

Public
Key Decision - No

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: HR Policy Update

Meeting/Date: Employment Committee – 22 November 2023

Executive Portfolio: Cllr Martin Hassall (MH)

Report by: Strategic HR Manager (NB)

Ward(s) affected: N/A

Executive Summary:

As noted in the November 2022 committee meeting HR are undertaking a programme of reviewing and refreshing our current policies to ensure that they are accurate, legally compliant and reflect current practice within HDC. We are therefore bringing the next set of policies we have reviewed to you.

The policies reviewed in this period are:

- IR35 Off Payroll working regulations; Status Determination Disagreement Process
- Disciplinary Policy and Procedure
- Sickness Absence and Attendance Policy
- Volunteer Policy
- Redundancy Policy

Summary of the changes:

Policy	Amendments
IR35 Off Payroll working regulations; Status Determination Disagreement Process	Review and update to contact details. Front cover and version control added
Disciplinary Policy and Procedure	Updated contents page, flow chart re suspensions. Changed Senior Management and Corporate Management to Leadership Team. Streamlined to reflect current practice and taken out counselling as this is done through EAP.
Sickness Absence and Attendance Policy	Date stamp refresh and some wording clarified

Volunteer Policy	Date stamp refresh
Redundancy Policy	Added Employee Representative Group and UNISON to 8.6 Date Stamp refresh

Full copies of the policies are included in the appendices for your information.

Recommendation(s):

The Committee is asked to consider and endorse the updated policies.

2.1 PURPOSE OF THE REPORT

- 1.1 The report draws Committee attention to the revised policies and that we are seeking endorsement to use the new format.

2.2 WHY IS THIS REPORT NECESSARY/BACKGROUND

- a. The main reason for these policies being updated is to ensure that we have legally compliant, up to date and in line with current processes policies that are accessible for all to use.
- b. It also ensures we have correct version control on the document to reflect any changes as we move forward.
- c. Finally, this will ensure that all policies going forward will reflect the correct employee representative groups.

2.3 KEY IMPACTS / RISKS

- a. Having up to date policies that are regularly reviewed ensure that we are legally compliant and that our processes are robust by following them, reducing any risks of potential future claims.

2.4 WHAT ACTIONS WILL BE TAKEN/TIMETABLE FOR IMPLEMENTATION

- a. The updated policies will replace the current policies on our employment policy section of the intranet.

2.5 LINK TO THE CORPORATE PLAN, STRATEGIC PRIORITIES AND/OR CORPORATE OBJECTIVES

[\(See Corporate Plan\)](#)

- a. To have an engaged and motivated workforce, as part of being a more efficient and effective council – through updated, clear employment policies.

2.6 CONSULTATION

- a. Senior Leadership Team, the Employee Representative Group and UNISON have been briefed and given the opportunity to review the proposed policy changes and support them.

2.7 REASONS FOR THE RECOMMENDED DECISIONS

- a. Adoption of the revised policies will ensure that HDC is legally compliant and has a clear trail of policy amendments.

2.8 LIST OF APPENDICES INCLUDED

Appendix 1 - IR35 Off Payroll working regulations; Status Determination Disagreement Process

Appendix 2 - Disciplinary Policy and Procedure

Appendix 3 - Sickness Absence and Attendance Policy

Appendix 4 - Volunteer Policy

Appendix 5 – Redundancy Policy

CONTACT OFFICER

Name/Job Title: Nicki Bane

Tel No: 01480 388422

Email: nicki.bane@huntingdonshire.gov.uk

Appendix 1.

**IR35 Off Payroll working regulations; Status
Determination Disagreement Process**

1:1

<u>Version Control</u>			
<u>Version</u>	<u>Author</u>	<u>Date</u>	<u>Changes</u>
1:1	Sam Sanderson	October 2023	Review and update to contact details. Front cover and version control added

Name of Policy	IR35 Off Payroll working regulations; Status Determination Disagreement Process
Person/posts responsible	Strategic HR Manager
Date approved/adopted	22 November 2023
Approved by	Employment Committee
Review Date	November 2025

IR35 Off Payroll working regulations; Status Determination Disagreement Process

The off payroll working regulations (commonly known as IR35 rules) require hirers to have a status determination disagreement process; and whenever contractors are assessed both a copy of their Status Determination along with confirmation that they have a right to dispute should they disagree; is provided to the contractor and agency (where applicable).

1.0 Statement

- 1.1 This disputes process intends to deal with complaints from individuals, and/or their agency, who disagree with the decision that their engagement falls within IR35. The handling of the disputes will be managed in line with the appropriate regulations.
- 1.2 HMRC consider the accurate outputs from the enhanced version of its CEST (Check Employment Status for Tax) tool for checking employment status decisions, meet the legislative requirements to be a valid Status Determination Statement (SDS). HDC will use the CEST tool as part of its consideration of SDS disputes.
- 1.2 Contractors or the agency have a right to make representations if they believe the status determination was incorrect, or if they believe the contractual terms and/or working practices have changed over time. Complaints can be received in writing, these complaints should be addressed to recruitment@huntingdonshire.gov.uk and should contain the reasons why they disagree, to fully consider the representations.
- 1.3 Representations can be made at any time. However, HDC will only consider and respond to representations made before the final chain payment is made in relation to that engagement.
- 1.5 The dispute will be reviewed by the Recruitment team or appropriate representative and a response in writing will be sent within 45 days of receipt of status determination (SD) disagreement, informing the contractor or the agency of the outcome of its considerations.
 - 1.5.1 If it is concluded that the original determination was correct, reasons why it believes the original determination was correct will be provided.
 - 1.5.2 If on review it is concluded that the original determination was incorrect, a revised status determination statement will be issued, with the date this new SD became applicable and state that the previous SD is withdrawn.
- 1.6 The outcome of the status determination process is final.

TEMPLATE LETTER

Dear []

Your appeal against status determination for IR35 purposes

I refer to your appeal against our determination of your status for the purposes of [your ongoing role as [details of individual's role] / the project you are working on for us from [date] until [date]].

In our original status determination of [date], we assessed that, for tax purposes, your engagement with us falls "inside IR35". In other words, we decided that you would have employee status if engaged directly by [name of organisation], meaning that we would be responsible for deducting tax and national insurance contributions (NICs) from payments we make to you and paying these deductions to HM Revenue & Customs (HMRC).

Decision to uphold your appeal

We have considered your representations and reached an alternative determination using HMRC's online CEST tool at www.gov.uk/guidance/check-employment-status-for-tax.

We have now reassessed that, for tax purposes, your engagement with us falls "outside IR35". In other words, we have decided that you are in fact an independent, self-employed contractor and we will pay your fees in full, without deducting tax and national insurance contributions (NICs) from payments made to you.

In particular, please note the following results from this alternative determination:

- [Set out here any particular outcomes that you would like to highlight or that would help to explain the new results to the individual. See [Notes](#) for examples of some of the issues that CEST may have identified.]

A copy of the report that we generated on [date] via the CEST tool is attached for your records. HMRC has said that it "will stand by this result as long as it reflects the actual or expected working practices".

Queries or concerns

If you have any queries or concerns, please do not hesitate to contact [me/name of individual/the HR department].

Yours sincerely

[]

Dear []

Your appeal against status determination for IR35 purposes

I refer to your appeal against our determination of your status for the purposes of [your ongoing role as [details of individual's role] / the project you are working on for us from [date] until [date]].

In our original status determination of [date], we assessed that, for tax purposes, your engagement with us falls "inside IR35".

Decision to reject your appeal

We have considered your representations and reached the same determination using HM Revenue & Customs' (HMRC's) online CEST tool at www.gov.uk/guidance/check-employment-status-for-tax.

We maintain our assessment that, for tax purposes, your engagement with us falls "inside IR35". In other words, we maintain that you would have employee status if engaged directly by us, meaning that we are responsible for deducting tax and national insurance contributions (NICs) from payments we make to you and paying these deductions to HM Revenue & Customs (HMRC).

In particular, please note the following results from this redetermination:

- [Set out here any particular outcomes that you would like to highlight or that would help to explain the results to the individual. See [Notes](#) for examples of some of the issues that CEST may have identified.]

A copy of the report that we generated on [date] via the CEST tool is attached for your records. HMRC has said that it "will stand by this result as long as it reflects the actual or expected working practices".

Queries or concerns

If you have any queries or concerns, please do not hesitate to contact [me/name of individual/the HR department].

Yours sincerely

[]

Disciplinary Policy and Procedure

Version 1.2

Version Control			
Version	Author	Date	Changes
1.1	Shaistha Shah	August 2022	Added front cover for version control – minor typos/sentence clarity, clarification that right to representation is not a legal right but allowed by HDC, changing staff council to ERG, title of First & final Written Warning changed to Final Written Warning, appeals against warning to be made within 7 calendar days, section added on EAP/Support Services and First Contact removed
1.2	Kiran Hans	October 2023	Updated contents page, flow chart re suspensions. Changed Senior Management and Corporate Management to Leadership Team. Streamlined to reflects current practice and taken out counselling as this is done through EAP.

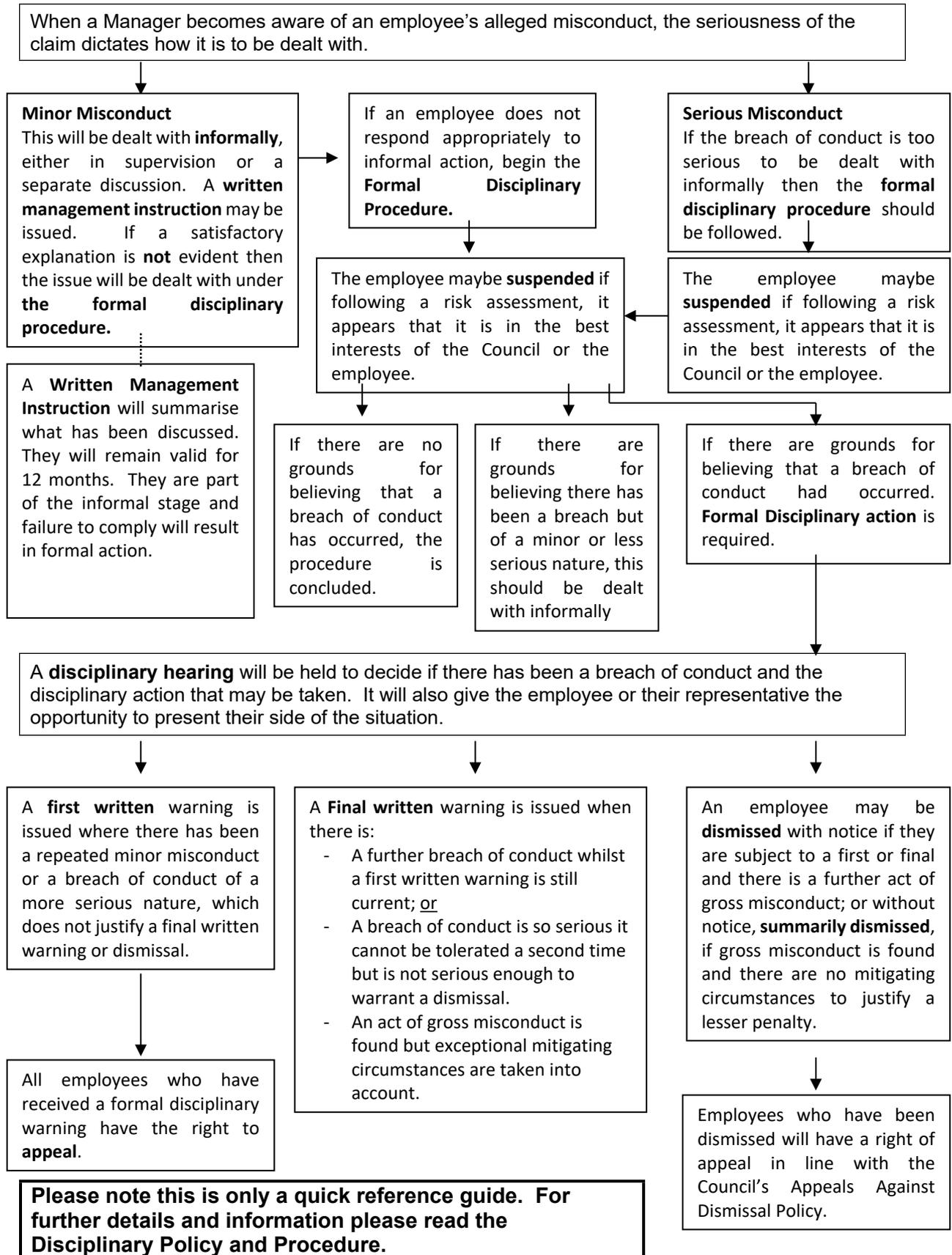
Name of Policy	Disciplinary Policy & Procedure
Person/posts responsible	Strategic HR Manager
Date approved/adopted	November 2023
Approved by	Employment Committee
Review Date	November 2025

Disciplinary Policy and Procedure

Index	Page
Disciplinary Procedure Quick Reference Flowchart	1
1. Policy Statement	2
2. Scope	2
3. Principles	2
4. Responsibilities	2
5. Informal Disciplinary Procedure	3
6. Formal Disciplinary Procedure	3
7. Suspension	4
8. Investigation	5
9. Right to be accompanied	6
10. Prior to the disciplinary hearing	6
11. Disciplinary hearing	7
12. Decision	8
13. Disciplinary action	8
14. Time limit for warnings	9
15. Appeals	9
16. Special circumstances	10
17. Consideration of expired disciplinary warnings	10
18. Links to other procedures	10
19. Records	11
20. Advice and support	11
Appendix 1 – Disciplinary Rules	12

A separate document is available on the HR Intranet page – Managers Disciplinary Policy and Procedure Toolkit.

Disciplinary Procedure Quick Reference Flowchart



• Policy Statement

- 1.1 Huntingdonshire District Council is committed to the effective management of conduct at work to ensure the efficient provision of services and the safety and well-being of employees and the general public.
- 1.2 The disciplinary procedure provides managers with a framework to address alleged breaches of expected standards of conduct as detailed in the Disciplinary Rules. See Appendix One for the Disciplinary Rules

• Scope

- 1.1 This policy applies to all Council employees, except Statutory Officers (Head of Paid Service, Section 151 Officer and Monitoring Officer), where separate arrangements apply as detailed in the Chief Officers constitution.
- 1.2 For employees subject to the probation period, this policy does not apply, unless in cases of gross misconduct or gross incompetence. Other incidents of misconduct that arise during the probation period will be addressed using the probation policy.

• Principles

- 1.3 This policy is based on the concepts of 'natural justice' meaning all staff will be treated fairly and without bias.

Employees can expect:

- To be informed of the complaint against them, as soon as is practicable, and to be given an opportunity to state their case before decisions are reached;
- No disciplinary action to be taken until reasonable efforts have been taken to establish the facts;
- To be notified of their right to be accompanied and/or represented at all formal stages of the process (except when being suspended);
- This procedure to be applied fairly in all instances and for all disciplinary matters to be heard in a calm and objective manner with the outcome being both fair and equitable.

• Responsibilities

4.1 **Managers must**

- Ensure all employees are made aware of the expected standards of behaviour as specified in the Disciplinary Rules.. To do this a manager must provide appropriate induction, supervision and training.
- Ensure all employees are made aware of any service specific rules or practices, for example sickness reporting deadlines for shift workers.
- Ensure service specific rules are reviewed regularly and any necessary changes communicated.

1.2 **Employees must**

- Comply with the Disciplinary Rules. Any local rules that apply to their role will be explained to the employee by his/her line manager.
- Ask for clarification if unsure what standards of conduct are expected.
- Co-operate fully in any disciplinary investigation.

• **Informal disciplinary procedure**

1.3 Cases of minor misconduct should be dealt with informally. A line manager should discuss the issue informally with the employee as it arises either in a supervision session or a separate discussion. This is part of the normal day-to-day management and does not form part of the formal disciplinary procedure.

The manager needs to set out the concerns, outline how the expected standards are not being met, and remind the employee of the standard of conduct required. The manager should explain that if a satisfactory explanation is not evident the issue is likely to be considered under the formal disciplinary procedure.

1.4 **Written management instructions**

To avoid any differences in interpretation the manager should consider issuing the employee with a written management instruction, this summarises what has been discussed. Management instructions do not constitute a formal written warning and are not part of the formal disciplinary procedure.

Management instructions should be set out in writing. An email is acceptable providing it clearly states that it is a written management instruction. All management instructions should state that the letter/email constitutes the informal stage of the disciplinary procedure and that failure to comply may result in formal disciplinary action.

The employee will be sent a copy of the management instruction and a copy should be kept on the employee's file. Copies of written management instructions or notes of informal discussions may be referred to in a subsequent disciplinary hearing, but only if they are relevant and current i.e., they have been written in the 12 months prior to an issue recurring.

• **Formal disciplinary procedure**

6.1 This will be applied where the employee does not respond appropriately to informal action or the line manager believes that a breach of conduct may have occurred that is too serious to be dealt with informally.

The table below outlines details about conducting disciplinary meetings in line with the procedure:

Employee Group	Investigations	Disciplinary Hearings	Appeal (excluding dismissal)	Appeal against dismissal
Grades A – F	The employee's Line Manager or	A Manager** or Senior Leadership Team	Senior Leadership Team	As outlined in the Appeals Against

	designated officer *			Dismissal Policy
Employee Group	Investigations	Disciplinary Hearings	Appeal (excluding dismissal)	Appeal against dismissal
Grades G-I	Member of Senior Leadership Team or designated officer *	Member of Corporate Leadership Team or designated officer*	Member of Corporate Leadership Team	As outlined in the Appeals Against Dismissal Policy
Grade SM	A member of Corporate Leadership Team or designated officer**	Member of Corporate Leadership Team	Appeals Panel as detailed in the Council's Constitution	Appeals Panel as detailed in the Council's Constitution
Grades AD & MD	As detailed in the Council's Constitution			

* A Designated Officer is an employee who will be requested to carry out investigations on behalf of a member of Senior Leadership Team

** A Manager defined in this instance is responsible for an activity and employees and reports directly to a member of Senior Leadership Team.

• Suspension

7.1 In certain situations, it will be necessary to suspend an employee from duty on full pay. A decision to suspend will be taken following appropriate consideration of the nature of the allegation, appropriate consideration of the risks involved, consideration of alternatives where appropriate and consultation with HR where possible. Suspension is not disciplinary action, but a precautionary measure designed to protect the Council's interests and the employee, whilst allowing time for a thorough investigation to be undertaken. Suspension is not, and will not be, seen as an assumption of guilt or a disciplinary sanction.

7.2 An employee will be suspended from work at the earliest opportunity in cases where:

- It is considered to be in the best interests of the Council and/or the employee for him/her not to be at work during an investigation;

7.3 An employee does not have the right to prior notice that he/she is to be suspended, to be represented/ accompanied when being suspended or to appeal against the decision to suspend.

7.4 The decision to suspend should be taken and carried out as follows:

Employee Group	Responsible for Suspension
Grades A – F	Member of Senior Leadership Team or Duty Officer, if out of hours
Grades G – I	Member of the Corporate Leadership Team or Duty Officer, if out of hours
Senior Leadership Team and Statutory Officers	Senior Officers Panel***

*** Senior Officers Panel is a member body as defined in the Constitution

With the exception of members of Senior Leadership Team and Statutory Officers, or in situations where the level of management is not available, suspension may be carried out by the most senior manager on duty at the site when the allegation is reported/comes to light, or by a member of the relevant service management team but only after the decision to suspend has been taken by a member of the Corporate or Senior Leadership Team or Duty Officer, if out of hours. Please see Manager's Toolkit for further details of how to contact the Duty Officer.

- 7.5 A suspension will only be carried out after careful consideration. Every effort will be made to conduct an investigation as soon as possible and minimise the length of the suspension. The details of the suspension will be confirmed in writing within 7 calendar days of the suspension meeting. Further information on suspensions is available in the toolkit.
- 7.6 If the matter is subject to a police investigation, the Council reserves the right to continue with the disciplinary process and not await the outcome of the police investigation.

• Investigation

The investigation will be confined to establishing the facts of the case with the employee concerned and other persons as felt appropriate. The purpose of the investigations is to gather information to help substantiate those facts and ultimately to determine whether there are sufficient grounds to hold a disciplinary hearing.

8.1 Investigation process

- 8.1.1 The investigation should be carried out by the employee's line manager or another Manager or Designated Officer (as outlined in section 6.1). Written records of the investigation will be kept for later reference.
- 8.1.2 The employee will be given at least 24 hours verbal notice of an investigation meeting and will be informed of the allegations against him/her. Although there is no legal right to representation at the investigation stage, HDC allows employees to be accompanied by a member of the Employee Representative Group (ERG), a Union representative or work colleague. In most cases the investigation meeting will go ahead if a representative is unavailable. The investigation is not a disciplinary hearing. In certain cases, there may have to be more than one investigation, e.g., to follow up on evidence obtained from other witnesses or to clarify certain points.
- 8.1.3 Employees are required to attend investigations and hearings and to co-operate with the fact finding process.
- 8.1.4 The investigating manager may be assisted by a member of the HR team in an investigation. In certain cases, more than one person may need to assist the investigating manager e.g., financial, legal, IT cases where specialist knowledge is required.
- 8.1.5 All parties will ensure that confidentiality is maintained at all times, and that the name of the employee involved will remain anonymous wherever possible. Any breaches of confidentiality may lead to disciplinary action.

8.1.6 Witnesses may be employees or non-employees. In exceptional circumstances, with the prior agreement of the investigation manager, a witness may be accompanied by a member of the ERG, Union representative or work colleague who will provide moral support only. An employee is responsible for arranging his/her own witnesses and meeting any associated costs.

8.2 Outcome of investigation

8.2.1 The investigating manager may conclude, after consultation with a member of the HR team, that there are:

- No grounds for believing that a breach of conduct has occurred, therefore the disciplinary procedure will be concluded; OR
- Grounds for believing that a breach of conduct has occurred but that it is of a minor or less serious nature than originally believed, in which case the formal disciplinary process will end and the matter dealt with by informal action, i.e., day to day management and/or by issuing a written management instruction; OR
- Grounds for believing that a breach of conduct has occurred and that formal disciplinary action may be necessary, therefore a disciplinary hearing should be arranged.

8.2.2 Guidance on how to undertake an investigation is available in the toolkit.

• Right to be accompanied

9.1 The employee has the right to be accompanied and/or represented at any stage of the formal disciplinary procedure, except when being suspended. Employees may be accompanied by a member of the ERG, a trade union representative, or a work colleague of their choosing. The employee must decide whether their companion will act as a representative or if he/she will act as a companion.

9.2 A representative is allowed to address the hearing to make the employee's case, sum up that case and respond on the employee's behalf. He/she can also confer with the employee during the hearing. However, a representative is not permitted to answer questions on behalf of the employee and must not prevent the employer from explaining their case or prevent any party making their contribution

9.3 The choice of companion should be reasonable given the circumstances of the case - it would not be reasonable to be accompanied by a colleague whose presence would prejudice the hearing or who might have a conflict of interest and this will not be permitted. It is the responsibility of the employee to arrange his/her companion and to meet any associated costs.

9.4 At least 4 calendar days before the hearing, the employee should inform HR of who he/she has chosen as a representative/companion.

• Prior to the disciplinary hearing

10.1 The employee will be given a minimum of 10 calendar days written notice of the hearing. This may be varied by mutual agreement but must not be less than 7 calendar days.

- 10.1.1 Details of any evidence to be relied upon/witnesses to be called will be sent to the employee.
- 10.1.2 The employee has the right to refer to written information and call witnesses at the hearing, details must be submitted by the employee at least four calendar days before the hearing.

• **Disciplinary hearing**

- 1.5 Process: The disciplinary hearing will be conducted by an authorised manager who has not played any part in the investigation. The chair will be supported by a member of the HR team.
- 1.6 Witnesses: Witnesses may be employees or non-employees. In exceptional circumstances, with the prior agreement of the chair, a witness may be accompanied by an independent person of his/her choice who will provide moral support only. An employee is responsible for arranging his/her own witnesses and meeting any associated costs
- 1.7 New evidence: If new evidence (written information and/or witnesses) is introduced at the disciplinary hearing the reasons why the details were not submitted in advance of the hearing must be explained. If new evidence is presented, the chair conducting the hearing will take a view on whether to allow it and an adjournment may be necessary to allow time for consideration and/or further investigation.
- 11.4 Employees are expected to attend a disciplinary hearing. If the employee is unable to attend the disciplinary hearing, he/she must inform the relevant investigating manager.
- 11.4.1 Where an employee has unavoidably been unable to attend the disciplinary hearing the employee will be given reasonable notice of a second hearing date. Hearings will also be rearranged in situations where the reason for the failure to attend was unforeseeable e.g., sudden illness.
- 11.4.2 If the employee is unable to attend the reconvened hearing it will normally proceed in his/her absence but with his/her representative being given the opportunity to present the employee's case on his/her behalf. In such cases it will also be possible for the chair to accept for consideration a written statement from the employee or his/her representative.
- 11.4.3 The only time when the above process will not apply is where an employee confirms to the investigating manager that he/she has no intention of attending any disciplinary hearing. In this situation, the hearing will usually proceed in the employee's absence.
- 11.4.4 If the employee's representative/companion cannot attend on a proposed date a further date, no more than 10 calendar days after the date originally proposed will be suggested. This 10 calendar day time limit may be extended by mutual agreement. A hearing will usually only be rescheduled once.

• **Decision**

- 1.8 The chair of the hearing will consider all of the evidence presented and then decide if there has been:

- No breach of conduct and that the disciplinary procedure should be concluded; OR
- A breach of conduct, but it is not serious enough to warrant formal disciplinary action and/or mitigating circumstances have been taken into account and it can be dealt with appropriately by informal action, e.g., by day to day management and/or by issuing written management instructions; OR
- A breach of conduct which is sufficiently serious to warrant formal disciplinary action.

12.2 The decision of the Chair conducting the hearing will normally be given to the employee verbally at the end of the hearing – he/she will confirm the outcome of the disciplinary hearing in writing within 7 calendar days of the hearing.

<ul style="list-style-type: none"> • Disciplinary action
--

1.9 There are three levels of disciplinary action. The level of disciplinary action issued will depend on the seriousness of the misconduct and whether the employee is subject to a current warning for misconduct.

1.10 **First written warning**

Issued where there has been a repeated minor misconduct OR a breach of conduct of a more serious nature, which does not justify a final written warning or dismissal.

1.11 **Final written warning**

Issued where:

- There is a further breach of conduct whilst a first written warning is still current; OR
- A breach of conduct is found to be of such a serious nature that it cannot be tolerated a second time, but is not serious enough to be categorised as gross misconduct; OR
- An act of gross misconduct is found, but exceptional mitigating circumstances are taken into account

1.12 **Dismissal**

An employee may be dismissed:

- With notice if he/she is subject to a final or first written warning and a further act of misconduct is found (contractual notice may be paid in lieu); OR
- Without notice (summarily) if gross misconduct is found and there are no mitigating circumstances to justify a lesser penalty.

13.4.1 Where an employee has been dismissed from a post working with children or vulnerable adults, the dismissal letter will also confirm whether HR will convey the details of the employee's dismissal to the appropriate authorities, e.g., for possible inclusion on the Children's or Adults Barred Lists as appropriate, or other statutory bodies such as Health and Care Professions Council. The decision to convey information will be made after full consideration of the facts.

1.13 **Other action**

HDC reserve the right to take other action in conjunction with formal disciplinary action, e.g., to transfer the employee to another post. This must be in consultation with a member of the HR team to ensure that any action taken is reasonable and will be reflected in the disciplinary outcome letter.

• **Time limits for warnings**

1.14 Written Management Instructions do not constitute a formal written warning and are not part of the formal disciplinary procedure. They are relevant and current for a period of 12 months.

14.1.1 Copies of written management instructions or notes of informal discussions may be referred to in a subsequent disciplinary hearing, but only if they are relevant and current i.e., they have been written in the 12 months prior to an issue recurring.

14.2 Formal warnings (first and final written warnings) remain current for 12 months. Any disciplinary action taken should be disregarded after the specified period of satisfactory conduct or performance.

14.2.1 There may be occasions where an employee's conduct is satisfactory throughout the period the warning is in force, only to lapse very soon thereafter. Where a pattern emerges and/or there is evidence of abuse, the employee's disciplinary record should be borne in mind.

14.3 If an employee is absent from work for an extended period the time limit for warnings will be extended by the period of absence.

• **Appeals**

15.1 All employees who have received a formal disciplinary warning have a right of appeal to the relevant person as detailed in the outcome letter. This appeal must be made in writing within 7 calendar days after receiving the written outcome of the disciplinary hearing.

15.2 The appeal must state the grounds for appeal i.e., the basis on which they say the result of the disciplinary was wrong or that the sanction as a result was inappropriate.

15.3 As far as is reasonably practicable, an appeal meeting will be held by the next level of management not involved in the original hearing, within 14 calendar days or a mutually agreed date following the receipt of the appeal in writing.

15.4 At the appeal hearing the grounds of appeal will be discussed and the manager hearing the appeal will make a decision based on all representations, together with any subsequent facts that have come to light.

15.5 The person dealing with the appeal has the authority to:

- Uphold the appeal, i.e., to find the case not proven;
- Issue a lesser level of disciplinary action; or
- Dismiss the appeal, i.e., the original disciplinary warning remains in force.

- 15.6 Employees who have been dismissed will have a right of appeal in line with the Appeals against Dismissal Policy.

• **Special circumstances**

1.15 Some disciplinary issues need to be treated in a particular way, for example:

- AWOL (Absent without authorised leave)
- Internet/IT cases
- Financial irregularities or potential fraud
- Child protection cases
- Allegations relating to vulnerable adults
- Cases involving a partner organisation
- Where several employees are involved
- Multiple contracts
- Offences outside of work

Further guidance can be found in the Managers' Disciplinary Toolkit. In all these cases advice should be sought from the HR Team.

• **Consideration of expired disciplinary warnings**

17.1 All written warnings expire after 12 months; with the exception of employees who are on long term absence for the period of the warning (see section 14.3). If a further breach of conduct occurs while a disciplinary warning is still current the disciplinary procedure may be escalated to the next stage.

• **Links to other procedures**

- 1.1 Work performance: It is sometimes difficult to distinguish between misconduct and work performance issues. Cases of misconduct are dealt with under the disciplinary procedure, and cases of genuine lack of capability should be dealt with under the Managing Employee Performance Policy. If it is not clear whether an issue is one of conduct or capability, the investigation process should establish this. Managers may also wish to discuss this with a member of the HR team.
- 1.2 Ill health: The disciplinary procedure and sickness absence policies can run in parallel i.e., one does not take precedence over the other. Advice should be sought from the HR Team in these situations.
- 1.3 Grievance: If an employee raises a grievance during the disciplinary process, HR advice should be sought to determine whether the disciplinary process should be temporarily suspended in order to deal with the grievance. However, in the majority of situations, the grievance will not postpone any disciplinary action and therefore it may be appropriate to deal with both issues concurrently.

• **Records**

19.1 The HR Team will maintain on an employee's personal file brief details of any disciplinary investigation and the letter confirming any formal disciplinary action. They will also keep on file a record of any management instructions issued.

• **Advice and Support**

- 20.1 The Disciplinary Toolkit will support managers to proactively manage conduct issues. Additional advice for managers is available from the HR Team.
- 20.2.1 There is also support available through an Employee Assistance Programme, (EAP) service to ensure the welfare and performance of an employee is dealt with in a supportive and positive manner. If you need further information on the Counselling or support service please contact the HR Team. The details of your referral will remain confidential to the HR team.
- 20.3 It may be appropriate for certain matters to be dealt with by way of mediation, depending on the nature of the disciplinary. This involves the appointment of a third-party mediator arranged by the HR Team, after the investigating manager has discussed the disciplinary matter with all those involved and sought to facilitate an outcome. Mediation will only be used if all parties involved in the disciplinary agree.
- 20.4 Should any aspect of the disciplinary process cause difficulty because of a disability, language barriers or other difficulties, the Council will aim to support with the necessary help or assistance. Please contact the HR Team if additional support is required.

Appendix 1

Disciplinary Rules

1.0 Summary

- 1.1 The Council has Key Values and Behaviours in which all employees should adhere to. In circumstances where these are breached disciplinary action will be taken. The following rules are set out to guide employees on the areas deemed as misconduct or gross misconduct.
- 1.2 The lists of behaviour that may be seen as misconduct or gross misconduct set out below are neither exclusive nor exhaustive, there may be other matters of a similar nature which will constitute either misconduct or gross misconduct. There may be occasions where matters listed as misconduct may be regarded as gross misconduct depending upon the nature and seniority of the post or the frequency, impact or severity of the breach.

2.0 Misconduct

- 2.1 Misconduct is of a degree less serious than that warranting dismissal on the first occasion or without previous warning but that will nevertheless lead to dismissal if persistent. Some serious acts of misconduct might justify omitting the first stage (management instruction) moving directly to issuing a written/final warning in the first instance if there is not a satisfactory explanation. Only when the disciplinary procedure has been exhausted will misconduct lead to dismissal unless there are mitigating circumstances.
- 2.2 Matters that the Council views as amounting to misconduct include (but are not limited to):
- 2.2.1 Absenteeism and Lateness:
- Failure to remain at work during working hours without permission or sufficient cause for absence.
 - Frequent failure to attend work punctually (or in accordance with the flexitime scheme, where appropriate).
 - Failure to notify your Line Manager immediately or as soon as reasonably practicable, when absent due to sickness.
 - Failure to provide medical certificates for absence longer than seven days or when requested by management.
 - Failure to comply with the rules of the Sickness Absence Policy.
- 2.2.2 Neglect of duty:
- Failure to wear protective clothing, use protective equipment or adopt safe working practices where required to by the law or management.
 - Negligent use of Council property in such a way as is likely to cause serious damage, loss or harm.
 - Failure to discharge, without sufficient cause, the obligations which the statute of the contract of employment places on the employee.
 - Insubordination.
 - Failure to follow the Council's agreed policies and procedures (e.g., accounting instructions).
 - Failure to work to acceptable standards of conduct or performance.

- Neglect of health i.e., when an employee, without sufficient cause, neglects to carry out any instructions of a medical officer appointed by the Council or, while absent from duty on account of sickness commits any act or adopts any conduct calculated to delay a return to duty.

2.2.3 Making unauthorised use of the Council's communication network and electronic systems.

2.2.4 Smoking in a smoke free premises or vehicle (as defined by legislation).

2.2.5 Failure to report any loss or damage to any property issued to or used by the employee or to notify the appropriate officer of accidents occurring while driving a Council maintained vehicle.

2.2.6 Abusive behaviour and/or offensive language which arises directly out of or in connection with work and which is directed at Councillors, Senior Officers, managers, colleagues or members of the public.

2.2.7 Victimisation of other employees in the course of employment.

2.2.8 Undertaking additional employment outside normal working hours which would be in conflict with the functions of the Council or detrimental to the work to be performed as an employee of the Council.

2.2.9 Knowingly aiding and abetting an act of misconduct.

3.0 Gross Misconduct

3.1 Rules under the heading Gross Misconduct are matters that will be viewed very seriously by the Council and, if the allegation(s) are found on the balance of probability proven, may lead to dismissal.

3.2 Gross misconduct is the commission of an act of such a serious and fundamental nature which renders it inadvisable for an employee to be allowed to remain at work. If an employee is suspected of committing an act of gross misconduct, suspension from work on full pay pending investigation will be considered.

3.3 If after full investigation it is decided that an employee has committed an act of gross misconduct or if the act is admitted by an employee, the Council will be entitled to terminate their contract of employment without notice or pay in lieu of notice unless there are mitigating circumstances.

3.4 Matters that the Council views as amounting to gross misconduct include (but are not limited to):

3.4.1 Dishonesty associated with the place of work or job being undertaken:

- Theft of Council, Council Contractor, client or employee property or deliberate damage to such property.
- Deliberate falsification of timesheets, expense claims or other records for financial gain or to gain advantage to others.
- Demanding or accepting monies or other consideration as a bribe for the use of Council property, provision of Council services, placing of Council orders/contracts or the showing of favour on behalf of the Council.

- Acceptance of any valuable gift or reward, other than the proper remuneration for the performance of official duties unless specifically approved by the Monitoring Officer or authorised representative or regarded as appropriate in the circumstances.
 - Falsification of qualifications which are a stated requirement of employment or which results in financial gain.
 - Misuse of the Council's property or the Council's name or bringing the name into serious disrepute.
- 3.4.2 Deliberate refusal to carry out reasonable, lawful and safe instructions or the normal agreed duties of an employee's job.
- 3.4.3 Gross negligence in failing to attend to, or carry out, the normal duties of the job.
- 3.4.4 Serious breach of the Council's rules:
- Wilful serious infringements of safety rules or other wilfully negligent actions which seriously place the health and safety of the employee, other employees or other persons / public in danger.
 - Driving a Council vehicle whilst on Council business in a reckless manner leading to otherwise avoidable serious injury or death of other persons.
 - Breaches of the Council's IT, E-Mail and Internet policies and procedures.
 - Breaches of the Code of Procurement and Financial Management rules.
 - Breaches of the Drug and Alcohol Policy.
- 3.4.5 Wilful unauthorised disclosure or misuse of information classified as strictly confidential which could be harmful to the Council, its clients or employees who in the course of duty have access to information e.g., personal information on employees/failure to safeguard confidential information.
- 3.4.6 Acts of violence whether verbal, physical or vandalism in the course of employment causing:
- Malicious damage to Council, Council contractor, client or employee property.
 - Use of physical force against Council members, employees or members of the public other than in self-defence.
 - Abusive or threatening behaviour or use of offensive language directed at another employee, Council Member or a member of the public.
- 3.4.7 Sexual misconduct at work whether criminal or not.
- 3.4.8 Off duty misconduct – the conviction for, or admission of offences that will have a direct bearing on the employee's ability to carry out their duties.
- 3.4.9 Knowingly aiding and abetting an act of gross misconduct.
- 3.4.10 Unlawful discrimination against other employees or members of the public in the course of employment on the grounds of sex, sexual orientation, race, age, disability, religion or belief, including any behaviour that may be classed as bullying and harassment, against any person whilst at work.
- 3.4.11 The displaying, circulation or copying of material deemed to be offensive, either electronically or otherwise.

- 3.4.12 Persistent unauthorised absence from work, including frequent lateness without acceptable explanation or persistent failure to comply with the Council's Policies.
- 3.4.13 Serious insubordination.

Appendix 3

Sickness Absence and Attendance Policy

Version 1.2

Version Control			
<u>Version</u>	<u>Author</u>	<u>Date</u>	<u>Changes</u>
1.1	Kiran Hans	September 2022	Date stamp Clarified working re OH - using where required
1.2	Kiran Hans	November 2023	Date stamp, clarification on some wording.

Name of Policy	Sickness Absence and Attendance Policy
Person/posts responsible	Strategic HR Manager
Date approved/adopted	15 th September 2016 / adopted 01 November 2016 amended 8 March 2019 to remove reference to using Action Improvement Plan form. Reviewed 22 nd November 2022/adopted 22 November 2022 Reviewed October 2023
Approved by	Employment Committee
Review Date	November 2025

Sickness Absence and Attendance

1.0 Introduction

Huntingdonshire District Council is committed to improving the health, well-being and attendance of all employees. We aim to assist all employees to remain fit to work and provide support to help those employees experiencing health issues, which impact on their ability to work. In doing so, we aim to improve the long term health and productivity of Huntingdonshire District Council. We value the contribution our employees make to our success in providing services to the local community.

2.0 Absence Triggers

Short-Term and Intermittent absence - definition

- Intermittent absences are periods of sickness absence that are not continuous and are normally short-term i.e., less than 28 calendar days
- Short term absence can be self-certified and/ or covered by a medical statement, depending on the length of each occurrence, and may be for unrelated medical causes

Long term absence - definition

- Long term absence is defined as continuous sickness absence lasting, or expected to last, for more than 28 calendar days

Triggers

Absence must be reviewed when any of the following triggers are reached:

- 8 working days in a 12 month rolling period
- 3 or more instances in a 3 month rolling period (including half days)
- 6 or more instances in a 12 month rolling period (including half days)
- 28 calendar days absence
- patterns of absence causing concern e.g., repeat days of the week

3.0 Stages in the policy

There are three stages in the policy designed to support employees to improve their attendance whilst balancing the needs of the service and teams.

Action Stage One

Where an absence trigger has been met, this generally indicates that the level and impact of absence is of concern, therefore an Action Stage One Absence Review meeting will be held. The meeting will explore the absence record and help identify whether any specific support may be required.

The purpose of the Action Stage One Absence Review meeting is to positively and constructively discuss the absence and its impact and help the employee improve and sustain attendance to expected standards.

Potential outcomes following Action Stage One:

- Attendance has improved to the required level so no further action

taken. If an absence trigger is reached in the next 12 months, this will usually be dealt with at an Action Stage Two meeting.

- Attendance has not improved to the required level and the employee moves to Action Stage Two.

Please see Sickness Absences and Attendance Procedure for further details.

Action Stage Two

If the Action Stage One process has not been successful then an Action Stage Two meeting will be held. Before moving to Action Stage Two, managers will have taken sufficient reasonable action and provided support for the employee e.g., where required seek occupational health advice, explore reasonable adjustments and monitor absence etc.

Potential outcomes following Action Stage Two:

- Attendance has improved to the required level so no further action taken. If an absence trigger is reached in the next 12 months, this will usually be dealt with at an Action Stage Three meeting.
- Attendance has not improved to the required level and the employee moves to Action Stage Three

Please see Sickness Absence and Attendance Procedure for further details.

Action Stage Three

If the Action Stage Two process has not been successful then an Action Stage Three meeting will be held. Again, before moving to Action Stage Three a manager needs to evidence that sufficient reasonable action and support has been provided.

Potential outcomes of Action Stage Three:

- Attendance has improved to the required level so no further action taken. If an absence trigger is reached again in the next 12 months, this will usually be dealt with at a further Action Stage Three meeting.
- Attendance has not improved to the required level, the employee may be dismissed or referred to a further Action Stage Two or Action Stage Three meeting as determined by the facts of the case.

In exceptional circumstances it is possible to move from Action Stage One to Action Stage Three.

Please see Sickness Absence and Attendance Procedure for further details (18.1).

Volunteer Policy

Version 1.2

<u>Version Control</u>			
<u>Version</u>	<u>Author</u>	<u>Date</u>	<u>Changes</u>
1.1	Nicki Bane	August 2022	Version control added
1.2	Kiran Hans	October 2023	Review – only change is date stamp

Name of Policy	Volunteer Policy
Person/posts responsible	Strategic HR Manager
Date approved/adopted	22 November 2023
Approved by	Employee Committee
Review Date	November 2025

1.0 Introduction

The Council seeks and recruits a significant number of volunteers who wish to gain experience or provide practical assistance across all services provided by Huntingdonshire District Council. This policy recognises the valuable contribution of our volunteers and provides consistent standards for volunteering opportunities with the Council.

The Council recognises that by involving volunteers we can improve our engagement with and understanding of the communities we serve. It is acknowledged that volunteers can offer fresh perspectives on Council service delivery.

There are a range of reasons why people volunteer. Volunteering can be seen as a way to improve employment prospects and gain new skills, knowledge and experience. People may see volunteering as a way to increase their self-esteem, to meet new people and to get to know the local community. Many people volunteer because they want to make a difference to the lives of others and the community that they live in.

2.0 Principles

The Council will undertake the recruitment and supervision of volunteers in accordance with the following principles:

- ensuring the safety of service users and volunteers
- ensuring appropriate insurance cover is in place for all volunteers
- treating volunteers fairly and consistently
- supporting and developing the volunteer's role
- engaging volunteers to complement the work of paid employees. The Council will not engage a volunteer as a like for like replacement of a paid employee.

Volunteers will be distinct from paid employees in the following ways:

- A volunteer will be provided with a role description, not a job description
- Volunteers are encouraged to commit to a certain number of hours or duration of placement, but they are not obliged to attend
- Volunteers are not bound by all Council staff policies but are expected to carry out their duties in a professional manner. They are specifically required to comply with the following policies; Bullying and Harassment, Drug and Alcohol, Social Media, Health and Safety, Child Safeguarding and Welfare, and Data Protection.
- Volunteers will not receive any form of payment or benefit in kind

Volunteers will undergo the following:

- A recruitment interview
- An induction, including any Health and Safety related information
- A DBS check (if necessary)
- Seeking of two references
- A check of their right to work in the UK
- Completing an application form
- Signing a Volunteer Agreement.

Redundancy Policy

Version 1.2

Version Control			
Version	Author	Date	Changes
1.1	Lisa Morris /Shaistha Shah	August 2022	Added front cover for version control - Minor typos/ sentence clarity, Staff Council change to ERG, removed section on associated policies, clarification around Local Government Modification Order and commencement of employment within 4 weeks.
1.2	Kiran Hans	October 2023	Added Employee Representative Group and UNISON to 8.6

Name of Policy	Redundancy Policy
Person/posts responsible	Strategic HR Manager
Date approved/adopted	November 2023
Approved by	Employment Committee
Review Date	November 2025

Redundancy Policy

1.0 Policy Statement

- 1.1 Huntingdonshire District Council (HDC) strives to create and maintain a working environment that is conducive to the achievement of organisational, team and individual objectives and promotes effective and harmonious working conditions.
- 1.2 It is the policy of HDC to provide, as far as possible, security of employment to avoid the need for compulsory redundancies through careful forward planning. However, it is recognised that the needs of the business may change from time to time and there may be circumstances that affect security of employment and this may result in redundancies.
- 1.3 HDC is committed to early and meaningful consultation with affected employees both individually and through the Employee Representative Group (ERG) and UNISON.

2.0 Employees Covered by this Policy

- 2.1 The Redundancy Policy applies to all those employed on Huntingdonshire District Council's terms and conditions of employment.

4.0 Objectives

- 4.1 This policy aims to deal with all aspects of redundancy and is to be followed where a redundancy situation or the possibility of redundancy arises. The objectives of this policy are to:
 - ⇒ provide a transparent framework for which HDC can make necessary staffing adjustments within the given economic climate,
 - ⇒ provide guidance and a process for employees to raise these concerns internally and receive feedback on actions taken,
 - ⇒ reassure employees that they will be protected from victimisation, subsequent discrimination or disadvantage for raising concerns.

A glossary of terms can be found in Section 19.

5.0 Responsibilities

- 5.1 Senior Leadership Team are responsible for ensuring that all aspects of the policy and procedure are correctly applied and HR are informed at the first available opportunity where proposals may result in redundancy.

- 5.2 HR are able to provide advice, support and signposting of training as appropriate to Chief Officers, Heads of Service, Managers and employees involved in situations where the risk of a role, or roles, being made redundant has been identified.

6.0 What is Redundancy?

- 6.1 Redundancy is a potentially fair reason for dismissing an employee. A redundancy dismissal arises if:

HDC ceases or intends to cease:

- ⇒ providing a service; or
- ⇒ providing a service at a particular place where an employee is contracted to work;

OR

The need has ceased or diminished, or is expected to cease or diminish:

- ⇒ for employees to carry out work of a particular kind; or
- ⇒ to carry out work of a particular kind at a particular place.

There are four main factors that need to be considered, when deciding if a redundancy situation exists:

- ⇒ the place of work;
- ⇒ the number of employees undertaking work;
- ⇒ a reduction in hours; and/or
- ⇒ a change in the kind of work.

If there is a change in any of these factors or a combination of these factors it is likely that a redundancy situation exists, and further HR advice should be sought.

7.0 Setting Redundancy in Context

- 7.1 The need to alter the number of employees required within the Council can arise from:

- ⇒ a change in the way a service is provided;
- ⇒ a restructuring; or
- ⇒ a need to make budget savings.

Early planning and consultation with employees, ERG and UNISON by managers can often minimise or eliminate the need for redundancy. For example:

- ⇒ the fact that it may be necessary to delete a post from the establishment does not automatically mean that the post-holder is redundant. Managers should always look at contractual flexibility first; and
- ⇒ many changes will create developmental opportunities for staff or will allow some increase in the flexibility of work. In these cases, many employees

may be happy to agree changes to their working arrangements and contracts of employment.

- 7.2 However, if the potential for redundancy is identified, it is important to recognise the effect this may have on employees. It is particularly important, therefore to handle redundancy and redeployment discussions with care and consideration; and to take all reasonable steps to ensure that decisions about redundancy are consistent and fair, and seen to be so.

8.0 Consultation Process

8.1 The law requires collective consultation to take place where the number of redundancies being contemplated at the establishment concerned is 20 or more and these are planned to take effect within 90 days or less. In these circumstances HDC will always consult with Employee Representative Group and UNISON.

8.2 Within HDC 'the establishment' is likely to mean the whole of the Council. HR advice should therefore be sought as soon as the possibility of redundancies is considered, so HR can advise on any other redundancies across HDC and determine the length of consultation needed.

8.3 The aim of consultation will be to reach agreement on mitigating the consequences of any redundancies, for example:

- ⇒ methods of seeking alternative employment for those staff at risk of redundancy;
- ⇒ retraining and development opportunities; and
- ⇒ support services including outplacement and counselling.

8.4 In some circumstances consultation will also establish the application of selection criteria where compulsory redundancy as a course of action is unavoidable.

8.5 Consultation will be undertaken with the Employee Representative Group and UNISON prior to the launch of the formal consultation period.

8.6 The Council will disclose in writing to employees, Employee Representative Group and UNISON:-

- ⇒ the business reason for the proposals;
- ⇒ the number and description of employees it is proposing to dismiss as redundant;
- ⇒ the proposed method of selecting the employees and carrying out the redundancies, including the period over which the dismissals will take effect; and
- ⇒ steps already taken to mitigate the need for redundancies.

- 8.7 Individual employees may put forward their views through their representatives or direct to the managers involved. Employees may discuss any aspect of the proposals in confidence, if they wish, with representatives. HR will be available to provide advice on the process to be followed. If required, and where feasible, concerns will be conveyed as part of the formal response to the consultation while maintaining confidentiality.
- 8.8 HDC will consult with employees in any redundancy situation. No notice of compulsory redundancy will be issued prior to completion of the consultation process and consultation will commence at the earliest opportunity but no later than:
- ⇒ at least 30 days before the first dismissal takes effect if 20 – 99 employees are to be made redundant at HDC over a period of 90 days or less, or
 - ⇒ at least 45 days before the first dismissal takes effect if 100 or more employees are to be made redundant at HDC over a period of 90 days or less.
- 8.9 Employees may choose to be accompanied to any consultation meeting by an Employee Representative Group member, a Union representative or a work colleague.
- 8.10 Employees may be **at risk of redundancy** when employers have commenced with a period of formal consultation on a business proposal that has implications on employee numbers, structure, or the location in which work is currently carried out. Once at risk of redundancy, employees are deemed to have 'redeployee status'.
- 8.11 Employees are **under notice of redundancy** when they have received written notification that their employment with HDC will end on a specified date and their employment will terminate due to redundancy.

9.0 Redundancy Mitigation

- 9.1 HDC will take action to ensure that the risk of redundancy is reduced and early planning and consultation with the Employee Representative Group and UNISON is in place to minimise or prevent the need for redundancy, where practicable we will consider the following:
- ⇒ changes that create developmental opportunities for employees or will allow some increase in the flexibility of work. In these circumstances employees may be happy to agree to changes to their working arrangements and contracts of employment, retraining and seeking alternative employment with redeployee status.
 - ⇒ suspension of recruitment within the affected area and areas of potential redeployment,

- ⇒ reducing employee numbers by natural turnover, retirement, early retirement or reducing hours,
- ⇒ reducing or eliminating any overtime undertaken,
- ⇒ reviewing the employment of sub-contractors and agency staff in the area at risk and those of potential redeployment, and
- ⇒ seeking applicants for voluntary redundancy where appropriate

10.0 Suitable Alternative Employment

- 10.1 When HDC has embarked on the redundancy consultation process, suitable alternative employment will be considered to reduce the effect. HDC will take all reasonable steps to support employees to seek alternative employment where they are at risk of redundancy.
- 10.2 Where HDC has identified redundancies that may arise from a restructure within a service, roles in the reviewed structure may be considered as, in the first instance, 'ring fenced' to employees at risk or under notice of redundancy according to the particular circumstances. Ring fenced arrangements will be set out in the formal consultation documentation.
- 10.3 Whether alternative employment is suitable will depend on, amongst other considerations, the following factors:
- ⇒ Duties and Qualifications: The duties and qualification criteria of the 'new' role should be broadly comparable to the previous role.
 - ⇒ Salary: The grade and benefits of the 'new' role should be broadly comparable to the previous role.
 - ⇒ Location: Any change in place of work will be considered in relation to travelling time and individual circumstances.
 - ⇒ Hours of work: An employee's contractual working hours will be taken into account where possible when considering alternative roles.
- 10.4 Directors, Heads of Service and Managers involved in the redundancy process will, in liaison with HR, determine where an alternative role is suitable and this will be set out in the formal consultation documentation.
- 10.5 An employee who unreasonably refuses an offer of suitable alternative employment will lose any entitlement to redundancy pay. Whether the refusal is reasonable or not will depend upon the circumstances of the proposal and the decision will be decided by the Head of Service or manager leading the restructure.
- 10.6 Employees have a separate legal entitlement to be offered any suitable alternative work that is available if they are made redundant while on maternity leave. HR advice should be sought in this situation.

11.0 Redeployee Status and Salary Protection

- 11.1 Employees will receive **redeployee status** when they are at risk of redundancy. Redeployees are expected to actively/regularly monitor internal/external vacancies advertised on www.publicsectorjobseast.co.uk and apply for any suitable alternative roles. Employees who cannot access the internet should contact their Line Manager so that alternative arrangements can be made to communicate details of current vacancies.
- 11.2 Redeployees should apply for any role that is a suitable alternative role using the standard online application form by the deadline advertised – there is a box on the application form where a candidate can specify that he/she has redeployee status.
- 11.3 Applications from redeployees will be considered and shortlisted alongside all other applications (i.e. those from internal or external applicants).
- 11.4 Candidates who are at risk of redundancy and have “redeployee” status will be offered an interview if they demonstrate that they meet the majority of the essential criteria for the role in their application form. The selection process will further assess the essential criteria, and redeployees will only be turned down for the job if after the selection process there is evidence to suggest that they do not meet the essential criteria, or if there is a more suitable redeployee.

It is proposed that the selection procedure will be based on the following:

- the contents of the abbreviated application form
 - employees will be given the opportunity to demonstrate their suitability for the role at interview and / or during assessment tests
 - knowledge, skills and capability assessed by both the application form and an interview
- 11.5 Employees redeployed will be granted salary protection for a period of 6 months at full pay followed by a further 6 months at half pay, when appointed to a role which carries a lower level of grade of one grade below the employees substantive post.
- 11.6 After 12 months the protection will cease and the employee will be paid the salary appropriate to the new role.
- 11.7 Where an employee is in an acting up role, for the purposes of consultation they will be treated as if they are in their substantive post.

12.0 Trial Period

- 12.1 Where an alternative role is offered either through the employee applying for the role as a redeployee, or by the manager identifying and offering a suitable alternative role to an employee in the new structure, it may be subject, in the first instance, to a trial period of four weeks. The right to end the trial and become redundant will not necessarily be lost during this period.
- 12.2 If either party believes the role to be unsuitable prior to or during the trial period the following will apply:
- ⇒ where HDC and the employee agree that the role is unsuitable the employee will be considered redundant. A redundancy payment will be calculated to the new termination date together with any outstanding holiday payment;
 - ⇒ where HDC believes the role is suitable but the employee disagrees then redundancy will not apply. The employee will be deemed responsible for terminating their contract;
 - ⇒ where, in liaison with the Director, Head of Service, Manager and HR, the new Manager believes the role is not suitable notice will be given. The employee will then be redundant and will receive redundancy pay calculated to the new termination date together with any outstanding holiday payment; and
 - ⇒ where an employee does not agree a role is suitable, or unsuitable as outlined above, the right to appeal under the grievance procedure remains.
- 12.3 In exceptional circumstances the 4 week trial period may need to be extended at the decision (or discretion) of the line manager. Reasons for this may include additional time needed for training.

13.0 Selection for Redundancy

- 13.1 Where job roles change HDC will apply the '80/20 rule.' Minor or insignificant changes (less than 20%) to a job role mean that the job role is substantially the same. Significant changes (more than 20%) to a job role mean that the job role has substantially changed so that the original job role disappears (i.e. is redundant) and a new different job role is created.
- 13.2 Where a service is restructured the service manager will first design the new structure, identifying the types of posts that are required. Any roles in the current structure that have changed by less than 20% will not be redundant – the current post holders will be assimilated into the new roles.
- 13.3 If an employee's post has changed by more than 20% they will be put at risk of redundancy and given redeployee status. Employees who do not secure a post in the new structure will be issued notice of redundancy.

- 13.4 When a job role remains unchanged in the proposed new structure but fewer roles are needed, a selection for redundancy exercise will need to take place. The criteria used in selecting employees for redundancy will depend on the existing circumstances and the particular needs of the organisation at the time. However, every effort will be made to construct a fair and robust set of criteria following appropriate consultations.
- 13.5 Individual employees who are provisionally selected for redundancy following the application of the criteria will be informed of the fact and invited to a meeting. They will be entitled to be accompanied at that meeting. During the meeting, they will be given an opportunity to make representations and query the application of the criteria and whether this results in unfairness to them.
- 13.6 When considering an employee's attendance record as part of the selection criteria, care needs to be taken to ensure that the reasons for the non-attendance are fully understood to ensure equitable treatment.
- 13.7 HDC will not use any selection criteria that potentially discriminates on any grounds, e.g. age, disability, sexual orientation, gender reassignment, race, religion/belief, gender or marital status. Employees should not be selected for redundancy because they are pregnant or on maternity leave.
- 13.8 In each redundancy situation managers will decide what selection criteria are relevant and what weighting should be given to each criterion. Managers should seek advice on selection criteria and weighting from HR.
- 13.9 HDC will consult on the proposed selection criteria as part of the consultation process.
- 13.10 A manager's assessment of the performance and capability of individuals relative to each other is a legitimate method of selection. Selection decisions must be supported by appropriate and sufficient evidence. Prior disciplinary warnings, written evidence of work performance issues or other clear evidence of a failure to meet acceptable/defined standards of performance or conduct may be considered when scoring against selection criteria. The period of time that is considered to undertake scoring should be long enough to be representative of employees performance and attendance (e.g. 6 months, 12 months). The same time period should as far as possible be considered for all employees - guidance should be sought from HR when scoring employees who have not been working for the length of time that is being considered e.g. for new starters or women on maternity leave.
- 13.11 A selection matrix will be used to assign a score to each employee against each criterion. Scores will be totalled to give each employee being considered for redundancy a final score. Employees with the lowest score(s) will be those selected for redundancy. Should employees have a matching score, a selection interview may be used to determine who should be selected for redundancy.

14.0 Voluntary Redundancy

- 14.1 HDC may, on occasion, seek volunteers for redundancy. Managers, as part of the planning stage of a restructure or programme of redundancies, will define which job roles will be invited to apply for voluntary redundancy (VR). The invitation may be limited to all employees currently undertaking a particular role within the team/service that is being restructured. Invitations for voluntary redundancy will be made at the beginning of the consultation period and the option will be discussed during individual consultation meetings – the consultation document will specify the group of employees that will be invited to apply for VR and the deadline for applications.
- 14.2 HDC does not offer an enhanced redundancy pay package to those volunteering for redundancy – entitlement to redundancy pay and release of pension benefits is calculated in accordance with statutory weeks pay.
- 14.3 Whilst applications for voluntary redundancy are being invited and considered the restructure process will continue in parallel as scheduled e.g. if an employee was subject to selection for redundancy this will continue.
- 14.4 Employees wishing to apply for VR must complete the VR application form and return it to their Head of Service by the deadline specified in the consultation document. Submitting a VR application form is not a guarantee that a VR request will be granted.
- 14.5 Redundancy pension estimates are processed by the LGSS Pensions team and can be requested through your HR Team.
- 14.6 HDC reserves the right to decline applications for voluntary redundancy. The Head of Service will give due consideration to all applications for VR. The criteria for turning down an application for VR are as follows:
- ⇒ The service needs to retain the individual's skills and expertise (the loss of these skills will negatively impact on service delivery)
 - ⇒ The payment of redundancy pay and associated costs does not represent the most effective use of the services budget
 - ⇒ The individual is in a post that is not proposed to be deleted, or where there is no significant change in the nature of the work.
- 14.7 The decision of the Head of Service will be reviewed and confirmed or overturned by the Corporate Leadership Team (CLT) before the employee is notified of any potential outcome.
- 14.8 In most cases, if an employee leaves by way of voluntary redundancy, the post will be deleted. However, the post may be filled if this will prevent a compulsory redundancy elsewhere. In this case, the Head of Service will submit a business case with the employees VR form to CLT outlining what savings will be made if the role is filled.
- 14.9 If an application for voluntary redundancy is accepted the employee's line manager will arrange to meet with the employee to explain this. Acceptance

will be confirmed in writing. HR will issue notice of termination to the individual and notify pensions that the voluntary redundancy needs to be processed.

- 14.10 Once an employee has been issued notice of termination he/she does not have a right to retract the application for voluntary redundancy, nor does he/she have a right of appeal against the dismissal.
- 14.11 Employees who have been accepted for voluntary redundancy will not be eligible for redeployee status and will not be considered for redeployment to roles that are deemed suitable alternative employment.
- 14.12 If an application for voluntary redundancy is not accepted the employee's line manager will arrange to discuss this with the employee. The manager should explain the reason for turning down the VR application. The manager will confirm the decision in writing. There is no right of appeal.
- 14.13 HDC will not usually re-employ or re-engage a person who has been made voluntarily redundant into a similar role any time in the future. In exceptional circumstances re-engagement to a significantly different role with different responsibilities may be possible. HR advice should be sought in this situation as CLT approval will be required.

15.0 Redundancy Pay

- 15.1 Redundancy pay is paid to employees who are dismissed by reason of redundancy in line with statutory redundancy payment obligations to employees with two or more years of continuous local government service. The weekly pay is not capped in any redundancy calculations and 20 years continuous service is the maximum number of years used to calculate redundancy payments. To summarise;

0.5 week's pay for every year of service at age 22
--

1 week's pay for every year of service at age 23-40

1.5 week's pay for every year of service at age 41 and above
--

Please see chart on HR Intranet page that shows the number of weeks entitlement in line with age and number of years' service.

- 15.2 Previous continuous service with organisations covered by the Redundancy Payments Modifications Order will also be used to calculate redundancy payments. If you are considering working for another local authority or organisation which is covered by the Local Government Modification Order you should seek advice from the HR Team about whether this would affect your entitlement to a redundancy payment. Further information relating to the Modification Order and organisations covered by the Order is available on the Local Government Association website. You will not be eligible for a redundancy payment if:

- Before the termination of your employment, you receive from the Council or an Associated Employer, who is listed on the Modification Order (1999) an offer of employment to commence within four weeks of the termination date of your employment with Huntingdonshire District Council and for the avoidance of doubt continuity of employment will be preserved in the new job.
- You decline or terminate a reasonable offer of suitable alternative employment.

- 15.3 Pensionable employees aged 55 or over with at least 3 months' continuous service, who are dismissed by reason of redundancy will receive immediate payment of Local Government Pension Scheme (LGPS) benefits (lump sum and annual pension).
- 15.4 Employees on a variable hours contract and therefore no mutual obligation established regarding offering or accepting of work, will have entitlement calculated on an individual basis over a continuous twelve-week period and in line with the number of hours worked from the day notice is issued.
- 15.5 In certain circumstances a lump sum payment in lieu of statutory or contractual notice (whichever is the longer) may be allowed where the whole or part period of notice is not given. However, the employee will, where possible, be required to serve his or her statutory or contractual period of notice.
- 15.6 While employees with less than two years local government service will not be entitled to redundancy payment all employees affected by redundancy will be included in the 'at risk' or 'under notice' of redundancy and will be offered redeployee status regardless of length of service.
- 15.7 The payments referred to in this section may be subject to variation in the future arising from changes to statute, regulations or Council policy.

16.0 Notice Period

- 16.1 An employee will be expected to work his/her notice. Wherever possible, and in line with service needs, employees should take all outstanding annual leave during their notice period. Pay in lieu of notice may be appropriate where a service requires an individual to leave prior to the end of his/her contractual notice period but this will be granted in exceptional circumstances only.
- 16.2 If an employee requests to leave before the end of the notice period he/she should discuss this with his/her line manager to see if this request can be accommodated. If the service can accommodate this request the employee will waive the right to the remainder of the notice period and notice pay.
- 16.3 The notice period will be the longer of the following:

- ⇒ the notice period stated in an employee's contract of employment; or
- ⇒ one week's notice for each year of continuous employment, in line with statutory provisions (if the employee's period of continuous service is two years or more) to a maximum of 12 weeks.

- 16.4 In accordance with existing policies any existing loans will be repayable on termination of employment and may be deducted from any final payment.
- 16.5 Notice will also be given to an employee who is coming to the end of a fixed term or temporary contract to confirm there is no decision to extend the current contract.
- 16.6 If the fixed term or temporary contract ends as a result of redundancy then the individual will be entitled, subject to meeting statutory eligibility criteria, to receive redundancy compensation and redeployee status.

17.0 Support for Employees Under Notice of Redundancy

- 17.1 Employees will be entitled, during their notice period, to a reasonable amount of paid time off during working hours for the purposes of:
- ⇒ looking for new employment
 - ⇒ attending interviews
 - ⇒ making arrangements for future training for future employment; and
 - ⇒ where appropriate, attending outplacement services
- 17.2 Any such request should receive prior approval from the employee's line manager.
- 17.3 When requested and where practical and appropriate HDC may also offer additional support for employees at risk or under notice of redundancy. Requests for additional support should be directed to the Manager leading the redundancy consultation.

18.0 Redundancy Appeals

- 18.1 A decision to close a service or reduce head count is a business decision that cannot be overturned by an employee appeal against dismissal. An employee cannot challenge the business case as part of an appeal – this must be done at the consultation stage.
- 18.2 **Appeal against redundancy selection.** An employee who has been issued with notice following a selection criteria exercise can appeal against this decision in line with the Appeals against Dismissal Policy.
- 18.3 **Failure to consult.** An employee can appeal a redundancy dismissal on the basis that there has been a failure to consult. If the appeal is upheld HDC must undertake the consultation required with all affected employees.

18.4 **Failure to offer help to find suitable alternative employment.** An employee can appeal a redundancy dismissal on the basis that HDC has failed to offer help to find suitable alternative employment and where they can demonstrate they have requested support. If the appeal is upheld an employees notice period will be extended by 1 month to allow more time to apply for roles with redeployee status.

There are no other grounds on which an employee can appeal a redundancy dismissal.

19.0 Glossary of Terms

Further definition of some of the terms used in the policy is provided below.

19.1 At risk of redundancy

An employee is placed **at risk of redundancy** when it has been proposed in a consultation document that their current post is either being deleted or has changed by more than 20%. Employees will receive notification of being placed at risk of redundancy and will gain redeployee status. At this stage, the changes to posts are proposals and these proposals may change during the period of consultation.

19.2 Redeployee Status

An employee will receive **redeployee status** when he/she is: - at risk or under notice of redundancy - being redeployed due to a disability - being redeployed as part of a statutory flexible working request.

An employee will receive redeployee status for jobs that are: - on the same grade (or one grade lower) and - where the job has similar duties/responsibilities - where the employee meets all of the essential criteria for the role following a full assessment.

Redeployee status does not apply to promotional posts.

19.3 Under Notice of Redundancy

An employee who is **under notice of redundancy** will have been issued with their notice letter. At this stage, full consultation will have taken place and the final structure and impact on posts and employees will have been communicated. The notice letter will outline the employees contractual notice period as well as the support offered to them during this time. Employees continue to receive redeployee status for the duration of their notice period.

19.4 Notice Period

In a redundancy situation, the **notice period** is the amount of time between an employee being issued with notice of redundancy, to their last date of employment with HDC. The amount of notice that an employee is given depends upon their contract and length of service, and this will be clearly outlined in the notice letter.

19.5 **Redundancy Pay**

This is the payment that an employee receives if they leave HDC by way of redundancy. The amount of **redundancy pay** that an employee is entitled to is determined by their contractual hours, age, salary and length of service. A ready reckoner that outlines the redundancy pay calculation is available on the intranet and employees who are issued with notice of redundancy will receive a redundancy estimate from the HR Team.

19.6 **Suitable Alternative Employment**

Suitable alternative employment is work offered to an employee who has redeployee status and, if accepted by the employee, will mitigate the redundancy. In order to be suitable alternative work, a number of factors need to be considered and will vary on a case by case basis, so what is suitable alternative employment for one employee is not always suitable for others. Further information is outlined in section 10 above.