> <li>• Take out of performance management process</li> <li>• Move back into informal process</li> <li>• Formal Warning issued, discuss and implement revised PIP (move to stage 2)</li> </ul>
Stage 1 Appeal	More senior Manager, (with appropriate HR support) employee and Trade Union Representative or work colleague	See appeal Process Para 8.2		Appeal Hearing Stage 1	<ul style="list-style-type: none"> <li>• Take out of performance management process</li> <li>• Move back into informal process</li> <li>• Confirm Formal Warning issued, discuss and implement revised PIP (move to stage 2)</li> </ul>
	<b>Attendees at</b>	<b>Guidance on</b>	<b>Process</b>	Meeting	Possible Outcomes

APPENDIX 2

	<b>Meeting</b>	<b>Time Scales</b>			
Move into formal process stage 2	Line Manager (with appropriate HR support) employee and Trade Union Representative or work colleague	3 - 6 months <i>depending on the nature of the concerns</i>	Monitor Performance during stage 2	Performance Review Meeting at end of formal stage 2	<ul style="list-style-type: none"> <li>• Take out of formal process</li> <li>• Remain in formal stage 1 process and extend period of Improvement</li> <li>• Re-issue formal warning</li> <li>• Consider redeployment</li> <li>• Confirm Dismissal on grounds Capability</li> </ul>
Stage 2 (Performance Capability Appeal Dismissal)	Director or their Nominated Officer, accompanied by a HR representative, employee and TU rep or work colleague	See appeal process para 8.3		Appeal Hearing stage 2	<ul style="list-style-type: none"> <li>• Take out of formal process</li> <li>• Remain in formal stage 1 process and extend period of Improvement</li> <li>• Re-issue formal warning</li> <li>• Consider redeployment</li> <li>• Confirm Dismissal on grounds Capability</li> </ul>

## 6. Implementing the Formal Performance Management Procedure:

### 6.1 Invitation letter to formal Performance Management Meetings

The manager must send a letter to the employee inviting them to attend a formal performance review meeting - **pro forma letter appendix xx (Letters being revised)**

The letter should contain the following:

- Date, time and location of the meeting
- Right to representation
- Copy of the Performance Management Policy and Procedure
- Outline the performance concerns and where possible, provide specific examples of where the employee has fallen beneath the required standard

### 6.2 Stage 1 Performance Management Meeting

#### 6.2.1 Explaining the issues / concerns

Where there has been no significant and/or sustained improvement in performance during the informal process

or

Where there has been a repeated pattern of informal performance management concerns raised, that have not resulted in a significant and sustained improvement

or

Where the poor performance has a **substantial** impact on the service provision

a stage 1 performance management meeting will be arranged with the employee.

The meeting will be conducted by the employee's manager. Where it is considered appropriate by the organisation, a member of the HR department may also be present.

The purpose of a stage 1 performance management meeting is to:

- Discuss the employee's performance
- Define the standards that have not been met, and consider potential reasons for poor performance
- Discuss and implement a Performance Improvement Plan (PIP), including relevant training or support required

The employee and/or their Trade Union representative/ work colleague will be given an opportunity to respond to any feedback about their performance and to put forward any explanation they may have for the matters identified by the manager as amounting to poor performance.

A manager may refer to the job description and/ or person specification and / or any service performance standards and work related information to be clear what the acceptable standards of performance are. Where appropriate, if the job role has professional standards produced by local and national bodies e.g. Health and Care Professions Council (HCPC) these may also be discussed. The manager should provide examples and evidence wherever possible, as this helps to identify gaps.

### 6.2.3 Outcome of the meeting

Following discussion of the issues/concerns, the manager may choose to:

- Take the employee out of the performance management process
- Move the employee back into the informal process and continue to review performance informally
- Issue a formal warning, and discuss and Implement a **formal performance improvement plan (PIP)**, and implement a review period designed to bring the employee's performance up to an acceptable standard.
- refer the matter for investigation under the disciplinary procedure if it is a conduct issue;

Where a formal warning has been issued, the warning will explain:

- the nature of the improvement that is required in the employee's performance
- that improvement must be sustained, and where possible improvement must be immediate,
- that if the necessary improvement does not take place, the employee may be dismissed.
- Attach a copy of revised Performance Improvement Plan (PIP)

The manager must undertake regular reviews of performance in line with the PIP and provide feedback to the employee on progress towards meeting the performance standards specified.

The warning will remain 'live' for a period of 12 months, from the date that the formal warning has been issued

**NB For appeal process for stage 1 see Para 8 below**

### 6.3 Stage 2 Performance Management Meeting (Performance Capability Dismissal Meeting)

If the performance improvement plan has not led to the employees performance being maintained to the required standard following completion of Stage 1 of the process, the employee will be informed of the requirement to attend a Stage 2 performance management meeting. The letter will set out the reasons why the employee's manager believes that the employee's performance still falls short of an acceptable standard.

At the meeting, the employee and/or their Trade Union representative/Work Colleague will be given an opportunity to respond to any feedback about his/her

performance and to make representations about any aspect of the way in which the process has been managed.

### **6.3.2 Possible outcomes of the Stage 2 Performance Management Review meeting**

Following discussions, the manager may choose to:

- Take the employee out of the performance management process
- Remain in formal stage 1 process, extend the period of Improvement and discuss and implement revised performance improvement plan (PIP)
- Re-issue the formal warning, and discuss and implement revised performance improvement plan
- Consider **redeployment** of the employee to alternative work; Any offer to redeploy the employee will be entirely at the organisation's discretion. Such an offer will be made only where the organisation is confident that the employee will be able to perform well in the redeployed role. It will normally be offered only as an alternative to dismissal in circumstances in which the organisation is satisfied that the employee should no longer be allowed to continue to work in his/her current role. While the employee is free to refuse any offer of redeployment, the only alternative available will usually be dismissal.

If the organisation believes there is no alternative role available and/or suitable for the employee, and they have not met an acceptable standard of performance, the organisation may decide to dismiss.

- Dismissal on grounds of Performance Capability
- refer the matter for investigation under the disciplinary procedure if it is a conduct issue;

### **6.3.3 Decision to Dismiss on ground of Performance Capability**

The decision to dismiss together with the reasons for dismissal will be set out in writing and sent to the employee within ten working days of the stage 2 hearing.

If applicable, the professional body the individual is a member of as part of their work role, will be notified of the employee's dismissal, by the line manager.

In line with the employee's statement of particulars, any dismissal will be with full notice requirements.

Where an employee is dismissed in accordance with this procedure, the employee will have a right of appeal.

**NB For appeal process for stage 2 see Para 8 below**

## 7 Performance Improvement Plans

### 7.1 Purpose of Performance Improvement Plan (PIP)

A performance improvement plan is a series of measures designed to help improve the employee's performance. Each measure will ideally be agreed with the employee, although the organisation reserves the right to insist on any aspect of the performance improvement programme in the absence of such agreement.

Each PIP will be tailored to the particular situation, but will contain the following elements:

- Performance Targets
- Success Criteria
- Additional training and /or support required
- Timescales
- Outcomes

A template PIP plus example performance improvement plans are provided at Appendices ( )

#### 7.1.1 Performance Targets

The performance improvement plan will specify the particular areas in which improved performance is needed and set out how, and on what criteria, the employee's performance will be assessed. Where appropriate, specific targets will be set that will need to be achieved either by the end of the programme or at identifiable stages within it. The targets set should meet the SMART criteria of being specific, measurable, achievable, relevant and time bound

#### 7.1.2. Success Criteria

The performance improvement plan will specify what measures will be taken by the organisation to support the employee in improving his/her performance. Such measures may include: training; additional supervision; the reallocation of other duties; or the provision of additional support from colleagues.

#### 7.1.3 Additional training and/or support

The manager should identify additional training and/or support that could be offered to the employee and ensure that support is delivered within the timescale specified in the Performance Improvement Plan.

#### 7.1.4 Timescales

The overall timescale in which the necessary improvement must be achieved will be set out, together with the timescale for reaching individual milestones where appropriate.

Review periods should usually last for three months. However, it is acknowledged that there may be times when the timescales may be shortened or lengthened. Advice and support should be requested by Human Resources in these instances.

It may be appropriate to change the suggested timescales for reviewing performance in certain circumstances

For example when an employee:

- Is undertaking a **business critical post and / or there is a risk to service delivery** the timescale may be shortened
- Has a **disability that may be impacting on their work performance.**  
In such circumstances the performance management policy and procedure may be varied to take account of reasonable adjustments needed in individual circumstances due to disability. This includes varying the average anticipated timeframe of three months per stage and / or repeating stages as required

### 7.1.5 Outcomes

Clearly define the expected outcomes required, following the implementation of any additional training and or/support specified in the PIP. It should also define the specific consequences if the employee does not achieve the required standard in the timescales specified in the PIP for example issue formal warning, dismissal on the grounds of capability

## 7.2 Feedback during the Performance Improvement Plan

As part of the performance improvement plan, the employee will be given regular feedback from their line manager indicating the extent to which the employee is on track to deliver the improvements set out in the plan.

If the organisation feels that the performance improvement plan is not progressing in a satisfactory way, a further formal meeting may be held with the employee and their Trade Union representative/work colleague to discuss the issue. As a result of such a meeting, the employer may amend or extend any part of the programme.

## 8. Appeals Process

### 8.1 Management of Appeals

8.1.1 The Council reserve the right **not** to accept an appeal if

- The appeal letter is submitted outside specified timescales
- the grounds of appeal are not specified
- the ground of appeal do not comply with the grounds specified in the procedure

### 8.1.2 Non-attendance at Appeal Hearings

If an employee does not attend an appeal without good reason on the date specified in the letter, the appeal may be postponed for up to 5 working days. Failure to attend the next re-arranged appeal hearing may result in the appeal being heard in the absence of the employee.

If an employee is off sick, the manager will seek medical advice from Occupational Health to establish the employees ability to attend an appeal hearing, and or

participate in an appeal process in a different way, such as submitting all relevant documentation for consideration at the hearing.

### 8.1.3 Grievances during a Performance Management Process

The ACAS Code provides that where an employee, who is subject to a Performance Management process raises a grievance during the Performance Management process, the Performance Management process **may** be temporarily suspended, to deal with the grievance when:

- The grievance relates to a conflict of interest that the manager holding the formal performance management meeting is alleged to have.
- Bias is alleged in the conduct of the formal performance management meeting(s).
- Management has been selective in the evidence they have considered in the formal performance management process
- There is possible discrimination

***NB The Grievance Policy should not be used by an employee to make a complaint about a manager who is seeking to discuss or address issues of performance, where this is the sole reason for the complaint.***

***It is a fundamental part of a manager's role to ensure that the performance of employees within their teams or departments is at the required standards.***

***However, managers must be able to demonstrate there is a clear and legitimate justification for addressing performance issues and ensure that a fair and reasonable approach is taken when doing so and employees may use this Grievance Policy if they believe that this has not been done.***

## 8.2 Appeal against a Stage 1 warning

An appeal against Stage 1 should be sent in writing to a more senior manager (specified in the outcome letter) to that who issued the formal warning, and should set out the grounds of the appeal:

- whether the policy/ procedure has been applied correctly
- whether the employee has been treated fairly and consistently;
- If there are any issues of potential discrimination issues

The appeal should be sent within 10 working days of the employee receiving written confirmation of the formal warning.

An appeal hearing will be convened to consider the matter. At the hearing, the decision to issue the formal warning will be reviewed and the employee will be entitled to be represented by a trade union rep or workplace colleague. An HR representative will also be present to provide advice and guidance at the appeal hearing.

The outcome of the appeal will be confirmed to the employee in writing, explaining the grounds on which the decision was reached. The outcome of the appeal will be final. The outcomes may be as follows:

- Confirm the formal warning and discuss and implement revised Performance Improvement Plan
- Take out of performance management process
- Move back into the informal performance management process

### 8.3 Performance Management Dismissal Appeal Process

The conditions of service give employees the right of appeal against their dismissal. If they wish to exercise this right they may do so either individually or through their trade union by notifying the Chief Executive, Town Hall, Brighton Street, Wallasey, CH44 8ED, who will arrange for the appeal to be heard by a relevant Director or Assistant Director. Appeals must be submitted within 10 working days from the date the outcome letter is received.

The appeal letter should state the grounds for the appeal:

- whether the policy/ procedure has been applied correctly
- whether the employee has been treated fairly and consistently
- If there are any issues of potential discrimination issues

An appeal hearing will be arranged to consider the matter in accordance with the Dismissal Appeal Procedure. The employee will be entitled to be accompanied by a trade union representative or work colleague.

The result of the hearing will be either to confirm the decision made at the meeting, or choose an alternative outcome that was available to the appeal panel.

The outcome of the appeal will be confirmed to the employee in writing, explaining the grounds on which the decision was reached. The outcome of the appeal will be final.

- Take employee out of the formal performance management process
- Employee to remain in formal stage 1 process and extend period of Improvement
- Re-issue formal warning
- Consider redeployment
- Confirm Dismissal on grounds Capability

The outcome of the appeal will be confirmed to the employee in writing, within 10 working days of the appeal hearing, explaining the grounds on which the decision was reached. The outcome of the appeal will be final.

## 9. Equality Act 2010

When considering performance management, managers must be aware of the Equality Act 2010 and the potential implication on the employment of the employee

The Equality Act 2010 outlines the protected characteristics, which are:

- Disability
- Sex
- Race

- Age
- Gender Reassignment
- Sexual Orientation
- Religion and Belief
- Pregnancy and Maternity
- Marriage and Civil Partnership

***NB Managers should seek advice from HR if you have concerns on application of the Equality Act in relation to the performance management procedure***

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## Appendix 1

### Format for Performance Management Meetings

Manager chairing the meeting should:

1. introduce all parties present
2. Explain the purpose of the meeting
3. Formally outline the performance concerns to the employee (and their TU rep/work colleague)
4. Invite a response from the employee and/or their Trade Union representative/work Colleague, as to the possible reasons why their performance is poor/has dropped. such as lack of training, person/work issues affecting performance/ lack of motivation
5. Adjourn the meeting and consider the explanation and decide on outcome
6. Reconvene the meeting and inform the employee of the outcome or confirm that the decision will be given in writing.
7. The decision should be confirmed in writing with 10 days of the meeting.

**NB Where a Performance Improvement Plan is identified as part of the outcome of the meeting, arrangements should be made to discuss and implement the PIP with the employee and/or Trade Union representative/Work Colleague. In order to avoid delay, this should ideally be undertaken on the same day as the Performance Management Meeting**

## Appendix 2

### Format for Performance Management Appeal Meetings

Manager chairing the meeting must:

1. Introduce all parties present
2. Explain the purpose of the meeting
3. Formally outline the performance concerns to the employee (and their TU rep/work colleague)
4. Invite the manager, who made decision on formal action, to outline the reasons for the action i.e. issuing formal warning/ dismissal
5. Invite a response from the employee and or their TU Rep /work Colleagues, as to the possible reasons why their performance is poor/has dropped such as lack of training, personal/work issues affecting performance/ lack of motivation
6. Adjourn the meeting and consider the explanation and decide on outcome
7. Reconvene the meeting and inform the employee of the outcome or confirm that the decision will be given in writing.
8. The decision should be confirmed in writing with 10 days of the meeting.

**NB The decision of the appeal is final.**

## Appendix 2

## Template Performance Improvement Plan

## Performance Improvement Plan for: &lt;Name&gt;

<b>Description of the performance issues:</b>	<Enter a description of the nature of the underperformance.>
<b>Aim of the Performance Improvement Plan:</b>	<Enter the overall aim of the Performance Improvement Plan.>
<b>Plan Start Date:</b>	<Enter the date the Performance Improvement Plan commences.>
<b>Interim Plan Review Date:</b>	<Enter the interim review date of the Performance Improvement Plan.>
<b>Plan End Date:</b>	<Enter the date the Performance Improvement Plan finishes.>

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<b>Performance Targets/Outcomes expected</b> <i>Detail specific area where performance standards have not been met</i>	<b>Performance Concern(s)</b> <i>Detail specific dates and examples of where the standards have not been met</i>	<b>Expected Standard of Performance/Success Criteria</b> <i>Detail what is expected of the employee in terms of their performance i.e. what does 'good' look like</i>	<b>Agreed Improvement Actions</b> <i>Detail what actions need to be taken to meet expected standards of performance</i>	<b>Training/Support</b> <i>Detail what has been agreed in terms of support required to achieve the expected standard of performance</i>	<b>Interim Review Date</b>	<b>Review Notes</b> <i>Detail improvement made and any future review dates</i>	<b>Date to Achieve Expected Standard</b>
EXAMPLE: Organisational skills – difficulty organising / prioritising workload	EXAMPLE: Two deadlines missed and complaints received	EXAMPLE: Operate daily 'To do List' and a diary. Respond to emails within 3 working days	EXAMPLE: Training in Outlook tasks lists and calendar	EXAMPLE: To be reviewed in 4 weeks	Insert interim review date	EXAMPLE: Outlook training completed on DATE, daily to do lists	Final review date or extension of date to achieve

APPENDIX 2

			To shadow colleagues			being written. Responding to emails faster, but further improvement needed. Work shadowing to continue, review in 2 weeks	expected standard / additional support required?
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<b>This Performance Improvement Plan has been agreed by:</b>	<b>Name:</b>	<b>Signed:</b>	<b>Date:</b>
Manager:			
Employee			

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