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Wednesday, 22 January 2020

To: The Members of the **Employment Committee**
(Councillors: Colin Dougan (Chairman), Rodney Bates (Vice Chairman),
Richard Brooks, Paul Deach, Sharon Galliford, Josephine Hawkins, Charlotte Morley
and Sashi Mylvaganam and vacancy)

**In accordance with the Substitute Protocol at Part 4 of the Constitution,
Members who are unable to attend this meeting should give their apologies and
arrange for one of the appointed substitutes, as listed below, to attend.
Members should also inform their group leader of the arrangements made.**

Substitutes: Councillors Peter Barnett, Cliff Betton, Rebecca Jennings-Evans,
Adrian Page, Graham Tapper and Victoria Wheeler

Dear Councillor,

A meeting of the **Employment Committee** will be held at Council Chamber, Surrey Heath
House, Knoll Road, Camberley, GU15 3HD on **Thursday, 30 January 2020 at 7.00 pm**.
The agenda will be set out as below.

Please note that this meeting will be recorded.

Yours sincerely

Karen Whelan

Chief Executive

AGENDA

Pages

Part 1 (Public)

- | | | |
|----------|---|---|
| 1 | Apologies for Absence | - |
| 2 | Minutes | - |
| | To confirm and sign the open minutes of the meeting held on 7 January 2020 (to follow). | |
| 3 | Declarations of Interest | - |

Members are invited to declare any interests they may have with respect

to matters which are to be considered at this meeting. Members who consider they may have an interest are invited to consult the Monitoring Officer or the Democratic Services Officer prior to the meeting.

4	Pay Policy Statement 2020/21	1 - 8
5	Pay Settlement 2020/21	-
	Report to follow.	
6	Disciplinary Policy and Procedure for Statutory Officers and non-Statutory CMT Officers	9 - 40
7	Grievance Policy and Procedure for Statutory Officers and non-Statutory CMT Officers	41 - 54
8	Speak Up Policy and Procedure	55 - 64
9	Pensions Discretion Policy	65 - 80
10	Criminal Records Check Policy	81 - 90
11	Hate Crime Policy - Appendix to Safeguarding Policy	91 - 96
12	Membership of South East Employers - Verbal Report	
13	Work Programme	97 - 98
14	Exclusion of Press and Public	

The Committee is advised to RESOLVE that, under Section 100A(4) of the Local Government Act 1972 (as amended), the public be excluded from the meeting for the following items of business on the ground that they involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A of the Act, as set out below:

<u>Item</u>	<u>Paragraph(s)</u>
15	1
16	1

**Part 2
(Exempt)**

15	Exempt Minutes	-
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To confirm and sign the exempt minutes of the meeting held on 7 January 2020 (to be circulated separately).

Pay Policy Statement 2020/21

Summary

To recommend the Surrey Heath Borough Council's Pay Policy Statement 2020/21.

Recommendation

The Committee is advised to RECOMMEND to Full Council that the Pay Policy Statement 2020/21, as set out at Annex A to this report, be adopted.

1. Resource Implications

1.1. There are no resource issues arising from this report.

2. Key Issues

2.1 This Pay Policy Statement is provided in accordance with Section 38(1) of the Localism Act 2011.

2.2 The Council is required to update this on an annual basis and the requirement is for it to be adopted by the Employment Committee and Full Council.

2.3 The Policy Pay Statement 2020/21 is attached at Annex A.

3. Options

3.1 There are no options for the Committee to consider as the Council is required to publish its Pay Policy Statement as detailed in the Localism Act 2011.

4. Equalities Impact

4.1 Completed.

Annexes	Annex A – Pay Policy Statement 2020/21
Background papers	N/A
Author/contact details	Louise Livingston Louise.livingston@surreyheath.gov.uk
Executive Head of Transformation	Louise Livingston Louise.livingston@surreyheath.gov.uk

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Surrey Heath Borough Council Pay Policy Statement
Financial year ~~2019-2020~~20-21

1 Purpose

This Pay Policy Statement is provided in accordance with Section 38(1) of the Localism Act 2011 and this will be updated annually from April each year.

This pay policy statement sets out Surrey Heath Borough Council's policies relating to the pay of its workforce for the financial year ~~2019-2020~~20-21.

2 Background

Remuneration at all levels needs to be adequate to secure and retain high-quality employees dedicated to fulfilling the council's business objectives and delivering services to the public. This has to be balanced by ensuring remuneration is not, nor is seen to be, unnecessarily excessive. Each council has responsibility for balancing these factors and each council faces its own unique challenges and opportunities in doing so and retains flexibility to cope with various circumstances that may arise that might necessitate the use of recruitment and retention allowances or other such mechanisms for individual categories of posts where appropriate.

3 Responsibility for decisions on remuneration

Pay for all employees including ~~Chief Officers~~Corporate Management Team (CMT) Officers is agreed by Full Council in consultation with the Joint Staff Consultative Group on the recommendation of the Employment Committee¹. The Joint Staff Consultative Group comprises elected Councillors from the main political parties and staff representatives and has responsibility for local terms and conditions of employment for staff within Surrey Heath Borough Council's pay framework. ____

The Surrey Heath Borough Council's pay framework was implemented in April 1988 and is based on Local Pay Conditions.

All new appointments to the Council's service since April 1988 have been made on the basis of locally devised and negotiated conditions of service, with the facility that all existing members of staff had the opportunity to enter voluntarily into a fresh contract of employment based on these conditions. Contracts of employment are entirely local and do not incorporate the provisions of the National Conditions. The aims of local conditions are:-

- a) To offer a competitive salary and benefits package;
- b) To link progression to personal performance;
- c) To take account of skills shortages by the use of recruitment and retention allowances (if required);
- d) That all salary and conditions of service matters are negotiated internally by the Joint Staff Consultative Group and agreed by the Employment Committee as set out in Part 3 of the Constitution.-

¹ The Employment Committee comprises of 9 members based on political proportionality.

4 Salary grades and grading framework

Each post within the establishment has a salary scale determined by job evaluation using the Local Government Management Board Scheme. The starting salary on appointment is subject to negotiation within the evaluated grade and will be dependent upon the appointee's level of experience, attained qualifications and the salary being paid to others undertaking the same work.

As part of this, Surrey Heath Borough Council determined a local pay framework, dividing established posts into 12 grades (SH1 – SH9 and SH20 – SH22), grade SH1 being the lowest and grade SH22 the highest (see Appendix 1). Each employee will be on one of the 12 grades based on the job evaluation of their role. Employees can progress to the salary range maximum of their grade subject to assessment of their performance in the annual performance appraisal process.

Pay awards are considered annually for staff, the year running from 1st April until 31st March. Local pay negotiation is used but consideration is given to the national award in negotiation with the Joint Staff Consultative Group and Trades Unions locally and recommended to the Council by the Employment Committee.

The Annual Pay Settlement procedure is to determine the value of the annual pay settlement that will be paid to all staff when determined on/or backdated to 1st April each year. The pay award for all grades is determined in the same way.

An award of 2.5 % was awarded for 2019/2020 (see Appendix 1).

5 Chief CMT Officers Remuneration

The Council has a group of ~~nine~~ 9 Chief CMT Officers (including three statutory roles) which currently consists of the following:

Statutory responsibilities	SHBC posts
Head of Paid Service	Chief Executive
Section 151	Executive Head of Finance
Monitoring Officer N/A	Head of Legal
N/A	Executive Head Business
N/A	Executive Head Community
N/A Monitoring Officer	Executive Head Corporate
N/A	Executive Head Regulatory
N/A	Executive Head Transformation
N/A	Head of Property and Development

Surrey Heath publishes the salaries of the Chief Executive, Executive Heads and Heads of Service, this means that all our senior salaries (including all those of £50,000 and above) are easily accessible:

<http://www.surreyheath.gov.uk/council/information-governance/publication-scheme/what-we-spend-and-how-we-spend-it>

6 The level and elements of employee remuneration, including performance related pay and bonuses

There is no provision for bonus payments—~~pay.~~ Pay for all employees (including ~~Chief-CMT~~ Officers) comprises payments by way of salary, pensions and other standard elements of contractual remuneration required in law. Employees have the opportunity to join the private medical scheme after ~~a three number of~~ years' service.

All employees (including ~~Chief-CMT~~ Officers) are subject to an annual assessment of performance, and where performance meets the appropriate standard, contractual increments will be given, until the maximum of the pay scale is reached.

Any allowance or other payments will only be made to staff in connection with their role or the patterns of hours they work and must be in accordance with the Council's policies which include Recruitment & Retention Allowances, Exceptional Payments Policy and Anti-Social Hours Allowance.

7 Exceptional increases and additions to remuneration for ~~Chief-CMT~~ Officers

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One or more ~~Chief-CMT~~ Officers will be eligible for payments for election duties (e.g. as Returning Officer or Deputy Returning Officer/s). Some of these payments will be made direct by Government or other Authorities e.g. Surrey County Council.

8 The approach to the payment of ~~Chief-CMT~~ Officers on their ceasing to hold office under or to be employed by the Authority

~~Chief-CMT~~ Officers who leave the Council's employment, where appropriate, will receive compensation in line with the Council's Employment Stability Policy or through a negotiated settlement. The Employment Committee will make recommendations to Full Council for any mutually agreed departures of Statutory Officers.

9 New starters joining the Council

Employees new to the Council will normally be appointed to the first point of the salary range for their grade. Where the candidate's current employment package would make the first point of the salary range unattractive (and this can be demonstrated by the applicant in relation to current earnings) or where the employee already operates at a level commensurate with a higher salary, a higher salary may be considered by the recruiting manager subject to negotiation. This will be within the salary range for the grade. The candidate's level of skill and experience should be consistent with that of other employees in a similar position on the salary range.

As with the recruitment of employees across the Council, ~~Chief-CMT~~ Officers are generally appointed at the minimum point on their pay scale or at a market level of pay negotiated on appointment, account will be taken of other relevant available information, including the salaries of ~~Chief-CMT~~ Officers in other similar sized organisations. Decisions to approve these negotiations

are made by the Head of Paid Service or in the case of the Head of Paid Service, by ~~the Council~~ the Employment Committee who will recommend to Full Council.

10 Relationship between remuneration of ~~Chief~~ CMT Officers and all other employees

The difference between the highest paid salary and the average full time equivalent salary of the workforce (as at 30th November 2018):

Salary	Amount per annum	Ratio with highest salary
Highest Basic Salary (Chief Executive)	£ 123,7040,687	n/a
Mean (average) Basic Salary	£ 35187.844,038.79	3.5 2 :5:1
Lowest point on standard paycales to which an employee is appointed	£ 12,93343,423	9.568.99 :1

Appendix 1

SURREY HEATH BOROUGH COUNCIL

SALARY SCALES

WITH EFFECT FROM 01 APRIL 2019
(increase of 2.5% from last award)

SH1		SH2		SH3		SH4	
SCP	£	SCP	£	SCP	£	SCP	£
1.2	12933	2.7	16550	3.11	20491	4.15	24166
1.3	13759	2.8	17514	3.12	21317	4.16	25413
1.4	14582	2.9	18513	3.13	22128	4.17	26645
1.5	15412	2.10	19650	3.14	22937	4.18	27830
1.6	15971	2.11	20209	3.15	23494	4.19	28388

SH5		SH6		SH7		SH8	
SCP	£	SCP	£	SCP	£	SCP	£
5.19	29075	6.23	34000	7.28	39875	8.33	45874
5.20	30309	6.24	35231	7.29	41278	8.34	47497
5.21	31523	6.25	36431	7.30	42677	8.35	49130
5.22	32754	6.26	37679	7.31	44051	8.36	50781
5.23	33310	6.27	38235	7.32	44608	8.37	51341

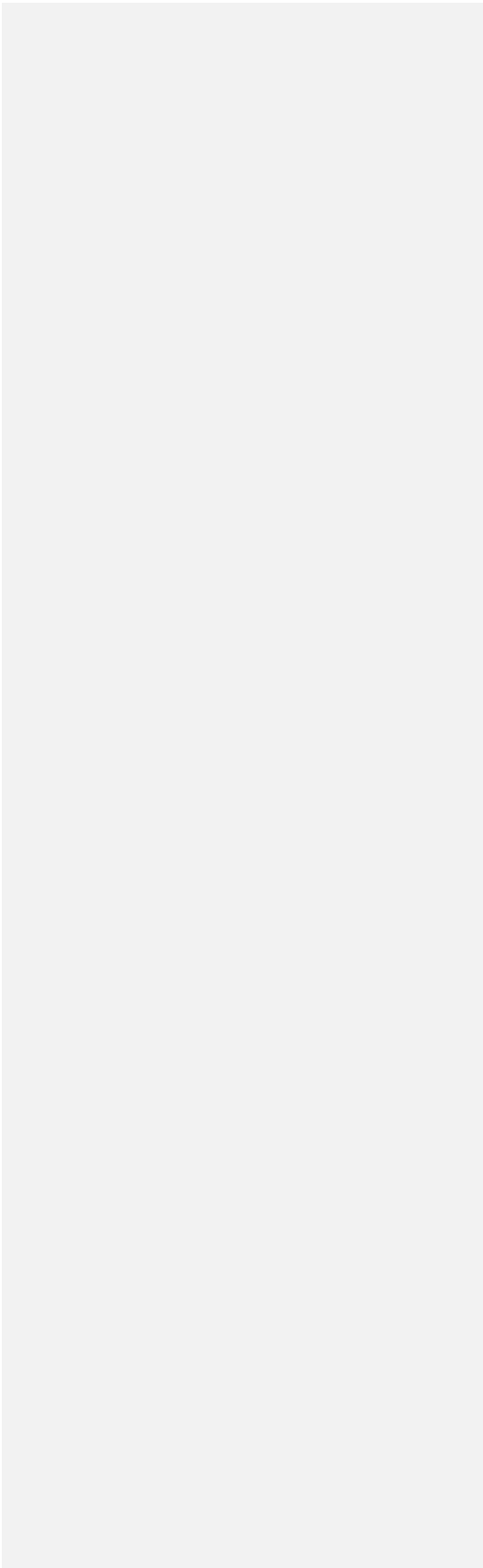
SH9	
SCP	£
9.37	52571
9.38	54278
9.39	55987
9.40	57692
9.41	58249

SH20 HEAD of SERVICE	
SCP	£
20.101	60794
20.102	63097
20.103	66150
20.104	69208
20.105	72279

SH21 EXECUTIVE HEAD	
SCP	£
21.106	75355
21.107	78430
21.108	81507
21.109	84801
21.110	88098

SH22 CHIEF EXECUTIVE	
SCP	£
22.201	111687
22.202	115692
22.203	119700
22.204	123704

Human Resources - April 2019



Disciplinary Policy and Procedure for Statutory Officers and non-Statutory CMT Officers

Summary

This report provides the Employment Committee with information regarding the Council's new Disciplinary Policy and Procedure for Statutory Officers and non-Statutory CMT Officers and seeks authority for its adoption.

The Policy and Procedure was considered by the Joint Staff Consultative Group at its meeting on 16 January 2020.

Recommendation

The Committee is advised to RESOLVE that the Disciplinary Policy and Procedure for Statutory Officers and non-Statutory CMT Officers, as set out at Annex A to this report, be adopted.

1. Resource Implications

- 1.1 There are no additional revenue or capital cost implications arising from the report.

2. Key Issues

- 2.1 This policy and procedure has been written to provide a process for disciplinary matters that effect the Corporate Management Team (CMT) in accordance with the roles that they undertake. The Corporate Management Team (CMT) includes the Head of Paid Service (Chief Executive), Section 151 Officer, Monitoring Officer and Executive Heads and Heads of Service.
- 2.2 This policy and procedure reflects the requirements of the Local Authorities (Standing Orders) (England) Regulations 2011 and the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and is also in line with the ACAS Code of Practice.
- 2.3 Included in the policy and procedure:
- Explanation of the role of the Employment Committee and the sub committees and the stages when handling disciplinary matters.
 - Clear relevant guidance of the stages of the process and procedures for the CMT members including the different process for dealing with a dismissal action for the Statutory Officers and the non-Statutory CMT Officers.
 - The role of Human Resources is also provided for in this policy and procedure

3. Options

- 3.1 The Committee has the option to agree the new Disciplinary Policy and Procedure for Statutory Officers and non-Statutory CMT Officers or suggest amendments it considers appropriate.

4. Proposals

- 4.1 It is proposed that the new Disciplinary Policy and Procedure for Statutory Officers and non-Statutory CMT Officers is adopted.

5. Equalities Impact

- 5.1 Completed.

Annexes	Annex A – Disciplinary Policy and Procedure for Statutory Officers and non-Statutory CMT Officers
Background papers	None
Author/contact details	Julie Simmonds/ Jenny Villamayor – Senior HR Advisors
Executive Head	Louise Livingston, Executive Head of Transformation

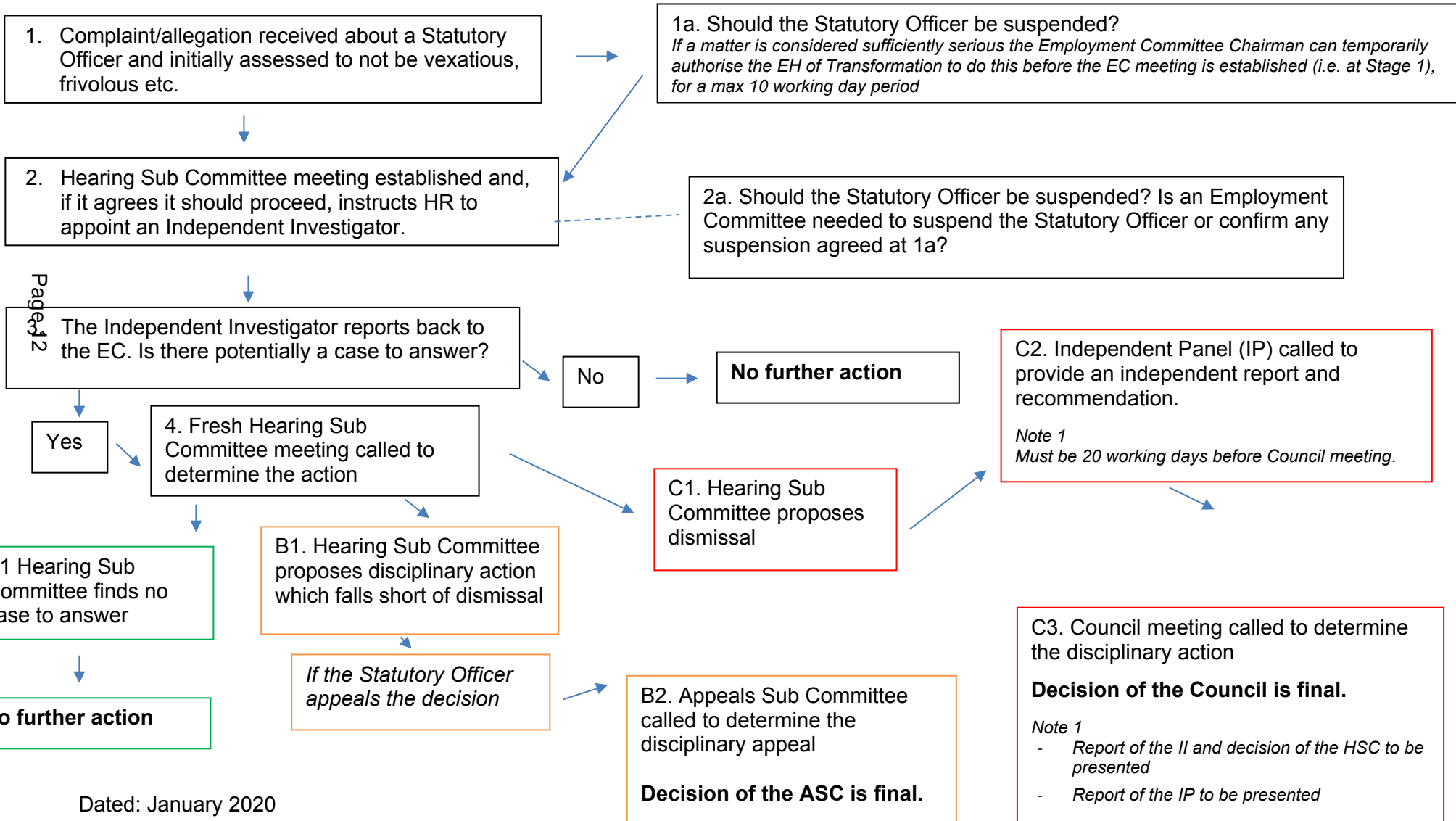
Surrey Heath Borough Council Human Resources

Disciplinary Policy and Procedure for Statutory Officers and non-Statutory CMT Officers



Great Place • Great Community • Great Future

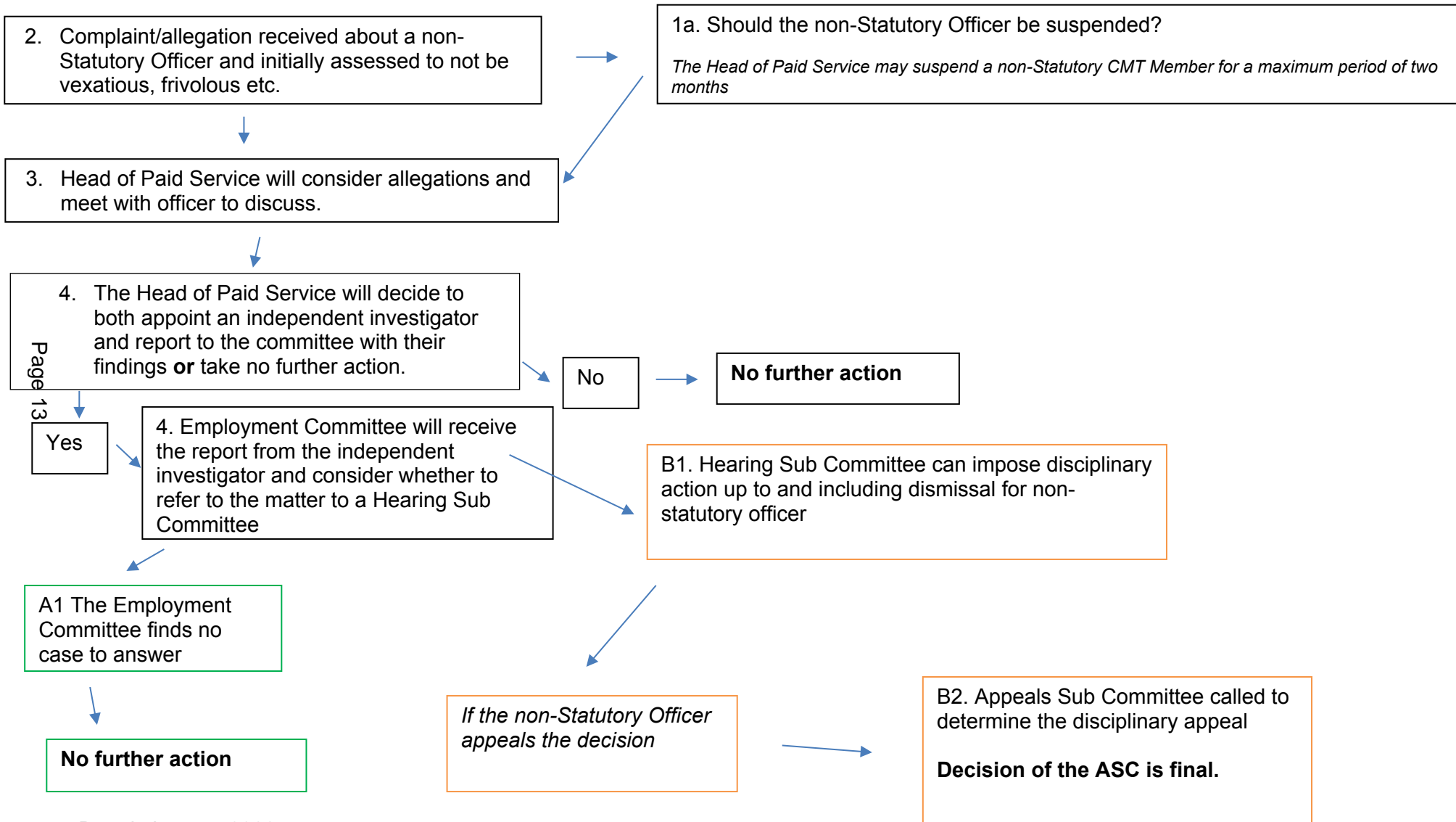
Procedure for disciplinary action against Statutory Officers



Page 12

Dated: January 2020

Procedure for disciplinary action against non-Statutory Officers



Dated: January 2020

Policy and Procedure for Disciplinary

1 Introduction

Surrey Heath Borough Council (the Council) recognises and acknowledges that the vast majority of its employees wish to, and consistently do conduct themselves by working in an acceptable and appropriate manner. It also recognises that there are occasions when an employee's conduct may be unacceptable, thereby requiring a fair and effective disciplinary policy to deal with the matter.

This policy and procedure has been written to provide a process for disciplinary matters that effect the Corporate Management Team (CMT) members in accordance with the roles that they undertake.

This policy and procedure reflects the requirements of the Local Authorities (Standing Orders) (England) Regulations 2011 and the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. This policy and procedure is also in line with the ACAS Code of Practice.

2 Scope

The policy and procedure applies to the Corporate Management Team (CMT) as follows:

Statutory Officers:

- Head of Paid Service
- Section 151
- Monitoring Officer

Non-Statutory Officers:

- Executive Heads
- Heads of Service

This policy and procedure should be read in conjunction with other relevant policies including, but not limited to:

- Grievance Policy and Procedure for Statutory Officers
- Capability Procedure
- Sickness Absence Policy

- Dignity and Respect Policy
- Member and Officer Protocol
- Code of Conduct

3 Policy Statement

- 3.1 The purpose of this policy and procedure is to provide guidance when dealing with disciplinary matters and aims to address and settle them in a timely considerate manner for all Officers and Members.
- 3.2 This policy and procedure also outlines the respective rights of the Statutory Officer's and the remaining members of CMT who are non-Statutory Executive Heads and Heads of Service throughout the process and explains each stage of the procedure.
- 3.3 The underlying philosophy is that the disciplinary procedure is designed, except in the case of proven gross misconduct, to offer all Statutory Officers and non-Statutory Officers the opportunity and encouragement to improve their behaviour and conduct.
- 3.4 Wherever possible, the Council will seek to resolve issues informally in the first instance after preliminary deliberation of the facts. In cases of misconduct it is recommended that action is taken at the earliest opportunity so that all the Officers have been provided with the opportunity to remedy the situation before further instances of misconduct occur and further, more serious disciplinary action needs to be taken.
- 3.5 It is recommended that advice is sought from the Human Resources Team and where appropriate the Monitoring Officer, before invoking this policy and procedure.

4 Equality Assessment Policy

An Equality Impact Assessment has been carried out on this Policy and Procedure.

5 Definitions

- 5.1 The Corporate Management Team (CMT) includes the Head of Paid Service (Chief Executive), Section 151 Officer, Monitoring Officer and

Executive Heads and Heads of Service. Where reference is made in this policy and procedure to CMT Officers this refers to all.

- 5.2 The Head of Paid Service is also the Chief Executive and therefore a Statutory Officer. The Monitoring Officer considers allegations against the Head of Paid Service and will conduct an initial filtering to determine if the matter is clearly unfounded or trivial before referring the matter to the Employment Committee.
- 5.3 The Monitoring Officer is a Statutory Officer. The Head of Paid Service will consider allegations against the Monitoring officer and determine the process to follow.
- 5.4 The Section 151 Officer is a Statutory Officer. The Head of Paid Service will consider allegations against the Section 151 Officer and determine the process to follow.
- 5.5 The remaining members of CMT are non-Statutory Officers. The Head of Paid Service will consider allegations against these non-Statutory Officers and determine the process to follow.
- 5.6 The Investigating and Disciplinary Committee (IDC) at Surrey Heath Borough Council will be known as the **Employment Committee**. This is a politically balanced committee comprising of **nine** members, consisting of at least **two** members of the Executive. The Council will ensure that there are different members on each subcommittee, The Employment Committee will decide whether to progress a complaint and appoint an independent investigator, in consultation with the Executive Head of Transformation (where appropriate) and Human Resources.
- 5.7 The **Hearing Sub Committee** will comprise of **three** members of the Employment Committee and can hear matters concerning all CMT members.
- 5.8 **The Appeals Sub Committee** will comprise of **three** members of the Employment Committee. The **Appeals Sub Committee** will hear appeals against action short of dismissal, for a Statutory Officer, and decide either to confirm the action, impose no sanction or a lesser sanction. The Appeals Sub Committee will hear appeals against all action including dismissal for non-Statutory Officers in CMT. Appeals regarding dismissal for these non-Statutory Officers will not be heard by Full Council.

- 5.9 The **Independent Panel** will comprise of at least **two** independent persons appointed by the Council under section (28) of the Localism Act 2011. The Independent Panel will only be used if the Employment Committee, having received the report of the independent investigator and held a hearing, is minded to recommend dismissal of a Statutory Officer to Full Council.
- 5.10 An **Independent Consultant** will be appointed to act as the Independent Investigator. Information regarding Independent Consultants can be found with Human Resources.
- 5.11 Where reference is made to working with Officers and Managers: this will include: Members, Volunteers, Partners and other relevant people at this time.
- 5.12 Human Resources will advise all the committees and legal advice will be available too. Human Resources will also act as note takers in meetings.

6 Principle and Aims

- 6.1 The purpose of this policy and procedure is to ensure that all members of CMT understand the Council's rules and procedures for dealing with disciplinary issues thereby promoting and supporting high standards of conduct and effective working relations.
- 6.2 Informal action will be considered, where appropriate, to resolve problems. No disciplinary action will be taken against any member of CMT until the appropriate stages of this policy and procedure have been followed.
- 6.3 In cases of gross misconduct the penalty will be dismissal without notice and payment in lieu of notice.
- 6.4 A Statutory Officer will have the right to appeal against disciplinary action. Where there is a recommendation to dismiss a Statutory Officer, the consideration of that recommendation by Full Council will fulfil the appeal function. The appeal hearing by the Full Council at the relevant meeting will take the form of a review of the case. The Statutory Officer will have the opportunity to make further representations to the Full Council at the relevant meeting. Please see the Appeal section of this policy and procedure for more information.
- 6.5 The non-Statutory Officers will have the right of appeal to the Appeals Sub Committee within the Employment Committee.

6.6 This policy and procedure may be implemented at any stage of the formal disciplinary procedure if the Statutory Officer's alleged misconduct warrants this.

6.7 Matters of misconduct will be fairly, effectively and consistently addressed.

7 Informal discussions

7.1 As a principle it is recognised that most problems involving work performance or behaviour are best resolved by informal discussions between an Officer and their manager and HR where appropriate. For clarification, the manager for the Head of Paid Service is the Leader of the Council. For the Section 151 Officer and the Monitoring Officer the manager will be the Head of Paid Service (Chief Executive). For the Non-Statutory Officers their line manager will be the Head of Paid Service too.

7.2 Where the Head of Paid Service is failing to meet the required standards of work performance and behaviour the Leader of the Council should counsel accordingly which should take the form of a one-to-one discussion where the issue (s) can be discussed. The Head of Paid Service should be made aware of the standards required, where these are not being attained and what support, including training they might expect to help achieve them. Problems relating to the work situation, and/or any personal problems raised by the Head of Paid Service should also be discussed. In the first instance please refer to the Capability Policy and Procedure. For further information regarding informal discussions, please contact the Human Resources Team.

7.3 Where the Section 151 Officer, Monitoring Officer or the remaining members of CMT are failing to meet the required standards of work performance and behaviour the Head of Paid Service should counsel accordingly which should take the form of a one-to-one discussion where the issue (s) can be discussed. These officers should be made aware of the standards required, where these are not being attained and what support, including training they might expect to help achieve them. Problems relating to the work situation, and/or any personal problems raised by these officers should also be discussed. In the first instance please refer to the Capability Policy and Procedure. For further information regarding informal discussions, please contact the Human Resources Team

- 7.4 In some cases a mediator can help to resolve disciplinary issues. Mediation can be used for:
- conflict between colleagues, Members or a manager;
 - to address a range of issues, including personality clashes, communication problems etc.;
 - to rebuild relationships after a formal dispute has been resolved.
- 7.5 Informal discussions or mediation sessions do not attract the right to be accompanied.
- 7.6 Where appropriate, informal action should be considered and the members of CMT should be advised that if the required improvement in work performance, conduct, or behaviour is not achieved then this disciplinary procedure is likely to be invoked.

8 Establishing the facts - Investigation

8.1 For the Head of Paid Service

Where there is a question of discipline raised in connection with the Head of Paid Service, the Monitoring Officer will refer the matter to the Employment Committee. The Employment Committee will consider the allegations and will meet with the Head of Paid Service to discuss.

8.1.1 The Employment Committee will then decide to either:

- a) appoint an Independent Investigator to investigate the allegations and report to the Committee with their findings and recommendations. The Employment Committee will also consider whether suspension is necessary for a maximum period of two months but may be extended (see 9.4.1) or;
- b) take no further action but consider whether training or another informal action is appropriate.

8.1.2 If the Committee decides to appoint an Independent Investigator a list of suitably qualified individuals is provided by the JNC Joint Secretaries and the Officer may choose from three names provided. If genuine conflicts of interest are raised, these will be considered by the Committee but if the Head of Paid Service does not agree within 14 days the Council should be free to appoint their choice from the list.

- 8.1.3 The Head of Paid Service will be given full details of the allegations against them prior to the appointment of the Independent Investigator and shall be informed of their appointment as soon as is reasonably practicable thereafter.
- 8.1.4 The Independent Investigator will conduct a thorough review of the allegations and the evidence and shall **normally** (where practicable) provide a report within 20 working days of the commencement of the investigation stating his/her opinion as to whether (and, if so, the extent to which) the evidence he/she has obtained supports any allegations of misconduct on the part of the Head of Paid Service.

8.2 Monitoring Officer and Section 151 Officer

Where a question of discipline is raised in connection with either the Monitoring Officer or the Section 151 Officer, the Head of Paid Service will consider the allegations and meet with the Officer to discuss.

- 8.2.1 The Head of Paid Service will then decide to either:
- a) appoint an Independent Investigator to investigate the allegations and report to the Committee with their findings and recommendations. The Head of Paid Service will also consider whether suspension is necessary for a maximum period of two months but may be extended or;
 - b) take no further action but consider whether training or another informal action is appropriate.
- 8.2.2 If the Head of Paid Service decides to appoint an Independent Investigator a list of suitably qualified individuals is provided by the Joint National Committee Joint Secretaries and the Officer may choose from three names provided. If genuine conflicts of interest are raised, these will be considered by the Committee but if either the Monitoring Officer or the Section 151 Officer does not agree within 14 days the Council should be free to appoint their choice from the list.
- 8.2.3 Either the Monitoring Officer and the Section 151 Officer will be given full details of the allegations against them prior to the appointment of the Independent Investigator and shall be informed of their appointment as soon as is reasonably practicable thereafter.
- 8.2.4 The Independent Investigator will conduct a thorough review of the allegations and the evidence and shall **normally** (where practicable) provide a report within 20 working days of the commencement of the investigation stating his/her opinion as to whether (and, if so, the extent to which) the evidence he/she has obtained supports any allegations of

misconduct on the part of either the Monitoring Officer or the Section 151 Officer.

8.3 Non-Statutory CMT members

Where a question of discipline is raised in connection with any of the non-Statutory CMT members, the Head of Paid Service will consider the allegations and meet with the Officer to discuss.

8.3.1 The Head of Paid Service will then decide to either:

- a) appoint an Independent Investigator to investigate the allegations and report to the Committee with their findings and recommendations. The Head of Paid Service will also consider whether suspension is necessary for a maximum period of two months or may be extended beyond the two months or;
- b) take no further action but consider whether training or another informal action is appropriate.

8.3.2 If the Head of Paid Service decides to appoint an Independent Investigator a list of suitably qualified individuals is provided by the JNC¹ Joint Secretaries and the Officer may choose from three names provided. If genuine conflicts of interest are raised, these will be considered by the Committee but if any of the non-Statutory CMT members does not agree within 14 days the Council should be free to appoint their choice from the list.

8.3.3 The Head of Paid Service will be given full details of the allegations against them prior to the appointment of the Independent Investigator and shall be informed of their appointment as soon as is reasonably practicable thereafter.

8.3.4 The Independent Investigator will conduct a thorough review of the allegations and the evidence and shall **normally** (where practicable) provide a report within 20 working days of the commencement of the investigation stating his/her opinion as to whether (and, if so, the misconduct on the part of the Head of Paid Service.

8.4 All the CMT Officers have the right to be accompanied at all stages of the disciplinary procedures by a Staff or Trade Union Representative or appropriate colleague at any meeting or hearing who is not implicated or connected with the case. These Officers can also request a pause

¹ Joint Negotiating Committee
Dated: January 2020

during the investigation meeting. Notes will be taken by the Independent Investigator which will be shared with them after.

- 8.5 All CMT Officers will be notified as soon as possible that there will be an investigation which will be undertaken without delay and will be concluded as quickly as possible.
- 8.6 During the investigation, if deemed to be necessary, the Council reserves the right to examine relevant systems. It also reserves the right to search the CMT Officer's office/workstation.² In such circumstances, the CMT Officer will be advised accordingly and will have the opportunity to attend whilst their office/workstations are examined. If the CMT Officer is on suspension, they will have the opportunity to either attend or arrange for their appropriate representative to attend on their behalf.
- 8.7 Whilst every effort will be made to conclude any investigation quickly, in order for the investigation to be as thorough as possible, it will take as long as the investigating officer considers necessary. The Independent Investigator will conduct a thorough review of the allegations and the evidence and shall **normally** (where practicable) provide a report within **twenty** working days of the commencement of the investigation. As part of the investigation, interviews may be held with the CMT Officer under investigation and witnesses identified where appropriate.
- 8.8 Depending on the nature of the incident, the Council reserves the right to dispense with an investigatory interview with the CMT Officer and to proceed directly to a formal Disciplinary Hearing with the collation of evidence.

9 Suspension

- 9.1 A CMT Officer may be suspended if it is believed that their attendance at work could be harmful to the Council, Council property, equipment or to others or disruptive at the Council. They may also be suspended if evidence could be tampered with or destroyed; if witnesses could be pressurised or in serious cases of alleged gross misconduct.
- 9.2 The Head of Paid Service may suspend a non-Statutory CMT member. A Statutory Officer may be suspended by the Chair of the Employment Committee. Suspension of a Statutory Officer and a non-Statutory

² A senior officer at the Council will be responsible for this search
Dated: January 2020

CMT member will be on full pay with contractual benefits and is not a disciplinary sanction.

- 9.3 If during the course of the investigation the Independent Investigator conducting the investigation forms the opinion that a serious breach of discipline may have occurred, the Statutory Officer who is the subject of the investigation may then be suspended by the Employment Committee if they have not been already. The Head of Paid Service can suspend a non-Statutory Officer.³
- 9.4 In the event that an immediate suspension is necessary due to the serious nature of any allegations, the Executive Head of Transformation may suspend the Statutory Officer on the written instruction of the Chair of the Employment Committee, who must indicate clear employment reasons. Any such suspension will be valid for a maximum of 10 working days, during which time the Employment Committee will meet to determine whether the suspension should be continued.
- 9.4.1 The suspension may be for a maximum period of **two** months only from the date the suspension takes effect. The Chair of the Employment Committee may direct that the suspension is terminated or extended beyond the two month period.

The suspension will be confirmed in writing by the Employment Committee or the Head of Paid service (as appropriate and having sought guidance from the Human Resources Team) within **five** working days and will state:-

- (a) the reason(s) for suspension;
- (b) the name of the Independent Investigator who will carry out an investigation and will remind the CMT Officer that if necessary a formal Disciplinary Hearing may take place at the earliest opportunity;
- (c) that the CMT Officer is advised to consult either their Staff or Trade Union Representative or appropriate colleague who is not implicated or connected with the case;
- (d) that the CMT Officer should not visit the Council premises without the permission from the Chair of the Employment Committee and should be available during normal working hours.

³ In the Head of Paid Service's absence it would be the Chair of the Employment Committee.
Dated: January 2020

Contact will be maintained with the CMT Officer throughout the period of suspension and they will be kept informed of developments.

10 Formal Disciplinary Procedure

10.1 The Employment Committee will receive the report by the Independent Investigator and consider whether to refer the matter to a Hearing Sub Committee, or whether no further action should be taken.

10.2 Where the Employment Committee considers that formal disciplinary action may be necessary then the following formal disciplinary procedure will apply:

10.2.1 Notice of a hearing by the Hearing Sub Committee

Other than in exceptional circumstances, the CMT Officer will be given a minimum of **five** clear working days' notice in writing which will include the following:

- (a) the date, time and location of the Hearing;
- (b) written details of the nature of the CMT Officer's alleged misconduct;
- (c) any additional relevant information not less than **five** working days in advance of the Hearing;
- (d) a request that the Hearing Sub Committee be provided with copies of any evidence the CMT Officer wishes to rely on, to be received **two** working days in advance of the hearing;
- (e) the right to be accompanied by either a Staff or Trade Union Representative or appropriate colleague who is not implicated or connected with the case
- (f) a request to be advised of the identity of the individual accompanying the CMT Officer;
- (g) a request to be advised of the details of any witnesses the CMT Officer intends to call;
- (h) whether reasonable adjustments may be needed for the CMT Officer or their companion;

- (i) a statement that following the conclusion of the Hearing, disciplinary action may be taken against them, which could be up to and including summary dismissal.

10.3 Rearranging/Postponement of hearings

In the event that a CMT Officer or their chosen representative/ companion is not available on the date or at the time proposed for the Hearing, the CMT Officer can propose an alternative date and/or time, provided that the proposal is reasonable and is within **five** working days of the original date.

10.4 CMT Officer's failure to attend a hearing

If a CMT Officer fails to attend a Hearing, a new Hearing date will be arranged. Where a CMT Officer continues to be unavailable to attend a Hearing the Hearing Sub Committee may conclude that the decision will be made on the evidence available. The CMT Officer will be informed of this in writing.

Unless there are special circumstances mitigating against it, if the CMT Officer is unable to attend the rearranged Hearing, the rearranged Hearing may take place in the CMT Officer's absence. The CMT Officer's chosen representative/ companion may attend in such circumstances and will be allowed the opportunity to present the CMT Officer's case. The CMT Officer will also be allowed to make written submissions in such a situation.

11 Right to be accompanied

- 11.1 As stated in the principles above, a CMT Officer will have the right to be accompanied by a Staff or Trade Union Representative or appropriate colleague at any formal Disciplinary/Appeal Hearing who is not implicated or connected with the case. Legal representation is not permitted.
- 11.2 A Trade Union Representative who is not an employed official must have been certified by their union as being competent to accompany a CMT Officer. CMT Officers may also alter their choice of companion if they wish. As a matter of good practice, in making their choice CMT Officers should bear in mind the practicalities of the arrangements. For instance, a CMT Officer may choose to be accompanied by a

companion who is suitable, willing and available. Legal representation is not permitted.

11.3 At the Hearing the companion is allowed to address the Hearing in order to:

- put the CMT Officer's case;
- sum up the CMT Officer's case;
- respond on the CMT Officer's behalf to any view expressed at the Hearing;
- ask witnesses questions.

The companion can also confer with the CMT Officer during the Hearing. The companion does not have the right to answer questions on the CMT Officer's behalf, to address the Hearing if the CMT Officer does not wish it, or to prevent the Hearing Sub Committee from explaining the case.

12 The Disciplinary Hearing

12.1 A Disciplinary Hearing will be conducted by a Hearing Sub Committee. The Hearing Sub Committee will appoint a Chair at the beginning of the meeting. The Hearing Sub Committee will be advised by a Human Resources Officer, who will also take notes of the meeting.

12.2 Both the Independent Investigator and the CMT Officer will be required to attend all of the Hearing.

12.3 The CMT Officer will be entitled to be given a full explanation of the case against them and be informed of the content of any statements provided by witnesses. The CMT Officer will be able to call their own witnesses. They will be permitted to set out their case and answer any allegations.

12.4 Where the Hearing Sub Committee intends to call relevant witnesses it will give the CMT Officer advance notice of this. The CMT Officer must also give advance notice if they intend to call relevant witnesses. Normally providing two working days' notice. The CMT Officer will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given the opportunity to raise points about any information provided by witnesses. If a witness wishes

to remain anonymous this may be possible in the early stages but anonymity cannot be guaranteed.

- 12.5 The Hearing Sub Committee may adjourn the disciplinary proceedings if it appears necessary or desirable to do so (including for the purpose of gathering further information). The CMT Officer will be informed of the period of any adjournment. If further information is gathered, the CMT Officer will be allowed a reasonable period of time, together with either their Staff or Trade Union Representative or a colleague who is not implicated or connected with the case to consider the new information prior to the reconvening of the disciplinary proceedings.
- 12.6 At the end of the Hearing the Hearing Sub Committee will consider whether the allegations are substantiated and consider the appropriate outcomes. The Hearing Sub Committee can impose disciplinary action up to and including dismissal for non-Statutory Officers but only short of dismissal for Statutory Officers. Please refer to **Section 14**.

13. The Independent Panel (convened for a Statutory Officer)

- 13.1 Where the Hearing Sub Committee recommends dismissal for Statutory Officer, an Independent Panel shall be convened by the Executive Head of Corporate no later than 15 working days after the Hearing to review the case and make recommendations to Full Council.
- 13.2 The Independent Panel will comprise of a minimum of two Independent Persons appointed by the Executive Head of Corporate in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. Appropriate training will be provided were necessary.
- 13.3 The Authority must appoint an Independent Panel at least twenty working days before the relevant meeting at which the Full Council will consider whether or not to approve any recommendation for the dismissal of a Statutory Officer.
- 13.4 The advice, views and recommendations of the Independent Panel will be reported to all Councillors and the Statutory Officer at least five clear working days before the date of the relevant meeting of the Full Council that will consider whether or not to approve the dismissal of the Statutory Officer.
- 13.5 If the Hearing Sub Committee's decision is to recommend dismissal the following procedures must be followed:

The Executive Head of Transformation, acting in the capacity of “proper officer” in accordance with Regulations (The Local Authorities (Standing Orders) (England) 2001) will notify every member of the Executive of:

- A) the name of the person who the Sub Committee wishes to dismiss;
- B) any other particulars relevant to the dismissal which has been notified to the proper officer; and
- C) the period within which any objection to the dismissal is to be made by the Leader of the Council on behalf of the Executive to the proper officer.

13.6 Notice of the dismissal of a Statutory Officer must not be given to the Council until either:

- A) the Leader of the Council has, within the period specified in the notice under sub-paragraph C of paragraph 13.5 notified the proper officer that neither they nor any other member of the Executive has any objection to the dismissal;
- B) the proper officer has notified the Employment Committee that no objection was received by them within that period from the Leader; or
- C) the Employment Committee is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

14 Decision

14.1 After all the relevant stages have been followed, the Hearing Sub Committee Chair will inform the CMT Officer of any decision made and what disciplinary action, if any, is to be taken. The decision will be confirmed in writing.

14.2 All records will be treated as confidential and will be kept in accordance with the Data Protection Act 2018, Retention & Disposal Policy and General Data Protection Regulation.

The records will include:

- The nature of the disciplinary action
- What was decided and what actions taken

- The reason for the actions
- Whether an appeal was lodged
- The outcome of the appeal
- Any subsequent developments

15 Formal Disciplinary Action

15.1 Misconduct - definition

Examples of misconduct include:

- Persistent bad time keeping;
- Unauthorised absence;
- Minor damage to the Council's property;
- Misuse or unauthorised use of Council's resources, vehicles, equipment etc.
- Minor failure to observe the council's policies and procedures;
- Abusive behaviour;
- Unreasonable refusal to follow management instruction;
- Poor attendance;
- Smoking in non-designated areas;
- Behaviour in the workplace that has a negative impact on the work of the service, colleagues or on the service delivery

15.2 Gross Misconduct - definition

Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the CMT Officers, Members and the Council. In the event that the Council has established to its satisfaction, after all the appropriate stages have been followed, that a CMT Officer has committed an act of gross misconduct, the Council will be entitled to terminate summarily the CMT Officer's contract of employment without notice or pay in lieu of notice.

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

- serious failure to undertake statutory responsibilities
- stealing from the Council, members of staff or the public and other acts of dishonesty or fraud including: falsification of a qualification that is a stated requirement of the CMT Officer's employment or results in financial gain to the CMT Officer; and falsification of records, reports, accounts, expense claims or self-certification

forms whether or not for personal gain; undertaking other paid employment whilst receiving sick pay or other benefits from the Council during a period of sickness or unauthorised absence unless agreed with Human Resources;

- sexual misconduct at work;
- physical violence, incivility, harassment or bullying of any kind including online bullying against any CMT Officer, contractor or customer whether or not on Council premises or during working hours;
- deliberate or negligent damage to or misuse of the Council's property;
- serious incapacity at work brought on by alcohol or being under the influence of illegal drugs and /or possession, custody or control of illegal drugs on the Council's premises;
- serious breach of the Council's rules, policies and procedures including serious misuse of computer, e-mail or internet facilities;
- breaking statutory regulations relating to the Council;
- gross negligence which causes unacceptable loss, damage or injury or puts the Council at risk;
- serious breach of health and safety rules
- unauthorised disclosure or transmission of confidential information, including information which may be of use to a competitor within a tendering situation or quotation procedure
- maliciously raising a grievance or making a malicious allegation;
- conviction of a criminal offence that is relevant to the CMT Officer's employment;
- breaches of Child Protection Legislations and associated policies;
- serious breach of trust and/or confidence;
- serious insubordination;
- conduct that brings the Council's name into disrepute; and
- unlawful discrimination or harassment of a fellow CMT Officer, contractor or customer on the grounds of sex, sexual orientation, gender reassignment, race, disability, age, marriage or civil partnership, maternity or pregnancy, religion or belief.

This list is **not** exhaustive and other acts of misconduct may come within the general definition of gross misconduct.

16 Formal Action Stages

- 16.1 At any point the Hearing Sub Committee conducting the Hearing may decide that no sanction will be imposed. The CMT Officer will be notified in writing to this effect.

Dated: January 2020

16.2 In some cases the Hearing Sub Committee may not consider it appropriate to issue a formal warning but instead provide details of the expected level of future conduct.

16.3 Where the Hearing Sub Committee considers that formal disciplinary action may be necessary then the following disciplinary action may be taken: (There are 3 stages, subject to the principle that stages may be omitted should the nature of the allegation warrant such action. The CMT Officer will be notified in writing to this effect).

16.4 **Stage 1- Preliminary Warning**

Where a minor offence or offences have been committed a documented **Stage 1 Preliminary Warning** may be given. The recorded warning will state that any further misconduct will render the CMT Officer liable to further disciplinary action. The CMT Officer will be informed that the warning will remain **'live' for 6 months**. During this period, the Council may rely on such a warning in the event of further misconduct on the part of the CMT Officer. This warning will follow a Hearing and will be confirmed in writing within **five** working days. The written confirmation will state:-

- (a) the nature of the offence;
- (b) the decision that a formal preliminary warning is being given and that it will be recorded on the CMT Officer's file;
- (c) the period of time that the warning will remain live on the CMT Officer's file;
- (d) an indication of the improvement required and the time span allowed for this to take place;
- (e) the likely outcome if no improvement takes place;
- (f) the CMT Officer's right of appeal against the decision and timescale for doing so.

16.5 **Stage 2 - First written warning**

When a CMT Officer's conduct or omission is thought to warrant formal disciplinary action more stringent than a **Preliminary Warning**, a **First Written Warning** will be issued by the Chair of the Hearing Sub Committee conducting the Hearing. The CMT Officer will be informed that the warning will remain **'live' for 12 months**. This warning will

follow a Disciplinary Hearing and will be confirmed in writing within **five** working days. The written confirmation will state:-

- (a) the nature of the offence;
- (b) the decision that a first written warning is being given and that it will be recorded on the CMT Officer's file;
- (c) the period of time that the warning will remain live on the CMT Officer's file;
- (d) an indication of the improvement required and the time span allowed for this to take place;
- (e) the likely outcome if no improvement takes place;
- (f) the CMT Officer's right of appeal against the decision and timescale for doing so.

16.6 **Stage 3 - Final Written Warning**

This stage in the procedure can be applied if the offence is sufficiently serious, or if there is further misconduct or a failure to improve performance during the currency of a prior warning, a final written warning may be given to the CMT Officer. It will warn that failure to improve may lead to dismissal (or some other action short of dismissal) and will refer to the right of appeal.

The CMT Officer will be informed that the warning will remain '**live**' for **12 months**. This warning will follow a Hearing and will be confirmed in writing within **five** working days. The written confirmation will state:-

- (a) the nature of the offence;
- (b) the decision that a final written warning is being given and that it will be recorded on the CMT Officer's file;
- (c) the period of time that the warning will remain live on the CMT Officer's file;
- (d) an indication of the improvement required and the time span allowed for this to take place;
- (e) the likely outcome if no improvement takes place;

- (f) the CMT Officer's right of appeal against the decision and timescale for doing so.

Where a final written warning is given to a CMT Officer above, the Council may also impose on the CMT Officer the following sanctions:

- disciplinary suspension without pay;
- disciplinary transfer;
- loss of seniority;
- loss of increment;
- demotion.

The above sanctions may be imposed in conjunction with other forms of disciplinary action, or as an alternative to dismissal.

17 Dismissal

17.1 Statutory Officer

Where a Statutory Officer has committed further acts of misconduct (these being acts of misconduct other than gross misconduct) following a final written warning given above, the Statutory Officer may be dismissed with notice or with pay in lieu of notice.

Where Full Council, on the advice, views and recommendations of the Independent Panel, establishes that a Statutory Officer has committed an act of gross misconduct, the Statutory Officer may be summarily dismissed.

The dismissal of a Statutory Officer will be confirmed in writing within **five** working days. The written confirmation will state:-

- (a) the reason(s) for the dismissal;
- (b) the period of notice, if any, and the arrangements for the completion of such notice.

17.2 Non-Statutory Officers

Where a non-Statutory Officer has committed further acts of misconduct (these being acts of misconduct other than gross misconduct) following a final written warning given above, the non-

Statutory Officer may be dismissed with notice or with pay in lieu of notice.

Where the Hearing Sub Committee, establishes that a non-Statutory Officer has committed an act of gross misconduct, the non-Statutory Officer may be summarily dismissed.

The dismissal of a non-Statutory Officer will be confirmed in writing within **five** working days. The written confirmation will state:-

- (a) the reason(s) for the dismissal;
- (b) the period of notice, if any, and the arrangements for the completion of such notice.

18 CMT Officers Charged or Convicted of a Criminal Offence

18.1 Criminal charges or convictions for offences of dishonesty, fraud or violence committed (including outside working hours) may result in disciplinary proceedings being taken against the CMT Officer, up to and including summary dismissal.

18.2 A charge or conviction for any other type of offence may result in disciplinary proceedings being taken against the CMT Officer where, in the opinion of the Council, the charge or conviction is such as to affect, or be likely to affect, the suitability of the CMT Officer for the position in which they are employed, or the business or reputation of the Council, or where the existence of the charge or conviction could, in the opinion of the Council, otherwise seriously undermine the trust and confidence that the Council has in the CMT Officer.

19 Appeals relating to dismissal of a CMT Officer

19.1 Statutory Officer

19.1.1 Where a Hearing Sub Committee has determined disciplinary action which falls short of dismissal, a Statutory Officer may appeal against the decision and sanction, with the exception of an informal action, to an Appeals Sub Committee. The Appeal will be sent to the Monitoring Officer, unless the appellant is the Monitoring Officer, in which case it

must be sent to the Executive Head of Transformation. Please refer to **Section 21.1** for further information.

19.1.2 Where there is a recommendation to dismiss a Statutory Officer, the consideration of that recommendation by Full Council will fulfil the appeal function. The appeal hearing by the Full Council at the relevant meeting will take the form of a review of the case. The Statutory Officer will have the opportunity to make further representations to the Full Council at the relevant meeting. The Council, before the taking of a vote on whether or not to approve dismissal, must take into account, in particular: any advice, views or recommendations of the Independent Panel;

- (a) The conclusions of any investigation into the proposed dismissal;
- (b) The conclusions and recommendations of the Hearing Sub Committee following the Hearing;
- and
- (c) Any representations from the statutory officer.

After taking into account the above matters at the relevant meeting, the Council may take any one of the following actions:

- (d) To approve the recommendation for dismissal or
- (e) To reject the recommendation for dismissal but impose sanctions, or
- (f) To reject the recommendation for dismissal and take no further action.
- (g) Whether training should be provided to the Statutory Officer

19.2 Non-Statutory Officer

19.2.1 Where a Hearing Sub Committee has determined disciplinary action for a non-Statutory Officer may appeal against the decision and sanction, with the exception of an informal action, to an Appeals Sub Committee.

20 Appeals short of dismissal for Statutory Officers or matters relating to non-Statutory Officers

- 20.1 Where a Hearing Sub Committee has determined disciplinary action which falls short of dismissal, all CMT Officers may appeal against the decision and sanction, with the exception of an informal action, to an Appeals Sub Committee. The Appeal will be sent to the Monitoring Officer, unless the appellant is the Monitoring Officer, in which case it must be sent to the Executive Head of Transformation. Please refer to **Section 19.3** for further information.
- 20.2 The Appeals Sub Committee will comprise of **3** members to be appointed by the Executive Head of Corporate and must include at least 1 member of the Executive. No members who sat on the original Hearing Sub Committee may be on the Appeals Sub Committee.
- 20.3 In the event that it is not possible to appoint **3** new members of the Employment Committee, substitute members of the Employment Committee may be appointed to the Appeals Sub Committee.
- 20.4 Appeals Sub Committee will also hear appeals made by CMT non-Statutory Officers and the process will be same as below.
- 20.5 An Appeal Hearing will concentrate on a review of the action taken and the procedure adopted; its purpose is not to re-hear the matter. However, the Appeals Sub Committee will consider new evidence that was not available at the time of the Disciplinary Hearing and both sides will have the opportunity to comment on such evidence during the Appeal Hearing process.
- 20.6 Appeal Hearings will normally take place within **thirty** days' of receipt of the CMT Officer's written notice of appeal. In exceptional circumstances the Appeal Hearing may take place after thirty days'.
- 20.7 The CMT Officer must write to the Monitoring Officer named in the disciplinary outcome of their intention to appeal. If the appellant is the Monitoring Officer then the appeal must be sent to the Executive Head of Transformation. This submission must be made within **ten** working days of receipt of the disciplinary outcome.
- 20.8 When lodging an appeal, a CMT Officer should state:
- the grounds of appeal; and

- whether they are appealing against the finding that they have committed the alleged act or acts of misconduct, or against the level of disciplinary sanction imposed.

21 Notice of Appeal Hearing

The CMT Officer will receive notice in writing and will include the following:

- (a) the date, time and location of the Hearing;
- (b) any additional relevant information not less than **five** working days in advance of the Hearing;
- (c) the Appeals Sub Committee must be provided with copies of any additional evidence the CMT Officer wishes to rely on, to be received **two** working days in advance of the hearing;
- (d) the right to be accompanied by either a Staff or Trade Union Representative or appropriate colleague who is not implicated or connected with the case.
- (e) a request to be advised of the identity of the individual accompanying the CMT Officer;
- (f) a request to be advised of the details of any witnesses the CMT Officer intends to call;
- (g) whether reasonable adjustments may be needed for the CMT Officer or their companion;
- (h) a statement that following the conclusion of the Hearing that the decision of the Appeals Sub Committee is final.

21.1 Rearranging/Postponing a Hearing

In the event that a CMT Officer or their chosen companion is not available on the date or at the time proposed for the Hearing, the CMT Officer can propose an alternative date and/or time, provided that the proposal is reasonable and is within **five** working days of the original date. Only very exceptionally will the Appeals Sub Committee permit a postponement of greater than five days or a request for less than five.

The parties should ensure that they attend the meeting at the specified time. If they are unable to attend because of circumstances beyond their control, they must advise the Appeals Sub Committee. If either

party fails to attend without explanation, or if it appears that the CMT Officer has made insufficient attempts to attend, the Hearing may take place in their absence, using the evidence available.

21.2 The Appeal Hearing

The Appeal Hearing will normally be conducted by the Appeals Sub Committee with a representative from Human Resources (the Panel).

All records will be treated as confidential and will be kept in accordance with the Data Protection Act 2018, Retention & Disposal Policy and General Data Protection Regulation.

21.3 Appeal Against First / Final Warning

21.3.1 Any representations made by the CMT Officer or their companion and those of the Independent Investigator who conducted the investigation and Hearing Sub Committee will be considered carefully.

21.3.2 For non-Statutory CMT Officers, the Appeals Sub Committee must decide on the basis of both sets of representations, together with any subsequent facts that may have come to light, whether to uphold the disciplinary sanction.

21.4 Appeal Against Dismissal

21.4.1 Where there is a recommendation to dismiss a Statutory Officer, the consideration of that recommendation by Full Council will fulfil the appeal function. Upon conclusion of Full Council the Employment Committee will provide to the Statutory Officer with written notification of the decision, within **ten** working days.

21.4.2 Where there is a recommendation to dismiss an a non-Statutory CMT Officer this will be decided by the Appeals Sub Committee. The Appeals Sub Committee will provide the non-Statutory CMT Officer with written notification of the decision within ten working days.

21.5. Increase to disciplinary outcome

In the event where an appeal is lodged and a hearing takes place the Appeals Sub Committee can allow for the disciplinary outcome to change, for example an increase from a Stage 1 Preliminary Warning to a Stage 3 Final Written Warning. If new evidence arising during the

appeal indicates that the offence was more serious/less serious than originally judged, the appeal hearing will terminate and a new disciplinary process will begin. The Appeals Sub Committee's decision is final.

22 Grievances raised in relation to a disciplinary case

Where a CMT Officer raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the disciplinary and grievance cases are related it may be appropriate to deal with both issues concurrently.

23 Vexatious claims

Proven false or vexatious information disclosed during the course of the investigation or during a Disciplinary or Appeal Hearing may be regarded as misconduct or gross misconduct.

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Grievance Policy and Procedure for Statutory Officers and non-Statutory CMT Officers

Summary

This report provides the Employment Committee with information regarding the Council's new Grievance Policy and Procedure for Statutory Officers and non-Statutory CMT Officers and seeks authority for its adoption.

The Policy and Procedure was considered by the Joint Staff Consultative Group at its meeting on 16 January 2020.

Recommendation

The Committee is advised to RESOLVE that the new Grievance Policy and Procedure for Statutory Officers and non-Statutory CMT Officers, as set out at Annex A to this report, be adopted.

1. Resource Implications

- 1.1 There are no additional revenue or capital cost implications arising from the report.

2. Key Issues

- 2.1 This policy and procedure has been written to provide guidance for dealing with grievance matters and aims to address and settle grievances.
- 2.2 This document includes the process of how a non-statutory Officer can raise a grievance against a Statutory Officer and how a Statutory Officer can raise a grievance.

3. Options

- 3.1 The Committee has the option to agree the new Grievance Policy and Procedure for Statutory Officers and non-Statutory CMT Officers or suggest amendments any amendments it considers appropriate.

4. Proposals

- 4.1 It is proposed that the new Grievance Policy and Procedure for Statutory Officers and non-Statutory CMT Officers is adopted.

5. Equalities Impact

- 5.1 Completed.

Annexes

Annex A – Grievance Policy and Procedure for

	Statutory Officers and non-Statutory CMT Officers
Background papers	None
Author/contact details	Julie Simmonds/ Jenny Villamayor – Senior HR Advisors
Executive Head	Louise Livingston - Executive Head of Transformation

Surrey Heath Borough Council Human Resources

Grievance Policy and Procedure for Statutory Officers and non-Statutory Officers



Policy and Procedure for Grievance

1 Introduction

- 1.1 This document includes the process for how an employee can raise a grievance against a Statutory Officer and how a Statutory Officer can raise a grievance. For all non-Statutory Officers they can follow the Council's Grievance Policy and Procedure for employees when the grievance is not against a Statutory Officer.
- 1.2 Surrey Heath Borough Council (Council) believes that all Officers should be treated fairly and with respect including Statutory Officers. There is also an expectation that Officers will take responsibility for their own conduct and performance, and will abide by all Council policies and procedures.
- 1.3 In the first instance if a Statutory Officer has a problem or concern about their work; working conditions; or their relationships or treatment by colleagues they should discuss this with their line manager, who will endeavour to resolve the situation on an informal basis. Where appropriate they should also speak to the Monitoring Officer.
- 1.4 If a non-Statutory Officer has a problem or concern about their work; working conditions; or their relationship or treatment by colleagues and Statutory Officers they should discuss this with their manager in the first instance, who will endeavour to resolve the situation on an informal basis.
- 1.5 However, where attempts to resolve the matter informally do not work, it may be appropriate for a formal grievance to be raised. It is recognised that a formal grievance procedure can be a stressful and upsetting experience for all parties involved.
- 1.6 This policy and procedure is in line with the ACAS Code of Practice.

2 Scope

- 2.1 The policy applies to all Statutory Officers which are the Head of Paid Service; Section 151 Officer and the Monitoring Officer. This policy also applies to non-Statutory Officers who wish to raise a grievance against a Statutory Officer.

2.2 This policy and procedure should be read in conjunction with other relevant Surrey Heath Borough Council Policies including but not limited to:

- Disciplinary Policy & Procedure for Statutory Officers and non-Statutory CMT Officers
- Dignity and Respect at Work Policy & Procedure
- Grievance Policy and Procedure (non-Statutory Officers)
- Capability Policy & Procedure
- Sickness Absence Policy & Procedure
- Speak Up Policy
- Member and Officer Protocol
- Code of Conduct

2.3 Complaints that amount to an allegation of misconduct on the part of a Statutory Officer will be investigated and dealt with under the Disciplinary Policy & Procedure for Statutory Officers and non-Statutory CMT Officers.

3 Policy Statement

The purpose of this policy and procedure is to provide guidance when dealing with grievance matters and aims to address and settle grievances. This document includes the process for how a non-Statutory Officer can raise a grievance against a Statutory Officer and how a Statutory Officer can raise a grievance. All complaints against Members should be raised with the Monitoring Officer.

Wherever possible, managers must seek to resolve issues informally in the first instance. Before invoking the Grievance Procedure managers must seek the advice from the Human Resources Team or the Monitoring Officer.

The Council will not tolerate abusive, intimidating or insulting behaviour from anyone taking part in, or conducting grievance procedures, and will treat any such behaviour as misconduct under the Council's Disciplinary Policy and Procedures and related procedures.

4 Equality Assessment Policy

An Equality Impact Assessment has been carried out on this Policy and Procedure.

5 Terms

- 5.1 Corporate Management Team (CMT) includes the Head of Paid Service (Chief Executive), Section 151 Officer, Monitoring Officer and Executive Heads and Heads of Service. Where reference is made in this policy and procedure to CMT Officers this refers to all.
- 5.2 The Head of Paid Service is also the Chief Executive and therefore a Statutory Officer. The Monitoring Officer will conduct an initial filtering to determine if the matter is clearly unfounded or trivial before referring the matter to the Employment Committee.
- 5.3 The Monitoring Officer is a Statutory Officer. The Head of Paid Service will consider allegations against the Monitoring officer and determine the process to follow.
- 5.4 The Section 151 Officer is a Statutory Officer. The Head of Paid Service will consider allegations against the Section 151 Officer and determine the process to follow.
- 5.5 The remaining members of CMT are non-Statutory Officers. The Head of Paid Service will consider allegations against these non-Statutory Officers and determine the process to follow.
- 5.6 The Investigating and Disciplinary Committee (IDC) at Surrey Heath Borough Council will be known as the **Employment Committee**. This is a politically balanced committee comprising of **nine** members, consisting of at least **two** members of the Executive. The Council will ensure that there are different members on each sub committee. Please refer to the Terms of Reference for further information regarding these committees. The Employment Committee will decide whether to progress a complaint and appoint an independent investigator, in consultation with the Executive Head of Transformation (where appropriate) and Human Resources.
- 5.7 An **Independent Consultant** can be appointed to act as the Independent Investigator. Information regarding Independent Consultants can be found with Human Resources.

- 5.8 Human Resources will advise all the committees and legal advice will be available too. Human Resources will also act as note takers in meetings.

6 Principle and Aims

- 6.1 For both Statutory Officers and non-Statutory Officers if the informal process has not been resolved satisfactorily or the outcome is not satisfactory then they can invoke the formal procedure which is included in this policy and procedure.
- 6.2 It is recognised that, in some cases, a grievance could be made against an individual, rather than the Council as a whole. In such cases, the Council will ensure that the rights of, and support to, all individuals involved will be equitable at all times.
- 6.3 The Council will undertake to protect its staff against allegations concerning a third party. Hence, grievances resulting from matters that are not entirely within the Council's control such as contractor/client relationships, will be treated in the same way as those from within the organisation and this approach will apply to all contracts entered into by the Council.
- 6.4 Whilst a grievance is being considered, at whatever stage, the Statutory Officer and the non-Statutory Officer will be expected to continue to work normally with the appropriate safeguards and supports in place.
- 6.5 The Council can reasonably expect to be given full opportunity to address a grievance brought by a Statutory Officer and a non-Statutory Officer before recourse to an Employment Tribunal.

7 Mediation

In some cases a mediator can help to resolve grievance issues. Mediators can be involved at any stage to seek and facilitate resolution. Mediation will be used only where all parties in the grievance agree. Officers who feel that mediation may help to resolve their grievance should contact the Human Resources Team for more information.

8 The right to be accompanied

- 8.1 Both a Statutory Officer and a non-Statutory Officer will have the right to be accompanied by a Staff or Trade Union Representative or appropriate colleague at any formal grievance meeting or hearing who is not implicated or connected with the case. The Council reserves the right to refuse accompaniment by a person who is reasonably deemed to be unsuitable by Human Resources. Examples of unsuitability would include someone who has a vested interest in the outcome of the grievance. Legal representation is not permitted.
- 8.2 A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker. Workers may also alter their choice of companion if they wish. As a matter of good practice, in making their choice workers should bear in mind the practicalities of the arrangements. For instance, a worker may choose to be accompanied by a companion who is suitable, willing and available on site rather than someone from a geographically remote location.
- 8.3 At the meeting the companion is allowed to address the meeting in order to:
- put the Statutory Officer's or the non-Statutory Officer's case;
 - sum up the Statutory Officer's case or the non-Statutory Officer's case;
 - respond on the Statutory Officer's case or the non-Statutory Officer's case behalf to any view expressed at the meeting;
 - the companion can also confer with the Statutory Officer or the non-Statutory Officer during the meeting.

The companion does not have the right to answer questions on the Statutory Officer's behalf or the non-Statutory Officer's behalf or to address the meeting if the Statutory Officer or the non-Statutory Officer does not wish it, or to prevent the Council from presenting the case.

9 Rearranging/Postponement of Meetings

- 9.1 In the event that either a Statutory Officer and non-Statutory Officer or their chosen companions are not available on the date or at the time proposed for the Meeting, the Statutory Officer or non-Statutory Officer can propose an alternative date and/or time, provided that the proposal is reasonable and is within **five** working days of the original date. Only

very exceptionally will the Council permit a postponement of greater than five days.

- 9.2 The parties should ensure that they attend the meeting at the specified time. If they are unable to attend because of circumstances beyond their control, they must advise the Human Resources Team. If either party fails to attend without explanation, or if it appears that the Statutory Officer or non-Statutory Officer has made insufficient attempts to attend, the meeting may take place in their absence, using the evidence available

10 Support during the grievance process

For many employees being involved in a grievance hearing or an investigation is an unpleasant and distressing experience and every effort should be made to put them at ease and treat them with empathy and understanding throughout the process. All those employees involved in the process requiring additional support should contact the Human Resources team or their line manager to discuss what support can be provided.

11 Confidentiality

- 11.1 During the grievance process (and after it is completed) the need to maintain confidentiality is of paramount importance. All Statutory Officers and non-Statutory Officers have a personal responsibility for ensuring that information they receive remains confidential whether it is written or verbal, or received directly or indirectly.
- 11.2 Officers involved will only have access to confidential information which is pertinent to them. For example, witnesses who are interviewed as part of an investigation need only be informed of the aspects of the grievance that are relevant to them. This is to enable them to provide an accurate statement and ensure they have a fair opportunity to respond to any allegations made against them.

12 Accessibility

If applicable reasonable adjustments will be made for the Statutory Officer and non-Statutory Officers or their companions.

13 Records and Notes

Records will be kept to ensure accuracy and transparency of process. All records will be treated as confidential and will be kept in accordance with the Data Protection Act 2018, Retention & Disposal Policy and General Data Protection Regulation.

The records will include:

- The nature of the grievance
- What was decided and what actions taken
- The reason for the actions
- Whether an appeal was lodged
- The outcome of the appeal
- Any subsequent developments

14 Grievance procedure

14.1 Where a grievance is against either the Head of Paid Service or Section 151 Officer this should be received by the Monitoring Officer in the first instance. Where the grievance is against the Monitoring Officer this should be received by the Executive Head of Transformation. This will constitute the initial filtering to determine if the grievance is clearly unfounded or trivial or can best be dealt with under another procedure. The Monitoring Officer will keep a record of all complaints which will be audited by the Employment Committee on an annual basis.

14.2 If the matter is deemed a serious complaint then the Monitoring Officer will forward the grievance to the Employment Committee for consideration.

14.3 Human Resources will be informed of all grievances raised.

14.4 Although not exhaustive, issues that may cause grievances include:

- Terms and conditions of employment
- Bullying and Harassment
- Discrimination
- Health and safety
- Work relations
- New working practices
- Working environment

15 Informal Grievances

- 15.1 If Statutory Officers and non-Statutory Officers would like an initial, confidential and anonymous conversation they can speak with either a member of the Human Resources Team or a Staff Representative.
- 15.2 If the Statutory Officer has concerns regarding their work, working conditions or relationships with colleagues, they should first talk the matter over informally with their line manager. For clarity this would be the Leader of the Council for the Head of Paid Service and the Head of Paid Service for the remaining Statutory Officers.
- 15.3 For non-Statutory Officers they should raise their concerns initially with their manager or Monitoring Officer if it is regarding a Statutory Officer. If it concerns the Monitoring Officer then this should be referred to the Executive Head of Transformation.
- 15.4 The concerns will be discussed in confidence, discreet investigations made, and attempt to resolve the matter speedily and fairly. Informal discussion with the parties involved will be encouraged as appropriate, with the aim of resolving the issue (s) as swiftly and effectively as possible.
- 15.5 Discreet investigations will be conducted by the Monitoring Officer in the first instance to ascertain the nature of the complaint to determine if the complaint should be forwarded to the Employment Committee.
- 15.6 It may be appropriate for the matter to be dealt with by way of mediation, depending on the nature of the grievance. This involves the appointment of a mediator (**See Section 6 above**).
- 15.7 Where an informal approach has been unsuccessful, or circumstances make this route inappropriate, then matters can be raised formally.

16 Formal Grievances

- 16.1 Where a grievance is serious or both a Statutory Officer and a non-Statutory Officer have attempted to raise a problem informally without success, both should raise the matter formally and without unreasonable delay to the Monitoring Officer or Executive Head of Transformation if appropriate. This should be done in writing, stating clearly that this is a grievance and setting out the nature. An

acknowledgement of receipt of this grievance will be received within 3 working days including information regarding the process.

- 16.2 The Monitoring Officer will determine if the complaint should be forwarded to the Employment Committee.
- 16.3 The Employment Committee will appoint an Independent Investigator who will then arrange a grievance meeting with the complainant who raised the grievance. The complainant has the right to be accompanied as detailed in Section 7.
- 16.4 A formal grievance meeting is not the same as a grievance hearing. This meeting allows the opportunity for the complainant to re-state their grievance, for discussion and dialogue, how they would like to see it resolved and lead to an amicable arrangement for either moving forward or a solution.
- 16.5 Before proceeding to a grievance hearing, it may be necessary to carry out investigations of any allegations made by the complainant, although the confidentiality of the grievance process will be respected.
- 16.6 The grievance will be heard by the Hearing Sub Committee. Please refer to the Terms of Reference for further information regarding these committees. The complainant will receive written notice of the Grievance Hearing at least **five** working days before the meeting and will include the following:
 - the date, time and location of the meeting;
 - the right to be accompanied by either a Staff or Trade Union Representative or colleague of their choice (**See Section 7 above**);
 - a request to be advised of the identity of the individual accompanying the complainant;
 - whether reasonable adjustments may be needed for the complainant or their companion;
 - all documentary evidence and supporting information must be exchanged by both parties at least **two** working days before the hearing;
 - in the event further investigatory meetings are required with any relevant parties the Grievance Hearing will be resumed as soon as possible.
- 16.7 Following the hearing, the Statutory Officer or the non-Statutory Officer who the grievance is against will be informed in writing of the outcome and told of any action as a result of the grievance. This letter will also confirm the Statutory Officer or non-Statutory Officer's right to an

appeal against the decision and the timescales for doing so. Where possible, Surrey Heath Borough Council will provide an outcome letter within **ten** working days.

17 Appeals

- 17.1 If a complainant feels that their grievance has not been satisfactorily resolved they should write to the Appeals Sub Committee. The appeal letter must be made within **ten** working days of receipt of the grievance outcome and include the grounds for their appeal.
- 17.2 The appeal will be dealt with impartially by the Appeals Sub Committee.
- 17.3 Appeal meetings will normally take place within **10** working days of receipt of the complainant's written notice of appeal. In exceptional circumstances the Appeal meeting may take place within thirty working days'.
- 17.4 The complainant will receive written notice of the appeal meeting in writing at least **five** working days before the meeting and will include the following:
- the date, time and location of the appeal meeting
 - the right to be accompanied by either a Staff or Trade Union Representative or colleague of their choice
 - a request to be advised of the identity of the individual accompanying the complaint;
 - whether reasonable adjustments may be needed for the complaint or their companion;
- 17.5 Upon conclusion of the appeal meeting, the Appeals Sub Committee will provide the Statutory Officer and the non-Statutory Officer with written notification of the decision of the appeals panel, within **10** working days.

18 Grievances raised in relation to a disciplinary case

Where a complainant raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the disciplinary and grievance cases are related it may be appropriate to deal with both issues concurrently.

19 Vexatious claims

The Council regards the lodging of a grievance as a serious matter. If a complainant makes a frivolous or vexatious grievance claim the matter may be regarded as misconduct or gross misconduct if proven.

20 Collective Grievances

If a grievance is presented by a group (two or more staff) then timescales for the grievance process will be discussed at the first meeting to ensure sufficient time is given to the complaint but recognising the need for it to be conducted in a timely manner. It would be helpful if the group could agree on one or two representatives to attend the Grievance Hearing on behalf of them all. This will depend on the nature of the grievance.

Speak Up Policy and Procedure

Summary

This report seeks the adoption of a revised Whistle-Blowing Policy and Procedure, now renamed as the Speak Up Policy and Procedure.

This Policy was considered at the Joint Staff Consultative Group meeting on 28 November 2019 and all requested amendments have been incorporated.

Wards Affected

N/A

Recommendation

The Committee is advised to RESOLVE that the Speak Up Policy and Procedure, as set out at Annex A to this report, be adopted.

1. Resource Implications

- 1.1 There are no additional revenue or capital cost implications arising from the report.

2. Key Issues

- 2.1 The Council's current Whistle-Blowing Policy and Procedure has now been updated and renamed to Speak Up. Speaking Up is the confidential disclosure by staff of any wrong-doing that they may encounter in the workplace.
- 2.2 This policy and procedure is designed to encourage staff to raise any serious concerns whilst providing protection to staff who make disclosures to the Council or to an external party outside the management structure of the Council and explains the procedure to follow.
- 2.3 This Policy and Procedure also outlines what an employee should expect throughout the process and their rights.

3. Options

- 3.1 The Group has the option to adopt the amendments to the Speak Up Policy and Procedure or suggest amendments.

4. Proposals

- 4.1 It is proposed that the Speak Up Policy and Procedure is adopted.

5. Consultation

- 5.1 Consultation has taken place with staff representatives and Equalities Action Group regarding the revised Speak Up Policy and Procedure. It has also been considered by the Joint Staff Consultative Group.

Annexes	Annex A – Speak Up Policy and Procedure
Background papers	None
Author/contact details	Julie Simmonds, Senior HR Advisor Julie.Simmonds@surreyheath.gov.uk
Executive Head	Louise Livingston, Executive Head of Transformation

Surrey Heath Borough Council Human Resources

Whistle-blowing Policy and Procedure Speak Up Policy and Procedure (formerly Whistle-blowing)



~~Whistle-blowing~~Speak Up Policy and Procedure

1 Introduction

Surrey Heath Borough Council sets high standards of quality, honesty, openness and accountability. However, there are times when staff at the Council may become concerned about something that is happening at work. Usually these concerns can be easily resolved and individuals can carry on as normal. ~~If staff feel that they are unable to resolve any concerns and there is concern about serious malpractice such as corruption, fraud or dangerous conditions, it is important that staff know what to do about it~~Examples of some possible concerns can be found in Section 2 – Definitions which can be of assistance but this is not intended to be an exhaustive list. When staff raise a concern (qualifying disclosure) about danger or illegality that affects others, for example members of the public, this is known as ~~Whistle-blowing~~Speaking Up or as previously referred to as Whistle-blowing.

This policy and procedure is designed to encourage staff to raise any serious concerns whilst providing protection to staff who make disclosures to the Council or to an external party outside the management structure of the Council and explains the procedure to follow. Surrey Heath Borough Council will treat all such disclosures in an appropriate and sensitive manner.

2 Definitions

~~Whistle-blowing~~Speaking Up is the confidential disclosure by staff of any wrong-doing that they may encounter in the workplace. ~~The term “Whistle-blower” refers to the person raising the concern or making the complaint.~~

Disclosures are deemed to be “qualifying disclosures” which is a term used to identify the categories of information which staff will be able to disclose to a suitable person without fear of reprisal, provided the disclosure is made in good faith. A qualifying disclosure is defined as one which is made in good faith and shows one or more of the following:-

- A criminal offence has been or is likely to be committed;
- Financial malpractice or impropriety or fraud;
- Failure to comply with any legal obligation or statutes including breach of employment contract or professional regulations;
- A miscarriage of justice has occurred, is occurring or is likely to occur;
- Dangers to Health or Safety or damage to the environment;
- Improper conduct or unethical behaviour;
- Direct or indirect bullying or harassment;
- Deliberate attempts to cover up any of the above.

This is not intended to be an exhaustive list.

3 Scope

This policy applies to all those who perform work for Surrey Heath Borough Council and for the purposes of this policy will be termed 'staff':

- The Chief Executive, Executive Heads and -Service Heads
- Employees (who are either full or part-time)
- Agency workers, and Casual workers and Volunteers
- Contractors and sub-contractors
- Work experience staff, Interns or other trainees

This policy is in addition to the Council's grievance procedures and Financial Regulations: Anti-Fraud policy.

4 Policy Statement

Surrey Heath Borough Council recognises that some concerns may be extremely sensitive. This policy and procedure enables staff to confidentially raise concerns within the Council but also has recourse to an external party (see paragraph 7.2 for details) outside the management structure of the Council. This policy and procedure provides Whistle-blowersstaff with protection from victimisation, harassment or disciplinary action as a result of any disclosure where the disclosure is made in good faith and is not made maliciously or for personal gain.

This Council encourages staff who suspect wrong-doing to report it, as this helps perpetuate the integrity of the Council, even if the suspicion proves unfounded.

5 Equality Assessment Policy

The Council's Equality Scheme demonstrates its commitment to equality internally and externally and ensures that all sections of the community are given an opportunity to contribute to the wellbeing of the community. An equality impact assessment has been carried out on the Whistle-blowingSpeak Up Policy and Procedure.

The Council ensures that consultation is representative of the community and that consideration is given on how to consult hard to reach groups and will positively learn from responses.

6 Policy Principles

The identity of the Whistle-blowerstaff member will be protected at all stages in any internal concern. However, the Council cannot guarantee that this will be retained if external legal action results from the

disclosure. The Council is not accountable for maintaining anonymity where the ~~Whistle-blower~~staff member/s has told others of the alleged concern.

The Council encourages staff to put their name to a disclosure they make however, concerns raised anonymously will be considered and assessed where sufficient information is provided to allow a review of the allegation. This could make the concern more difficult to investigate thoroughly and give feedback on the outcome.

Disclosure of other wrong-doing is also covered by this policy where it is of general malpractice, gross misconduct, breach of the Council's Constitution, breach of Audit Regulations or breach of the codes of conduct of all relevant professional institutions.

7 Procedure for raising concerns

7.1 Reporting concerns can be very daunting and members of staff ~~should be as well prepared as possible before they go any further. They may find the~~ following checklist ~~is~~ a useful guide:

- Don't ignore your concerns;
- ~~Don't try to investigate things yourself unless it is your job/role to do so;~~
- Be clear about what is worrying you:
 - WHO: the target of the allegation and if there are others who know about the alleged conduct
 - WHAT: what is alleged to have been broken e.g. Policy, law etc
 - WHY: what may be gained/benefit from the alleged action
 - WHEN: timeframe if known of the alleged incident/s;
- Make notes of what you have seen, heard or felt;
- Be prepared to hand over any notes and evidence you may have;
- Act quickly to avoid the concern becoming a major issue;
- Don't feel that you are "telling tales";

Most importantly of all: don't worry, don't suffer in silence ~~and blow the whistle.~~

If members of staff are unsure about raising a concern, they can get independent advice from the union representative (Tel: 01276 707319) or ~~the independent Whistle-blowing charity: Public Concern at Work on Tel: 020 7404 6609 or by email at whistle@pcaw.org.uk~~ Protect (formerly Public Concern at Work) on Tel: 020 3117 2520 <https://protect-advice.org.uk/>

7.2 Reporting a concern

Wherever possible any concern should be raised with the appropriate line manager in the first instance. Where the concern involves that line manager, or the ~~Whistle-blower~~staff member feels that the line manager

is not the appropriate person, the concern should be raised with one of the following:

- Any Executive Head or Head of Service or
- Head of Legal, Monitoring Officer (may be the same person as the Head of Legal) who is also the Monitoring Officer (Tel: 01276 707304) or Audit, Counter Fraud & Corporate Enforcement & Audit Manager (Tel: 01276 707105) or
- National Audit Office at enquiries@nao.gsi.gov.uk or <https://www.nao.org.uk/contact-us/whistleblowing-disclosures> or
- If staff members feel that their concern cannot be raised internally or their attempts to do so have not proven successful they may wish to consider raising the matter externally with our external auditors, BDO (Tel:020 7486 5888)

Concerns should be raised in writing setting out:

- The background and history of the concerns
- Giving names, dates and places where possible
- The reason for making the disclosure

Within 10 working days of a concern being raised the individual with whom the employee raised the matter with will write to the employee setting out:

- Acknowledge that the concern has been received
- Indicating how the matter will be dealt with
- Give an estimate of how long it will take to get a final response
- Tell the employee if an investigation has been started

8 Investigation procedure

- 8.1 The Head of Paid Service has given overall responsibility for the maintenance and operation of this policy to the Head of Human Resources~~Executive Head of Transformation~~ and/or the Head of Legal ~~who is or~~ the Monitoring Officer. The Head of Legal will ~~then~~ delegate the concern to the appropriate person either within Human Resources, or Audit and Corporate Enforcement Team, who will then be the Investigating Officer for the case. The Head of Legal maintains a record of concerns raised and the outcomes, but in a form which does not endanger the individual's confidentiality and will report as necessary to the Council.
- 8.2 The investigation of the concern will commence as soon as practically possible on its receipt.
- 8.3 The investigating officer, ~~appointed by the Monitoring Officer,~~ will meet with the Whistle-blower member of staff who made the disclosure and consider what action will be appropriate. The action taken by the Council may involve an informal review, an internal inquiry or a formal investigation. If misconduct is discovered as a result of any investigation under this procedure the Council's disciplinary procedure will be used,

in addition to any appropriate external measures. The Council could decide that the matters raised may be referred to the external Auditor or form the subject of an independent inquiry. The overriding principle, which the Council will have in mind, is the public interest.

- 8.4 The investigating officer will inform the person against whom the complaint is made as soon as is practically possible. This person will be informed of their right to be accompanied by a Staff or Trade Union Representative or ~~other representative~~appropriate colleague who is not implicated or connected with the case - at any future interview or hearing held under the provision of these procedures.

Where appropriate, the matters raised may:

- be investigated by Management, Internal Audit or through the disciplinary process
- be referred to the Police
- be referred to Social Services
- be referred to the External Auditor
- form the subject of an independent inquiry
- be referred to the appropriate Committee of the Council

- 8.5 All concerns will be treated in confidence and every effort will be made not to reveal the ~~Whistle-blower's~~identity of the staff member if that is their wish. At the appropriate time, however, the identity may need to be revealed as they may be required as a witness. Surrey Heath Borough Council will not knowingly reveal the identity without that ~~Whistle-blower's~~staff member having prior knowledge and given consent, except where required by law.

- 8.6 Wherever possible and subject to data protection and legal constraints, the ~~Whistle-blower~~staff member will be given feedback on the outcome of the investigation. If the decision is taken not to act, an explanation will be given ~~to the Whistle-blower~~.

- 8.7 If the allegation is made in good faith, but it is not confirmed by the investigation, no detrimental action will be taken against the ~~Whistle-blower~~staff member making the allegation. If, however, the ~~Whistle-blower~~staff member makes an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken.

Although ~~Whistle-blowers~~a staff member making a disclosure is ~~are~~ not expected to prove beyond doubt, the truth of an allegation, the ~~y Whistle-blower~~ will need to demonstrate to the person contacted that there are reasonable grounds for their concern.

- 8.8 Details of the matter, the findings of the subsequent investigation and the action taken will be recorded and placed on a register held by the ~~Chief Executive~~Head of Paid Service.

9. Review

- 9.1 This policy and procedure will be subject to a formal review on an annual basis or earlier by Human Resources.

This policy is available in large print if requested.

Document revisions

Document revised (date)	Details of revisions made	Version
March, 2018	Public Concern at Work email address amended	2
	Audit & Investigation Manager's Title updated	
	Audit Commission deleted. Replaced with National Audit Office details	
	External Auditors details updated	
<u>November, 2019</u>	<u>Name change, procedural changes and contact information changes</u>	

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Pensions Discretions Policy

Summary

This report provides the Employment with information regarding the Council's revised Pensions Discretions Policy. This Policy was considered at the Joint Staff Consultative Group meeting on 16 January 2020.

Recommendation

The Committee is advised to RESOLVE that the revised Pensions Discretions Policy, as set out at Annex A to this agenda, be adopted.

1. Resource Implications

- 1.1 There are no direct additional revenue or capital cost implications arising from the report but decisions made as a result of this policy being implemented could have a financial cost as detailed in the policy.

2. Key Issues

- 2.1 The Council is a participating employer in the Local Government Pension Scheme (LGPS) and, as an employer, is under a legal duty to prepare and publish a written statement of its policy relating to certain discretionary powers under the Regulations which apply to the LGPS.
- 2.2 Surrey Heath Borough Council is also under a duty to formulate, publish and keep under review a Statement of Policy in respect of how these powers are applied where they relate to the payment of compensation to employees whose employment is terminated as a result of redundancy or certain other reasons.
- 2.3 This document is intended to comply with these duties and the following table, sets out the discretionary powers concerned, identifies the relevant Regulation that gives the Council the discretion and describes how the discretion will be exercised.

3. Options

- 3.1 The Committee has the option to agree the revised Pension Discretions Policy and Procedure or suggest amendments in considers appropriate.

4. Proposals

- 4.1 It is proposed that the revised Pensions Discretions Policy be adopted.

5. Equalities Impact

5.1 Completed

Annexes	Annex A – Pensions Discretions Policy
Background Papers	None
Author/contact Details	Louise Livingston, Executive Head of Transformation
Executive Head	Louise Livingston, Executive Head of Transformation



Pension Discretions Policy



Great Place • Great Community • Great Future

Surrey Heath Borough Council Pension Discretions Policy

1 Introduction

- 1.1** Surrey Heath Borough Council (the Council) is a participating employer in the Local Government Pension Scheme (LGPS) and as an employer is under a legal duty to prepare and publish a written statement of its policy relating to certain discretionary powers under the Regulations which apply to the Local Government Pension Scheme (“the LGPS”).
- 1.2** Surrey Heath Borough Council is also under a duty to formulate, publish and keep under review a Statement of Policy in respect of how these powers are applied where they relate to the payment of compensation to employees whose employment is terminated as a result of redundancy or certain other reasons.
- 1.3** This document is intended to comply with these duties and the following table, sets out the discretionary powers concerned, identifies the relevant Regulation that gives Surrey Heath Borough Council the discretion and describes how the discretion will be exercised.
- 1.4** The policy set out in this document will not be departed from except as provided for in the policy or following a variation to the policy approved by Surrey Heath Borough Council.
- 1.5** This statement is not a definitive statement of the law and is subject to the provisions of the relevant Regulations.
- 1.6** The Regulations that apply to the LGPS are:
- The Local Government Pension Scheme Regulations 2013 (these are referred to as the “Pensions Regulations”);
 - The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (referred to as the “Transitional Regulations”);
 - The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 applied to the LGPS before 1 April 2014, are preserved in part on a transitional basis by the Transitional Regulations and are referred to as the “Benefits Regulations”
- 1.7** The Regulations which apply to the payment of compensation to employees whose employment is terminated as a result of redundancy, other specified reasons or injury are:
- The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (referred to as the “Compensation Regulations”).
 - The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 (referred to as the “Injury Regulations”).

2 Definitions

In the Appendix below:

- 2.1** “The Scheme” or “the Pension Scheme” means the LGPS and “the Fund” or “the Pension Fund” means the fund maintained under the LGPS;
- 2.2** “Member” means a member of the LGPS;
- 2.3** “Active member” means a member in employment and paying, or treated as paying, contributions to the LGPS, or absent from employment for a reason mentioned in Regulation 11 of the Pensions Regulations.
- 2.4** References to a member with transitional protection are those who can count membership accrued before 1 October 2006 and who have statutory transitional protection under the Transitional Regulations, wholly or partly, from changes that would otherwise be made to their pension entitlements and/or from actuarial reductions that would otherwise be applied to their pension benefits as a result of the coming into force of the Pensions Regulations on 1 April 2014.
- 2.5** References to a member meeting “the 85 year rule” are those a members whose age in whole years when added to the member’s total membership in whole years is 85 years or more.

3 Scope

This policy covers all employees who are members of the LGPS and are employed at Surrey Heath Borough Council.

4 Equality Assessment Policy

The Council’s Equality Scheme demonstrates its commitment to equality internally and externally and ensures that all sections of the community are given an opportunity to contribute to the wellbeing of the community. An equality impact assessment has been carried out on this policy and procedure. The Council ensures that consultation is representative of the community and that consideration is given on how to consult ‘hard-to-reach’ groups and will positively learn from responses.

5 Policy Statement

- 5.1** This Policy document provides a full summary of the key discretions in-line with the LGPS Regulations. This policy contains no contractual rights.

- 5.2 Discretionary compensation payments will only be awarded in exceptional circumstances.
 - 5.3 The Council retains the right to change the policy at any time. Where reference is made in this policy to an officer with a decision making role, the authority to make these decisions will be for them and their successor roles should there be a change in the future.
 - 5.4 Only the version of the policy that is current at the time a relevant event occurs will be applicable.
 - 5.5 The full list of the Council's policy statement relating to pensions discretions awarded by the Regulations can be found at Appendix A.
- 6. Policy Review**
- 6.1 This policy and the discretions found at Appendix A will be reviewed annually.

Appendix 1

Summary of Local Government Pension Scheme (LGPS) Discretions with Surrey Heath Borough Council

NB: Where the discretion concerns a Tier 1 or Tier 2 Officer the delegation will be the Employment Committee
Tier 1 Officer is the Head of Paid Service and the Tier 2 Officers are the Executive Heads and Heads of Service

No	Area	Regulation	Discretion	Policy summary	Delegation
1	Whether to vary an employee's contribution band	Regulations 9 and 10 Pensions Regulations	Members must pay pension contributions at the appropriate rate set on 1 st April or the first day of active membership, if later.	Surrey Heath Borough Council may vary employee's contribution rate if there is a material change and each case will be considered on its merits.	Executive Head of Transformation.
2	Whether to increase assumed pensionable pay in certain specific circumstances	Regulation 21(5), 21(5A) and 21(5B) Pension Regulations	If a member is absent as a result of illness, child related leave or reserve forces leave their pension benefits may be based on assumed pensionable pay (APP). If, in the employer's opinion, the member's APP is materially lower than their pay in the twelve months preceding the absence they can either include (1) a "regular"	Surrey Heath Borough Council may increase assumed pensionable pay and each case will be considered on its merits.	Executive Head of Transformation.

			lump sum received during that period or (2) substitute a higher pensionable pay having regard for their earnings in that period.		
3	Funding of Additional Pension Contributions	Regulations 16(2)(e) and 16 (4) (d) Pensions Regulations	Whether to fund, in whole or in part, a shared cost additional pension contributions (SCAPC) on behalf of an active member by regular contributions (Regulation 16(2)(e)) or by lump sum (Regulation 16(4)(d))	Surrey Heath Borough Council does not currently make discretionary contributions towards the cost of APCs to purchase extra annual pension, nor will the Council establish such a scheme in the future unless this would result in a significant financial advantage. This may be considered in exceptional circumstances where there are business benefits. Consideration will be based on the same rationale as the Council's policy relating to granting extra annual pension. Note: Discretion does not apply where member elects within 30 days of	Both the Head of Paid Service and the Employment Committee.

				return from authorised unpaid leave to pay a SCAPC to cover the cost of 'lost' pension as the regulations state that the employer must, in these cases, contribute 2/3 of the cost to a SCAPC.	
4	Shared Cost Additional Voluntary Contributions (SCAVCs)	Regulation 17(1) and Schedule 1 (definition of SCAVC) Pension Regulations	Whether to contribute towards a Shared Cost Additional Contribution arrangement. Pre-201 SCAVCs also fall under Regulation 17 by virtue of Regulation 15(2A) Transitional Regulations.	Surrey Heath Borough Council will not contribute to SCAVCs except in exceptional circumstances.	Both the Head of Paid Service and the Employment Committee.
5	Whether to grant early payment of pension on compassionate grounds (pre-1st April 1998 leavers)	Regulation D11(2) (c) of 1995 Regulations	Whether to agree to early payment of pension benefits from age 50 on compassionate grounds. The employer should note that pension benefits paid before age 55 may attract an unauthorised payments surcharge and they may have to pay a strain cost because the pension	Surrey Heath Borough Council will only agree to early payment of pension in exceptional circumstances.	Both the Head of Paid Service and the Employment Committee.

			benefits cannot be reduced.		
6	Flexible Retirement	Regulation 30(6) Pensions Regulations Regulations 11(2) and (3) of Transitional Regulations	Whether to agree to an employee aged 55 or over reducing their hours of work or their grade so that they may receive all or some of their retirement pension while still employed. Whether, in addition to any pre-1 st April 2008 pension benefits which the member must draw, to permit the member to draw; (a) all, part or none of benefits accrued between 1 st April 2008 and 31 st March 2014 and (b) all, part or none of the pension benefits built up after 31 st March 2014.	There is a general presumption that the Council will consider requests for Flexible retirement on their merits and to agree where it is in the Council's interests. On the basis that pension benefits taken before normal retirement age are reduced in accordance with guidance issued by the Government Actuary. See separate Flexible Retirement Policy Statement	Both the Executive Head of Transformation and the Head of Paid Service. The Executive Head of Transformation and the Employment Committee where the flexible retirement request concerns the Head of Paid Service.
7	Switching-on the 85-year rule (excludes flexible retirement)	Schedule 2 of Transitional Regulations	Whether to switch on the 85-year rule under Regulation 1(2) and	Whilst there will be no general adoption of this discretion, Surrey Heath	Both the Head of Paid Service and the Employment Committee.

			1(3) of Schedule 2 of the Transitional Regulations.	Borough Council may agree to switch on the 85 year rule in exceptional circumstances such as compassionate grounds, or where it is in Surrey Heath's business interests, and taking into account the affordability of the employer costs arising.	
8	Waiving of Actuarial Reduction to Pensions	Regulation 30(8), Pensions Regulations Schedule 2 of Transitional Regulations	(Post 2014) Whether to agree to waive, in whole or in part, any actuarial reduction that would otherwise apply to the pension paid to a former employee aged 55 or over under 30(5) or 30(6) [flexible retirement] using regulation 30(8) of the Pension Regulations. (Pre-2014) Whether to waive actuarial reductions entirely under 30(5) or 30 A(5) [deferred pensioner members] of the Benefits Regulations and Regulation 2(1), of	This may be considered in exceptional circumstances where there are business benefits. Surrey Heath Borough Council reserves the right to review the details of each case based on its individual merits.	Both the Head of Paid Service and the Employment Committee.

			Schedule 2 of the Transitional Regulations.		
9	Award of Additional Pension (not exceeding the overall additional pension limit of £6, 822 (April 2018 and uplifted annually).	Regulation 32, Pensions Regulations	<p>To award additional pension at full cost to the employer:</p> <p>(1) an active member; or</p> <p>(2) a former active member who was dismissed by reason of redundancy, business efficiency or mutual consent on grounds of business efficiency.</p> <p>Additionally, in the case of a member falling within (2) above, the resolution to award additional pension must be made within 6 months from the date on which the employment ended.</p>	This is a general presumption that Surrey Heath Borough Council will not award additional membership. However, Surrey Heath Borough Council will consider and decide individual cases on their merits where it is in Surrey Heath's interest and taking account of the employer costs of the additional pension.	Both the Head of Paid Service and the Employment Committee.
10	Aggregation of	Regulation 22(7)(b),	Whether to allow an	Surrey Heath Borough	Both the Head of Paid Service

	Benefits: Concurrent Employments	Pensions Regulations	active member with concurrent employments, who ceases an employment with an entitlement to a deferred pension, more than 12 months to elect not to have their deferred pension aggregated with their active member's pension account.	Council will only extend the deadline in exceptional circumstances.	and the Employment Committee.
11	Aggregation of Benefits: Deferred Member becoming Active Member	Regulation 22(8) (b), Pensions Regulations	Whether to allow a deferred member who becomes an active member longer than 12 months in which to elect not to have their deferred benefits aggregated with the benefits in their active member's pension account.	Surrey Heath Borough Council will only extend the deadline in exceptional circumstances.	Both the Head of Paid Service and the Employment Committee.
12	Aggregation of Benefits: Deferred Member becoming Active Member (pre-2014 membership)	Regulation 10(6) (b) Transitional Regulations	Whether to allow a deferred member who becomes an active member longer than 12 months in which to elect for their pre-2014 deferred benefits to be aggregated with their active member's	Surrey Heath Borough Council will only extend the deadline in exceptional circumstances.	Both the Head of Paid Service and the Employment Committee.

			pension account (but, technically, they would lose the final salary link if they have not made an election under 5(5). Transitional Regulations within twelve months of becoming an active member of 2013 scheme).		
13	Inward Transfer of Pension Rights	Regulation 100, Pensions Regulations	Whether to allow an employee who has been an active member in their current employment for more than 12 months to ask for the transfer of certain accrued pension rights to be considered. Note: Regulation 100(6) of the Pensions Regulations requires that a request must be made within 12 months beginning with the date on which the member first became an active member in an employment or such longer period as the employer and the	Surrey Heath Borough Council will only extend the deadline in exceptional circumstances.	Both the Head of Paid Service and the Employment Committee.

			Administering Authority may allow. The discretion is, therefore, only exercisable if both the Employing Authority and the Administering Authority agree.		
14	Redundancy Payments	Regulation 5, Compensation Regulation 2006	Whether to base redundancy pay on actual pay where actual pay exceeds the statutory maximum under the Employment Rights Act 1996 (£508.00 from April 2018).	Surrey Heath Borough Council will base the calculation of a week's pay for redundancy on actual pay if it is higher than the statutory limit.	Both the Executive Head of Transformation and the Head of Paid Service.
15	Compensation for loss of Employment	Regulation 6, Compensation Regulations 2006	Whether to pay compensation to a person whose employment ceases <ul style="list-style-type: none"> - by reason of redundancy; - in the interest of the efficient exercise of the employing authority's functions; or in the case of a joint	Surrey Heath Borough Council will only award compensation for loss of employment in exceptional circumstances.	Both the Executive Head of Transformation and the Head of Paid Service.

			appointment, because the other holder of the appointment leaves.		
16	Injury Allowances	14(1) of the Compensation Regulations 2011	<p>Scheme employer (LGPS employers), apart from admission bodies, must formulate, publish and keep under review a policy on:</p> <ol style="list-style-type: none"> 1. whether to make and injury award to those who sustain an injury or contract a disease as a result of anything they were required to do in performing the duties of their job and in consequence of which they: <ul style="list-style-type: none"> - suffer a reduction in remuneration, or - cease to be employed as a result 	Surrey Heath Borough Council may only pay injury allowances in exceptional circumstances.	Both the Head of Paid Service and the Employment Committee.

Criminal Records Check Policy

Summary

This report seeks the adoption of the Council’s new Criminal Records Check Policy. This Policy was considered at the Joint Staff Consultative Group meeting on 28 November 2019

Wards Affected

N/A

Recommendation

The Committee is advised to RESOLVE that the amended Criminal Records Check Policy, as set out at Annex A to this report, be adopted.

1. Resource Implications

1.1 There are no additional revenue or capital cost implications arising from the report.

2. Key Issues

2.1 The purpose of this policy is to provide guidance for Human Resources, recruiting managers, current employees and Surrey Heath Borough Council applicants regarding the process of Disclosure and Barring Service (DBS), Basic Disclosure and Baseline Personnel Security Standard (BPSS)

3. Options

3.1 The Committee has the option to adopt the amendments to the Criminal Records Policy and Procedure or suggest amendments it considers appropriate.

4. Proposals

4.1 It is proposed that Criminal Records Policy is adopted.

Annexes	Annex A – Criminal Records Policy
Background papers	None
Author/contact details	Jennifer Villamayor, Senior HR Advisor Jennifer.villamayor@surreyheath.gov.uk
Executive Head	Louise Livingston, Executive Head of Transformation

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Surrey Heath Borough Council Human Resources

Criminal Record Check Policy

Contents

1. Introduction
2. Scope
3. Policy Statement
4. Equality Assessment policy
5. Types of Criminal Record Checks
6. BPSS Compliant Pre-Employment Check
7. Criminal Records Check
8. Changing Job Roles
9. Status Updates
10. Rehabilitation of Offenders
11. Duty to Inform

1. Introduction

The purpose of this document is to provide guidance for Human Resources, recruiting managers, current employees and Surrey Heath Borough Council applicants regarding the process of Disclosure and Barring Service (DBS) the Baseline Personnel Security Standard (BPSS).

As an organisation using the DBS and BPSS to assess applicants' suitability for positions of trust, Surrey Heath Borough Council complies fully with the relevant codes of practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a disclosure on the basis of conviction or other information revealed.

The verification of a person's criminal record will help us to make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children.

2. Scope

The Criminal Record Check policy is for use by Human Resources and recruiting managers when recruiting and selecting staff both internally and externally and furthermore to ensure the Council carries out status updates which includes repeating the DBS check when necessary.

In accordance with the BPSS guidelines, **all staff** may be subject to BPSS-compliant pre-employment checks upon offer of employment to a position working directly for the Council or on its behalf. The level of checks completed will be determined by the role that is being recruited.

Agency staff will also be required to meet baseline security standards, but the responsibility for carrying out the relevant verifications falls on the direct employer, i.e. the agency. However, local security protocol dictates that identification and immigration documents should be verified again by Council staff prior to the start date. Human Resources will liaise with recruitment agencies to ensure that agency and Council verification responsibilities have been met.

3. Policy Statement

The Council recognises the importance of following best practice at all stages of the recruitment process which includes ensuring a DBS or Basic Disclosure checks are carried out for identified roles. It is also essential the Council carry out status checks at appropriate intervals to ensure the Council are aware of any changes to an employee's criminal record which might impact their ability to carry out their role.

The policies and procedures outlined in this document will continue to be reviewed on a regular basis and will be subject to amendment in line with changes in the law or HMG guidance.

This policy and procedure should be read in conjunction with the following policies and all other relevant policies which apply:

- Recruitment Policy & Procedure
- Disciplinary Policy
- Safeguarding Policy
- Code of Conduct Policy

4. Equality Impact Assessment

The Council's Equality Scheme demonstrates its commitment to equality internally and externally and ensures that all sections of the community are given an opportunity to contribute to the wellbeing of the community. An equality impact assessment has been carried out on this Policy and Procedure. This policy will also support those employees with protected characteristics in relation to the implementation of the procedures.

The Council ensures that consultation is representative of the community and that consideration is given on how to consult hard to reach groups and will positively learn from responses.

5. Types of Criminal Record Checks

Agency	Type of check	What it will check for
DBS	Basic Disclosure	Unspent convictions and conditional cautions
DBS	Standard	Spent and unspent convictions, cautions, warnings and reprimands
DBS	Enhanced	Same info as standard also includes other non-conviction info the police believe is relevant
DBS	Enhanced Check for Regulated Activity	Same info as enhanced also includes Children's and Adults Barred list

The majority of roles will be identified at the recruitment stage as to whether a criminal record check is required. The Exceptions Order to the Rehabilitation of Offenders Act (ROA) 1974 lists the types of work, employment or professions for which Surrey Heath Borough Council can ask for a criminal record check to be obtained. Human Resources will be able to provide further information regarding the roles that require a DBS or Basic Disclosure check.

If your role requires a satisfactory criminal record check, it is unlikely you will be able to start employment at Surrey Heath Borough Council until we have received the results of your check. Human Resources will be able to provide further guidance regarding this and the processing times of criminal records checks.

6. BPSS Compliant Pre-employment Check

6.1 Some roles within Surrey Heath Borough Council will require a Basic Disclosure to be performed in order for us to meet the Baseline Personnel Security Standard (BPSS). The BPSS is a government standard, which sets out the minimum standard to ensure the identity and integrity of an employee who has access to official information. The BPSS pre-employment check include:

- i) identify verification.
- ii) immigration status verification.
- iii) reference check (covering 3 years occupational history).
- iv) criminal record check (where appropriate).

- 6.2** Staff will need to meet BPSS requirements if they are, or are going to be, a user of PSN services or data, use PSN/GCSx email, or use a PSN connected network or have onwards access to PSN/GCSx email, data or services. In addition, some roles, including ICT roles will require a Basic Disclosure check if they support certain portals or IT systems where access to official information is possible.
- 6.3** If your role requires you to meet BPSS standard and requires a DBS check you will not need to undertake a Basic Disclosure as well. The DBS is sufficient to meet the BPSS standard.

7 Criminal Record Checks

7.1 In accordance with HMG BPSS requirements, staff must undergo a criminal record check if they are in a role where this has been identified as necessary. Please contact Human Resources who will confirm whether it is necessary to carry out a DBS check.

7.2 Roles identified as requiring a criminal record check fall under the following:

Basic Disclosure – Unspent convictions and conditional cautions

Standard Disclosure – spent and unspent convictions, cautions, warnings and reprimands

Enhanced Disclosure – same information as a standard check but can also include other non-conviction information that the police believe is relevant to the workforce applied for

Enhanced Disclosure with Barred List Checks –same information as an enhanced check and will include a check of the Children’s Barred List, and Adults Barred List or both.

7.3 The above checks (not including Basic Disclosures) are requested directly from the DBS. Surrey Heath Borough Council use an umbrella body (strictly education 4s) to submit DBS checks.

7.4 Application procedure

7.5 Disclosure and Barring Service (DBS) Checks (Standard & Enhanced)

Individuals working in eligible roles will be sent a link to the DBS via strictly education 4s with related guidance notes to assist completion of the form. Once this is complete the relevant supporting documentation should be provided to Human Resources. As a Registered Body, Surrey Heath Borough Council complies with the DBS Code of Practice and has written policies on the recruitment of ex-offenders and the handling Of Disclosure information. Copies of these documents are available from Human Resources on request. A criminal record is not necessarily a bar to employment. Once you receive your DBS certificate this is your information which we require to see as part of this recruitment process. Upon sight of the certificate we will note on our electronic Human Resources Information System (HRIS) the certificate number, type of certificate and issue date, not copies of the actual certificate are kept on record.

7.6 Basic Disclosure

For those roles requiring a Basic Disclosure this is completed directly through the government website and not the umbrella body (strictly education 4s). Human Resources will provide guidance on the application process for a Basic Disclosure.

7.7 Selecting an appropriate disclosure level for the role

The table below provides further information relating to the application of each type of disclosure. Use this guide, but any specific queries may be directed to Human Resources.

Enhanced DBS Check (with Barred List Check for the relevant work force i.e. Adult or Child)

Roles that involve regular interaction with 'at risk' groups, such as children or vulnerable adults (or both), in order to undertake their normal duties. This includes the same as the standard check plus any additional information held by local police that's reasonably considered relevant to the workforce being applied for (adult, child or 'other' workforce).

'Other' workforce means those who don't work with children or adults specifically, but potentially both e.g. taxi drivers. In this case, the police will only release information that's relevant to the post being applied for.

Enhanced DBS Check

Roles that involve regular interaction with 'at risk' groups, such as children or vulnerable adults (or both), in order to undertake their normal duties. This includes the same as the standard check plus any additional information held by local police that's reasonably considered relevant to the workforce being applied for (adult, child or 'other' workforce).

'Other' workforce means those who don't work with children or adults specifically, but potentially both e.g. taxi drivers. In this case, the police will only release information that's relevant to the post being applied for.

Standard DBS Check

Roles where the employee may be required to interact with vulnerable groups as part of their role either as undertaken by daily duties or exceptional circumstances. Generally public-focused roles, e.g. Car Parks.

Roles where the employee has responsibility for a workforce that undertakes public-focused duties that may expose them to such interactions.

This will check for spent and unspent convictions, cautions, reprimands and final warnings.

8. Changing Job Roles

Any existing employee who is offered a new position within the Council will be required to undertake a new DBS application if the post involves greater access to, or responsibility for vulnerable groups, or working with a different client group regardless of whether they have already had a DBS check.

Existing employees who have not previously been subject to a DBS check may, as a result of future changes in legislation, regulation or working practices, be required to undertake an application during the course of their employment with the Council. All employees will be expected to comply with any request. The same process will apply regarding Basic Disclosures.

9. Status Updates

It is the Council's policy to carry out status updates for all DBS checks every 3 years. Human Resources will contact you directly should you require a status update and advise you of the process.

9.2 The DBS Update Service

The DBS Update Service is an online government service which, once subscribed to, allows an individual's DBS Certificate to be kept up to date for as long as they are subscribed or until new information is added to the Certificate; enabling it to be taken from role to role where the same level of check is required.

There is an Update Service for Basic Disclosure but it is not open to individuals who have had a Basic Disclosure only and operates differently for the DBS Update Service.

Surrey Heath Borough Council will encourage staff to sign up for the Update Service and will also reimburse the annual subscription which is payable by debit or credit card.

For further information regarding the Update Service please contact Human Resources.

10. Rehabilitation of Offenders

A criminal record will not necessarily be a bar to obtaining or keeping a position with Surrey Heath Borough Council. This will depend on the type of offence and the position applied for.

11. Duty to Inform

The Council expects officers facing a criminal charge in a court of law to give notice of such, without delay, to the Chief Executive. Sometimes the nature of the charges will be relevant to the officers job; in other cases the issue will be less clear cut. Officers are aware that their own personal actions can reflect on the Council as a whole. They are therefore required to notify the Chief Executive of any criminal charge which may be pending, whether they personally feel the matter is relevant or not, and the outcome of any such charge.

Discussion with the officer will take place as to the extent to which such a charge reflects upon the ability of the officer to perform effectively, or the extent to which the Council's own interests are prejudiced. Any opportunity will be given to have a Trade Union Representative or staff representative or friend present during discussions.

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Hate Crime Policy – Appendix to the Safeguarding Policy

Summary

This report seeks the adoption of a Hate Crime Policy as an Appendix to the Council's Safeguarding Policy.

The Joint Staff Consultative Group considered this Policy at its meeting on 28 November 2019.

Wards Affected

N/A

Recommendation

The Committee is advised to RESOLVE that the Hate Crime Policy, as set out at Annex A to this report, be incorporated within the Council's Safeguarding Policy.

1. Resource Implications

- 1.1 There are no additional revenue or capital cost implications arising from the report.

2. Key Issues

- 2.1 The Safeguarding Policy has been revised to include an appendix 9 which sets out the Council policy and procedure when a 'hate crime' incident occurs and this is set out as follows:
- 2.2 This policy sets out the Council's approach to dealing with Hate Crime.
- 2.3 The Council recognises that individuals and groups may face overlapping forms of prejudice.
- 2.4 Hate Crime can be defined as any crime that is motivated by hostility on the grounds of someone's actual or perceived characteristics. This can include equality characteristics such as:
- Age.
 - Disability.
 - Race.
 - Sex, sexual orientation, gender reassignment.
 - Marriage and civil partnership.
 - Pregnancy and maternity.
 - Religion or belief.
- 2.5 Hate Crime can take many forms including (but not limited to): physical violence, threats of violence, offensive graffiti or other written material, online abuse, and abusive or insulting words of behaviour.

- 2.6 So what can people do? Reporting is a crucial part of eradicating hate, it may seem small and insignificant act, but it can have an impact on attitudes towards Hate Crime and strategies to prevent it.
- 2.7 Anyone can report, and they don't have to be certain about whether it is Hate Crime, by reporting they are being an **up-stander** rather than a bystander, playing their part in not accepting hate.
- 2.8 How to report it?
- Direct Reporting to the Police using the 101 number
 - Phone Stop Hate UK on 0808 138 1625
 - Report it on www.stophateuk.org
 - Download the reporting App in Surrey, by going to the app store or google play searching for 'stop hate uk' and click 'stop hate uk surrey' and then install.

3. Highlighted Area: 2019/2020

- 3.1 The issue of antisemitism has received considerable publicity, and as a result in 1994 the Community Security Trust (CST), was set-up as a charity to protect British Jews from antisemitism and related threats. CST is recognised by the Police and Government as a unique model of best practice, and is located in London, Manchester and Leeds. CST provides security advice and training for Jewish communal organisations, schools and synagogues.

National trends in 2019 show that 18% of religiously motivated hatred is targeted at Jewish people, which is an increase of 6% from 2018 and that per capita, Jewish people are most likely to report experiencing hatred.

- 3.2 It is with this in mind that this Council has adopted the non-legally binding working definition from the International Holocaust Remembrance Alliance (IHRA) as below to demonstrate that we understand the concerns and are willing to take action in response to make it clear that anti-semitic behaviour will not be tolerated.

“Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”

- 3.3 For further information on the Community Security Trust: <https://cst.org.uk/> and International Holocaust Remembrance Alliance (IHRA) www.holocaustremembrance.com <https://www.holocaustremembrance.com/working-d>

4. Options

4.1 The Committee has the option to adopt the amendments to the Safeguarding Policy or suggest amendments.

5. Proposals

5.1 The implementation of the amendments to the Safeguarding Policy.

6. Supporting Information

6.1 Local Government, legal employment law, ACAS and best practice guidelines.

7. Consultation

7.1 Consultation has taken place with staff representatives and Equalities Action Group regarding the revised Safeguarding Policy.

Annexes	Annex A – Hate Crime Policy
Background papers	None
Author/contact details	Jayne Boitoult – Community Partnerships Officer Jayne Boitoult@surreyheath.gov.uk
Executive Head	Louise Livingston, Executive Head of Transformation

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Appendix 9

Hate Crime Policy

1.1 This policy sets out our approach to dealing with Hate Crime.

1.2 We recognise that individuals and groups may face overlapping forms of prejudice.

Hate Crime can be defined as any crime that is motivated by hostility on the grounds of someone's actual or perceived characteristics.

This can include equality characteristics such as:

- Age.
- Disability.
- Race.
- Sex, sexual orientation, gender reassignment.
- Marriage and civil partnership.
- Pregnancy and maternity.
- Religion or belief.

1.3 Hate Crime can take many forms including (but not limited to): physical violence, threats of violence, offensive graffiti or other written material, online abuse, and abusive or insulting words or behaviour.

1.4 So what can we do? Reporting is a crucial part of eradicating hate, it may seem small and insignificant act, but it can have an impact on attitudes towards Hate Crime and strategies to prevent it.

Anyone can report, and you don't have to be certain about whether it is Hate Crime, by reporting you are being an **up-stander** rather than a bystander, playing your part in not accepting hate.

1.5 How to report it?

- Direct Reporting to the Police using the 101 number
- Phone Stop Hate UK on 0808 138 1625
- Report it on www.stophateuk.org
- Download the reporting App in Surrey, by going to the app store or google play searching for 'stop hate uk' and click 'stop hate uk surrey' and then install.

Highlighted Area: 2019/2020

1.6 The issue of antisemitism in our communities has received considerable publicity, and as a result in 1994 the Community Security Trust (CST), was set-up as a charity to protect British Jews from antisemitism and related threats. CST is recognised by the Police and Government as a unique model of best practice, and is located in London, Manchester and Leeds.

CST provides security advice and training for Jewish communal organisations, schools and synagogues.

National trends in 2019 show that 18% of religiously motivated hatred is targeted at Jewish people, which is an increase of 6% from 2018 and that per capita, Jewish people are most likely to report experiencing hatred.

It is with this in mind that this Council has adopted the non-legally binding working definition from the International Holocaust Remembrance Alliance (IHRA) as below to demonstrate that we understand the concerns and are willing to take action in response to make it clear that anti-semitic behaviour will not be tolerated.

“Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”

For further information on the Community Security Trust: <https://cst.org.uk/> and International Holocaust Remembrance Alliance (IHRA) www.holocaustremembrance.com <https://www.holocaustremembrance.com/working-d>

Work Programme

Portfolio:	Non-executive function
Ward(s) Affected:	n/a

Purpose

To agree the work programme for the remainder of the 2019/20 municipal year.

Background

1. At each meeting the Committee will consider the work programme, be advised of updates and agree amendments as appropriate.
2. Meetings for the 2019/20 municipal year have been agreed as follows:
 - 26 March 2020

Proposal

3. It is proposed that the Committee considers the list of topics listed in Annex A of the work programme and makes an amendments it considers appropriate.

Recommendation

4. The Committee is advised to RESOLVE that the work programme for the 2019/20 municipal year, as set out at Annex A, be approved and amended as appropriate.

Background Papers: None

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 e-mail: Rachel.whillis@surreyheath.gov.uk

Head of Service: Richard Payne – Executive Head of Corporate

**Employment Committee
2019/20 Work Programme**

Date		Topic	Report Author
26 March 2020	1.	Data Breaches Policy	ICT/HR
	2.	Information Security Policy (Review)	ICT
	3.	Social Networking Policy (Review)	HR/ICT
	4.	Family Friendly Policies (Review)	HR
	5.	Flexi-time Policy	HR