



## **TORPOINT TOWN COUNCIL**

### **EMPLOYEE HANDBOOK AND OFFICER/MEMBER PROTOCOL**

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Committee**

## **Handbook and Introduction**

This handbook is designed to explain the way in which the Council operates and to set out the key procedures, rules and policies designed to ensure an efficient workplace together with a safe and supportive environment for all employees. The contents of this handbook do not form part of the terms of your contract of employment unless otherwise stated. The Council may consider it requires to alter or amend policies or a procedure contained in this handbook to ensure that it remains relevant and consistent with the needs of the business. Any such material change will be notified to all employees and an up-to-date copy of this handbook can be obtained from the Responsible Financial Officer (RFO) and HR Manager.

Torpoint Town Council values the officers and employees of the authority and strives to retain a good working relationship amongst colleagues, including members of the Council. In recognition of the valued role played by employees, the Council have produced a Pay and Conditions policy that demonstrates the framework within which the human resources of the Council operates. This is the core document from which HR policies and procedures generate and includes key structures and commitments including: -

- Equalities/Disability legislation and equalities and pay
- Regular appraisals
- Town Council and Staff obligations
- Differentials and pay scales
- Annual determination and notification of pay
- Trade Union recognition
- Mileage and other expenses
- Holiday and sick pay entitlement

The policies are available from the RFO and HR Manager or Town Clerk. Elements of the policies and reference to them are included in the handbook.

## **History of Torpoint Town Council**

Torpoint Town Council was established in 1974 with the abolition of Torpoint Urban District Council along with other urban district, municipal borough and rural district councils in South East Cornwall and the creation of Caradon District Council. It must be noted that Caradon District Council was the successor council to Torpoint Urban District Council, abolished in 2009 and replaced by Cornwall Council a unitary authority. Cornwall is governed by a two tier local government system that of the unitary authority and parish councils. [Note larger towns although still a parish council, have adopted the style of "Town Council" and the Chairman of the Council being styled the "Town Mayor"]. Torpoint Town Council has 16 members and is divided into two wards of Torpoint East and Torpoint West with 8 members in each.

The Council meets calendar monthly, has four Standing Committees and other Working Parties including the Neighbourhood Development Plan Working party.

The Council operates with a Town Clerk [in law - Proper Officer] and a Responsible Financial Officer (RFO). Both posts are enshrined in law and a local council cannot operate without both posts being appointed. The Proper Officer post is analogous to a Chief Executive. Both the Proper Officer and RFO posts are distinctive and separate with different roles and responsibilities.

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## **GENERAL**

### **1. JOINING TORPOINT TOWN COUNCIL:**

#### **1.1 Proof of identity**

The Council is legally obliged to ensure that all employees are permitted to work in the UK. It is a condition of your employment that you comply with all reasonable requests to provide details of your identity, right to work in the UK and place of residence. This will include (if appropriate) allowing the Council to take copies of your passport or other appropriate documents and to check their authenticity. The Council may dismiss any employee who cannot demonstrate that they are legally entitled to work in the United Kingdom.

#### **1.2 Probationary Period**

When joining the Town Council you will do so on an initial probationary period of 13 weeks. During this period your work performance and general suitability will be assessed and, if it is satisfactory, your employment will continue. However, if your work performance is not up to the required standard, or you are considered to be generally unsuitable, we may either take remedial action (which may include the extension of your probationary period) or terminate your employment at any time. The Town Council reserves its right not to apply our full contractual capability and disciplinary procedures during your probationary period.

#### **1.3 Induction:**

At the start of your employment with the Town Council a personalised two week induction programme will be put in place for you. During this time you will be introduced to your work colleagues, shown your work areas, have explained to you the Council's policies and procedures and given on-the-job training for your new role.

#### **1.4 Employee Training:**

At the commencement of your employment you will receive training for your specific job, and as your employment progresses your skills may be extended to encompass new job activities within the Council. It is a condition of your employment that you participate in any training deemed necessary by us for you to reach the required levels of attainment standards.

#### **1.5 Job Description:**

Prior to taking up your role with the Town Council you will already have been sent a copy of your Job Description as an accompaniment to your Contract of Employment. Amendments may be made to your job description from time to time in relation to our changing needs and your own ability. Any such amendments will only be done following full consultation with yourself.

#### **1.6 Hours of Work:**

Your normal hours of work and working pattern will be specified in your Contract of Employment. For manual staff it is your responsibility to record on a daily basis your overtime hours of work by completing a monthly timesheet. You must submit your timesheet to the Town Clerk by the date which is stipulated in order to ensure your monthly salary is processed. It is recognised that the Town Clerk and RFO work flexible hours to accommodate meetings, events, seminars, civic functions, training etc. that might be outside of normal hours. For staff working overtime hours, when this happens Time off in Lieu (TOIL) as an alternative to overtime is available to compensate for the loss of personal leisure time. The purpose of TOIL is to allow you the employee some flexibility in your contracted working hours. Each employee will agree with the Town Clerk when they will take the TOIL which they have owing to them. You may not go into TOIL debit without the permission of the Town Clerk. Torpoint Town

Council has a policy of trying to assist staff to balance their work and home life, and is therefore willing to consider requests from staff to vary their working hours or work pattern. Such requests will be considered taking into account the impact on the Council, work colleagues and any other relevant factors

### **1.7 Staff Appraisal Scheme:**

A satisfactory performance is a basic contractual requirement. You have a duty to monitor your own performance and to take advantage of appropriate training opportunities as they arise. You should also seek opportunities to improve the way things are done either on your own initiative, if appropriate or in conjunction with your colleagues and management. This will help to maintain the overall quality and cost effectiveness of the services offered and to ensure the continued viability of the employment the council offers.

The Council will ask you to take part in an annual appraisal in September each year. The purpose of such an appraisal is to build on your strengths for your future development within the framework of your job description and that of the Council; and at the same time offer support/training in any areas of your work which you want to improve. An appraisal is a positive process, which we believe should be beneficial to both the employee and the Council.

The Town Council will have annual appraisals of all its personnel. The Town Clerk will carry out this procedure on all employees of which she is Line Manager. The Town Clerk and RFO's appraisal will be carried out by the Town Mayor.

An appraisal is a means of continual assessment and consist of the following:

Setting objectives for an employee to strive and achieve over the coming 12 months;

Agreeing on performance indicators, i.e. the measure used to show that objectives are being met,

The opportunity for employee's to comment over the previous 12 months performance and any issues of concern or training need for the forthcoming 12 months.

The appraisal report will be produced from each appraisal by the appraiser with a copy going to the member of staff for them to sign as a true record.

### **1.8 Job Flexibility:**

During holiday periods or when colleagues may be absent from work etc., it may be necessary for you to take over some duties normally performed by others. This flexibility is essential for operational efficiency as the type and volume of work is always subject to change. This will again be undertaken within the framework of your job description and will not involve work for which you have not been trained or not within your usual pay grade.

### **1.9 Personal Details:**

Will be held, maintained and managed by the Town Clerk who is the data protection officer. The Town Clerk will share limited information with Cornwall Council payroll who manage the Council's payroll. If you want to view your personnel file please ask the Town Clerk who will make the necessary arrangements.

When you commenced work with the Town Council you will have completed a new starter form containing your personal details. You must notify us of any change of name, address, telephone number etc. so that we can maintain accurate information on our records and make contact with you in an emergency, if necessary, outside normal working hours. If you change your bank account, please remember to tell the Town Clerk as soon as possible so that arrangements can be made to pay your salary into your new account.

### **1.10 Personal Property:**

Any personal property such as jewellery, cash, credit cards, clothes, cars, motorbikes or bicycles etc. left on Torpoint Town Council premises are done so entirely at your own risk. You are strongly advised not

to leave any valuables unattended, either on our premises, or in your own vehicle. Torpoint Town Council does not accept liability for loss or damage to any personal property whatsoever.

## **2. SALARIES AND PAYMENTS**

### **Administration:**

#### **2.1 Payment:**

The Torpoint Town Council payroll is managed by Cornwall Council. All employees are paid on a monthly basis. Salaries are paid on, or as near to as possible, the 27<sup>th</sup> of each month. Each employee receives a monthly payslip showing how the total amount of pay has been calculated along with an explanation of deductions made and the reasons for them, e.g. Income Tax, National Insurance etc. Any salaries queries should be raised with the Town Clerk as quickly as possible.

#### **2.2 Income Tax and National Insurance:**

At the end of each tax year you will be given a P60 showing the total payments you have received from the Town Council during the financial year and the total deductions made for Income Tax and National Insurance. You should keep this document in a safe place as you may need to produce it for tax purposes. If there are any changes in your personal circumstances which will affect your tax status, it is your responsibility to notify the Inland Revenue, who will automatically inform the Town Council of any changes to your tax code.

#### **2.3 Pension Scheme:**

The Town Council is part of the Cornwall Local Government Pension Scheme (LGPS) and operates a contributory pension scheme to which you will be automatically enrolled unless you opt out. To opt out you must sign the appropriate section on the new starter form and also sign the Cornwall LGPS opt out form. The scheme enables you to save for your retirement using your own money, together with tax relief and contributions from the Council. The Town Council has a *Pensions Discretion* policy for those in the scheme and is available from the RFO/HR Manager and Town Clerk.

#### **2.4 Travel Expenses:**

The Town Council will reimburse you for any reasonable expenses incurred while travelling as part of your job. A valid petrol receipt will be required to enable the Council to reclaim VAT. Public transport and accommodation costs will be reimbursed at actual cost upon the submission of receipts. The Council approved mileage rates when travelling by your own private transport and are available to view in the Council's *Pay and Conditions* policy a copy of which is available from the RFO/HR Manager or Town Clerk. All mileage must be calculated as leaving from the Council Offices (or from your home address if this is a shorter journey). To claim travel expenses the Town Council's official mileage form must be completed (a copy can be requested from the RFO or Administration Assistant). If your travel expenses relate to those incurred when driving you will need to provide the Town Council, on an annual basis, with a copy of your car insurance certificate clearly showing that you have insurance for business purposes.

#### **2.5 Annual Holiday Entitlement:**

You are entitled to holiday entitlement as detailed in your contract of employment and are replicated in the Council's *Pay and Conditions* policy (pro-rata for part time employees). The leave year runs from 1<sup>st</sup> April – 31<sup>st</sup> March. For office based staff, 3 days of holiday entitlement must be taken between the Christmas holiday and New Year holiday.

If your employment commenced or terminates part way through the leave year, your holidays during that year will be assessed on a pro-rata basis. Deductions from final salary due to you on termination of employment will be made in respect of any leave taken in excess of entitlement.

If you join the Council from another local authority your previous service will be taken into account in calculating your holiday entitlement.

It is our policy to encourage you to take all of your holiday entitlement in the current holiday year. At the discretion of the Town Clerk (with respect to the Town Clerk and RFO – the Town Mayor) we permit 5 days annual leave to be carried forward and no payment in lieu will be made in respect of untaken annual leave other than in the event of termination of your employment.

Your holiday request must be approved by the Town Clerk (or Town mayor in respect to the Town Clerk and RFO).

Your holiday pay will be at your normal rate of pay.

Occasionally the Town Clerk/Line Manager may refuse requests for annual leave where necessary in order to ensure that operational needs of the Council are met.

## **2.6 Public Holidays:**

Public Holidays will be given on a pro-rata basis to part-time employees.

## **3. THE COUNCIL OPERATION**

### **3.1 Health and Safety**

One of the primary duties owed to you by the Council is to ensure that you are safe while at work. Similarly all employees are obliged to carry out their duties in a safe and responsible manner that does not risk harm to either themselves, their colleagues or any other person. The Town Clerk is the designated Council Health and Safety Officer and is responsible for the safe environment in which you work. The overall governance of health and safety within the Council structure rests within the terms of reference of the Asset Management and Operations Committee.

A detailed *Health and Safety* policy and operational procedures identifying the roles and responsibilities of key staff members for ensuring that the Council meets its commitment to health and safety is available from the Town Clerk.

Detailed risk assessments have been carried out on all aspects of the Council's activities and steps have been taken to ensure that all work can be done safely. Any employee who is concerned that any aspect of the Council's activities poses a risk to health and safety should report this to the Town Clerk immediately. Genuine concerns about health and safety will always be treated with the utmost seriousness and be thoroughly investigated.

Employees are required to comply with all instructions rules and procedures concerning matters of health and safety. Failure to do so may amount to misconduct. In particular, where employees are required to wear personal protective equipment such as hard hats, protective footwear or high visibility clothing. Failure to do so might be treated as gross misconduct which could result in dismissal.

### **3.2 Equal Opportunities**

Torpoint Town Council is aware of the statutory duty, good employment practice and to this end strives to be an equal opportunities employer. The Council operates an *Equal Opportunities* Policy that is annually reviewed by the Finance and Personnel (F&P) Committee and Council. A copy of the policy is available from the RFO/HR Manager or Town Clerk. In this policy you will discover the commitment of the Council to applying non-discriminatory policies irrespective of the person's background. Uses of the policy include the Staff Handbook, Induction of staff and Members, decisions relating to recruitment and selection, training and development, pay and conditions, cross-referenced to Grievance, Disciplinary and Dignity at Work Policies.

This means that decisions concerning recruitment, promotion, dismissal or any other aspect of employment will be based on the needs of the business and not any assumptions based on sex, race, age, disability, gender reassignment, sexual orientation, married or civil partnership status, pregnancy or



maternity, religion or belief. This is an important commitment which all employees are expected to share.

Employees are encouraged to raise with management any discriminatory behaviour, assumptions or attitudes they encounter at work and are entitled to do so free from any reprisal providing they are acting in good faith or in the reasonable belief that they are acting in the public interest.

### **3.3 Dignity at work**

All employees are entitled to a working environment free from bullying and harassment. The Council takes all allegations of such conduct extremely seriously and will not tolerate harassment or bullying behaviour. The Council operates a *Dignity at Work* policy and encourages staff and members to become familiar with the contents. A copy of the policy is available from the RFO. Complaints relating to bullying and harassment will be dealt with under this policy.

All employees are required to behave towards each other with respect. In particular, offensive behaviour which relates to sex, race, age, disability, sexual orientation, religion or belief, pregnancy or gender reassignment will be treated as a disciplinary matter and will be dealt with according to the severity of the complaint. Extreme cases could result in dismissal.

### **3.4 Ethical conduct**

The Council aims for the highest possible standards of ethical conduct in all of its activities and expects the conduct of individual employees [and members] to reflect this. Dishonesty of any kind will be treated as a serious matter, which after investigation might amount to gross misconduct and therefore for employees, to dismissal without notice.

### **3.5 Gifts and hospitality**

The acceptance of gifts and hospitality from members of the public, developers, suppliers and potential suppliers must not give the appearance that employees or the Council may be unduly influenced in the decisions that they make or in any other aspect of their work.

All gifts and hospitality given or received, of whatever value, must be entered in the Register kept by the Town Clerk. No personal gifts of a value in excess of £10 should be accepted from members of the public, developers, suppliers and potential suppliers without express permission from the Town Clerk. Acceptance of hospitality, such as lunch or drinks receptions, should be kept within common sense limits and should always be authorised by the Town Clerk. Offers of hospitality to others must always be authorised by the Town Clerk.

You may be instructed to return any gifts which the Town Clerk considers to be inappropriate, or to refuse to accept hospitality from a particular supplier or potential supplier. Failing to obey such an instruction will be treated as misconduct.

Allowing gifts or hospitality to influence any purchasing or other decisions that you may make on behalf of the Council or to otherwise influence the way in which you perform your duties is an act of gross misconduct which will usually result in dismissal.

It is also an act of gross misconduct to seek to influence any other person to behave in an improper way or to confer an advantage on you or the Council through the giving of any gift or hospitality.

### **3.6 Whistleblowing**

The Council encourages employees to raise any concerns that they may have about any wrongdoing at any level within the organisation. Wrongdoing in this context means any breach of a legal obligation, risk

to health and safety or damage to the environment. The Town Council has adopted a *Whistleblowing Policy* that is regularly reviewed and is available from the RFO/HR Manager.

Any initial concern should be raised with the Town Clerk. However, if this is not appropriate then you should contact the Mayor who will ensure that your concern is properly addressed.

Employees who raise a concern under this policy are entitled not to be subjected to any detriment as a result. Even if your concern proves to be unfounded you will be protected against any reprisals from your manager, colleagues or any other employee of the organisation. If you consider to be a victim of such an action you can report this to your union representative if a member of a recognised trade union or to the Town Clerk. However, making a deliberately false or malicious allegation against the Council, a fellow employee or any other person will be treated as an act of gross misconduct which could result in dismissal.

If you are the subject of an allegation of wrongdoing then you will be informed of the allegation and given every opportunity to explain the situation and put your side of the story. Disciplinary action will only be taken following a full investigation in accordance with the disciplinary procedure.

### **3.7 Good faith and loyalty**

The employment relationship is one built on trust and we all have a mutual interest in making the relationship a success. The Council has a duty to provide support to employees and employees have a duty of good faith towards the Council.

In practice this means not doing anything that undermines the Council's position by acting against its interests or undermining the Council's standing with the people of Torpoint, other authorities and fellow employees.

### **3.8 Dress code**

All employees should dress in a manner appropriate to the work that they do. Key factors include whether or not the employee meets clients /customers/members of the public and whether the requirements of health and safety require particular clothing. This is largely a matter of common sense. If your manager feels that you are dressing in an inappropriate way they may ask you to dress differently the next time you come into work. A persistent refusal to comply with a reasonable standard set by a manager will amount to misconduct.

Where an employee dresses in a completely inappropriate way, for example by wearing clothing with offensive images or slogans, then they may be sent home to change. Any time taken to go home and change will be unpaid.

### **3.9 Timekeeping**

Good timekeeping is essential in any team. An excessively late arrival at work can put unfair pressure on colleagues and affect the smooth running of the organisation. The Council therefore requires all employees to take responsibility for attending work promptly in accordance with their contract of employment or work roster. You should arrive in time to begin working at your appointed start time or where flexibility is allowed as part of your job, within reasonable parameters.

Where you depend on public transport to come to work you should allow adequate time, including likely delays, for your journey so that you can arrive on time. Similarly, employees who drive to work should make themselves familiar with the level of traffic to be expected and make adequate allowance for rush hour congestion.

Where it is clear that you are going to be excessively late for work you must contact your manager as soon as possible to explain the situation and give an estimate of your arrival time. You must make every effort to talk to your manager directly rather than leave a message with colleagues or send an email or text message.

If personal or domestic circumstances make it difficult for you to attend work on time then you should discuss this with your manager. In some cases, the Council may be able to accommodate a reasonable need for flexibility, but this will be subject to the needs of the organisation and the need to avoid placing an unfair burden on your colleagues.

### **3.10 Severe weather and traffic disruption**

The Council's primary duty is to provide a safe place of work. If severe weather means that this cannot be achieved and the workplace needs to close then all employees will be sent home or told not to come in. In these circumstances employees will be paid in full for any working time that they have lost.

If the workplace remains open, it is the responsibility of employees to attend work if they possibly can. While the Council understands that this is not always possible, additional paid leave will not be provided for employees who are unable, for whatever reason, to travel into work.

Where it is clear that you are not going to be able to get to work you must contact your manager as soon as possible to explain the situation. You must make every effort to talk to your manager directly rather than leave a message with colleagues or send an email or text message.

If you are unable to attend work due to severe weather or other travel difficulties then you will be required to take time from your annual leave allowance to cover any absence or to take unpaid time off by agreement with your manager. There may be circumstances in which employees are able to work at home and where this is exercised, your line manager must be informed.

### **3.11 Rest breaks**

The Council encourages all employees to take full advantage of rest breaks. These are provided not only for comfort, but also to protect the health of employees and prevent excessive fatigue from causing accidents.

A rest break should be taken away from your workstation wherever possible. If you leave the premises you should bear in mind the time that it will take you to return from the break so that you can ensure that you begin work again on time.

You are required to comply with any requirements relating to breaks as may be in place from time to time.

### **3.12 Smoking**

The Council operates a smoke-free workplace. Smoking (which includes the use of e-cigarettes and personal vaporisers) is not permitted on Town Council premises. Smoking on Town Council premises is an act of gross misconduct that will usually result in dismissal.

Smoking is only permitted during designated break times. Smoking at any other time is an act of gross misconduct that will usually result in dismissal.

### **3.13 Data Protection, Emails, Internet and Social Media**

It is very important that the Council is able to keep its data secure. As previously identified, the Town Clerk is the Council Data Protection Officer and you will be required to comply with information and instructions as issued from time to time including the use of IT equipment. The Council is registered with the Information Commissioner and operates a *Data Protection* policy and *Records Management* policy both of which are available from the Town Clerk.

### **Email**

All email correspondence should be dealt with in the same professional and diligent manner as any other form of correspondence. All members of staff and members of the council have been issued with a Council email account address and you should be mindful of the fact that any email that you send will be identifiable as coming from the Council. You should therefore take care not to send anything via email that may reflect badly on the Council. In particular, you must not send content of a sexual or racist nature, junk mail, chain letters, cartoons or jokes from your Council email address.

Using a Council email address to send inappropriate material, including content of a sexual or racist nature, is strictly prohibited and may amount to gross misconduct or in the case of a Council member contravention of the Code of Conduct. Should you receive any offensive or inappropriate content via email you should inform the Town Clerk of this as soon as possible so that they can ensure that it is removed from the system.

You should also take care that emails will be seen only by the person intended. Particular care should be taken when sending confidential information that the email has been correctly addressed and not copied in to those not authorised to see the information. Sending confidential information via email without proper authorisation or without taking sufficient care to ensure that it is properly protected will be treated as misconduct.

While a reasonable amount of personal use of email is perfectly acceptable, your email remains the property of the Council and you should not use your Council email to send or receive any information that you regard as private.

### **Internet use**

Employees with access to the internet should use that access responsibly. Employees must not use the internet to view or download offensive or sexually explicit material. Any attempt to do so may, depending on the circumstances, amount to misconduct leading to dismissal. Employees must not use Council-owned devices to download music, video or any other entertainment content unless this is either authorised or part of a Council based project. The Council currently uses the AVAST anti-virus software that must not be disabled or switched off.

### **Social media**

An employee's behaviour on any social networking or other internet site must be consistent with the behaviour required of employees generally. Where it is possible for users of a social media site to ascertain who you work for, then you should take particular care not to behave in a way which reflects badly on the Council. Inappropriate or disparaging comments about the Council, colleagues or the town will be treated as misconduct. Because social media interactions can be copied and widely disseminated in a way that you may not be able to control, the Council will take a particularly serious view of any misconduct that occurs through the use of social media. It is intended for the Council to have their own social media platforms and this aspect of council operation, will be covered in the Council Communications policy that will include any Council social media account.

You must not however operate a social media account or profile that purports to be operated on or on behalf of the Council.

### **3.14 Driving**

Where driving is required as part of your job, it is your responsibility to ensure that you are legally qualified to drive. The Council may require you at any time to allow a copy of your full driving licence to

be made and kept in its records. If you receive any points on your licence you must inform the Council of this immediately.

If you use your own vehicle to drive on Council business, it is your responsibility to arrange to be insured for that business use. The Council may require you at any time to allow a copy of your insurance and any evidence of a current MOT certificate to be made and kept in its records.

You are responsible for any driving offences committed while driving as part of your duties, including any parking fines. If you are banned from driving for any reason and a requirement to drive is part of your job description, the Council is not obliged to find alternative work for you and may choose to dismiss you if the ban renders you incapable of performing your duties as required.

Employees should never use their mobile phone while driving on Council business unless they do so on a properly installed hands-free system and traffic conditions mean that it is safe to do so. In most cases, it would be preferable to make any calls when the vehicle is stationary.

Any journey carried out on Council business must be scheduled in such a way as to allow adequate rest breaks – usually one break of 15 minutes for two hours of driving. Where possible, driving on Council business should be avoided either late at night or very early in the morning.

Safety is the Council's prime responsibility and you should not be required to compromise safety in any way when driving on Council business. If you are concerned about any driving requirements you may have, then you should discuss these with your manager and appropriate arrangements will be made to ensure that any work-related journey can be completed safely.

### **3.15 Alcohol and drugs**

Torpoint Town Council has a *Drugs and Alcohol* policy and employees should familiarise themselves with it. The policy is available from the RFO.

The Council's approach to the consumption of alcohol and drugs is based on the need to ensure a safe and productive working environment. Because of the serious nature of the risks posed by the abuse of alcohol and drugs in the workplace, any breach of the rules in this area will be treated as misconduct and could result in dismissal.

An employee will be regarded as 'under the influence' of alcohol or drugs if their behaviour, speech, ability to concentrate or otherwise perform their duties is in any way affected. An employee will also be regarded as under the influence if they fail a drug or alcohol test.

#### **Dependency**

Employees who have a dependency on alcohol or drugs may be offered support and encouraged to seek appropriate counselling or medical help. Absence arising from treatment or counselling related to drug and alcohol abuse will be treated as sickness absence under the Council's absence management policy. However, while the Council will always try to be supportive toward employees with a drug or alcohol problem, this will not prevent disciplinary action being taken when employees act in breach of the rules laid out in the Drugs and Alcohol policy.

Wherever an employee informs the Council that they have a drug or alcohol problem this will, as far as possible, be treated in the utmost confidence. However the Council may need to disclose particular circumstances to managers, regulatory authorities or others should this be necessary to ensure safety or compliance with legal requirements.

#### **Drugs**

The consumption, storage, distribution or sale of illegal drugs or any other behaviour-altering substance on Council premises or during working time is strictly prohibited. The Council will report any illegal activities to the police or other relevant authorities.

You must not present yourself for work under the influence of illegal drugs or any other substance taken for non-medical purposes.

### **Medicines and Prescription drugs**

If you are taking prescription drugs or any other medicine that may affect your performance at work or your ability to carry out any of your duties, then you must inform your manager of this so that steps can be taken to ensure that the work can be done safely. It is your responsibility, when beginning any course of medication, to check whether it may adversely affect your ability to work.

### **Alcohol**

Consumption of even a small amount of alcohol may be sufficient to adversely affect the work of an employee and could pose a risk to health and safety. Remember that alcohol remains in the bloodstream for up to 24 hours following consumption and that the consumption of a significant amount of alcohol in the evening may leave you unfit to work in the morning.

You must not present yourself for work under the influence of alcohol.

You must not consume any alcohol during working time, lunchtime or during any break.

Where alcohol is available at Council organised events or occasions when you are representing the Council – even outside working hours - it is important to behave responsibly and not drink to excess. Behaviour that reflects badly on the Council will be a disciplinary matter and in serious cases may amount to gross misconduct (The Councils Drugs and Alcohol policy expands on this area of operation).

### **Drug and alcohol testing**

The Council may require you to submit to drug or alcohol testing where there is reason to believe that you may have acted in breach of this policy.

This may include a standard breathalyser test administered by your manager. Arrangements for blood or urine testing may vary from time to time, but such tests will always be carried out by suitably qualified, independent professionals.

An employee will be treated as having failed a drug or alcohol test if the test shows the presence of illegal drugs or a level of alcohol in excess of the UK drink driving limit (80 mg of alcohol per 100 ml of blood, 35 mcg per 100 ml of breath or 107 mg per 100 ml of urine).

Refusal, without proper excuse, to undergo a test will be treated as gross misconduct.

Whether a test needs to be conducted is a matter for the Council to decide. In cases where an employee is clearly under the influence of alcohol or drugs or there is other clear evidence of a breach of this policy then disciplinary action may still be taken even if no test is carried out.

## **4. ABSENCE**

This section sets out the approach the Council takes when you are unable to attend work, are taking annual leave or need time off. Working from home is now a permitted and in some cases standard practice. This section primarily refers to those who are contracted to work from council owned premises. Flexible working is dealt with in section 5.

#### **4.1 Unauthorised absence**

The obligation on an employee to attend work is a fundamental part of the contract of employment. Employees who deliberately fail to attend work without proper excuse or in breach of management instructions will be committing gross misconduct which could result in dismissal without notice or payment in lieu.

#### **4.2 Medical appointments**

In general, appointments to see a GP, dentist or optician should be made for outside working hours. Paid leave will not normally be granted for non-emergency visits. (See the Council *Disability Employment policy* for those requiring medical appointments related to a disability).

The Council appreciates that it is not always possible to avoid appointments during the working day and will judge each case individually in deciding whether any paid time off should be granted. Employees may be required either to use part of their annual holiday entitlement or to make up any lost time.

Employees who have a medical condition which will require regular appointments during the working day should discuss their situation with their manager so that appropriate arrangements can be made. You may be required to provide evidence of any appointment for which time off is needed.

#### **4.3 Ante-natal care**

Employees who are pregnant are entitled to paid-time off to attend ante-natal appointments provided that attendance is based on medical advice. For second and subsequent appointments you may be required to produce an appointment card or similar evidence of the date and time of the appointment.

While there is no limit on the number of appointments that an employee can attend, the Council does have the right to refuse time off where it is reasonable to do so. Employees are therefore expected to take reasonable steps to arrange antenatal appointments at a time that will require the minimum amount of time off. Part-time workers should attempt to arrange appointments for days when they are not required to work and all employees should try to avoid appointments in the middle of the working day in order to minimise disruption.

If your partner is pregnant, you are entitled to unpaid time off for up to two antenatal appointments. If you wish to exercise this right you should notify your manager of the date and time of the appointment. You may be asked to provide written evidence that an appropriate appointment has in fact been made.

#### **4.4 Sickness absence**

Regular and reliable attendance at work is an important commitment that the Council asks all employees to make. Unjustified or excessive absence can put unfair pressure on colleagues and seriously damage the Council's operation, to everybody's detriment.

Nevertheless the Council will always try to be supportive when an employee is genuinely too ill to attend work. This policy sets out the Council's approach and the steps that you need to take if you are off sick. The Council operates a *Managing Sickness Absence Policy* available from the RFO or the Town Clerk and you are advised to become familiar with it.

#### **4.5 Reporting sickness absence**

(The points below are for information and you are advised to read the *Managing Sickness Absence policy* for a full details). If you are too ill to come into work you should personally inform your manager

of this fact as soon as possible and in any event by 11am on the day of absence. When you phone in sick you must make every effort to speak to your manager directly. Do not simply leave a message with a colleague or send an email or text. If your manager is unavailable, you should speak to the Town Clerk. If you need to leave a message for the Town Clerk or your manager then they may contact you during the day to discuss your absence with you.

It is important that you keep in touch with your manager about the likely length of your absence so that appropriate arrangements can be made for cover and you should phone in sick on every day of your absence unless either you have previously informed your manager that you will be off sick for a particular period of time or your absence is certified by a GP (Form Med 3).

Falsely claiming to be sick is an act of gross misconduct that will normally result in dismissal. "Hangovers" are not regarded as legitimate reasons to take sickness absence and you may be required to take a day's unpaid leave to cover any such absence. Repeated absence by reason of hangovers will be regarded as a disciplinary offence which may result in dismissal without notice or payment in lieu. You should also be aware of the rules governing the consumption of alcohol set out in the Drugs and Alcohol Policy.

The Council requires any absence of more than a week to be certified by Forms Med 3 or Med 10 issued by your GP or hospital doctor. Uncertified absence will not be paid.

Where any period of sickness absence occurs immediately before or immediately after a period of annual leave then the Council may require such absence to be certified by a GP.

Where you are absent for an extended period of time (three weeks or more) the Council may refer you to an occupational health professional or seek a medical report from your GP. The purpose of this will be to ascertain when you are likely to be able to return to work and to identify any measures that can be taken to help you return as soon as possible.

Employees who are off sick should not undertake any activities likely to be detrimental to their recovery and should cooperate with the appropriate medical professionals in taking steps to ensure that their recovery is as swift as possible.

The Council will maintain regular contact with employees who are off sick for an extended period.

#### **4.6 Annual leave and sickness absence**

Employees may request annual leave during any period of sickness absence in the normal way. If you intend to spend any time away from home during your sickness absence you should inform your manager of this fact in advance and provide contact details. The Council does not expect employees to take holidays while off sick. In exceptional cases only, where this may assist in an employee's recovery, the Council may agree to holidays being taken during sick leave. It is essential however that any such holidays are agreed in advance with the Council following the normal holiday request procedure.

#### **4.7 Phased return to work**

As an employee recovers from illness or injury it may be possible for them to undertake a limited range of duties as a preparation for returning to normal work. The Council will try whenever appropriate in light of medical advice to allow for a phased return to work from any long-term illness. This may involve reducing the employee's hours, or the scope of their duties or both. The purpose of a phased return, however, is to provide a bridge between sickness absence and normal working and so any such arrangements will be time-limited and will not normally extend over more than three months.



#### 4.8 Alternative work

The Council may consider agreeing changes to an employee's duties or other working arrangements when it becomes clear that due to sickness or injury they will not be able to return to normal working. Any such changes will be subject to the needs of the organisation and there is no guarantee that permanent arrangements of this sort will be possible.

Where duties or working hours are varied in this way then the job being done by the employee will need to be reassessed to determine the appropriate level of remuneration. This will then need to be agreed with the employee. If an agreement is not reached then the Council may proceed to dismiss the employee in accordance with the procedure for long-term sickness absence.

#### 4.9 Disability and reasonable adjustments

The Council is committed to making reasonable adjustments to an employee's duties or working arrangements where they would otherwise suffer a disadvantage arising from any disability.

In order to make appropriate adjustments the Council needs to know about any disability the employee may have. For more information see the Town Council *Disability Employment* policy. Employees who feel that they may require an adjustment should discuss their situation with their manager. Any such discussions will be in the strictest confidence although when an adjustment is made it may be necessary to inform other employees of the reason for this. The extent to which details of any disability will be discussed with other employees will be agreed as part of the process of making the adjustment itself.

#### 4.10 Council sick pay

In addition to Statutory Sick Pay (SSP) the Council also offers its own sick pay scheme. This detailed in your contract of employment and also the Councils Pay and Condition policy. An employee's entitlement is inclusive of any SSP that may be due for the same period, and is paid on the following basis:

SERVICE TERM	BENEFITS
During 1 <sup>st</sup> year of service	One month's full pay and (after completing 4 months' service) 2 months' half pay
During 2 <sup>nd</sup> year of service	2 months' full pay and 2 months' half pay
During 3 <sup>rd</sup> year of service	4 months' full pay and 4 months' half pay
During 4 <sup>th</sup> & 5 <sup>th</sup> - year of service	5 months' full pay and 5 months' half pay
After 5 years' service	6 months' full pay and 6 months' half pay

The Council shall have discretion to extend the period of sick pay in exceptional cases.

The period during which sick pay shall be paid, and the rate of sick pay, in respect of any period of absence shall be calculated by deducting from the employee's entitlement on the first day the aggregate of periods of paid absence during the twelve months immediately preceding the first day of absence. In the case of full pay periods sick pay will be an amount which when added to Statutory Sick Pay and Incapacity Benefit receivable will secure the equivalent of normal pay.

In the case of half pay periods sick pay will be an amount equal to half normal earnings plus an amount equivalent to Statutory Sick Pay and Incapacity Benefit receivable, so long as the total sum does not exceed normal pay.

The payment of Council sick pay is dependent on you keeping the Council informed in relation to your absence and complying with the requirements of this policy. You will not be entitled to Council sick pay if you refuse to cooperate with referrals to occupational health or other measures aimed at helping you to return to work.

If an employee abuses the sickness scheme or is absent on account of sickness due or attributable to deliberate conduct prejudicial to recovery or the employee's own misconduct or neglect or active participation in professional sport or injury while working in the employee's own time on their own account for private gain or for another employer sick pay may be suspended. The Council shall advise the employee of the grounds for suspension and the employee shall have a right of appeal to the appropriate committee of the Council. If the Council decide that the grounds were justified then the employee shall forfeit the right to any further payment in respect of that period of absence. Repeated abuse of the sickness scheme should be dealt with under the disciplinary procedure.

Where your sickness or injury is caused by any unlawful act (such as negligence) on the part of a third party, then any Council sick pay paid to you will be by way of a loan refundable to the Council and must be recovered from that third party in any claim made by you against them. Any such loan will only be repayable in the event of damages being successfully recovered and will be limited to the amount of damages recovered.

#### **4.11 Time off**

There are a number of circumstances in which employees have a right to time off from work either with or without pay. These include jury service and certain public duties such as serving as a local councillor, magistrate or school governor. Where a need for such time off arises you should discuss the matter with your manager who will consider what arrangements should be put in place.

While the Council will do its best to accommodate time off in these circumstances, the requirements of an employee's role may mean that the amount of time off granted may be limited. Where serving on a jury would lead to a level of absence that would be detrimental to the organisation, the Council may require you to seek a deferment.

#### **4.12 Reserve forces leave entitlement**

The Council supports employees who are also member of the reserve forces. Such employees have specific entitlements relating to time off including arrangements for them returning to work after a period of deployment. Employees who are members of the reserve forces or who are considering joining should discuss the implications with the Town Clerk.

### **5. FLEXIBLE WORKING AND FAMILY RELATED LEAVE**

The Council understands the particular issues faced by employees trying to balance their work and family life. This section sets out the Council's policies in this area and the specific rights given to new parents.

#### **5.1 Flexible working**

The Council will try, subject to the needs of the organisation, to accommodate requests from employees who wish to make changes to their working hours or place of work. It is recognised that officers (for

example the Town Clerk and RFO) attend meetings, conferences, visits, civic functions etc. outside of normal hours and the nature of the posts requires flexibility that the Council acknowledge and therefore recognise flexible working as being a core working pattern of the posts.

For those working regular hours in a set pattern, requests for a change in working arrangements can be made by any employee with at least 26 weeks' continuous service with the Council at the time the request is made.

The request should be made in writing and set out the change requested. The request should also describe the impact that the change will have on the operation of the organisation and how any difficulties caused by the change may be addressed.

When a request is received, the employee will be invited to a meeting to discuss the potential change. The meeting will normally be conducted by your manager. The employee will be entitled to be accompanied by a fellow employee to assist in making any representations that may be appropriate.

The Council will refuse a request if doing so would adversely affect the organisation or create a burden on other employees. In refusing any request the Council will explain the reasons for the refusal in writing and may make an offer of an alternative arrangement. Discussions may then take place to try to agree a way forward. If no agreement is reached then the employee's terms and conditions will remain unchanged, subject to the right of employees to appeal the decision

Any meetings should take place in a spirit of cooperation with both sides seeking to reach agreement on an appropriate way forward.

Any change in working arrangements which results from this process will be confirmed to you in writing.

This policy will not prevent your manager agreeing to ad hoc arrangements from time to time. However, any such arrangement will not amount to a variation in your terms and conditions of employment unless specifically agreed to the contrary and confirmed in writing. The Council may terminate any such ad hoc agreement at any time and require you to revert to your agreed working arrangements.

## **5.2 Maternity leave**

All employees who give birth are entitled to take maternity leave which lasts for a maximum of 52 weeks. Employees with at least six months' service will also be entitled to be paid Statutory Maternity pay (SMP) for up to 39 weeks of their absence. Because this is a statutory payment there are a number of procedural requirements that must be met in order to make sure that an employee qualifies. The most important requirements are set out below, but if you have any doubts about the rules that apply you should speak to the Town Clerk who will make sure that you have all the appropriate information.

### **Notification**

To qualify for maternity leave you must notify the Council that you are pregnant, giving the date of the week your baby is due (your expected week of childbirth or EWC) and indicating when you intend your maternity leave to start (this date can be changed later – see below).

You should give the Council this information no later than the end of the 15<sup>th</sup> week before your EWC (when you are approximately 6 months pregnant). If this is not possible then you should give the information as soon as is practicable.

You must also give the Council the Maternity Certificate (MATB1) that will be issued to you by your doctor or midwife sometime after the 20<sup>th</sup> week before your EWC. In some circumstances the Council

may be able to accept other medical evidence of when your baby is due, so if there is any difficulty in providing the MATB1 certificate you should discuss this with the Town Clerk

If you intend to take advantage of the right to shared parental leave, you should inform the Council of this fact at the same time as you notify the intended start date of your leave.

### **Start of maternity leave**

Generally it is up to you to decide when to start your maternity leave. However, your leave cannot begin any earlier than the beginning of the 11th week before your EWC.

Where it is safe to do so, you may choose to continue working right up to your child's birth. However, your maternity leave will begin automatically if you are off sick for a pregnancy-related reason at any stage in the four weeks immediately before your EWC.

If your baby is born before the date that you have notified as the start date for your maternity leave, then your maternity leave will begin on the day following the birth.

You may change the date on which you intend to start your maternity leave, but you must notify the Council of your new start date at least 28 days before the original date given (or the new date, if that is sooner). If there is a reason why you cannot give this notice then you should explain the situation to the Town Clerk and the Council will attempt to accommodate your changed circumstances. However, the Council may need to insist on delaying the start of your leave until at least 28 days have passed since your notification of a changed date.

When your baby is born you should inform the Council of this fact as soon as is reasonable practicable.

### **Duration of maternity leave**

The standard length of maternity leave is 52 weeks. Once you indicate the intended start date of your leave, the Council will send you a written notification of your expected date of return.

Unless you give due notice to the Council of an earlier date of return, it will be assumed that you intend to take your full 52-week entitlement and you will not be expected back at work before your leave ends. You do not then have to give any notice of your return although it would be sensible to contact your manager some time in advance to discuss any arrangements that may need to be made.

At the end of your maternity leave you are generally entitled to return to the same job as you had before your leave began. If you are away for more than 26 weeks, however, there may be circumstances in which that is not reasonably practicable. In that case, the Council will provide you with a suitable and appropriate role at the same level of seniority and on no-less favourable terms and conditions.

### **Dismissal or resignation**

While on maternity leave you remain employed by the Council and bound by your contract of employment. If you decide that you want to leave your employment you will need to submit your resignation in the normal way.

The Council will not dismiss you for any reason related to your pregnancy or your exercise of any right which arises from it. However, if separate circumstances require your dismissal (for instance, because of redundancy) then that will bring your maternity leave to an end.

If your position becomes redundant during your maternity leave then you will be offered any suitable alternative work that is available.

### **Maternity pay**

Statutory Maternity Pay (SMP) is paid to employees who have at least 26 weeks' service immediately before the 15<sup>th</sup> week before the expected week of childbirth and whose pay is above the Lower Earnings Limit for paying National Insurance Contributions (this changes each year). Employees who earn below that amount may be entitled to a state benefit called Maternity Allowance (MA). The Council will provide you with an appropriate form to help you claim this, where appropriate. However, if you have more than one year's continuous local government service immediately before the 11<sup>th</sup> week before your expected week of childbirth, additional rights apply, see below.

To pay SMP, the Council needs to be given at least 28 days' notice that you intend to claim it. This will normally be given when you inform the Council of your intended start date for maternity leave. If it is not possible to give 28 days' notice, you should give as much notice as is reasonably practicable.

SMP is paid for a maximum total of 39 weeks. The first 6 weeks are paid at 90 per cent of your normal weekly earnings<sup>1</sup> and the remaining 33 weeks are paid at a flat rate specified in legislation. This changes from year to year. Where you have more than one year's continuous local government service as referred to above, you will be eligible to be paid by the Council 90 per cent of your normal weekly pay<sup>2</sup> for the first six weeks (offset against any MA payable) even if you are not eligible to be paid SMP.

Where you have more than one year's continuous local government service as referred to above, and you declare in writing to the Council an intention to return to work after your maternity leave for at least three months, then, after the first six weeks of maternity leave, you will be paid for the next 12 weeks half a week's pay per week in addition to SMP or MA, subject to a maximum payment per week of your normal weekly earnings. In the event that you do not return to work for three months following your leave period, you will be required to repay the Council any payments made to you in the 12-week period in excess of SMP or MA, or such part thereof as the Council may decide.

Your entitlement to SMP will be affected if you undertake any paid work (other than keeping in Touch days, described below) or are taken into legal custody at any time during your period of SMP entitlement. You should inform the Council immediately of any such change in your circumstances.

### **Returning to work early**

Not every employee will want to take the full 52 weeks of maternity leave. Some may simply want to return to work early and others may wish (with their partner) to take advantage of the right to shared parental leave (see below).

In order to make arrangements to accommodate an early return the Council is entitled to ask for 8 weeks' notice of the new date, and if that is not given may delay your return until 8 weeks have passed since your notification.

In any event the law requires that you must not be permitted to return to work during the two weeks immediately following the birth.

### **Returning to work late**

Following your maternity leave, you are required to return to work on the date notified to you as your expected date of return. If you are unwell on that date then you should follow the sickness absence procedure set out in Council *Managing Sickness Absence policy*.

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<sup>1</sup> This is based on an average of your total earnings in the eight weeks immediately preceding the 14<sup>th</sup> week before your expected week of childbirth

<sup>2</sup>For these purposes, a week's pay is as stated in the contract of employment for normal working hours or, where there are no normal working hours, the average over the last 12 working weeks.

If you are entitled to begin some other period of leave (such as annual leave or parental leave) then you should ensure that you have followed the appropriate procedure for taking such leave as set out in this handbook.

### **Maternity suspension (health and safety reasons)**

Depending on the nature of your job, there may be circumstances in which it is unsafe for you to continue working while you are pregnant. In some circumstances the law requires a pregnant employee to be suspended on full pay or transferred to alternative duties. Jobs which may come under this category are identified in the risk assessments that the Council has carried out under its health and safety policy. If you are affected by any health and safety issues connected with your pregnancy then the Council will discuss any detailed arrangements that need to be made until it is safe for you to return to your original duties.

### **5.3 Adoption leave**

Employees who are matched with a child for adoption may be entitled to take up to 52 weeks' adoption leave. Adoption leave is also available to individuals fostering a child under the "Fostering for Adoption" scheme.

Where two parents are adopting a child, only one of them may take adoption leave, and the other (whether a man or woman) is entitled to take paternity leave. If both adoptive parents qualify, they may each take shared parental leave.

Employees who are proposing to adopt may take time off work to attend up to 5 adoption appointments in certain circumstances.

The arrangements for taking adoption leave are similar to the arrangements for taking maternity leave, but there are several important differences. The key ones are set out below, but if you believe you are entitled to adoption leave you should discuss the situation with the Town Clerk who will ensure that you have all the necessary information.

If you intend to take adoption leave you should notify the Council of this within seven days of being notified that you have been matched with a child for adoption (or as soon as is reasonably practicable).

Your notification should set out the date when the child is expected to be placed with you and the date when you want to start your adoption leave. You can change your mind about the start date provided the Council is given at least 28 days – or as much notice as is reasonably practicable.

The Council is entitled to require proof of the adoption which usually takes the form of a matching certificate provided by the agency placing the child.

Adoption leave will last for 52 weeks unless you choose to return early or take advantage of shared parental leave. You may choose to start the leave from the date when the child is placed with you or at any time in the preceding two weeks.

If, for any reason, the placement is brought to an end – for example because the match turns out to be unsuitable – then adoption leave will continue for 8 weeks beyond the end of the placement. After that period you will be expected to return to work as normal.

The arrangements for statutory adoption pay are similar to those for SMP.

Your return to work at the end of your adoption leave is on the same basis as for the end of maternity leave (set out above).

### **5.4 Paternity leave**

Employees with six months' service will be entitled to take paternity leave if they expect to have parental responsibility for a child and they are either the mother's partner or one of the adoptive parents. The purpose of the leave must be either to care for the child or to provide support for the child's mother or adoptive parent.

There are a number of administrative requirements that must be met in relation to taking paternity leave and employees should discuss their plans with their line manager at as early a stage as possible. The following paragraphs set out the basic requirements, but there are additional requirements that must be met when adopting a child from overseas and employees in this position should talk to their manager who will make sure that full information is provided.

Employees entitled to take paternity leave are entitled to take either one or two weeks of leave. If two weeks are taken they must be consecutive and no individual days can be taken except with the agreement of the Council.

Paternity leave cannot start before a child is born and must be taken at some stage within the first eight weeks following birth (except when the child is born prematurely in which case the leave must be taken within the eight weeks following the expected week of childbirth).

Most new parents choose to begin paternity leave on the date their child is born, but you may if you wish begin the leave at any time you choose provided that the whole of the leave is taken by the end of those eight weeks.

In order to qualify for paternity leave you must notify the Council at least 15 weeks before the expected week of your child's birth or within 7 days of having been notified that a child will be placed for adoption. Your notification should specify how much leave you intend to take and when you intend the leave to begin. Should your plans change, you will need to give the Council 28 days' notice of any revision.

Paternity leave is payable at the statutory rate, which is subject to change every year. You can check the most up-to-date figure with the Town Clerk.

Where an expectant mother nominates a Council employee to assist in the care of her child and to provide support to the mother at or around the time of birth, the Council may grant the employee paid Maternity Support Leave. The employee may take up to 5 days paid time off at or around the time of childbirth, as agreed with the Town Clerk. There is no requirement to have a specific period of service to be eligible for this leave.

## **5.5 Parental leave**

Parental leave is a flexible form of unpaid leave designed to help employees spend time caring for young children. It is usually taken in instalments over the first five years of a child's life and is available to employees who have at least one year's service and who have formal parental responsibility for a child.

The basic entitlement is to 18 weeks of unpaid leave in respect of each child. It must usually be taken before each child's 18<sup>th</sup> birthday.

Parental leave must usually be taken in blocks of one week or more and no more than four weeks' leave will be granted in a single year. However, more flexibility is available in respect of disabled children and you should discuss your requirements with the Town Clerk if this applies to you.

A request to take parental leave should be submitted 21 days in advance. While the Council will always try to accommodate requests for parental leave, it has the right to postpone any leave for up to six months in order to accommodate the needs of the organisation.

No postponement will be required if you choose to take your first instalment of leave immediately after the birth or adoption of your child. In such circumstances you need only inform the Council of your intention 21 days before the expected date of birth or placement. The leave will then begin automatically when your child is born or placed with you.

Parental leave is an entitlement that can be transferred from one employment to another. You may therefore join the Council with some outstanding parental leave attaching to a particular child. In such circumstances you should be aware that the qualifying period for taking parental leave still applies and you will need to have been employed for at least one year before you can resume taking parental leave.

## **5.6 Shared parental leave**

Shared parental leave is a flexible form of leave available to both parents designed to encourage shared parenting in the first year of a child's life. It allows a more flexible pattern of leave than the traditional arrangement under which the mother takes extensive maternity leave and the father takes a short period of paternity leave.

Employees who give birth or adopt remain entitled to take the full 52 weeks of leave if they choose to do so and the arrangements described above for maternity and adoption leave continue to apply. However, an employee may choose to share part of that leave with their partner provided that certain qualifying conditions are met. When leave is shared in this way, there is no need for the 'primary' leave taker to have returned to work. Both parents can be on leave at the same time, provided that the combined amount of leave taken by the parents does not exceed 52 weeks and provided that all of the leave is taken before the end of 52 weeks following the birth of the child or its placement for adoption.

Generally, parents will qualify for shared parental leave provided that both are working and that each has at least 26 weeks' service with their respective employers. To exercise the right, both parents must inform their employer that they intend to take shared parental leave – usually at the same time as the employer is notified that an employee is pregnant or plans to adopt. They must also give an indication of the pattern of leave that they propose to take.

A parent proposing to take a period of shared parental leave must give the Council 8 weeks' notice of any such leave. Depending on the circumstances, it may be possible for the Shared Parental Leave to be taken in intermittent blocks, with one parent returning to work for a time before taking another period of shared parental leave. Such an arrangement can only be made with the agreement of the Council. While every effort will be made to accommodate the needs of individual employees, the Council may insist on shared parental leave being taken in a single instalment. Any decision as to whether to permit intermittent periods of leave is entirely at the Council's discretion.

An employee absent on shared parental leave will be entitled to a weekly payment equivalent to the lower fixed rate of SMP. The number of weeks for which payment will be made will vary depending on the amount of SMP paid to the mother while on maternity leave. Essentially, if the mother ends (or proposes to end) her leave with 10 weeks of SMP entitlement remaining, the parent taking shared parental leave will be entitled to be paid for the first 10 weeks of leave.

Because of the number of options available, shared parental leave can be quite a complicated entitlement. If you want to take advantage of shared parental leave you should discuss this with the RFO or Town Clerk who will check that you qualify and help guide you through the procedure.



## **5.7 Keeping in touch days**

We may agree, during your period of maternity or shared parental leave that you will come into work to catch up on the latest developments, undergo training or some other development activity or to take part in important meetings. These 'keeping in touch days' are entirely voluntary and employees will not be required to take part. Nor is the Council under any obligation to arrange for keeping in touch days. Any payment for attending work on such days will be agreed between the Council and the employee at the time the keeping in touch day is arranged.

## **5.8 During maternity or shared parental leave**

The Council is keen to keep in touch with employees who are on extended periods of leave, to inform them of any news and consult them over any changes which may take place in the organisation. However, we appreciate that many employees would prefer to be left alone at this very important time in their lives. In order to get the balance right, the Town Clerk may, before your leave begins, discuss with you how best we can keep in touch while you are away.

Please be aware, however, that if an important issue arises on which you need to be consulted, the Council may have a legal obligation to discuss the issue with you and keep you informed.

## **5.9 Compassionate leave and domestic emergencies**

If you suffer bereavement or face some other personal emergency you should talk to your manager who will discuss what arrangements can be made to grant you compassionate leave. You will be entitled to receive your current salary for up to 5 days if absence is authorised on compassionate grounds. These arrangements will always be at the discretion of the Council and will depend on the circumstances of the case and the impact that any absence on your part may have on the organisation. However, the Council will be sympathetic to your need for time off (which may be paid or unpaid at our discretion) to deal with the situation and make any arrangements that may be necessary.

Once you have discussed the matter with your manager, the arrangements will be confirmed to you in writing. If paid time off has been granted, then the amount of time that will be paid will be clearly set out. While on compassionate leave you should wherever possible inform your manager of any developments that will affect your needs.

If an emergency occurs and it is not possible for you to inform your manager in advance of any absence you should contact your manager as soon as possible to inform them of the situation. Appropriate arrangements may then be put in place.

## **6. RESOLVING MATTERS**

*When problems arise in the employment relationship it is important that they are dealt with fairly and promptly. This section sets out the procedures that the Council will follow in such cases.*

### **6.1 Performance improvement procedure**

It is in everybody's interests for employees to perform well at their jobs and the Council aims to ensure that all employees are given the support needed to ensure that they do so. Where there are issues with performance then the employee should receive feedback from their manager setting out any concerns. Discussions should take place about how that performance can be improved. This procedure is designed to be used when such informal discussions do not lead to the employee's performance improving to an acceptable level.

Where an employee's poor performance is believed to be the result of deliberate neglect, or where serious errors have been made to the detriment of the Council then it may be more appropriate to use the disciplinary procedure. Which procedure to use shall be at the discretion of the Town Clerk in discussion and consultation with the RFO/HR Manager (or in the case of the Town Clerk or RFO/HR Manager the Council) as will be the decision whether to follow these procedures where the employee has short service (under two years).

#### **The right to be accompanied**

Employees are entitled to be accompanied at any meeting held under this procedure by a fellow employee or trade union official of their choice. The Council will provide any chosen companions with appropriate paid time off to allow them to attend the meeting. It is, however, up to the employee in question to arrange for a companion to attend the meeting.

If your chosen companion cannot attend on the day scheduled for the meeting then the Council will agree a new date. This will usually be within 5 working days of the date originally scheduled. If your companion is not available within that timescale then you may need to find someone else to take their place.

The Companion's role is to advise you during the meeting and make representations on your behalf. However, both you and your companion are required to cooperate in ensuring a fair and efficient meeting.

#### **Stage one**

The line manager will inform the employee of the nature of the problem and confirm this in writing. The employee will be invited to a meeting to discuss the issues raised by the line manager's concerns. The meeting will be conducted by the line manager and will consider any representations the employee may make about their performance, whether it needs to be improved, and if so what steps can be taken to help the employee reach the appropriate level.

Following discussion of the problem, the line manager may choose to take no further action; to refer the matter for investigation under the disciplinary procedure or to issue a formal Performance Improvement Plan.

#### **Performance Improvement Plan**

A Performance Improvement Plan (PIP) is a series of measures designed to help improve the employee's performance. Each measure will ideally be agreed with the employee, though the Council reserves the right to insist on any aspect of the PIP in the absence of such agreement.

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

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

**Targets:** The PIP will specify the particular areas in which improvement is needed and set out how and on what criteria the employee's performance will be assessed. Where appropriate, specific targets will be set which will need to be achieved either by the end of the plan or at identifiable stages within it.

**Measures:** The PIP will specify what measures will be taken by the Council to support the employee in improving their performance. Such measures may include training, additional supervision, the reallocation of other duties, or the provision of additional support from colleagues.

**Feedback:** As part of the PIP the employee will be given regular feedback from their line manager indicating the extent to which the employee is on track to deliver the improvements set out in the plan. If at any stage the Council feels that the PIP is not progressing in a satisfactory way, a further meeting may be held with the employee to discuss the issue. As a result of such a meeting the employer may amend or extend any part of the plan.

### **Review**

At the end of the PIP the employee's performance will be reviewed. If satisfactory progress has been made the employee will be notified of this fact in writing. If the Line manager feels that progress has been insufficient then they may decide to extend and /or amend the PIP to such extent as seems appropriate. Alternatively the line manager may refer the matter to a meeting under Stage two of this procedure.

Following the successful completion of a PIP the employee's performance will continue to be monitored. If at any stage in the following 12 months, the employee's performance again starts to fall short of an acceptable standard, the line manager may decide to institute stage two of this procedure.

### **Stage two**

If a PIP has not led to sufficient improvement in the employee's performance, the employee will be invited to attend a formal performance management hearing. The invitation will set out the respects in which the line manager believes that the employee's performance still falls short of an acceptable standard.

At the hearing, the employee will be given an opportunity to respond to any criticism of their performance and to make representations about any aspect of the way in which the process has been managed.

If the hearing concludes that reasonable steps have been taken which should have allowed the employee to perform to an acceptable standard but that these measures have not worked then a **formal warning** may be issued. The warning will explain the nature of the improvement which is required in the employee's performance and state that the improvement must be immediate and sustained. It will also explain that if this improvement does not take place then the employee may be dismissed. Where it is appropriate, the warning may be accompanied by an extended or revised PIP.

The warning will remain current for a period of 12 months, after which time it will cease to have effect.

### **Stage three**

If an employee has been issued with a warning under stage two which remains current, and the line manager believes that the employee's performance is still not acceptable then the matter may be referred to a further performance management hearing.

The employee will be informed in writing of the grounds of which the hearing is being convened and in particular will be told of the respects in which their performance continues to fall below an acceptable standard.

At the meeting the employee will be able to respond to any criticisms made of their performance and make representations about how the situation should be treated.

The person conducting the meeting may take such action as is judged appropriate up to and including a decision to dismiss the employee.

Any dismissal under this procedure will be with notice or payment in lieu of notice and the decision to dismiss together with the reasons for dismissal will be set out in writing and sent to the employee.

### **Appeals**

An employee may appeal against any decision taken under this procedure. The appeal should be submitted in writing within one week of the action complained of. An appeal hearing will then be convened to consider the matter. Any PIP that is in force, together with any measures or objectives included within it, will continue in place during the appeal process.

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

### **Redeployment**

There may be circumstances in which it becomes clear that an employee would be better suited to a different role within the Council. However, any offer to redeploy the employee will be entirely at the Council's discretion and will only be made when the Council is confident that the employee will be able to perform well in the redeployed role and where there is a suitable available vacancy.

Redeployment may be offered as an alternative to dismissal where the Council is satisfied that the employee should no longer be allowed to continue to work in their current role. While the employee is free to refuse any offer of redeployment, the only alternative available in these circumstances will usually be dismissal.

## **6.2 Sickness absence procedure**

The Council may need to dismiss an employee whose attendance does not meet an acceptable standard either because of a long-term absence or because of a series of short-term absences. Such dismissals do not depend on any wrongdoing on the employee's part and do not mean that the Council does not accept that their absences are genuinely due to illness or injury. Rather, dismissal is recognition that unfortunately the employee is no longer able to perform their role, or attend work on a sufficiently regular basis to make their continued employment a viable option.

### **Short-term absence**

If your attendance, due to short term or intermittent absence, becomes a matter of concern, for example, persistent short term absences or a pattern such as Monday/Friday absences before/after Bank Holidays, your manager will discuss this with you informally with a view to resolving issues and improving attendance. Poor attendance and reliability issues may have a negative impact upon colleagues, workloads and team effectiveness.

The following procedure aims to provide a consistent approach to managing short term absence initially through informal interventions and where attendance does not improve/attendance targets are not met and concerns continue, through a formal process.

If attendance has not improved and there is no underlying medical condition, poor attendance may become a disciplinary matter.

On-going absence issues will be managed through the long term sickness and capability process (see section on Health Capability Review & Holding a Capability Hearing below) if it becomes clear that the sickness absence is:

- long term (likely to exceed 20 consecutive working days); and/or
- related to a disability; or
- related to a known underlying medical condition.

### **Informal Stage (1) : Initial sickness review meeting**

You will be required to attend an initial sickness review meeting with your manager if you have:

- more than 10 self-certificated working days sickness within a 12 month period (pro rata for part time staff); or
- 4 periods of absence within a 6 month period or;
- a pattern of absence that is of concern (e.g. Mondays / Fridays or absence following bank holidays).

### **Purpose of meeting**

The initial sickness review meeting should aim to:

- identify any contributing issues and how these may be resolved;
- establish whether there is an underlying medical condition or disability (this may involve seeking further medical advice);
- consider what other support may be needed; and
- encourage a member of staff to improve their attendance at work through agreed attendance targets.

### **Potential outcomes**

You may be asked to attend an appointment with an OH physician and your manager will agree attendance improvement targets for a monitoring period of between 1 and 3 months.

Adjustments or other support may be agreed such as changes to working patterns, counselling or additional management support.

Your manager will take a written note of this meeting and you may be advised that if attendance does not improve, this may become a disciplinary matter. You will be given a copy of this note.

### **Formal Stage (2): Formal sickness review meeting**

A formal review meeting will be held with you if your attendance remains of concern and there is no underlying medical condition.

You have the right to be accompanied by a trade union representative or work colleague from within the Council. If your companion is unable to attend the meeting within this timescale, you should notify HR of this and a further appointment will be made within the following 5 working day period. In exceptional cases the Council may extend these timescales depending upon the individual circumstances of the case.

Reasons for a formal meeting may be that:

- attendance targets have not been met; or
- there has been no sustained improvement; or
- self-certificated sickness absence has reached 20 working days (pro rata for part time staff) within a 12 month period; or
- the pattern of absence is a cause of concern.

You will be given at least 5 working days written notice to attend a meeting under this policy.

### **Purpose of meeting**

At this meeting, your manager will:

- review your attendance;
- discuss how this may be improved;
- review the improvement targets;
- discuss any management support or other needs.

### **Potential Outcomes**

You may be asked to attend an OH appointment if a referral has not yet been made.

Your manager will continue to monitor your attendance and set improvement targets.

If your manager is concerned about your level of attendance you may be advised that your absence will be considered a disciplinary issue and managed under the disciplinary procedure. Your manager will write to you inviting you to attend a disciplinary meeting to consider your attendance and will give you a copy of your attendance record and other relevant supporting documentation.

### **Long-term sickness absence**

Long term sickness absence is defined as 4 weeks continuous absence. Intermittent absence that amounts to 20 working days (140 hours pro rata for part time staff) will also be managed under the long term sickness and capability process, with due regard to the Equality Act 2010 and the Code of Practice on Disability in Employment, where the reasons for absence are related to an underlying medical condition or disability.

Managing long term sickness issues involves holding a monthly sickness review meeting with the member of staff to:

- keep in touch;
- discuss and review the length and reasons for absence;
- establish a return to work date; and
- facilitate a return to work/improve attendance levels.

More details can be found in the Council ***Managing Sickness Absence*** policy

### **Facilitating a Return to Work**

In order for us to provide staff with appropriate support and facilitate a return to work we may need to: seek medical advice through the Cornwall Council OH physician or from your G.P. or medical consultant about your health to establish when/whether a return to work is likely and how we can reasonably help to facilitate this.

- discuss and make reasonable adjustments for disabled staff that may facilitate a return to work or to retain an individual at work.
- consider whether alternative duties/light work or a phased return to work is beneficial.
- consider redeployment as a potential alternative to ending employment where appropriate.
- discuss early retirement where appropriate, if this option is available to you.

## **6.3 Bullying and harassment procedure**

It is not possible to define precisely what amounts to bullying or harassment. Usually this is a matter of common sense and the Council expects employees to consider how their words and actions may be seen by others and avoid behaving in such a way as to cause offence or create an unpleasant working environment.

Employees should be aware that what one person considers to be a harmless joke may be offensive to others. It is the responsibility of each individual employee to ensure that their behaviour does not cause offence and to stop immediately if a colleague tells them that their behaviour is unwanted or offensive to them.

It is also extremely important that the views of those who object to behaviour in this way are respected and that they are not subjected to any adverse comment or behaviour.

### **Making a complaint**

Employees who feel that they are being bullied or harassed in the workplace or that such behaviour is taking place should raise their concerns with their line manager or if that is not appropriate with the Town Clerk. Every attempt will be made to treat allegations in confidence. However if the Council

decides that formal disciplinary action needs to be taken then it may be necessary to disclose enough information to the accused employee to enable them to put their side of the story.

All complaints will be taken seriously and fully investigated. Disciplinary action will be taken where it appears to the Council that an employee has engaged in bullying or harassment. In serious cases this may result in dismissal for gross misconduct.

Because of the serious nature of such complaints, the making of any malicious or deliberately false complaint will itself be treated as gross misconduct that will usually result in dismissal. More details can be found in the Council *Dignity at Work* policy available from the RFO and of which you are strongly advised to familiarise yourself.

## **6.4 Disciplinary procedure**

The Council always tries to deal with disciplinary issues fairly and promptly. This procedure sets out the framework under which allegations of misconduct will be investigated and considered. While the procedure set out in this policy will be appropriate in most cases, there may be situations in which it is not practicable to comply with a particular requirement of it. When this happens the Council will do its best to deal with the matter fairly and will pay particular attention to the need to give the employee every opportunity to explain their version of events.

This procedure will not apply in full to employees during the first two years of employment.

### **Informal action**

Most minor acts of misconduct can be dealt with informally through discussions between an employee and their line manager. This may consist of management guidance or an informal warning given orally or in writing. These steps are an everyday part of the management process and no formal procedure needs to be followed in respect of them.

Where informal action of this kind fails to resolve an issue, or where the misconduct alleged is considered too serious, then the matter will be dealt with formally under this procedure.

### **Investigation**

If it is alleged that you have committed misconduct, an appropriate investigation will be carried out aimed at gathering all of the relevant evidence. You may be interviewed as part of this investigation and will have the opportunity to point the investigator towards any evidence that you feel is relevant. The right to be accompanied (see below) does not apply to any investigatory interview.

### **Suspension**

If an allegation of misconduct is made against you, then you may be suspended from your duties on full pay while the matter is being dealt with. The Council will make every effort to ensure that any period of suspension is kept as short as possible. The purpose of a suspension is either to allow an investigation to take place, or to protect the interests of the Council and its employees. During any period of suspension you may be instructed not to contact other members of staff except for the purposes of preparing for any disciplinary hearing, where specific arrangements will be made with you.

### **Hearing**

Once the investigation has been carried out, the investigating officer will make a decision about whether there is sufficient evidence to warrant a disciplinary hearing. If there is you will be informed of this and an appropriate date for the hearing will be arranged.

To ensure that you have adequate time to prepare for the hearing, the Council will provide you in advance with a copy of all of the written evidence that will be considered at the hearing. In exceptional cases the Council may need to withhold the identities of certain witnesses or hold back sensitive items of

evidence. This will only be done where it is considered necessary to protect individuals or the essential interests of the Council and every effort will be made to ensure that you are given as much information as possible so that a fair hearing can be conducted.

You will be given sufficient notice of any hearing to allow you to prepare for it. While this will vary from case to case, the Council will generally try to give at least two days' notice of any hearing and in complicated cases a longer period of notice may be given.

The purpose of the hearing will be to consider the evidence gathered during the investigation and to consider any representations made by you or on your behalf. The hearing will be conducted by an appropriate manager who, wherever possible, has not previously been involved in the case and who was not responsible for carrying out the investigation.

### **The right to be accompanied**

Employees are entitled to be accompanied at any disciplinary hearing by a fellow employee or trade union official of their choice. The Council will provide any chosen companion with appropriate paid time off to allow them to attend the hearing. It is, however, up to the employee in question to arrange for a companion to attend the hearing.

If your chosen companion cannot attend on the day scheduled for the hearing then the Council will agree a new date. This will usually be within 5 working days of the date originally scheduled. If your companion is not available within that timescale then you may need to find someone else to take their place.

The companion's role is to advise you during the hearing and make representations on your behalf; it is not to answer questions for you. However, both you and your companion are required to cooperate in ensuring a fair and efficient hearing.

### **Evidence**

The hearing will consider any evidence you choose to present. Should witnesses be prepared to appear on your behalf they will be permitted to do so provided that their evidence is relevant to the issues that need to be decided. The Council will not compel or require any employee to appear as a witness on your behalf and in most circumstances evidence arising from the investigation will be presented in written form. You will be entitled to challenge any of the evidence presented but will not be entitled to cross-examine witnesses.

### **Disciplinary action**

After considering all of the evidence, including any submissions made by you or on your behalf, the person conducting the hearing will decide on the outcome. If misconduct is found to have taken place then the usual outcome will be a **written warning** which will be placed on your personnel file.

A warning will stay active for a period of one year, after which it will not be taken into account in any future disciplinary action.

If however a further instance of misconduct is found to have occurred (in accordance with this procedure) during the currency of a warning – or if any misconduct is considered to be serious enough to warrant it – then, subject to the formal process above being followed, you will be issued with a **final written warning**.

A final written warning will usually remain active for one year, but a longer period may be specified if the manager conducting the hearing feels that the circumstances warrant it.



An employee who is found to have committed further misconduct during a period covered by a final written warning will, following a hearing conducted in accordance with this procedure, generally be dismissed.

### **Dismissal**

An employee will not normally be dismissed under this procedure for a single instance of misconduct unless a final written warning is already in place. However, where gross misconduct is found to have occurred then dismissal without notice or payment in lieu will be the usual outcome.

Gross misconduct is misconduct that is so serious that it fundamentally undermines the relationship between employer and employee. If you are accused of gross misconduct this will be made clear when you are invited to a disciplinary hearing.

### **Appeal**

An employee may appeal against the outcome of a disciplinary hearing by doing so in writing within one week of being notified of the outcome. The person to whom an appeal should be directed will be detailed in the disciplinary outcome letter.

The appeal will consider any grounds the employee chooses to put forward and they will have the same right to be accompanied as at a disciplinary hearing. The result of the appeal hearing will be final.

### **Employee absence**

It is important that disciplinary issues are dealt with promptly. The Council may therefore need to proceed with a disciplinary hearing even if the employee is absent due to ill health or simply does not attend. Before hearing the matter in an employee's absence, the Council will attempt to arrange the hearing in such a way that the employee will be able to attend or to submit written representations to the hearing and/or to arrange for an appropriate representative to attend the hearing on their behalf.

## **6.5 Grievance Procedure**

The Council aims to be responsive to concerns raised by employees and if you are unhappy with something affecting you at work you are encouraged to raise this with your manager. If that is not possible then you should speak to the Town Clerk or RFO/HR Manager who will try to assist you in resolving any issue you may have. The following procedure is designed to be used when these informal attempts to resolve any dispute have not been successful. You should familiarise yourself with a copy of the Council *Employee Grievance* policy available from the Town Clerk or RFO/HR Manager.

### **Raising a grievance**

Wherever possible, any grievance should be raised informally with the employee's line manager, or if this is inappropriate with the next level of management. In the case of the Town Clerk or Responsible Financial officer (RFO) raising a grievance, this should be directed to the Mayor of the council unless the complaint is about the Mayor in which case the Deputy Town Mayor can be identified to handle the complaint. The recipient of the grievance from the Clerk should share the grievance with the Finance and Personnel Committee established to handle employment matters and the issues should be treated with discretion and confidentiality at all times.

#### Written Statement:

If the employee does not consider it appropriate to raise the grievance informally, or if requested by the person the employee spoke to informally, then the employee should submit a formal grievance in writing to their line manager, or if this is inappropriate to the next level of management.

### **Grievance hearing**

Generally, within a reasonable period of time generally five working days of receipt of a written complaint, the line manager or Chair of the Finance and Personnel Committee will arrange a meeting with the employee. The line manager or Chair of the Finance and Personnel Committee will endeavour to make the meeting arrangements mutually convenient and will arrange a confidential location, free from interruptions. The manager will investigate the substance of the complaint and hear submissions from the employee concerned together with such other submissions or evidence as s/he shall consider appropriate and take such steps as s/he shall consider necessary to resolve the issue raised. It may be necessary to adjourn the meeting in order for an investigation to take place. Careful consideration of the evidence and the necessary steps required to resolve the problems will be given to the grievance. The employee may call witnesses by prior arrangement with the panel. There is no right for a Member or employee implicated in an employee's grievance to cross examine the aggrieved during a grievance hearing but the panel may wish to make its own investigations through interviewing these individuals and/or other witnesses separately. The Panel may ask the employee what he or she would like to happen as a result of raising the grievance and bear this in mind when preparing the response.

**Response:**

The Hearing Manager will advise the decision to the employee in writing and, where appropriate, include an action plan to assist in the resolution of the problem. Torpoint Town Council will consider the options and costs in a timely fashion, then agree and publicise the workable solutions, monitor and review and learn from the experience. As part of the solution Torpoint Town Council might consider exploring mediation as a way in which to resolve differences between two parties.

**Appeal:**

If the employee is dissatisfied with the decision of the line manager on his/her complaint, s/he may appeal against the decision to the Mayor by written notice within five working days of the decision. An Appeal may be raised if:

- The employee thinks the finding, or action plan, is unfair
- New evidence has come to light
- The employee thinks that the procedure was not applied properly

On receipt of the appeal to a panel consisting of the Mayor, Deputy Mayor and the Chairman from one of the Council's standing committees a member from the council's Appeals Panel shall arrange to meet and consult with the employee, the line manager or Members concerned and any other persons, as s/he shall consider appropriate without unreasonable delay. The Appeal Hearing Chair shall consider the issues and shall then take all such steps, as s/he may consider necessary to resolve those issues. Where the council's Line Manager or Chair of the Finance and Personnel Committee has chaired the initial grievance meeting the Vice Chair or Chair of another committee will hear the appeal as a hearing manager the decision of the Appeal Hearing will be final. The council will ensure that the Members involved in the hearings are able to act impartially and reasonably at all times. The outcome of the appeal should be conveyed to the employee in writing in a timely manner.

**Allegations of misconduct**

Where an employee is making allegations of misconduct on the part of other employees then the Council may need to carry out an investigation into the allegations and pursue the matter through the disciplinary procedure. Where this happens the grievance will be held over until the disciplinary process has been concluded.

**Relationship with other procedures**

Where your grievance relates to the conduct of other procedures such as the disciplinary or performance management procedures then the Council may choose to either delay the consideration of the grievance

until that procedure has been completed or to deal with the grievance in the course of that procedure or by way of appeal if that appears to be a fairer or more straightforward way of dealing with the issue.

The outcome of any appeal will be final.

## **APPENDIX 1**

### **PROTOCOL ON MEMBER/OFFICER RELATIONS**

#### **Introduction and Principles**

The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council and to satisfy the ethical standards required.

Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It offers guidance based on practice and where applicable legislation on some of the issues which most commonly arise. It is anticipated that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.

This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed, it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.

This Protocol is consistent with the **Members' Code of Conduct**. Consequently, a breach of the provisions of this Protocol may also constitute a breach of these Codes.

This Protocol should be read in conjunction with the Codes of Conduct, and any guidance issued by the Standards Committee and/or Monitoring Officer of Cornwall Council.

#### **Limitations of Members' Authority**

The authority of Members is collective and, as individuals, they have **no authority** to issue specific directions to any employee, or make criticism directly. This includes the Mayor or Chairmen of Committees. Members must not formally inspect any Town Council property without authority or issue orders or correspondence.

The long standing requirements on Members, as employers, were re-affirmed in law by an Employment Appeals Tribunal, *Moore v Bude & Stratton Town Council*. This confirmed that the Town Council collectively was the employer and that the unofficial actions of an individual Member could destroy the entire basis of the employer/employee relationship and that employees were entitled to a "reasonably congenial working relationship".

## **THE RELATIONSHIP: GENERAL POINTS**

Whilst both Members and Officers are servants of the public and they are indispensable to one another the responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts.

Members are responsible for setting policy. Officers are responsible to the Council. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council and its various bodies.

At the heart of the Codes and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

Members must respect the impartiality and integrity of all the Council's Officers. Similarly, all Officers must respect the role of Members as elected representatives. A standard form of address should be agreed at meetings and applied consistently by both members and officers. Inappropriate relationships can be inferred from language/style and consistency in address can protect both members and officers, save where circumstances clearly indicate that a level of informality is appropriate.

A Member should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service. An Officer has no means of responding to criticisms in public. If a Member feels he/she has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, he/she should raise the matter with the Town Clerk. Any action taken against an Officer in respect of a complaint, will be dealt with in accordance with the provisions of the Employee Handbook.

An Officer should not raise matters with a Member relating to the conduct or capability of another Officer or to the internal management of a Department in a manner that is incompatible with the overall objectives of this Protocol.

Where an officer feels that he/she has not been properly treated with respect and courtesy by a Member or another officer, he/she should raise the matter with the Town Clerk (or if the Town Clerk is the subject either as the instigator or receiver then either another senior officer or the Town Mayor. If the complaint is of a serious nature against a member the matter can be referred the matter to the Monitoring Officer in accordance with the Code of Conduct.

## **ROLES OF MEMBERS AND OFFICERS**

### **Members have four main roles:**

- Determining the policy of the Council
- Monitoring and reviewing the performance of the Council in implementing that policy and delivering services
- Representing the Council externally
- Acting as advocates on behalf of their constituents and the wider community

**Officers have the following main roles:**

- Initiating policy proposals
- Implementing agreed policy, managing and providing services and being accountable for the efficiency and effectiveness of the services provided
- Providing professional advice to the Council, its various bodies and individual members
- Ensuring the Council always acts in a lawful manner

**THE COUNCIL DECISION MAKING PROCESS**

General day to day decision making remains the responsibility of the Town Clerk as delegated by the Town Council. The exception to this relates, primarily, to financial matters where the Responsible Financial Officer will have responsibility [*The Responsible Finance Officer Protocol implemented by Council - minute 126-17 refers*]

Members must always remember that decisions and policies, once determined by the Town Council are binding.

**THE RELATIONSHIP: GENERAL POINTS**

Officers are responsible for day-to-day managerial and operational decisions within the Council and will provide support to all Members in their various roles.

Members should not seek to pressure the Officer to make a recommendation contrary to the Officer's professional view because of their wish to express a contrary view.

The Town Clerk and RFO have certain statutory roles which need to be understood and respected by all Members. Members must respect these statutory obligations, must not obstruct the Town Clerk or RFO in the discharge of their respective responsibilities and must not be victimise the officers for discharging these responsibilities.

**The following key principles reflect the way in which Officers generally relate to Members:-**

- All Officers are employed by, and accountable to the Council as **a corporate body**
- Support from Officers is needed for all of the authority's functions
- Day to day managerial and operational decisions should remain the responsibility of the Town Clerk and other Officers
- All Officers will be provided with training and development to help them support the various Member roles effectively.

**PREPARATION OF COUNCIL AGENDAS, MINUTES AND REPORTS AND CONDUCT OF MEETINGS**

- The Town Clerk, or other appointed Officer, although responsible under statute for preparing the Agendas for all meetings of the Town Council, Committees, Sub- Committees and Working Parties and for circulation of them to meet statutory requirements, will normally do so in consideration with the appropriate Chair. Additional matters for discussion may only be considered at the discretion of the Chair, in agreement with the Town Clerk (or Officer responsible for the meeting).
- The Town Clerk, or other appointed Officer, is responsible for the content of all minutes and for circulation of them to meet statutory requirements.
- An Officer will be present at all meetings involving Members of the Town Council and will advise on any questions relating to Standing Orders, Financial Regulations, legal requirements or committee procedures and will produce formal minutes or a report of the meeting.

- When a named Officer has produced a written report for the consideration of Members he/she is known as the "lead Officer" for the particular topic and is always given the opportunity to introduce the report and answer any questions about it, preferably having received notice verbally or in writing.
- All Committee reports/minutes will contain recommendations where appropriate, with the decision to accept this or not rests with the Members (unless delegated within the scheme of delegation). Members should raise matters with that Officer prior to the meeting if at all possible.
- Unless authorised by the Chair of the meeting concerned, during Council and Committee meetings, all mobile telephones will be switched to silent, no eating is permitted and drinking is restricted to the water provided.
- All members shall seek the advice of the Town Clerk where they consider there is doubt about the vires for a decision or where they consider a decision might be contrary to pre-determined policies of the Council.
- Members and Officers should be mutually supportive in order to minimise any potential embarrassment to the Council. Criticism of officers should be dealt with in private and, by the same token, Officers will never be publicly critical of the Council or its policies.

## **THE RELATIONSHIP: OFFICER SUPPORT: MEMBER AND PARTY GROUPS**

It must be recognised by all Officers and Members that in discharging their duties and responsibilities they serve the Council as a whole.

The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photo-copying, transport etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity.

## **MEMBERS ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

- Members have the right to ask for information pursuant to their legal rights to information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council activities to a request for specific information on behalf of a constituent. General approaches should normally be directed to the Town Clerk.
- With reference to the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted by the Council. The right applies irrespective of whether the Member is a member of the meeting concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers.
- The Common Law rights of Members remain intact and are much broader and are based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the document is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the 'need to know' principle.
- The exercise of this common law right in regard to sensitive information depends therefore, upon an individual Member being able to demonstrate that he/she has the necessary 'need to know'. In this respect a Member has no right to 'a roving commission' to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the 'need to know'. This question must initially be determined by the Town Clerk.
- In some circumstances (e.g. a meeting of the Council or its bodies and a Member wishing to inspect documents relating to the business of that meeting), a Member's 'need to know' will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain

personal information about third parties) the Member will normally be expected to justify the request in specific terms.

- Further and more detailed advice regarding Members rights to inspect Council documents may be obtained from the Town Clerk.
- Finally, any Council information provided to a Member must only be used by Members for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council. Therefore, for example, early drafts of Committee reports/briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied.

## **CORRESPONDENCE**

- Correspondence between an individual Member and an Officer should not normally be copied (by the Officer or Member) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member or Officer. In other words, a system of 'silent copies' should not be employed.
- Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

## **PUBLICITY AND PRESS RELEASES**

- Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Authority by explaining its objectives and policies to the electors and taxpayer. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, to be welcomed.
- Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice. The government has issued a Code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. The Code develops the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provisions of the Local Government Act 1986 as amended by the Local Government Act 1988 which provides for the Secretary of State to issue Codes of Recommended Practice as regards the content, style, distribution and costs of local authority publicity and such other matters as he/she thinks appropriate. That section requires that all local authorities shall have regard to the provisions of any such Code in coming to any decision on publicity.
- Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, Officers and/or Members should initially seek advice from the Town Clerk. Particular care should be paid to any such publicity used by the Council around the time of an election. Particular advice will be given on this by the Town Clerk.

## **MEMBERS IN THEIR WARD ROLE AND OFFICERS**

- Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected will as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members will be notified at the outset of the exercise.

- Should Members or local residents convene a local meeting, Officer attendance will be at the discretion of the Town Clerk and will take account of the purpose of the meeting.
- In all circumstances, the role of Officers at such meetings is to provide information on the topic under consideration and any decision making process which might be relevant, but not to offer or share judgements. Officers will seek to assist in the effective engagement of the community but will be mindful at all times of the integrity of the formal decision making process.
- Members attending local consultation meetings, which may on occasion give rise to heated debate, should be mindful of the restrictions on the responses available to Officers and both Officers and Members should act at all times in accordance with their respective Codes of Conduct.

## **FINALLY AND IN CONCLUSION**

Mutual understanding and openness on these sort of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Members and Officers.  
Questions of interpretation of this Protocol will be determined by the Town Clerk.