

Public Document Pack

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| Date of meeting | Wednesday, 23rd April, 2014 |
| Time | 7.00 pm |
| Venue | Committee Room 1, Civic Offices, Merrial Street, Newcastle-under-Lyme, Staffordshire, ST5 2AG |
| Contact | Julia Cleary |

Staffing Committee

AGENDA

PART 1 – OPEN AGENDA

- 1 Apologies**
- 2 Declarations of Interest**
- 3 MINUTES OF THE LAST MEETING (Pages 3 - 4)**
To agree as a correct record the minutes of this meeting held on 4 February, 2014
- 4 MINUTES OF THE EMPLOYEES CONSULTATIVE COMMITTEE (Pages 5 - 8)**
To agree as a correct record, the minutes of the Employees Consultative Committee held on 24 March, 2014
- 5 Workplace Domestic Violence Policy (Pages 9 - 28)**
- 6 Employees Code of Conduct (Pages 29 - 70)**
- 7 Capability (Pages 71 - 74)**
- 8 Local Government Pension Scheme (Pages 75 - 78)**
- 9 Night Working (Pages 79 - 86)**
- 10 Religious Observance (Pages 87 - 92)**

Members: Councillors Mrs Astle, Mrs Hambleton (Chair), Holland, Howells, Olszewski, Miss Reddish, Rout, Mrs Shenton, Sweeney, Turner and Miss Walklate

PLEASE NOTE: The Council Chamber and Committee Room 1 are fitted with a loop system. In addition, there is a volume button on the base of the microphones. A portable loop system is available for all other rooms. Should you require this service, please contact Member Services during the afternoon prior to the meeting.

Members of the Council: If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.

Meeting Quorums :- 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

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STAFFING COMMITTEE

Tuesday, 4th February, 2014

Present:- Councillor Mrs Sandra Hambleton – in the Chair
Councillors Holland, Olszewski, Miss Reddish, Mrs Rout and Mrs Shenton

1. APOLOGIES

Apologies were received from Councillors Howells, Sweeny, Turner and Walklate.

2. MEMBERSHIP CHANGE

It was noted that Councillor Astle had replaced Councillor G Williams as a member of the Staffing Committee.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. MINUTES OF LAST MEETING

The minutes of the meeting held on 2 October 2013 were approved as a correct record and signed by the Chair.

5. MINUTES OF EMPLOYEE CONSULTATIVE COMMITTEE (17 JANUARY 2014)

The minutes of the Employees Consultative Committee held on 17 January 2014 were submitted for information.

Resolved: That the proceedings of the meeting be noted.

6. EMPLOYEE RECOGNITION SCHEME

A report was submitted regarding a review of the Employee Recognition Scheme.

At the previous meeting of the Committee (2/10/2013) a number of revisions to the scheme had been agreed which had included:

- Executive Management Team and Wider Management Team members not to be eligible for awards
- Individuals who are nominated for an award to be able to opt not to be considered for an award if they so wish
- It to be made clear to the winner of 'The Person that makes me Smile' award that they are not obliged to be a member of the Judging Panel.
- The composition of the Judging Panel to include the Chair of the Employee Consultative Committee (ECC) or their nominee (the nominee being either an Elected Member or a Trade union Representative from the ECC).

The number of nominations made by staff over the previous three years together with the number of votes cast by employees in relation to the 'Person who makes me Smile' award were reported. It was noted that no feedback had been received from employees. Councillor Shenton fed back on the process regarding nomination and judging.

Members of the Employees Consultative Committee had considered the results of the 2013 awards at their meeting on 17 January 2014. The Employees Consultative Committee noted that the number of nominations received for 6 out of the 7 categories of award were considerably lower than the previous and recommended that staff should be consulted regarding the review of the Scheme.

Resolved: That a further report be submitted to a future meeting of the Staffing Committee setting out the views of staff in relation to the Employee Recognition Scheme and including options for review.

7. LONE WORKING POLICY

A report was submitted which set out proposed revisions to the current Lone Working arrangements which included the introduction of 49 Identicom specialist Lone Worker devices.

Resolved: That the reviewed Lone Working Arrangements set out in Appendix C and attached to the report now submitted be approved.

8. REVIEW OF NO SMOKING POLICY

A report was submitted which sought approval to the proposed revised No-Smoking Policy to incorporate prohibition of e-cigarettes. The policy, which was attached as an appendix to the report, also clarified the position in relation to homeworking. It was noted that the proposed revised policy was approved subject to an amendment to clarify that non-compliance may result in disciplinary action rather than the imposition of a fixed penalty or fine.

Resolved: That the revised Lone Working Arrangements set out in Appendix C and attached to the report now submitted be approved.

COUNCILLOR MRS SANDRA HAMBLETON
Chair

EMPLOYEES CONSULTATIVE COMMITTEE

Monday, 24th March, 2014

Present:

Councillors: Loades, Plant, Sweeney, Taylor.J and Wemyss

Employee Representatives: Jackie Cicatello (Unison), Gary Morgan (GMB/Apex) and Anne-Marie Ruscoe (GMB/Apex)

In Attendance: Cllr Mike Stubbs (Portfolio Holder for Finance and Resources)

Officers: Richard Durrant (Head of Human Resources), Sarah Taylor (HR Manager), Paul Washington (Principal Solicitor), Catherine Fox (Community Safety Officer), Jayne Briscoe (Democratic Services Officer)

1. **APOLOGIES**

Apologies were received from Mr P. Bartels (GMB/Apex) and Mr P. Pickerill (GMB/Apex).

2. **DECLARATIONS OF INTEREST**

A declaration of interest was received from Cllr Sweeney in relation to his role as Chair of the Staffordshire County Council Pension Committee.

3. **TRIBUTE TO RICHARD DURRANT (HEAD OF HUMAN RESOURCES)**

The Committee gave a tribute to Richard Durrant and thanked him for his valued contributions to the Committee ahead of his forthcoming retirement.

4. **EXCLUSION OF PRESS AND PUBLIC**

RESOLVED: That the press and public be excluded from the meeting during consideration of the following items because it is likely that there will be a disclosure of exempt information as defined in Paragraph 4 of Part 1 of Schedule 12A of the Local Government Act 1972.

5. **MINUTES OF LAST MEETING**

RESOLVED: That the minutes of the previous meeting held on 17 January 2014 be agreed as a correct record.

6. **ATTENDANCE MANAGEMENT**

A report was considered updating the Committee on progress regarding attendance management. The Head of Human Resources advised that attendance management was generally on target, with significant improvements seen in comparison to the previous year and low levels of sickness.

The Trade Unions congratulated the workforce for this achievement which was of benefit to the Council as a whole. How the Council compared to others authorities at a national level

was questioned. The Head of Human Resources advised that the Council was doing well in comparison.

7. TIME OFF FOR DEPENDENTS POLICY AND PROCEDURE

The Committee were advised that two employees had utilised the Time Off for Dependents Policy and Procedure. It was clarified that legislation allows reasonable time off to deal with an emergency situation without pay. A Member expressed concern that it was at the manager's discretion whether an employee could make use of the scheme, which was countered by another Member who considered that the Council should be supporting its employees. It was further clarified that the employees had not requested leave without pay.

It was felt that staff needed to be made fully aware of the Time Off for Dependents Policy and Procedure. The Head of Human Resources advised that it was rare for employees to ask for time off without pay and that they would normally come to some arrangement with their manager to either take annual leave, flexi or make the time up. All employees had been advised of the scheme through the Core Brief and Team Briefings.

The Chair suggested that the Committee look at the cost of the scheme at the next meeting in order to see a fuller picture. The important issue was that employees were able to have time off when they needed it.

8. LOCAL GOVERNMENT PENSION SCHEME POLICY ON REVIEW OF EMPLOYEE CONTRIBUTION RATES

A report was received seeking the Committee's views on the future approach to the reviewing of employee Local Government Pension Scheme percentage contribution rates.

From 1 April Pension Contributions will be calculated on actual pay (including overtime), with the contribution salary bands increasing from seven to nine.

It was advised that employees who regularly worked overtime would have their rates calculated after three months i.e. in July each year to determine which contribution rate should be applied.

9. ENHANCEMENTS FOR NIGHT WORKING - REVISED PROPOSAL

A report was received seeking the Committee's views/comments on a revised proposal on the enhanced rates of pay to be paid to employees who volunteer to work during the night.

It was noted that the Trade Unions were opposed to the proposal contained within the report. It was also noted that the Trade Unions had put forward a proposal that employees receive time and 1/3 and a day off in lieu when night work is carried out that is not part of a normal working week.

The Chair recommended the report due to this being an improved offer which is voluntary, and the Committee agreed.

10. CAPABILITY POLICY AND PROCEDURE - APPEAL HEARING PROCEDURE

A report was received seeking the Committee's view and comments on a proposed procedure to be followed at appeal hearings relating to capability.

The Trade Unions advised that they could support the Capability Policy and Procedure – Appeal Hearing Procedure as amended.

RESOLVED: That the Capability Policy and Procedure – Appeal Hearing Procedure be accepted.

11. **WORKPLACE DOMESTIC VIOLENCE POLICY**

A report was considered seeking the Committee's views/comments on a proposed Workplace Domestic Violence Policy. The Council's Community Safety Officer and domestic violence advisor was in attendance.

The draft policy was to be amended to include Councillors. Once finalised, a mini version of the policy would be attached to employee's payslips prior to the World Cup in June 2014.

The Trade Unions requested that the policy be withdrawn for consideration until the next meeting of the Committee. The Chair advised that the policy could be implemented with the opportunity to make changes to it as and when required. The Joint Trade Unions would not wish to oppose the policy but they did have some concerns.

12. **REVIEW OF EMPLOYEES CODE OF CONDUCT**

A report was considered seeking the Committee's views/comments on proposed revisions to the Employee's Code of Conduct. The section of the Code of Conduct relating to gifts and hospitality would be re-written.

Members expressed concern with regard to the Code of Conduct in relation to cash tips traditionally accepted by refuse collectors at Christmas. The Principal Solicitor advised that a policy was required to be in place having regard to the Bribery Act 2010. In so far as the refuse collectors receiving tips was concerned there might be a perception that refuse collectors were doing work in addition to normal service.

A Member considered that the Employee's Code of Conduct needed to be revisited in the future.

RESOLVED: That the revised Employee's Code of Conduct be agreed but that section 12 should be reviewed as and when necessary in the future having regard to any subsequent case law and that, for the time being, the gifts and hospitality section should not be applied to refuse collector's Christmas tips.

13. **PROPOSED POLICY ON RELIGIOUS OBSERVANCE DURING WORKING HOURS**

A report was considered seeking the Committee's views/comments on a proposed policy regarding arrangements for employee's in respect of religious observance during working hours.

RESOLVED: That the Policy on Religious Observance during Working Hours be agreed subject to a review in twelve months.

COUNCILLOR JOHN TAYLOR
Chair

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ITEM FOR STAFFING COMMITTEE – 8 APRIL 2014

WORKPLACE DOMESTIC VIOLENCE POLICY

Submitted by: Executive Management Team

Portfolio: Finance and Resources

Purpose of the Report

To obtain the Committee's approval for a proposed Workplace Domestic Violence Policy.

Recommendation

That the proposed Policy and Procedure detailed at Appendix A be approved.

1. Background

- 1.1 Domestic violence can affect the health and self-confidence of an employee who may be unable to confide in others or seek help. The council is committed to the welfare of its employees and to support those who experience personal problems, including problems associated with domestic violence.
- 1.2 Often, a workplace can be the first place domestic violence is identified. Suffering from domestic violence can lead to a drop in work performance, increased absence and elevated stress. It is important that our staff are aware that domestic violence can be a possible cause when a colleague becomes depressed, distracted, lacking in self-confidence or visibly injured and to know how best they can help.
- 1.3 The pattern of domestic violence tends to be one of escalation and it is therefore considered that there is no level of abuse which should be viewed as acceptable or insignificant. It is recognised that it is essential to promote and implement a domestic violence policy that is not only strong and victim centred, but also that tackles employees who are perpetrators of domestic violence.
- 1.4 The trade unions were provided with a draft copy of the policy on 7 March 2014 and referred it for comment to their regional offices. The proposed Policy was considered at the Employees Consultative Committee meeting on 24 March 2014.

2. Aims of the Policy

- 2.1 The overall aim of the proposed policy is to create a safer workplace and also to send out a strong message that domestic violence is unacceptable by creating awareness and providing useful guidance and support to managers and colleagues when supporting members of staff who disclose that they are experiencing this form of abuse.
- 2.2 The proposed policy is attached at Appendix A. The specific aims of the policy are as follows:
 - To demonstrate Newcastle-under-Lyme Borough Council's commitment to support employees experiencing domestic violence responding sensitively and effectively.
 - To create a safe and supportive culture in the Council to encourage reporting.

- To raise awareness and understanding of domestic violence throughout the Council.
- To contribute to the health and wellbeing of employees.
- To increase awareness of managers in recognising that an employee may be experiencing domestic violence and to provide advice and appropriate victim centred action.
- To offer clear, confidential, sympathetic and consistent advice to employees experiencing domestic violence.
- To establish and publicise support for employees experiencing domestic violence.
- Remove fear of stigmatisation.

3. Issues

- 3.1 At its meeting on 24 March 2014, the Employees Consultative Committee recommended that the Policy and Procedure be adopted.

4. Legal and Statutory Implications

- 4.1 It is important that the council's policy on Workplace Domestic Violence reflects current best practice and ensures the council fulfils its obligations regarding a duty of care to the Health, Safety and Welfare of its employees in the workplace.

5. Equality Impact Assessment

- 5.1 Implementation of the policy will help to ensure a consistent approach to dealing with domestic violence in the workplace.

6. Financial and Resource Implications

- 6.1 None – Relevant training will be provided by the council's Domestic Violence Officer/Community Safety Officer.

7. Major Risks

- 7.1 See 4.1.

8. List of Appendices

Appendix A – Proposed Workplace Domestic Violence Policy

9. Earlier Committee Resolutions

Employees Consultative Committee – 24 March 2014

Newcastle-under-Lyme Borough Council

**DRAFT WORKPLACE DOMESTIC
VIOLENCE POLICY**

| Contents | Page No |
|---|---------|
| 1.1 Introduction | 3 |
| 1.2 Purpose | 3 |
| 1.3 Aims of the Policy | 4 |
| 1.4 Definition | 4 |
| 1.5 Legal Implications | 5 |
| 1.6 The Facts | 5 |
| 1.7 What is Domestic Violence/Abuse | 5 |
| 1.8 Possible signs of domestic violence | 6 |
| 2.1 What can you expect from Newcastle-under-Lyme Borough Council | 7 |
| 3.1 Are you suffering domestic violence? - Who can you turn to? | 8 |
| 3.2 Role of Domestic Violence Points of Contact | 9 |
| 4.1 Perpetrators of Domestic Violence in the Workplace | 9 |
| 4.2 What if the Victim and Perpetrator both work for the Council? | 10 |
| 5.1 Guidance for Managers | 10 |
| 5.2 Recording Information | 11 |
| 6.1 Implementation, Monitoring and Review | 11 |
| 7.1 Useful Numbers | 11 |

1.1 Introduction

Domestic violence can affect the health and self-confidence of an employee who may feel unable to confide in others or seek help. It is therefore paramount to be aware of domestic violence as a possible cause when an employee is depressed, distracted, lacking in self-confidence or visibly injured. Suffering from domestic violence can lead to a drop in an employees work performance, increased absence and elevated stress.

Newcastle under Lyme Borough Council condemns domestic violence and recognises that it is both a crime and unacceptable, we are committed to the welfare of our employees and we will support and assist any employee who is experiencing problems related to domestic violence. We recognise that often a work place can be the first place of identification of domestic violence and it is therefore essential that our Domestic Violence Policy is strong and victim centred.

Domestic violence varies both in frequency and intensity. Given that the pattern of domestic violence is one of escalation, there is no level of abuse, which should be viewed, as acceptable or insignificant.

The Council recognises further, that to condemn domestic violence we must tackle perpetrators of this crime within our organisation too. Whether that be encouraging attendance at perpetrator programmes running across the Borough or taking disciplinary action if appropriate.

This Policy will apply to everyone working for Newcastle under Lyme Borough Council, in whatever capacity and everyone has the right to raise the issue of domestic violence with their employer in the knowledge that they will treat the matter effectively, sympathetically and confidentially.

The Council further recognises that domestic violence is an equalities issues.

1.2 Purpose

The Council is committed to reducing domestic violence and this Policy sets out the actions that will be taken in responding to employees who are experiencing domestic violence and where there are concerns that an employee may be a perpetrator.

We will create a safer workplace and we will also send out a strong message that domestic violence is unacceptable we will do this by creating awareness and providing useful guidance and support to managers and colleagues when supporting members of staff who disclose that they are experiencing this form of abuse.

We recognise that our employees will be amongst those affected by domestic violence either as a survivor, an individual who is still living with domestic abuse, someone has been impacted by a domestic violence homicide or as an individual who perpetrates domestic violence.

By having a policy in place to assist staff experiencing domestic violence it is possible to create a safe and supportive environment where the workplace can become a place of safety.

1.3 Aims of the Policy

- To demonstrate Newcastle under Lyme Borough Council's commitment to support employees experiencing domestic violence responding sensitively and effectively.
- To create a safe and supportive culture in the Council to encourage reporting.
- To raise awareness and understanding of domestic violence throughout the Council
- To contribute to the health and well-being of employees
- To increase awareness of managers in recognising that an employee may be experiencing domestic violence and to provide advice and appropriate victim centred action.
- To offer clear, confidential, sympathetic and consistent advice to employees experiencing domestic violence
- To establish and publicise support for employees experiencing domestic violence.
- Remove fear of stigmatisation.

1.4 Definition

Domestic violence is defined by the Home Office as :

“ Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality.

This can encompass, but is not limited to, the following types of abuse:

- psychological
- physical
- sexual
- financial
- emotional

‘Controlling behaviour is: a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

‘Coercive behaviour is: an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim “

This definition, includes so called ‘honour’ based violence, female genital mutilation (FGM) and forced marriage.

Domestic violence can happen to anyone regardless of age, gender, race, sexuality, wealth and geography. Although the majority of domestic violence happens to women we as a Council understand that domestic violence can happen to both men and women.

Domestic violence/abuse can include abuse by a son, daughter or any other extended family members as well as current or ex partners.

1.5 The Legal Implications

- Employers have a duty of care under the Health and Safety at Work Act 1974 to ensure as far as is reasonably practicable the health and safety at work of their employees.
- The Management of Health and Safety at Work Regulations 1999 also requires employers to assess the risks of violence to employees and make arrangements for their safety by effective planning, organisation and control.

Newcastle under Lyme Borough Council recognises its legal responsibilities in promoting the welfare and safety of all our staff.

1.6 The Facts

- One in Four women and one in six men will experience domestic violence in the course of their lifetime.
- Domestic violence accounts for one quarter of all violent crimes.
- Repeat victimisation is common. No other type of crime has a rate of repeat victimisation as high
- On average, two women per week are killed by a male partner or former partner. Domestic violence is the largest cause of morbidity in women aged 19-44, greater than war, cancer and motor vehicle accident.
- In the UK in any one year more than 20% of employed women take time off work because of domestic violence.
- 2% of women lose their job as a direct result of domestic violence.
- Research suggests that up to 50% of women have at some stage given up their job as a result of being abused.

1.7 What is Domestic Violence/Abuse

Domestic violence is the abuse of power over one person by another. It can take many different forms including physical, sexual, emotional, verbal and financial abuse, it is known as both domestic violence and domestic violence.

The list below gives examples of the types of domestic violence, it is important to be aware that domestic violence can come in various forms, the list below is just some of the examples of types of abuse:

- **Destructive Criticism and verbal abuse:** shouting/mocking/accusing/name calling/verbally threatening
- **Pressure tactics:** sulking, threatening to withhold money, disconnect the telephone, take the car away, threat to commit suicide, take the

children away, report to welfare agencies unless their demands are complied with.

- **Disrespect:** persistently insulting in front of others, not listening or responding when spoken to, interrupting phone calls, taking money from purse without asking, refusing to help with child care or housework, humiliating, criticising, putting people down.
- **Breaking trust:** lying, jealousy, withholding information, having other relationships, breaking promises and shared agreements.
- **Isolation:** monitoring or blocking telephone calls, preventing movements, forbidding seeing other people – friends/relatives, monitoring money.
- **Harassment and stalking:** following someone, checking up, opening mail, checking telephone calls, intentionally embarrassing.
- **Threats:** making angry gestures, using physical size to intimidate, shouting, destroying possessions, breaking things, punching walls, wielding a weapon, threatening to kill or harm a partner or ex partner or their children, threatening to hurt family or friends.
- **Sexual violence:** using force, threats or intimidation to make you perform sexual acts, having sex with someone that doesn't want to, any degradation treatment based on sexual orientation.
- **Physical violence:** punching, slapping, hitting, biting, pinching, kicking, pulling hair out, pushing, shoving, burning, strangling.
- **Denial :** Claiming it's the partners fault, saying their partner has brought it on themselves, insist it will never happen again? Deny they did anything, Play down what has happened.

*** Other forms of domestic violence - Female Genital Mutilation, Forced Marriage and Honour Crimes.**

Whilst the above can be forms of abuse it is also important to state that domestic violence is power and control of another and forms a pattern of abusive and controlling behaviour, it is rarely a one off and usually escalates in frequency and severity over time.

1.8 Possible Signs of domestic violence

Domestic violence can greatly impact on the working life of someone who is being abused, some signs of abuse are:

- Uncharacteristic depression, anxiety, distraction or problems with concentration
- Changes in the quality of work performance for no apparent reason
- The receipt of repeated upsetting calls/faxes/e-mails, or the individual being a victim of vandalism or threats.
- Nervous when receiving phone calls.
- Unusual number of calls from home and strong reaction to the calls
- Obsession with time or avoiding lunch breaks or socialising outside work.

- Late for work and needing to leave early
- Secretive about home life
- Needing regular time off for appointments
- Increased hours being worked for no apparent reason
- Repeated injuries, or unexplained bruising or explanations that do not fit the injuries displayed.
- Partner may be dropped off & picked up outside of work or frequently met at lunchtime.
- Isolating themselves from colleagues.
- Flowers/gifts sent to work for no apparent reason.
- Insufficient money.
- May be quiet, avoid interaction, not engage in conversation.
- Worries a lot about leaving their children.
- Visible injuries/bruising with unlikely explanations.
- Change in dressing – excessive clothes in the summer.
- Increase in make up – to cover up injuries/where someone's been upset.
- May be anxious/cry at work.
- Frequent medical absences.
- Staying longer hours but not taking flexi.

It is important to note that the above is not a checklist. Some victims may display no indicators. Victims of domestic violence suffer a broad range of physical and emotional consequences. A more important sign is when an individual behaves in a way that is unusual for them.

The Council will train managers, Domestic violence points of contact and trade union representatives on this Policy and are made aware of the effect domestic violence can have on an employee's life and career.

2.1 What can you expect from Newcastle under Lyme Borough Council?

Employees experiencing domestic violence know their abusers better than anyone else and when it comes to their own safety the following should be considered with the employee:

- *Support*

We are concerned about your health, safety and welfare and we will respond in an effective, confidential and sympathetic manner to any employee disclosing that they are experiencing domestic violence.

- *Time Off*

You may need time to attend counselling sessions or court hearings or to make alternative living arrangements etc, you may be entitled to time off in accordance with the Flexible Working Hours Policy, any employee experiencing domestic violence who is not covered by this scheme will need to speak to their line manager or HR.

Any periods of absence or sickness as a direct result of domestic violence will still be managed under the Council's Attendance Management Policy and procedure, however, support will be offered during these periods.

- *Counselling*

Confidential counselling is available through specialist support services like ARCH, there are telephone numbers within this policy for the individuals who can deliver this service.

- *Adapted Working Arrangements*

A change in working hours, work location, work patterns or other temporary measures for protecting your safety will be available to you as far as reasonably practical. The Council will fully consider any security arrangements for you, such as screening of telephone calls and not giving information about your work arrangements to callers.

The Council recognises domestic violence may have a negative impact on your work performance and you will not be discriminated against because of domestic violence. However it is important that you discuss any problems and needs with your manager, points of contacts or your trade union representative.

- *Money*

There may be ways in which the Council can help with financial issues for example changing the method by which you receive your salary or issuing an advance of pay.

- *Publicity*

We employ a Community Safety Officer who leads on domestic violence and is based within the Partnerships Team this Officer has a responsibility to ensure that approaches to domestic violence across the Borough are coordinated and working effectively. Further to this the Officer should ensure that domestic violence preventative material is distributed appropriately throughout Newcastle and more relatively the Civic Offices.

- *Support Programmes*

We work in close partnership with ARCH Domestic Violence Outreach Team and through your Point of Contact, manager or trade union representative you may be able to access their Freedom Programme. The council will also offer the opportunity to access confidence building or assertiveness training courses, as domestic violence can affect an employees self esteem.

- *Confidentiality*

The Council recognises that confidentiality is essential for an employee experiencing domestic violence. In most circumstances whatever you tell your line manager will remain confidential and will not be revealed to anyone without your permission.

However, there are some circumstances in which confidentiality cannot be assured, these occur when there are concerns about children or vulnerable adults or where the employer needs to act to protect the safety of employees.

In circumstances where this organisation has to breach confidentiality it will seek specialist advice before doing so. If it is decided to proceed in breaching confidentiality after taking advice, it will be discussed with you why it is doing so and your agreement will be sought where possible. (Please refer to the Safeguarding Policy)

In cases where Social Care are informed they recognise that living domestic violence is frightening for adults and children. Social Care will want to support you in protecting your children and they will work with you to see if there is any help they can offer before things get worse.

If an employee discloses to colleagues they will be reminded that this information must remain strictly confidential and any breaches of this may result in disciplinary action.

- *Points of contact*

Points of contact are available within the Council who have had specific training in domestic violence, you may wish to speak to them if you don't wish to speak to your line manager, a list of their names is available at the end of the Policy.

3.1 Are you suffering domestic violence? - Who can you turn to?

If you are being abused by your current or ex partner, there are things that you can do and there is help available, you don't have to suffer in silence.

There are individuals and organisations that can give you both practical and emotional support, inside and outside of the Council. You can talk to your manager, HR, designated domestic violence points of contact or your trade union representative.

3.2 Role of Domestic Violence Points of Contact

- To ensure that they have as much up to date information as is possibly available before the session takes place.
- To ensure sessions are not interrupted
- To create an environment of support and understanding to encourage employees to come forward and ask for help
- To actively listen and believe each employee who requests help and assistance, remembering that it is not easy to ask for help and that by asking for support this could increase the victim's vulnerability.
- To be patient, non judgemental and supportive, always reassuring the employee that they are not to blame.

- To ensure that the employee is aware of all the options available to them, being mindful that the victim may not be ready to engage yet but they should have the information.
- To always respect the decision of the employee.
- To reassure the employee that any records kept will not be kept on their personnel file or affect promotion prospects in the future
- Keep information confidential (subject to the requirements of child and adult protection).
- To be aware that dealing with Domestic Violence demands a multi-agency approach.
- To assist the employee to think through an emergency check plan/leaving list.

4.1 Perpetrators of Domestic Violence in the Workplace

Any act of domestic violence is unacceptable and will not be condoned. Perpetrators of domestic violence might be using workplace resources such as telephones, fax or emails to threaten, harass or abuse their current or former partners and may involve other colleagues, who may or may not be aware of their motives in assisting them.

The Council will not tolerate this abuse and we will take disciplinary action if appropriate. This could include a change of duties or withdrawing access to certain computer programmes.

Domestic Abuse as detailed in paragraph 1.7 could be damaging and potentially dangerous for those being abused as well as possibly bringing the service and council into disrepute if the abuse is allowed to continue.

If an employee approaches the Council about their abusive behaviour, we will provide information about the services and support available to them.

The Council will treat any allegation, disclosure or conviction of a domestic violence related offence on a case by case basis with the aim of reducing risk and supporting change.

An individual cautioned or convicted of a criminal offence relating to domestic violence may be subject to action being taken against them under the Councils Disciplinary Procedure. The council reserves the right to take appropriate action where there is a direct connection between the caution or conviction and their work. Should an employee's activities outside of work have an impact on their ability to perform the role for which they are employed and/or be considered to bring the organisation into disrepute, in some circumstances it may be deemed inappropriate for the individual to continue in their current role. In these circumstances the possibility of redeployment may be considered as an alternative to dismissal.

4.2 What if the Victim and Perpetrator both work for the Council?

In a situation where both the victim and perpetrator work for the Council action will be taken where appropriate. Safety will be a priority when considering what changes to make. Action may need to be taken to ensure that as far as reasonably practicable the perpetrator and victim do not come into contact in the workplace.

5.1 Guidance for Managers

Management have a responsibility to take the lead in implementing an effective workplace Domestic Violence Policy and a culture, which does not tolerate domestic violence. As a manager it is important that you respond positively to an employee disclosing a problem with domestic violence. Discussing this issue will have taken a great deal of courage and your response may be a crucial factor in determining whether an employee seeks help. Research shows that victims of domestic violence wish somebody had asked them about it, therefore managers will ask the question where appropriate.

Managers are to ensure that –

- All employees are familiar with and act in accordance with this Policy
- Health and Safety risks to staff are minimised in workplaces and immediate vicinity.
- They routinely remind staff never to divulge personal information about employees to callers.
- Employees experiencing domestic violence are taken seriously and dealt with sensitively and according to the Policy.
- Any discussions that take place happen in private.
- They are not judgmental.
- Employees working with those experiencing domestic violence and abuse are adequately trained and are given appropriate support and supervision in their work.
- They acknowledge that staff dealing with people experiencing domestic violence may find work stressful and difficult.
- Respect a person's decision if they choose to go back to or stay with the perpetrator – the most dangerous time for a victim is when they leave and this shouldn't be underestimated.

Managers will be trained to:

- Identify if an employee is experiencing difficulties
- Ask the question where appropriate, you are advised to have a conversation with the Community Safety Domestic Violence lead before these discussions take place.
- Provide initial support

- Offer referrals to support services.
- Discuss ways to help the person stay safe in the workplace
- Consider options such as diverting phone calls and emails, allowing staff to use assumed names.
- Be aware that there may be additional issues facing employees to seeking help because of their ethnic background, religion, age, sexual orientation or disability which may make them feel more vulnerable when talking about their situation.
- Ensure that communication is maintained with the employee during any absence, whilst remembering to maintain confidentiality of their whereabouts.
- Have an agreed method of communication with the employee should they be absent so they know they are safe.
- Understand that they are not counsellors.
- Where the employee is a perpetrator of domestic violence, make them aware that domestic violence is a serious issue, which can lead to criminal convictions and of the “zero tolerance” policy of the Council.
- Understand and refer to Child and Vulnerable Safeguarding Policy and responsibilities.

5. 2 Recording Information

Any discussions that take place between a Manager and an employee must be documented as clearly as possible. The records need to be clear and accurate and kept securely, paper copies should be locked away and information kept on a computer must be password protected.

N.B Please see Appendix 1, 2 and 3 which are flowcharts to illustrate practical processes.

Role of Colleagues:

Newcastle-under-Lyme Borough Council encourages employees to report if they suspect a colleague is experiencing or perpetrating abuse. Employees should speak to their line manager about their concerns in confidence.

In dealing with a disclosure from a colleague, employers should ensure that the person is made aware of this policy and that there is internal and external support available. Encourage them to talk to the Councils Point of Contacts in confidence.

6.1 Implementation, Monitoring and Review

The Council will include the Domestic Violence Policy in all inductions of new staff, current employees will be made aware of the Policy. Management, HR staff, designated points of contact and trade union representatives will receive more specialised training.

The council will ensure that training for managers is timely with the implementation of this policy as we recognise that without such the Policy will be ineffective.

The Council will publicise the updated Domestic Violence Policy for staff to boost awareness through utilizing the intranet, informing staff at team meetings and E-voice.

Any breaches of the Policy will be dealt with through the Council's disciplinary procedure.

Prior to this Policy being launched a staff survey will be sent out to gather information on peoples experiences and perception of domestic violence, another survey will be sent out after the launch and after training has taken place.

The Policy will be reviewed after one year to ensure that it is working effectively and to update it if necessary. Trade Unions and Health & Safety representatives will be consulted regarding any proposed changes.

This Policy has been written taking guidance from Women's Aid, Refuge and the Local Government Association, GMB and UNISON best practice guidelines for Work Place Policy.

7.1 Useful Numbers:

| | |
|--|----------------|
| North Staffs Domestic Violence Helpline | 01782 205500 |
| Local Domestic Outreach Team | 01782 222421 |
| 24hr National Helpline | 0808 2000 247 |
| Elizabeth House Refuge | 01782 713737 |
| Victim Support | 0845 30 30 900 |
| Sexual Assault Referral centre | 0300 7900 166 |
| Childline | 0800 11 11 |
| Male National Domestic Violence Helpline | 0808 801 0327 |
| Broken Rainbow (LGBT) | 0845 2604 460 |
| Newcastle Housing Advice | 01782 635200 |
| (Emergency out of hours number 01782 615599) | |
| Advocacy After Fatal Domestic Abuse (AAFDA) | 07768 386922 |
| Police | 101 |
| Police Emergency | 999 |
| Forced Marriage Unit | 0207 008 0151 |
| National Stalking Helpline | 0808 802 0300 |
| National Centre for Domestic Violence | 0844 8044 999 |

Within Newcastle under Lyme Borough Council

Points of contacts:

| | |
|-----------------|----------|
| Catherine Fox | Ext 2238 |
| Sarah Moore | Ext 2496 |
| Michelle Bailey | Ext 2597 |
| Paul Pickerill | Ext 4760 |

Union Representatives:

Unison

Kim Graham Ext: 2465

Jackie Cicatello Ext 4444

GMB

Gary Morgan Ext 4640 / 2750

Paul Pickerill Ext 4760

Websites:

www.archnorthstaffs.org.uk – information about local domestic violence services, safety plans and contacts.

www.womensaid.org.uk - for information about services available, your legal rights, campaigns etc

www.lgbt-dv.org - a web-site developed for survivors of same sex abuse

www.aafda.org.uk – Action After Fatal Domestic Abuse

www.stalkinghelpline.org – for information if your being stalked either physically or cyber stalked.

www.mensadviceline.org.uk – Advice for men in abusive relationships.

www.gov.uk/forced-marriage - Information on forced marriage and honour violence.

Action Card for Perpetrators of Domestic Abuse:

Points to consider when either an employee reports their own issues as a Domestic Violence Perpetrator to their Line Manager or a Line Manager identifies concerns or is notified by a 3rd party of potential Domestic Violence issues.

| | |
|---|---|
| 1 | Prior to any discussions taking place advice is available from Catherine Fox – Domestic Violence Lead in the Partnerships Team to discuss issues. |
| 2 | Have an informal discussion with the employee - please ensure clear records are kept of all discussions that take place. |
| 3 | During the informal discussion advise employee of perpetrator programmes run by Arch North Staffs – these are available to support and help changes in behaviour. |
| 4 | Consider with HR if it is necessary to take action Under the Councils Disciplinary Procedure. |
| 5 | Consider what action needs to be taken if abuse is being carried out in works time. |
| 6 | Consider if it's appropriate for the employee to carry out their role or if another role is more suitable. |
| 7 | Consider and agree any new arrangements with the employee and put the agreement in writing. |
| 8 | Remain in contact with the individual on a frequent basis and document all interviews. |

NB:

ALL EMPLOYEE'S OF NULBC SHOULD NOTIFY THE COUNCIL OF ANY CRIMINAL CONVICTIONS RELATING TO DOMESTIC ABUSE

Action Card if Domestic Abuse is Disclosed**Points to consider when an employee reports issues to a Line Manager /Colleague.**

| | |
|----|--|
| 1 | Prior to any discussions taking place advice is available from Catherine Fox – Domestic Violence Lead in the Partnerships Team to discuss issues. |
| 2 | Ask the employee if they want to have the discussion with the Line Manager or prefer to speak to the Domestic Violence Lead? |
| 3 | If the employee is happy to discuss with the Line manager then to discuss the issues in a sensitive way. |
| 4 | Consider what the priorities of the employee are – housing, legal advice, children, police. Consider if they need any emergency help such as a refuge. |
| 5 | Advise of support services available through Arch. |
| 6 | Consider does the employee need any time off to attend appointments for safety reasons. |
| 7 | Consider if the employee requires special arrangements such as a change in working location or change in hours for safety reasons. |
| 8 | If any new arrangements are agreed put them in writing. |
| 9 | Remain in contact with the employee on a frequent basis and discuss safety options. |
| 10 | Continue to document any discussions that take place with the employee. |
| 11 | Consider if any advice is needed from the Domestic Violence Lead over safety issues. |
| 12 | If no support is wanted document the conversation, still offer support information. |
| 13 | If no support is wanted consult the Domestic Violence Lead regarding next steps (no names need to be given) |

Action Card if Domestic Abuse is suspected

Points to consider when a Line Manager identifies concerns or is notified by a 3rd party of potential Domestic Violence issues.

| | |
|---|---|
| 1 | Prior to any discussions taking place advice is available from Catherine Fox – Domestic Violence Lead in the Partnerships Team to discuss issues. |
| 2 | Have an informal discussion with the employee - please ensure clear records are kept of all discussions that take place. Consider why the concerns have been raised attendance? Performance? Welfare? |
| 3 | Line manager to discuss the issues in a sensitive way to determine if there is a domestic violence issue. |
| 4 | If the employee discloses abuse line manager to give advice on support available and document the discussion – also see the Action card relating to Victims of Domestic violence. |
| 5 | If no domestic violence issue is disclosed still advise of support available, the member of staff may not be ready to disclose at that point. Document the discussions. |
| 6 | Consider liaising with HR if there are issues relating to performance and no domestic violence is disclosed. |

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ITEM FOR STAFFING COMMITTEE – 8 APRIL 2014

REVIEW OF EMPLOYEES' CODE OF CONDUCT

Submitted by: Executive Management Team

Portfolio: Finance and Resources

Purpose of the Report

To obtain the Committee's approval for proposed revisions to the Employees' Code of Conduct (Attached at Appendix E).

Recommendation

That the revised Code of Conduct for Employees detailed at Appendix E be approved.

1. Background/Issues

1.1 The current Employees' Code of Conduct was implemented on 1 February 2007 following approval by the Audit and General Purposes Committee and Council. A copy is attached at Appendix A.

1.1 At the Audit and General Purposes Committee meeting on 7 November 2006, consideration was given to the recommendations of the Employees Consultative Committee of 5 October 2006 and in particular the trade unions' stated opposition to Section 6 (Outside Commitments) and their view that this should be reviewed.

1.2 In relation to Section 6, the Audit and General Purposes Committee resolved that the Code should be approved subject to the addition of the following paragraph 6.1.2

"Any Corporate Director must have good reason for not approving the work."

This was subsequently incorporated into the approved Code.

1.3 At the subsequent Employees Consultative Committee meeting on 22 January 2007, *"the continued opposition of the trade unions to Section 6 (Outside Commitments)"* was noted.

1.4 Following an internal audit in March 2012 it was recommended that the Code of Conduct should be reviewed.

1.5 On 20 April 2012 the Head of HR and the then Chair of the Employees Consultative Committee, Councillor Shenton, met with the trade unions to discuss the Code and proposed revisions. Several issues were raised by the trade unions in connection with the 'Gifts and Hospitality' section as follows:

- (a) Employee access to the policy should be improved by it being included in the A-Z listing of Policies and Procedure on eVoice;
- (b) The current practice of allowing 'small gifts of office equipment' should be reconsidered as this is a form of advertising;
- (c) Clarification is required around cash tips traditionally accepted by refuse collectors from service users at Christmas time;

- (d) Consideration should be given to allowing employees to accept gifts from councillors and representatives of outside organisations and specifying a value under which acceptance is permitted;
 - (e) Clarification is required on acceptance of gifts of perishable nature (eg, flowers, confectionary) and the arrangements for passing these to a good cause/the Mayor's Charity;
 - (f) Consideration should be given to the policy only applying to those employees who are in a position to influence decisions regarding the awarding of contracts.
- 1.6 Following this, the trade unions placed an item on the agenda of the Employees' Consultative Committee of 25 June 2012 requesting details of progress being made regarding the re-drafting of the Gifts and Hospitality section of the code taking into account the concerns raised. At the meeting the Head of Central Services reported he was in the process of obtaining further clarification from the various authorities and it was agreed a report would be submitted to the next meeting.
- 1.7 In August 2012, a summary of the position as established by the Head of Central Services (Appendix B) was forwarded to the trade unions, with a request that they seek a legal opinion from trade union lawyers regarding the acceptance of cash 'tips' by local authority employees, together with details of any recent Gifts and Hospitality Policies or Guidance agreed and implemented at other authorities, with a view to discussing the issues further.
- 1.8 No response was received but on 10 October 2012 the Chair (then Councillor Taylor) and the Head of HR had a further meeting with the trade unions to discuss the issues that had been raised and the Head of Central Services' advice.
- 1.9 Further to this, on 11 October 2012 a revised Code was considered by Executive Management Team and a report submitted to the 17 October 2012 meeting of the Employees' Consultative Committee updating the Committee on the issues raised by the trade unions and the Officers' responses (see Appendix C). The Committee resolved that further discussions take place with the trade unions on how the Code is implemented.
- 1.10 On 18 December 2012 the Head of Central Services issued guidance to all employees on the procedures to be followed regarding the acceptance of gifts and hospitality (Appendix D).
- 1.11 The Staffing Committee has responsibility for the amendment of all employment policies and at its meeting on 13 March 2013 the Committee resolved to include a review of the Employees' Code of Conduct in its work schedule as this was an audit recommendation and it was considered that further clarification was required in relation to guidance for staff on Gifts and Hospitality.
- 1.12 Following the departure of the Head of Central Services, the role of Monitoring Officer has been assigned to the Audit Manager who, in conjunction with the council's Legal Team and the Head of HR, further reviewed the Gifts and Hospitality section of the Code, taking into account good practice and the council's legal obligations including those relating to the requirements of The Bribery Act 2010. The Head of HR and the then Chair of the Employees' Consultative Committee (Councillor Shenton) met with the trade unions on 10 December 2013 to discuss the latest proposed changes to the Employees' Code of Conduct, incorporating a revised 'Gifts and Hospitality' section (Appendix E).

- 1.13 At the meeting the trade unions referred to the issues they had raised in October 2006 regarding their opposition to the section of the Code that requires employees to register private work and indicated that they “*would only accept the Code if this section was amended to the effect that employees should not be required to register private work unless the employee believes there is a conflict*”. They were also of the view that the proposed section 16.2 of the revised Code (Misconduct Outside Work) should be deleted.
- 1.14 Recent enquiries have indicated that all other authorities in Staffordshire have now implemented policies that prohibit employees from accepting cash tips.
- 1.15 The proposed revisions to the Code and the issues raised were discussed at the Employees Consultative Committee meeting on 24 March 2014. The Committee recommended that the proposed revised Code of Conduct be adopted other than the proposed approach to employees accepting cash tips (ie, that this be prohibited). The Committee considered that the current approach to this should not be changed. The trade unions reiterated their view that employees should not be required to register/obtain approval for ‘private work’ and that they could only accept this on the basis that the decision on whether to register was left to the employee and should be on the basis that the employee should decide whether or not they had a conflict of interest and only register if they felt a conflict existed.
- 1.16 There are various pieces of legislation in relation to Gifts & Hospitality. These are set out in Section 117(1) & (2) of the Local Government Act 1972 which forbid an officer ‘to accept any fee or reward’ whatsoever other than proper remuneration (i.e. there is no discretion in this matter). The Bribery Act 2010 which defines the act of Bribery as ‘the giving or taking of a reward in return for acting dishonestly and/or in breach of the law. The reward could relate to money, payment in kind, goods or services.’ The Council also commits an offence under the Act if it fails to take steps to prevent Bribery. By updating the policy in respect of the acceptance of Gifts & Hospitality and not allowing money in the form of ‘cash-tips’ to be accepted is one of the steps taken to safeguard the Council and its employees against allegations of Bribery and minimise the risk of legal action being taken against either party.

2. Legal and Statutory Implications

- 2.1 The council must ensure compliance with the relevant provisions of:
- The Local Government Act 1972
 - The Prevention and Corruption Acts 1906 and 1916
 - The 2004 ODPM Model Code of Conduct for Local Government Employees
 - The Bribery Act 2010

3. Equality Impact Assessment

- 3.1 The code of conduct applies to all employees.

4. Financial and Resource Implications

- 4.1 None.

5. Major Risks

5.1 See 1.16 and 2.1.

6. List of Appendices

Appendix A - Current Employees Code of Conduct

Appendix B - Summary of legal position re Gifts and Hospitality

Appendix C - Report to Employees Consultative Committee of 17 October 2012
summarising issues raised by trade unions and officers' responses

Appendix D - Guidance on Gifts & Hospitality issued to all employees on 18 December
2012

Appendix E - Proposed revised Employees Code of Conduct (proposed changes shown as
tracked changes)

7. Earlier Committee Resolutions

Employees Consultative Committee – 5 October 2006

Audit & General Purposes Committee – 7 November 2006

Employees Consultative Committee – 22 January 2007

Employees Consultative Committee – 25 June 2012

Employees Consultative Committee – 17 October 2012

Staffing Committee – 13 March 2013

Employees Consultative Committee – 24 March 2014

CODE OF CONDUCT

*Approved November 2006 – Audit and General Purposes Committee
Reviewed March 2008
March 2009*

| | Page |
|---|-------------|
| 1. Ethical Standards | 1 |
| 2. Disclosure of Information/Data Security | 1 |
| 3. Political Neutrality | 2 |
| 4. Relationships | 2 |
| 4.1 Councillors | |
| 4.2 The Local Community and Service Users | |
| 4.3 Contracts, Grants or Property Matters | |
| 4.4 The Press and the Media | |
| 5. Appointments and Other Employment Matters | 3 |
| 5.1 Appointments | |
| 5.2 Discipline, Promotion and Pay Adjustments | |
| 5.3 Giving of References | |
| 6. Outside Commitments | 5 |
| 6.1 Private Work | |
| 6.2 Intellectual Property | |
| 7. Personal Interests | 6 |
| 8. Equality Issues | 6 |
| 9. Separation of Roles during Tendering | 7 |
| 10. Corruption | 7 |
| 11. Use of Financial Resources | 8 |
| 12. Gifts and Hospitality | 8 |
| 12.1 Introduction | |
| 12.2 Legal Position | |
| 12.3 General Purposes | |
| 12.4 Gifts | |
| 12.5 Hospitality | |
| 12.6 Procedure for Acceptance/Refusal | |
| 13. Prevention of Money Laundering | 10 |
| 14. Sponsorship – Giving and Receiving | 11 |
| 15. Records | 11 |
| 16. Personal Conduct | 12 |
| 17. General Note | 12 |
| 18. Review | 12 |

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

Code of Conduct for Employees

1. Ethical Standards

- 1.1 Local government employees are expected to abide by the highest ethical principals, giving the highest possible standard of service to the public, and where it is part of their duties, providing appropriate advice to councillors and fellow employees with impartiality. Employees are expected, without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure.

2. Disclosure of Information/Data Security

- 2.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public.
- 2.2 Committee agendas and most reports and background papers are required by law to be available for public inspection. Detailed guidance is available from the Head of Central Services or the Committee Section. Obstruction of a member of the public who wishes to exercise these rights is a criminal offence.
- 2.3 The public are specifically excluded from certain proceedings of Committees or other meetings associated with the business of the council. No employee shall communicate to the public the content of such proceedings or any document relating to the Authority, unless required by law or expressly authorised by the Chief Executive to do so. Employees making unauthorised communications may become subject to disciplinary action.
- 2.4 Employees should exercise caution and care not to disclose commercially sensitive information. Guidance should be sought from the appropriate Executive Director or the Head of Central Services.
- 2.5 Employees should not use any information obtained in the course of their employment for personal gain or benefit either for themselves or others, nor should they pass it on to others who might use it in such a way.
- 2.6 Personal information received by an employee from a councillor should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required or sanctioned by the law.
- 2.7 Employees have a duty to maintain confidentiality and must not disclose any information obtained in the course of their employment to any third party for any unauthorised reason. In particular, employees must not disclose personal information about any individual without the appropriate authority to do so. A disclosure which complies with the requirements of the Whistleblowing Policy will be regarded as authorised disclosure.

2.8 Employees must ensure that they adhere to all of the council's relevant policies and procedures in relation to information security, the use and storage of computers and the proper management of computer held information in relation to the Data Protection Act.

3. Political Neutrality

3.1 Employees serve the authority as a whole. They must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.

3.2 Employees whose duties require them to advise political groups must do so in ways which do not compromise their political neutrality.

3.3 All employees must follow the policies and decisions of the authority and must not allow their own personal or political opinions interfere with their work.

3.4 Where an employee holds a politically restricted post, the restrictions imposed by the Local Government and Housing Act are deemed to be incorporated in their contract of employment.

4. Relationships

4.1 Councillors

4.1.1 Employees are responsible to the authority through its management structure. Some employees have a specific role to give advice to councillors and senior officers. All employees are responsible for carrying out the authority's work and are expected to follow the advice of those officers who have a specific advisory role, e.g. Section 151 Officer or Monitoring Officer. Mutual respect between employees and councillors is essential.

4.2 The Local Community and Service Users

4.2.1 Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within the community.

4.3 Contracts, Grants or Property Matters

4.3.1 Orders and contracts must be awarded on merit, by fair competition against other tenders, and special favour must not be shown to businesses operated or controlled by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

4.3.2 Employees involved in awarding contracts or who engage or supervise contractors, or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with a contractor who is engaged or who is proposed to be engaged by the Authority, must declare that relationship to the appropriate manager and record

the relationship in the Register of Disclosures of Pecuniary Interests (held by the Head of Central Services as soon as practicable).

4.3.3 Employees must also disclose and record in the Register any interest of themselves or their spouse/partner (if living together) in the following:

- Any grant made by the council;
- Any tenancy of or contract for the purchase of any property in the ownership of the council;
- The receipt as landlord of housing benefit in respect of a property in the Borough.

4.4 The Press and the Media

4.4.1 Employees must not deal direct with the press or the media unless they are required to do so in the course of their work or they have been expressly authorised by an appropriate manager.

4.4.2 All enquiries for information or comment on issues affecting the work of the council must be referred to the Head of Communications.

4.4.3 Any article, publication, or interview given on aspects of council policy or activity must be properly authorised.

5. Appointments and Other Employment Matters

5.1 Appointments

5.1.1 Employees involved in appointments should ensure that these are made on the basis of merit. It is unlawful for an employee to make an appointment based on anything other than the ability of the candidate to undertake the duties of the post. These principles and the council's procedures are detailed in the council's Recruitment, Selection and Induction Code of Practice which supplements the corporate training which is available to all employees involved in the Recruitment and Selection process.

5.1.2 In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with them. [Candidates for any appointment with the council when making an application must disclose on the job application form whether they are related to any member of the Council or to any Council employee.] Deliberate omission to make such a disclosure will disqualify the candidate and if the omission is discovered after appointment, they will be liable to dismissal.

5.1.3 Elected Members and Executive Directors must disclose to the Authority any relationship known to exist between themselves and a candidate for an appointment of which they are aware.

5.2 Discipline, Promotion and Pay Adjustments

5.2.1 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or personal friend.

5.3 Giving of References

5.3.1 If requested to supply a reference, employees should note that they owe a duty of care in negligence to the person receiving it and also to the subject of the reference and must therefore:

- Ensure the reference is factual, fair and balanced
- Wherever possible, confine their comments to facts only
- Avoid making professional judgements unless they feel qualified to do so
- Avoid statements of pure opinion
- Generally avoid 'pro forma' references

Note: Sending a reference by fax is generally more secure than by email. If you have any difficulty in ensuring that the reference is fair and balanced, you should obtain advice from Human Resources.

5.3.2 Employment references

Only Executive Directors, Heads of Service and Section Heads are authorised to give employment references for employees of the council. These should:

- be in writing only (ie no oral references either in person or by telephone)
- be on the Council's official headed paper
- be marked 'PRIVATE AND CONFIDENTIAL – GIVEN IN CONFIDENCE'
- include the following disclaimer:

“This reference is strictly confidential and is given only for the purposes for which it is requested. It is given on the strict understanding that no liability shall arise on the part of Newcastle-under-Lyme Borough Council and its employees, out of or in connection with any reliance placed upon it by you or by any third party”.

5.3.3 References other than employment references, ie personal/character references

Employees who wish to provide a personal/character reference for a person who is a council employee must:

- ensure it is clearly marked 'PERSONAL REFERENCE'
- give their home address, not the council's address
- ensure it is not written on the council's official headed paper

6. Outside Commitments

6.1 Private Work

6.1.1 "Private work" includes all work, voluntary, or paid employment (including the involvement in any business) other than work undertaken for the council.

6.1.2 It is not intended to prevent employees from engaging in other work but to ensure that no conflict of interest arises. Any Executive Director must have good reason for not approving the work. Employees are permitted to undertake private work provided:

- It does not affect their effectiveness in the performance of, or conflict with, their duties with the council
- The work is not carried out in council time, on the council's premises or using the council's materials or equipment
- Employees who work in specific categories of activity, such as professional services or property development, must take particular care to avoid any possible conflict of interest and must only conduct private business outside the boundary of the Borough areas in order to demonstrate that no conflict of interest can be alleged or inferred.

6.1.3 All communications from the council in connection with any private work being undertaken by an employee will be made by letter. The employee must not contact staff in connection with the matter other than by letter addressed to the appropriate Executive Director. If it is necessary for the employee to speak to staff either directly or by telephone, this must be done outside the employee's paid working hours.

6.1.4 Employees must obtain the approval of the Executive Director for their Service before undertaking any private work and must record each commission, tranche or element of work in the Register of Private Work which is kept for this purpose in their directorate. If approval is not given, the work must not be undertaken. Every employee should contact the Executive Director for advice before deciding to engage in or carrying out any work.

6.1.5 Approvals must be requested and approved on a job specific basis and reviewed/reconfirmed by the relevant Executive Director annually.

6.1.6 Instances of employees undertaking private work which requires the Council's approval and which is not entered in the Register will be treated as "gross misconduct" under the terms of the Council's disciplinary procedure.

6.2 Intellectual Property

6.2.1 Employees should follow the council's rules on the ownership of intellectual property or copyright created during their employment.

6.2.2 Intellectual property is a generic term that includes inventions and patents, creative writings and drawings. If these are created by the employee during the course of employment then as a general rule they belong to the council.

- 6.2.3 Advice on intellectual property procedures is available from the Head of Central Services.

7. Personal Interests

- 7.1 Employees must declare to their line manager (in writing) any non-financial interests that they consider could bring about conflict with the authority's interests.
- 7.2 Employees must declare to an appropriate manager any financial interests which could conflict with the authority's interests.
- 7.3 Employees should declare to an appropriate manager membership of any organisation not open to the public with formal membership and commitment of allegiance and which has secrecy about rules and/or membership and/or conduct (eg, a Masonic lodge).
- 7.4 On no account must employees be directly involved in the processing of any matter or application in which they or their spouse or partner or any close relative have a personal interest.
- 7.5 Employees must declare to their line manager (in writing), any non-financial interests that they consider could bring about conflict with the council's interests. This may include membership of outside bodies in a personal capacity. In such cases employees should be mindful not to place themselves in a situation where their involvement or working contribution could compromise their continuing professional duty to the interests of the Council.
- 7.6 As part of their official duties, an employee may be required to serve on an outside body. In such cases employees will be expected to represent and promote the council's interests and policies as the circumstances dictate and as far as this is consistent with their duties as a member of the outside body.

8. Equality Issues

- 8.1 All employees should ensure that policies relating to equality issues as agreed by the authority are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated fairly and not to be discriminated against.
- 8.2 Employees should note that cases of racial or sexual harassment are deemed to be gross misconduct under the Council's Disciplinary Procedure.

9. Separation of Roles during Tendering

- 9.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 9.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 9.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- 9.4 Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.
- 9.5 Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

10. Corruption

- 10.1 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.
- 10.2 Employees who are in receipt of or affect the receipt of housing benefit and/or other related benefits (i.e. Income Support, Unemployment Benefit, Incapacity Benefit, etc.) must be aware that the obtaining of such benefits by deception would be considered as theft against the Authority as the employer and would therefore constitute Gross Misconduct under the council's Disciplinary Procedure.
- 10.3 Employees must provide their employing directorate with details of their home address or in cases where more than one address is frequented the address that they normally class as their home. This does not include c/o addresses unless there are special circumstances which management have been made aware of and are satisfied with. Similarly, changes of name should also be notified to the employing directorate.
- 10.4 The council is committed to the highest possible standards of openness, probity and accountability. In line with this commitment it encourages employees with serious concerns about any aspect of the council's work to come forward and voice those concerns. The council's Anti-Fraud and Corruption Strategy makes it clear that employees do so without fear of reprisals. The Whistle Blowing Policy is intended to encourage employees to raise serious concerns within the Council

rather than overlooking a problem or raising them with external bodies first. Polices are available on the Intranet and from Internal Audit.

11. Use of Financial Resources

- 11.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.
- 11.2 Employees should be aware of and must adhere to the council's Standing Orders and Financial Regulations.
- 11.3 An employee who becomes aware of any contravention of these rules and regulations must report the matter immediately to their line manager or, if appropriate, they should contact some other responsible officer to ensure that the matter is brought to the council's attention.
- 11.4 An employee must not use any of the council's resources whether financial or physical assets for any purpose other than council business.

12. Gifts and Hospitality

12.1 Introduction

- 12.1.1 The following procedures must be followed when offers of gifts or hospitality are made to members and employees of the council.
- 12.1.2 The public have the right to expect the highest standards of conduct, integrity and probity in the public service. Holders of public office must not place themselves under any financial or other obligations to individuals or organisations that might influence them in the performance of their official duties. In addition, public servants must be open in their dealings. There should be no hidden motive for the decisions or actions they take and information should be restricted only when wider public interest demands.
- 12.1.3 Local government employees may not accept any fee, reward or gift other than their proper remuneration for doing their job (Local Government Act 1972).
- 12.1.4 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the council in the community.

12.2 Legal Position

- 12.2.1 It is a criminal offence for a council employee corruptly to solicit or accept any gift or consideration as an inducement or reward. If the gift or consideration is from someone holding or seeking a contract with the Authority, it is deemed to have been received corruptly unless the employee proves to the contrary. It is also a criminal offence for council employees to accept any fee or reward other than their proper remuneration. Accepting any gift or consideration in the knowledge or belief that it is intended as an inducement or reward is an offence whether the

employee receiving it is actually influenced or not. **Generally, all offers of gifts or hospitality should therefore be refused unless they are of an extremely minor nature.**

12.3 General Principles

12.3.1 It is important that the council maintains a good relationship with other agencies, local businesses and the community. In attempting to promote this, employees will, from time to time, be faced with decisions as to whether or not to accept gifts and hospitality.

12.3.2 In some circumstances a rigid refusal may cause unnecessary offence. However, it is vital to dispel the impression of improper influence being exerted over the council. It may be more acceptable to join in hospitality being offered to a group than to an individual employee.

12.3.3 Commonsense is the general principle governing the acceptance of gifts and hospitality. Employees should consider the nature and scale of the gift, the hospitality being offered and the surrounding circumstances including the relationship between the donor and the council.

12.3.4 The main criterion in accepting hospitality is whether the decision can be fully justified to the council and to the public.

12.3.5 Although it is impossible to cover every situation, the following guidelines should help employees to reach an objective decision where necessary.

12.4 Gifts

12.4.1 All offers of gifts from agencies or people who provide, or might provide, goods, works or services to the council, or who need a decision from the council (eg, planning applications) must be refused tactfully.

The only exceptions to the rule are:

- Modest promotional gifts such as calendars, diaries or office stationery
- Small gifts of token value on the conclusion of courtesy visits to an organisation's premises

12.4.2 More expensive promotional gifts or, for example, bottles of spirits or wine, must be refused.

12.4.3 Gifts sent by post or left at an employee's place of work must be properly returned with a polite letter. If this is not possible, the gift can be handed to the Mayor's Charity and an explanatory note sent to the donor.

12.5 Hospitality

12.5.1 Invitations or free tickets to attend social functions or sporting events should **only** be accepted when the occasion is part of community life or the council should be

seen to be represented. **Such offers are acceptable only when they are clearly required as part of the conduct of council business.**

- 12.5.2 It is, of course, not always possible or desirable to reject offers of hospitality on a modest scale. A working lunch of modest standard to enable parties to continue to discuss business and the offer of limited hospitality when visiting an organisation on council business would be acceptable.
- 12.5.3 When hospitality has to be declined, those making the offer should be courteously, but firmly informed of the procedures and standards operating within the Council.
- 12.5.4 Employees may accept hospitality through attendance at conferences and courses, with the prior approval of the Executive Director for their Service or the Chief Executive and providing this would not compromise a purchasing decision.
- 12.5.5 Prior approval of your Executive Director or the Chief Executive should be sought before accepting invitations to attend receptions, luncheons and promotional events.
- 12.5.6 To avoid jeopardising the integrity of subsequent purchasing decisions, the cost of approved visits to inspect equipment including software demonstrations should be met by the Council. Particular care should be taken to avoid accepting any hospitality offered by tenderers when undertaking such visits.

12.6 Procedure for Acceptance/Refusal

- 12.6.1 The acceptance of gifts or hospitality other than those approved by the council may be treated as serious misconduct which will be dealt with under the council's disciplinary procedure. In certain circumstances, this could ultimately lead to prosecution.
- 12.6.2 For their own protection, employees if in doubt about their particular circumstances should seek advice from their Executive Director or, if necessary, Chief Executive.
- 12.6.3 A central register is maintained by the Executive Director (Resources & Support Services) recording all gifts and hospitality offered and action taken.
- 12.6.4 All offers of gifts or hospitality, even if they are refused, (apart from the exceptions detailed above) must be recorded in the Register.

13. Prevention of Money Laundering

- 13.1 The Proceeds of Crime Act 2002 and the UK Money Laundering Regulations 2003 replaces responsibility on Council employees to combat money laundering. Under the legislation it is a criminal offence to:
- assist a money launderer;

- ‘tip-off’ a person suspected to be involved in money laundering that they are suspected or that they are the subject of police investigation;
- fail to report a suspicion of money laundering;
- acquire, use or possess criminal property.

Employees contravening the regulations can be faced with imprisonment (up to 14 years), a fine or both.

13.2 In order to combat money laundering and to protect itself and its employees from the consequences of failing to comply with the legislation, the council has issued guidance for any employee dealing with large sums of money in or out of the Council. The following list identifies a number of areas that the guidance applies to but it is not exhaustive:

- Cashiers
- Officers receiving large sums of money, eg land sales
- Benefits officers, large payments to landlords
- Employees making payments for large contracts, consultants fees
- Property deals
- Receipt and repayment of performance bonds

13.3 Employees whose duties involve working in the areas listed above should ensure that they are familiar with the guidance which is available from the Internal Audit Section.

14. Sponsorship - Giving and Receiving

14.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

14.2 Where the authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

15. Records

15.1 Employees should keep full and accurate records of all transactions. Where an employee is required to complete records such as time sheets or leave sheets, these must be completed accurately. Falsification of records is criminal and is gross misconduct.

16. Personal Conduct

16.1 Employees are expected to be polite and courteous at all times and in particular the following are unacceptable behaviour:

- The use of abusive or offensive language towards members of the public, councillors or other members of staff
- Threatening or aggressive behaviour
- Inappropriate sexual conduct
- Dishonesty

17. General Note

17.1 Copies of all policies mentioned in this Code of Practice are available on the Intranet or from your Head of Service.

18. Review

18.1 The Code of Conduct is reviewed annually or more frequently if appropriate.

Approved November 2006 – Audit and General Purposes Committee

Reviewed March 2008

March 2009

GIFTS AND HOSPITALITY

Background

The public is entitled to expect the highest standards of conduct from all employees who work for local government. The Employment Relations Unit published a 'Code of Conduct for Local Government Employees' in 1994. This publication outlined existing laws, regulations and conditions of service and provided guidance designed to assist local authorities in the development of their own voluntary local codes of conduct. Most have since implemented such codes and the Council's Code is clearly derived from this document and codes which were developed for consultation in 2004 and 2008.

From a review of several Council codes, authorities split gifts and hospitality into three categories:

1. Tokens such as pens, desk diaries, tea and biscuits or a sandwich which do not have to be registered. To allow flexibility, tokens are normally defined by a list which is not all inclusive. Some councils give a value for such items e.g. under £5
2. Gifts and hospitality which are more than token but which are acceptable as being reasonable in the context must be registered and authorised by management. These must only be accepted for a good business reason
3. Gifts and hospitality which must be registered and refused of any value no matter how small because they are solicited offered or accepted as inducements or because they are unreasonable in the context and the employee or Council may be perceived to be acting improperly or even be subject to formal action.

Where cash gifts are mentioned in the codes reviewed it is on the basis that they are not acceptable.

The Law On Gifts and Hospitality

The law is set out in a number of Acts:

The Local Government Act 1972

Section 117 (1) - provides that if an officer knows that a contract in which he/she has a pecuniary interest is before the local authority, he/she must give notice of his/her interest to the authority. This does not, of course, apply to a contract in their own name because the authority will then know of his/her interest.

Section 117(2) forbids an officer "*under colour of his office or employment*" to accept "*any fee or reward*" whatsoever other than proper remuneration.

The Prevention of Corruption Acts 1906 and 1916

says about acceptance of gifts by way of inducements or rewards:

- (a) Under the Prevention of Corruption Acts 1906 and 1916, it is an offence for employees corruptly to accept any gifts or consideration as an inducement or reward for doing, or refraining from doing, anything in their official capacity: or showing favour or disfavour to any person in their official capacity
- (b) Under the Prevention of Corruption Act 1916, any money, gift or consideration received by an employee in public service from a person or organisation

holding or seeking to obtain a contract will be deemed by the courts to have been received corruptly unless the employee proves to the contrary.

(See also the Public Bodies Corrupt Practices Act 1889).

The Bribery Act 2010

The Act came into force with effect from the 1 July 2011. Bribery is defined as "the giving or taking of a reward in return for acting dishonestly and/or in breach of the law. The reward could relate to money, payment in kind, goods or service". Accordingly, any gift or hospitality which is requested by a Council worker for improper performance of their job or taken as an inducement for such improper performance is an offence under the Act. The Council will also commit an offence if it fails to take steps to prevent such bribery.

The National Code

The 1994 Code had the following sections on corruption and hospitality:

Corruption

Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

Hospitality

1. Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the authority should be seen to be represented. They should be properly authorised and recorded.
2. When hospitality has to be declined, those making the offer should be courteously but politely informed of the procedures and standards operating within the authority.
3. Employees should not accept significant personal gifts from contractors and outside suppliers, although the authority may wish to allow employees to keep insignificant items of token value such as pens, diaries etc.
4. When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.
5. Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the authority gives consent in advance and where the authority is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment etc. are required, employees should ensure that authorities meet the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

ISSUES

A code on gifts and hospitality gives clarity to officers and the public on the behaviours expected, allows them to avoid breaches of the rules and assists in maintaining the reputation of the Council and the prevention of fraud. A range of

options is open to the Council. It would be possible to prohibit all gifts and hospitality; however the various codes recognise the benefits of hospitality and small gifts in terms of social graces including not causing offence, enabling good social relationships which lead to better work outcomes and the practical benefits to the parties of being able to give and accept for example refreshments and office equipment. The issue is clarity and where to draw the line.

It would seem clearer to describe token gifts and hospitality if they are to be allowed at all as being gifts or hospitality which the officer estimates as being valued at less than a given value - say £5 - so long as these are not offered, solicited or accepted as inducements to improper behaviour.

All other gifts and hospitality would then be required to be registered whether refused or allowed to be accepted. Acceptance is only allowed where that is reasonable in the context and the Council may wish to define that further. Rejected gifts should be returned where possible but where that is impractical or the donor agrees they may be passed on to a charity. It is a matter for the recipient and their managers to determine which charity and it is not considered appropriate that this should be directed by the Council in relation to any particular charities.

Gifts to groups may be treated differently to gifts to individuals as that changes the context. For example a £15 box of chocolates may not be acceptable to an individual but may be acceptable for a team of 5.

If cash is to be allowed then there needs to be clear rules, particularly around registration. S.117 (2) presents a difficulty if this is to be allowed. On the other hand, anecdotally payments at Christmas are commonplace in certain services throughout the country which appears to be allowed. A view might be taken that if such payments are authorised then they form part of the proper remuneration. There is no case law on the point so it is clearly vulnerable to challenge. It should be noted that where tips are paid voluntarily and not allocated by the Employer the responsibility for tax belongs to the persons collecting the tip.

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GIFTS AND HOSPITALITY**Purpose of the Report**

To obtain the Committee's views on issues raised regarding the guidance to employees in relation to the acceptance of gifts and hospitality.

At a meeting with the Head of Human Resources and Councillor Shenton in April, the trade unions raised the following issues regarding the council's current guidance and procedures on Gifts and Hospitality. The issues raised have been considered by officers with a view to reviewing the guidance as necessary and a report being submitted to the Staffing Committee on 7 November 2012.

The issues raised and officers' responses are as follows:

- (a) *Employee access to the policy should be improved by it being included in the A-Z listing of Policies and Procedure on eVoice.*

Agreed. The policy is now listed in the A-Z listing of Policies and Procedures.

- (b) *The current practice of allowing 'promotional gifts such as calendars, diaries or office stationery' should be reconsidered as this is a form of advertising.*

It is considered that as such gifts are of a minor nature, the promotional element is not a significant issue and they can continue to be accepted. The 1994 National Code provides:

"Employees should not accept significant personal gifts from contractors and outside suppliers, although the authority may wish to allow employees to keep insignificant items of token value such as pens, diaries etc."

- (c) *The policy is based around office staff and not front line operational staff. Clarification is required around cash tips traditionally accepted by refuse collectors from service users at Christmas time.*

It is considered that cash tips offered by service users to employees at Christmas time, or at any other time of year, should be politely refused.

The law (Section 117(2) of the Local Government Act 1972) forbids local government employees from accepting any fee or reward other than proper remuneration for doing their job. The only items that are considered to be exceptions to this are as set out in the council's current policy.

- (d) *Consideration should be given to allowing employees to accept gifts from councillors, members of the public and representatives of outside organisations and specifying a value (eg, £25) under which acceptance is permitted. It is understood that it is acceptable for senior managers to give their secretaries bottles of wine at Christmas.*

It is considered that under the provisions of the Bribery Act and the Policy, gifts between colleagues and from elected members to employees are acceptable, provided they are not offered, solicited or accepted 'as an inducement to improper behaviour. However, gifts and hospitality from members of the

public, businesses or agencies are clearly covered by the policy and generally, all offers of gifts or hospitality should be refused unless they are of an extremely minor nature and this should be retained.

- (e) Clarification is required on acceptance of gifts of perishable nature (eg, flowers, confectionary).

It is considered that all gifts should be treated the same, whether perishable or not and that non-cash gifts with an estimated value of up to £5 (average of £5 per employee if offered to a team) would be acceptable, provided they are not offered solicited, or accepted as inducements to improper behaviour.

- (f) *Clarification is required on situations when gifts arrive unexpectedly and it is not possible for them to be returned. It is understood that the gifts have to be handed over to the Mayor's Charity. Staff should have a say which charity should benefit.*

It is considered that in such circumstances the employees can pass the gift on to any suitable charity but that this should be recorded and the donor notified.

- (g) *Consideration should be given to the policy only applying to those employees who are in a position to influence the awarding of contracts.*

The public have the right to expect the highest standards of conduct, integrity and probity in the public service. Local government employees must not place themselves under any financial or other obligations to individuals or organisations that might influence them in the performance of their duties. This is a statutory obligation and legal requirement that applies to all local government employees, not only to those who may be in a position to influence decisions regarding the awarding of contracts.

The responses to the issues raised are to be discussed to a meeting of officers, trade union representatives and the Chair on 10 October 2012 and the trade unions will report their views verbally at your meeting.

18th December 2012

From: Head of Central Services

To: All Employees

GIFTS AND HOSPITALITY

I am writing to remind staff of the procedures which should be followed regarding the acceptance of gifts and/or hospitality, as set out in the Employees' Handbook.

It is a criminal offence under the Bribery Act for a Council employee to accept or request a reward in return for acting improperly in their work. It is also an offence for Local Government employees to accept any fee, reward or gift other than their proper remuneration.

Generally, all offers of gifts and hospitality should therefore be refused unless they are of an extremely minor nature.

It is also an offence to fail to prevent bribery so where an employee suspects a contractor or fellow employee they should report their suspicions to their line manager or use the whistleblowing procedure. Managers should report all such cases to the Audit Manager.

It is of course not always possible or desirable to reject offers of hospitality on a modest scale. A drink and sandwich following a site visit, a working lunch of a modest standard to enable parties to continue to discuss business and the offer of limited hospitality when visiting an organisation on Council business would be acceptable. Invitations to attend receptions, luncheons and promotional events should only be accepted with the approval of the Head of Service.

Register of Gifts and Hospitality

ALL offers of gifts or hospitality, even if they are refused, must be recorded in the Register which is kept for this purpose by the Head of Central Services. It is also now possible to record gifts and hospitality electronically – the form is available in the Audit Section of eVoice.

For all gifts and hospitality included in the Register, an Executive Director or Head of Service must sign the Gifts and Hospitality Register and denote the action taken (i.e. 'agreed') when certifying an entry in the Register.

If you would like clarification or guidance on any points raised in this memorandum, please do not hesitate to contact either myself or Internal Audit.

Paul Clisby

Head of Central Services

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**CODE OF CONDUCT – Revised Draft
(March 2014)**

*Approved November 2006 – Audit and General Purposes Committee
Reviewed March 2008
March 2009*

| | Page |
|---|-------------|
| 1. Ethical Standards | 1 |
| 2. Disclosure of Information/Data Security | 1 |
| 3. Political Neutrality | 2 |
| 4. Relationships | 2 |
| 4.1 Councillors | |
| 4.2 The Local Community and Service Users | |
| 4.3 Contracts, Grants or Property Matters | |
| 4.4 The Press and the Media | |
| 5. Appointments and Other Employment Matters | 3 |
| 5.1 Appointments | |
| 5.2 Discipline, Promotion and Pay Adjustments | |
| 5.3 Giving of References | |
| 6. Outside Commitments | 5 |
| 6.1 Private Work | |
| 6.2 Intellectual Property | |
| 7. Personal Interests | 6 |
| 8. Equality Issues | 6 |
| 9. Separation of Roles during Tendering | 7 |
| 10. Corruption | 7 |
| 11. Use of Financial Resources | 8 |
| 12. Gifts and Hospitality | 8 |
| 12.1 Introduction | |
| 12.2 Legal Position | |
| 12.3 General Purposes | |
| 12.4 Gifts | |
| 12.5 Hospitality | |
| 12.6 Procedure for Acceptance/Refusal | |
| 13. Prevention of Money Laundering | 10 |
| 14. Sponsorship – Giving and Receiving | 11 |
| 15. Records | 11 |
| 16. Personal Conduct | 12 |
| 17. General Note | 12 |
| 18. Review | 12 |

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

Code of Conduct for Employees

1. Ethical Standards

- 1.1 Local government employees are expected to abide by the highest ethical principals, giving the highest possible standard of service to the public, and where it is part of their duties, providing appropriate advice to councillors and fellow employees with impartiality. Employees are expected, without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure.

2. Disclosure of Information/Data Security

- 2.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public.
- 2.2 Committee agendas and most reports and background papers are required by law to be available for public inspection. Detailed guidance is available from the Head of Central Services or the Member Services Section. Obstruction of a member of the public who wishes to exercise these rights is a criminal offence.
- 2.3 The public are specifically excluded from certain proceedings of Committees or other meetings associated with the business of the council. No employee shall communicate to the public the content of such proceedings or any document relating to the Authority, unless required by law or expressly authorised by the Chief Executive to do so. Employees making unauthorised communications may become subject to disciplinary action.
- 2.4 Employees should exercise caution and care not to disclose commercially sensitive information. Guidance should be sought from the appropriate Executive Director or the Head of Central Services.
- 2.5 Employees should not use any information obtained in the course of their employment for personal gain or benefit either for themselves or others, nor should they pass it on to others who might use it in such a way.
- 2.6 Personal information received by an employee from a councillor should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required or sanctioned by the law.
- 2.7 Employees have a duty to maintain confidentiality and must not disclose any information obtained in the course of their employment to any third party for any unauthorised reason. In particular, employees must not disclose personal information about any individual without the appropriate authority to do so. A disclosure which complies with the requirements of the Whistleblowing Policy will be regarded as authorised disclosure.

2.8 Employees must ensure that they adhere to all of the council's relevant policies and procedures in relation to information security, the use and storage of computers and the proper management of computer held information in relation to the Data Protection Act.

3. Political Neutrality

3.1 Employees serve the authority as a whole. They must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.

3.2 Employees whose duties require them to advise political groups must do so in ways which do not compromise their political neutrality.

3.3 All employees must follow the policies and decisions of the authority and must not allow their own personal or political opinions interfere with their work.

3.4 Where an employee holds a politically restricted post, the restrictions imposed by the Local Government and Housing Act are deemed to be incorporated in their contract of employment.

4. Relationships

4.1 Councillors

4.1.1 Employees are responsible to the authority through its management structure. Some employees have a specific role to give advice to councillors and senior officers. All employees are responsible for carrying out the authority's work and are expected to follow the advice of those officers who have a specific advisory role, e.g. Section 151 Officer or Monitoring Officer. Mutual respect between employees and councillors is essential.

4.2 The Local Community and Service Users

4.2.1 Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within the community.

4.3 Contracts, Grants or Property Matters

4.3.1 Orders and contracts must be awarded on merit, by fair competition against other tenders, and special favour must not be shown to businesses operated or controlled by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

4.3.2 Employees involved in awarding contracts or who engage or supervise contractors, or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with a contractor who is engaged or who is proposed to be engaged by the Authority, must declare that relationship to the appropriate manager and record

the relationship in the Register of Disclosures of Pecuniary Interests (held by the Head of Central Services as soon as practicable).

4.3.3 Employees must also disclose and record in the Register any interest of themselves or their spouse/partner (if living together) in the following:

- Any grant made by the council;
- Any tenancy of or contract for the purchase of any property in the ownership of the council;
- The receipt as landlord of housing benefit in respect of a property in the Borough.

4.4 The Press and the Media

4.4.1 Employees must not deal direct with the press or the media unless they are required to do so in the course of their work or they have been expressly authorised by an appropriate manager.

4.4.2 All enquiries for information or comment on issues affecting the work of the council must be referred to the Head of Communications.

4.4.3 Any article, publication, or interview given on aspects of council policy or activity must be properly authorised.

5. Appointments and Other Employment Matters

5.1 Appointments

5.1.1 Employees involved in appointments should ensure that these are made on the basis of merit. It is unlawful for an employee to make an appointment based on anything other than the ability of the candidate to undertake the duties of the post. These principles and the council's procedures are detailed in the council's Recruitment, Selection and Induction Policy which supplements the corporate training which is available to all employees involved in the Recruitment and Selection process.

5.1.2 In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with them. [Candidates for any appointment with the council when making an application must disclose on the job application form whether they are related to any member of the Council or to any Council employee.] Deliberate omission to make such a disclosure will disqualify the candidate and if the omission is discovered after appointment, they will be liable to dismissal.

5.1.3 Elected Members and Executive Directors must disclose to the Authority any relationship known to exist between themselves and a candidate for an appointment of which they are aware.

5.2 Discipline, Promotion and Pay Adjustments

5.2.1 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or personal friend.

5.3 Giving of References

5.3.1 If requested to supply a reference, employees should note that they owe a duty of care in negligence to the person receiving it and also to the subject of the reference and must therefore:

- Ensure the reference is factual, fair and balanced
- Wherever possible, confine their comments to facts only
- Avoid making professional judgements unless they feel qualified to do so
- Avoid statements of pure opinion
- Generally avoid 'pro forma' references

If you have any difficulty in ensuring that the reference is fair and balanced, you should obtain advice from Human Resources.

5.3.2 Employment references

Only Executive Directors, Heads of Service and Section Heads are authorised to give employment references for employees of the council. These should:

- be in writing only (ie no oral references either in person or by telephone)
- be on the council's official headed paper
- be marked 'PRIVATE AND CONFIDENTIAL – GIVEN IN CONFIDENCE'
- include the following disclaimer:

“This reference is strictly confidential and is given only for the purposes for which it is requested. It is given on the strict understanding that no liability shall arise on the part of Newcastle-under-Lyme Borough Council and its employees, out of or in connection with any reliance placed upon it by you or by any third party”.

5.3.3 References other than employment references, ie personal/character references

Employees who wish to provide a personal/character reference for a person who is a council employee must:

- ensure it is clearly marked 'PERSONAL REFERENCE'
- give their home address, not the council's address
- ensure it is not written on the council's official headed paper

6. Outside Commitments

6.1 Private Work

6.1.1 "Private work" includes all work, voluntary, or paid employment (including the involvement in any business) other than work undertaken for the council.

6.1.2 It is not intended to prevent employees from engaging in other work but to ensure that no conflict of interest arises. Any Executive Director must have good reason for not approving the work. Employees are permitted to undertake private work provided:

- It does not affect their effectiveness in the performance of, or conflict with, their duties with the council
- The work is not carried out in council time, on the council's premises or using the council's materials or equipment
- Employees who work in specific categories of activity, such as professional services or property development, must take particular care to avoid any possible conflict of interest and must only conduct private business outside the boundary of the Borough areas in order to demonstrate that no conflict of interest can be alleged or inferred.

6.1.3 When they are undertaking private work, the employee must not contact staff in connection with the private work they are undertaking other than by letter or email addressed to the appropriate Executive Director or Head of Service or to an officer(s) authorised by the Executive Director/Head of Service to deal with the matter. If it is necessary for the employee to speak to staff either directly or by telephone in connection with the private work they are undertaking, this must be done outside the employee's paid working hours.

6.1.4 Employees must obtain the approval of the Executive Director for their Service before undertaking any private work and must record each commission, tranche or element of work in the Register of Private Work which is kept for this purpose in their directorate. If approval is not given, the work must not be undertaken. Every employee should contact the Executive Director for advice before deciding to engage in or carrying out any work.

6.1.5 Approvals must be requested and approved on a job specific basis and reviewed/reconfirmed by the relevant Executive Director annually.

6.1.6 Instances of employees undertaking private work which requires the Council's approval and which is not entered in the Register may be treated as "gross misconduct" under the terms of the Council's disciplinary procedure.

6.2 Intellectual Property

6.2.1 Employees should follow the council's rules on the ownership of intellectual property or copyright created during their employment.

6.2.2 Intellectual property is a generic term that includes inventions and patents, creative writings and drawings. If these are created by the employee during the course of employment then as a general rule they belong to the council.

- 6.2.3 Advice on intellectual property procedures is available from the Head of Central Services.

7. Personal Interests

- 7.1 Employees must declare to their line manager (in writing) any non-financial interests that they consider could bring about conflict with the authority's interests.
- 7.2 Employees must declare to an appropriate manager any financial interests which could conflict with the authority's interests.
- 7.3 Employees should declare to an appropriate manager membership of any organisation not open to the public with formal membership and commitment of allegiance and which has secrecy about rules and/or membership and/or conduct (eg, a Masonic lodge).
- 7.4 On no account must employees be directly involved in the processing of any matter or application in which they or their spouse or partner or any close relative have a personal interest.
- 7.5 Employees must declare to their line manager (in writing), any non-financial interests that they consider could bring about conflict with the council's interests. This may include membership of outside bodies in a personal capacity. In such cases employees should be mindful not to place themselves in a situation where their involvement or working contribution could compromise their continuing professional duty to the interests of the Council.
- 7.6 As part of their official duties, an employee may be required to serve on an outside body. In such cases employees will be expected to represent and promote the council's interests and policies as the circumstances dictate and as far as this is consistent with their duties as a member of the outside body.

8. Equality Issues

- 8.1 All employees should ensure that policies relating to equality issues as agreed by the authority are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated fairly and not to be discriminated against.
- 8.2 Employees should note that cases of racial or sexual harassment are deemed to be gross misconduct under the Council's Disciplinary Procedure.

9. Separation of Roles during Tendering

- 9.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 9.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 9.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- 9.4 Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.
- 9.5 Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

10. Corruption

- 10.1 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.
- 10.2 Employees who are in receipt of or affect the receipt of housing benefit and/or other related benefits (i.e. Income Support, Unemployment Benefit, Incapacity Benefit, etc.) must be aware that the obtaining of such benefits by deception would be considered as theft against the Authority as the employer and would therefore constitute Gross Misconduct under the council's Disciplinary Procedure.
- 10.3 Employees must provide Human Resources with details of their home address or in cases where more than one address is frequented the address that they normally class as their home. This does not include c/o addresses unless there are special circumstances which management have been made aware of and are satisfied with. Similarly, changes of name should also be notified to Human Resources.
- 10.4 The council is committed to the highest possible standards of openness, probity and accountability. In line with this commitment it encourages employees with serious concerns about any aspect of the council's work to come forward and voice those concerns. The council's Anti-Fraud and Corruption Strategy makes it clear that employees do so without fear of reprisals. The Whistle Blowing Policy is intended to encourage employees to raise serious concerns within the Council

rather than overlooking a problem or raising them with external bodies first. Polices are available on the Intranet and from Internal Audit.

11. Use of Financial Resources

- 11.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.
- 11.2 Employees should be aware of and must adhere to the council's Standing Orders and Financial Regulations.
- 11.3 An employee who becomes aware of any contravention of these rules and regulations must report the matter immediately to their line manager or, if appropriate, they should contact some other responsible officer to ensure that the matter is brought to the council's attention.
- 11.4 An employee must not use any of the council's resources whether financial or physical assets for any purpose other than council business.

12. Gifts and Hospitality

- 12.1 Your conduct should be such that you remain immune from any criticism or suspicion that your actions or decisions have been unduly influenced. Obviously, the acceptance of gifts or hospitality by you could be viewed with suspicion by the public and make you and the Council vulnerable to criticism.
- 12.2 Common sense should be applied when deciding whether to accept gifts or hospitality. In all instances you should consider the nature and the scale of the gift/hospitality, the circumstances in which it is offered and the relationship between the donor and the Council. You should also consider whether you could justify the giving or acceptance of gifts/hospitality to the Council, the media and the public. You should ensure that acceptance of gifts/hospitality does not put your integrity, or that of the Council, into question.
- 12.3 If you are found to have allowed your decision or actions to have been influenced by the acceptance of gifts or hospitality you could find yourself liable for disciplinary action which may include dismissal.
- 12.4 It is impossible to cover every eventuality but these guidelines should assist you in making a decision. If you are in any doubt as to whether to accept or refuse an offer of a gift or hospitality, you should seek advice from your Head of Service or Director.
- 12.5 Particular care should be taken where gifts or hospitality are offered by someone who:
 - (i) Provides, might provide or has recently provided goods or services to the Council, eg a potential contractor in the period leading up to, during and immediately after a tendering exercise; or

- (ii) Needs or has recently received a decision from the Council, eg on a planning application; or
- (iii) Is in dispute with the Council.

Gifts

- 12.6 It is a serious criminal offence for Local Government employees to accept any fee, reward or gift, other than their proper remuneration for doing their job (Local Government Act 1972). Also, the introduction of the Bribery Act 2010 now makes it a criminal offence in relation to the giving or taking of a 'reward for acting dishonestly and or in breach of the law'. This 'reward' could relate to money, payment in kind and the receipt of 'gifts'.
- 12.7 Cash and monetary gifts must always, without exception, be refused.
- 12.8 You may accept a gift that is below £10 in value but you are asked to think about whether it would be more appropriate to donate the gift to the Mayor's Charity.
- 12.9 If you are offered any other gifts that have a greater value, vouchers, tickets to events, special discounts, rewards or preferential treatment, you should refuse to accept them.
- 12.10 You should not accept any gifts, other than promotional gifts (eg diaries, calendars, pens etc) which are offered to you on a regular basis by the same person/organisation. Where such promotional gifts are accepted, these should be used in the workplace.
- 12.11 Gifts offered during a procurement process may not be accepted under any circumstances.
- 12.12 When declining a gift, you should do so politely, explain why it cannot be accepted and, where practical, return the gift to the donor. Where returning the gift is likely to be expensive or inconvenient, it should be donated to a suitable charity, eg the Mayor's Charity and the donor advised of this, together with a polite request not to make similar gifts in the future.
- 12.13 All gifts offered, whether accepted or refused (other than promotional gifts) should be recorded in the Council's gifts and Hospitality Register, which is maintained by the Monitoring Officer.

Hospitality

Receiving Hospitality

12.14 The Council needs to maintain effective relationships with a wide range of partners, agents and community groups and the giving and receiving of hospitality may form part of this activity. However, it is vital to dispel the impression of improper influence being exerted on the Council.

12.15 It is permissible to accept:

- (i) modest refreshments offered in the normal course of a business, eg coffee, sandwiches over a lunchtime meeting;
- (ii) hospitality offered by other non-commercial bodies, provided that there is a general understanding that no indebtedness will result from the acceptance;
- (iii) invitations to functions where you represent the Council in an official capacity or by virtue of professional position, for example, when invited to/attending opening ceremonies, conferences.

12.16 Invitation to represent the Council at purely social or sporting functions should only be accepted where:

- (i) these are part of the life of the community, or
- (ii) where the Council should be seen to be represented and it is consistent with your role in the Council;

and it is seen as a benefit to the Council as a whole and not you as an individual. Taking annual leave in order to attend an event that does not meet the criteria able is not acceptable. In deciding whether to accept a social or sporting invitation it is vital that you consider how the public could view your acceptance.

12.17 Hospitality, other than modest refreshments should not be accepted for visits made to inspect equipment, systems, etc. The Council should meet the costs of such visits to avoid jeopardising the integrity of subsequent purchasing decisions etc.

12.18 Attendance at award ceremonies where current contractors pay for/sponsor the cost of the event or the attendance of employees is acceptable with the prior approval of the Executive Director for their Service or the Chief Executive and providing this would not compromise a purchasing decision.

12.19 Offers of hospitality that appear immodest or lavish should be refused.

12.20 When refusing hospitality this should be done politely and an explanation given.

12.21 All hospitality refused or accepted (other than modest refreshments) should be recorded in the Council's Gifts and Hospitality Register, which is maintained by the Monitoring Officer.

Giving Hospitality

12.22 Hospitality given by employees of the Council should be justified as being in the public interest. It should be on a scale appropriate to the occasion and should not be lavish or extravagant.

12.23 You should not offer hospitality unless authorised to do so by your Head of Service or Director. Modest hospitality, such as the provision of refreshments, for example, tea/coffee, made to official visitors to Council premises may be offered

without prior Head of Service/Director approval provided approved budget provisions are not exceeded.

13. Prevention of Money Laundering

13.1 The Proceeds of Crime Act 2002 and the UK Money Laundering Regulations 2003 replaces responsibility on Council employees to combat money laundering. Under the legislation it is a criminal offence to:

- assist a money launderer;
- ‘tip-off’ a person suspected to be involved in money laundering that they are suspected or that they are the subject of police investigation;
- fail to report a suspicion of money laundering;
- acquire, use or possess criminal property.

Employees contravening the regulations can be faced with imprisonment (up to 14 years), a fine or both.

13.2 In order to combat money laundering and to protect itself and its employees from the consequences of failing to comply with the legislation, the council has issued guidance for any employee dealing with large sums of money in or out of the Council. The following list identifies a number of areas that the guidance applies to but it is not exhaustive:

- Cashiers
- Officers receiving large sums of money, eg land sales
- Benefits Officers, large payments to landlords
- Employees making payments for large contracts, consultants fees
- Property deals
- Receipt and repayment of performance bonds

13.3 Employees whose duties involve working in the areas listed above should ensure that they are familiar with the guidance which is available from the Internal Audit Section.

14. Sponsorship – Giving and Receiving

14.1 You must apply the basis conventions relating to gifts and hospitality as set out in the Code to any involvement you may have with an outside organisation which wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily.

- 14.2 You must take particular care when dealing with contractors or potential contractors so as not to leave the Council or yourself open to allegations of impropriety.
- 14.3 You must not accept sponsorship from an individual or organisation that is in a legal dispute with the Council.
- 14.4 Where the Council itself wishes to sponsor an event or service, you must make full disclosure in writing to your manager if either yourself, partner, spouse or close relative stands to benefit from such sponsorship.
- 14.5 In the same way, you must make sure that you give impartial advice and that you have no conflict of interest where the Council gives support to community groups through sponsorship, grant aid whether financial or otherwise.
- 14.6 You should not use your position with the Council to seek sponsorship from contractors for personal activities.

15. Records

- 15.1 Employees should keep full and accurate records of all transactions. Where an employee is required to complete records such as car mileage/subsistence claims, time sheets or leave sheets, these must be completed accurately. Falsification of records is criminal and is gross misconduct.

16. Personal Conduct

- 16.1 Employees are expected to be polite and courteous at all times and in particular the following are unacceptable behaviour:
 - The use of abusive or offensive language towards members of the public, councillors or other members of staff
 - Threatening or aggressive behaviour
 - Inappropriate sexual conduct
 - Dishonesty
- 16.2 Employees should note that misconduct outside work may impact on their ability to continue to carry out their job role and may damage the council's reputation. Employees who are charged with or convicted of a criminal offence must notify the council. This will not normally, in itself, result in disciplinary action being taken. However, in circumstances where there is a genuine connection between an employee's conduct outside work and their employment, disciplinary action may be taken. If the conduct outside work prevents an employee from being able to continue to undertake their role, either because it would no longer be legal for them to do so, or because of their continued suitability, they may be dismissed.

17. General Note

17.1 Copies of all policies mentioned in this Code of Practice are available on eVoice or from your Head of Service.

18. Review

18.1 The Code of Conduct is reviewed annually or more frequently if appropriate.

Approved November 2006 – Audit and General Purposes Committee

Reviewed March 2008 (No changes)

March 2009 (No changes)

March 2010 (No changes)

March 2011 (No changes)

November 2012

March 2014

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ITEM FOR STAFFING COMMITTEE – 8 APRIL 2014

CAPABILITY POLICY AND PROCEDURE

Submitted by: Executive Management Team

Portfolio: Finance and Resources

Purpose of the Report

To obtain the Committee's approval for a proposed procedure to be followed at appeal hearings relating to capability.

Recommendation

That the proposed procedure detailed at Appendix A be approved.

1. Background

- 1.1 The Staffing Committee has responsibility for making arrangements for members of the Committee to determine appeals of employees in accordance with appropriate policies.
- 1.2 At its meeting on 13 March 2013, the Committee approved the establishment of a sub-committee to deal with such appeals in respect of Bullying and Harassment, Disciplinary, Grievance, Selection for Redundancy and Capability issues. The relevant policies/procedures were subsequently revised accordingly.
- 1.3 However, while the first four of the above policies incorporate a procedure to be followed at an appeal hearing, the Capability Policy and Procedure currently does not.
- 1.4 A proposed appeal hearing procedure in relation to capability issues has therefore been produced and is attached at Appendix A for your consideration.

2. Issues

- 2.1 The proposed procedure was considered at the Employees Consultative Committee meeting on 24 March 2014. The Committee recommended that the procedure be adopted.

3. Legal and Statutory Implications

- 3.1 The council is required to comply with the ACAS Code of Practice on dealing with grievances and this includes provision of a fair appeal process.

4. Equality Impact Assessment

- 4.1 No differential impact has been identified.

5. Financial and Resource Implications

- 5.1 None.

6. Major Risks

- 6.1 The council requires fair and effective employment policies and procedures to avoid possible financial and reputational damage of failing to properly address employment issues.

7. List of Appendices

Appendix A – Proposed Capability Appeal Procedure.

8. Earlier Committee Resolutions

Employees Consultative Committee – 24 March 2014

Capability Policy and Procedure

Appeal Hearing Procedure

- (a) The appeal will be heard by a Sub-Committee established by the Council's Staffing Committee for this purpose, supported by a representative to give legal advice. The Sub-Committee's decision shall be final and there is no further right of appeal.
- (b) The purpose of the appeal hearing will normally be to consider an employee's grounds for appealing against any action taken and whether or not the decision should be amended.
- (c) The employee should submit their grounds of appeal to the Head of the Paid Service (Chief Executive) in writing, at least five working days in advance of the hearing, with any supporting documentation and details of the name of the trade union representative or work colleague who will be accompanying them at the hearing and also the names of any witnesses they wish to call.
- (d) The employee has the right to be accompanied by a trade union representative or a work colleague.
- (e) The hearing will be tape recorded to provide a contemporaneous record.
- (f) The Chair conducting the hearing will explain that the hearing is being conducted as part of the council's formal Capability Procedure, explain the purpose of the hearing and how it will be conducted.
- (g) The parties present at the appeal hearing will introduce themselves and confirm their respective roles in the appeal hearing.
- (h) At any point during the hearing, the Chair may adjourn the proceedings if it appears necessary or desirable to do so, including for the purpose of gathering further information.
- (i) The Council's representative(s) will state the management case leading to the decision made at the Capability Hearing, referring to any documentation submitted. The Sub-Committee will also refer to any documentation submitted related to the management of the case and the Capability Hearing and also documentation submitted by the employee.
- (j) The Chair and the members of the Sub-Committee may ask the Council's representative(s) (and any witnesses) questions to establish/clarify all the relevant facts, background and circumstances.
- (k) The Chair will invite the employee to state their case, ie the grounds for the appeal against the decision made at the Capability Hearing, what outcome they are seeking and why. The employee may do this personally, or the employee's trade union representative/work colleague may do this on the employee's behalf.
- (l) The employee will refer to any documentation they have submitted and on which they are seeking to rely. The Sub-Committee will also refer to any documentation submitted by the employee and documentation submitted relating to the management of the case and the Capability Hearing.
- (m) The Chair and the other members of the Sub-Committee may ask the employee (and any witnesses) questions to establish/clarify all the relevant facts, background and

circumstances. The Sub-Committee has the right to ask the employee personally to answer such questions, although the employee may on request confer with their representative at any time during the appeal hearing.

- (n) The employee (or their representative) and the Council's representative(s) will then be invited to sum up their cases if they so wish.
- (o) The Chair will then sum up the key points of the appeal hearing.
- (p) The Chair will explain that a decision will be made after full consideration and reflection, that the employee will be informed of the decision in writing within five working days of the appeal meeting and that there is no further right of appeal against the outcome.
- (q) The Chair will then thank the parties for attending and close the meeting.

ITEM FOR STAFFING COMMITTEE – 8 APRIL 2014

LOCAL GOVERNMENT PENSION SCHEME (LGPS) 2014 – POLICY ON REVIEW OF EMPLOYEE CONTRIBUTION RATES

Submitted by: Executive Management Team

Portfolio: Finance and Resources

Purpose of the Report

To obtain the Committee's approval for a policy on the future approach to the reviewing of employee Local Government Pensions Scheme % contribution rates.

1. **Background**

- 1.1 Currently, employees who are members of the Local Government Pension Scheme (LGPS) have their % contribution rates determined annually in April. The % contribution rate they are required to pay depends on their Full-Time Equivalent pay and increases depending on which of seven salary bands they are allocated to. The salary pay bands are set by the LGPS and for 2013/14 were as follows:

| Full-time equivalent salary pay band | Contribution Rate |
|---|--------------------------|
| Up to £13,700 | 5.5% |
| More than £13,700 – up to £16,100 | 5.8% |
| More than £16,100 – up to £20,800 | 5.9% |
| More than £20,800 – up to £34,700 | 6.5% |
| More than £34,700 – up to £46,500 | 6.8% |
| More than £46,500 – up to £87,100 | 7.2% |
| More than £87,100 | 7.5% |

- 1.2 Since 2008 when the banding system was introduced, the council's policy has been to re-assess employee contribution rates annually each April, taking into account increments payable from 1 April. Employees are subsequently notified of the band to which they have been allocated and can appeal against this if they so wish.

- 1.3 The LGPS 2014 comes into effect from 1 April 2014. One of the changes is that the number of contribution bands will increase from 7 to 9 as follows:

| Salary Pay Band (based on <i>actual</i> pay) | Contribution Rate |
|---|--------------------------|
| Up to £13,500 | 5.5% |
| More than £13,500 - up to £21,000 | 5.8% |
| More than £21,000 - up to £34,000 | 6.5% |
| More than £34,000 - up to £43,000 | 6.8% |
| More than £43,000 - up to £60,000 | 8.5% |
| More than £60,000 - up to £85,000 | 9.9% |
| More than £85,000 - up to £100,000 | 10.5% |
| More than £100,000 – up to £150,000 | 11.4% |
| More than £150,000 | 12.5% |

1.4 There are also two other changes that can affect employees' % contribution rates:

- (i) The pensionable pay used to determine contribution rates will change from Full-Time Equivalent to Actual Pay.

This could mean that some part-time employees will pay a lower % contribution rate in future.

- (ii) The definition of what elements of pay are pensionable has changed to include all overtime and any additional hours worked in excess of contractual hours.

This could mean that some employees who work overtime or additional hours during 2014/15 may need to be allocated to a higher salary pay band than the band determined by pay associated with their contractual hours only.

2. Issues

2.1 Under the current and the new Regulations, employers must complete an annual assessment of employee contribution rates each April and can review the band and rate on any material change in pay. In practice, this means that the band allocated can be reviewed during the Scheme year should the employee have a change in contractual pay (eg a promotion or a pay award).

2.2 Under the new Regulations, where pay is estimated (for example to include overtime) the actual pensionable pay can be regularly reviewed to ensure the correct rate is being applied. This can be done:

- a) Each pay period.
- b) Each quarter (or half yearly).
- c) At the end of, say, month 11.
- d) Each year, with the rate for the next Scheme year being set by reference to
 - the actual rate of pensionable pay received in the previous Scheme year, or
 - the annual rate of pensionable pay at the beginning of the new Scheme year, or
 - the expected annual pensionable pay for the new Scheme year.

2.3 When determining % employee contribution rates in future, as well as taking into account any increments payable each 1 April, the Council will need to take into account 'material changes in pay' (eg as a result of promotion, or national pay awards) and also the likely amount of overtime or additional hours to be worked in the forthcoming year and decide how and when this should be determined. It will also be necessary to determine how often employee contribution rates that have been based on estimated pay will be re-assessed.

2.4 It is understood that in circumstances where an employee's % contribution rate is 'under-assessed' by an employer, the amount of contribution under paid by the employee as a result of this, although relatively small, would effectively end up being paid by the employer as it will be taken into account during periodic 're-assessment of employers' % contribution rates carried out by the Scheme's Actuaries.

- 2.5 According to the Guidance received, the employer's objective should be to assess the appropriate rate in a "reasonable and consistent manner" and to 'balance the wish to ensure the employee contributions deducted over a Scheme Year fairly reflect the pay band appropriate to the pensionable pay received by the employee in the Scheme year against the need to adopt an approach that is simple both to administer and for employees to understand."
- 2.6 In other words, employers will need to consider 'whether seeking to get income from employee contributions correct to the nth degree (thereby reducing the impact on the employer's contribution rate that might impact on the employer's contributions) is more than outweighed by the cost of the additional complexity required to achieve this'.

The matter was considered at the meeting of the Employees' Consultative Committee on 24 March 2014 when it was recommended that the proposed policy detailed at 3.1 (below) be adopted.

3. Proposed Policy

3.1 The recommended policy is as follows:

- Annual re-assessment of employee contribution rates each April taking into account any 1 April increments continuing to be applied.
- Further re-assessment during the year whenever there is a change in material circumstances (eg an employee is promoted/reduces or increases hours worked/there is an annual national pay award).
- Potential overtime and additional hours worked in a Scheme Year is assessed after month 3 (ie in July each year) with the calculation of estimated pensionable pay and the decision on amending the appropriate contribution band allocation being informed by the amount of overtime/additional hours paid the previous Scheme Year and the amount paid in the first 3 months of the current year.
- The above approach to be reviewed again later in 2014/15 to determine policy for 2015/16 and beyond.

4. Legal and Statutory Implications

4.1 The council is required by law to implement the provisions of the Local Government Pension Scheme 2014. This includes having an approved policy on future arrangements for reviewing employee contribution rates to include an annual review each April.

5. Equality Impact Assessment

5.1 The employee % contribution rates/bands are set by the Pension Scheme and are designed to be fair and equitable to Scheme Members. The borough Council has no discretion over the % contributions/band rates to be applied.

6. Financial and Resource Implications

- 6.1 In the event that employee % contribution rates are 'under assessed' by an employer, the amount of contribution under paid by the employee would effectively end up being charged to the employer through the process of periodic reassessment of employers % contribution rates carried out by the Scheme Actuaries.
- 6.2 There is a resource impact as HR/Payroll staff who in future, will have to carry out further reviews of employee contribution rates in addition to the annual one. It is important that the process adopted is relatively simple to administer to ensure that the additional work required can be completed from within currently approved staffing budgets.

7. Major Risks

- 7.1 See 6.1. However, the sums involved are expected to be relatively small.

8. Earlier Committee Resolutions

Employees Consultative Committee – 24 March 2014

ITEM FOR STAFFING COMMITTEE – 8 APRIL 2014

ENHANCEMENTS FOR NIGHT WORKING – REVISED PROPOSAL

Submitted by: Executive Management Team

Portfolio: Finance and Resources

Purpose of the Report

To obtain the Committee's approval for a revised proposal on the enhanced rates of pay to be paid to employees who volunteer to work during the night.

Recommendation

That the revised proposal regarding the enhanced rates to be payable for night working at Appendix B be approved.

1. Background

- 1.1 The arrangements for staff who volunteer to work in specific civil contingency related roles were considered at the meeting of the Employees Consultative Committee on 17 October 2012. At the meeting it was suggested that discussions be held with the trade unions to establish a rate for night working that would apply in situations where employees work during the night when this is not part of their normal working week.
- 1.2 No employees currently work at night as part of their normal working week. However, there are occasions when employees may be requested to undertake night working for an occasional single night or a period of a few consecutive nights. The most recent occasion involving a significant number of employees was in September 2010 when 9 Streetscene staff carried out cleansing works on the A500 for several consecutive nights on a voluntary basis. On this occasion, a one-off 'double time' payment was made for all hours worked that was based on a 45 hour (summer working) week and on the understanding that this would not be used as a precedent for future occasions (see Appendix A).

2. National Conditions of Service (NJC)

- 2.1 The National Conditions of Service provide for time + $\frac{1}{3}$ rd to be paid for all hours worked at night between the hours of 11pm and 6am when this is part of the normal working week. There is no provision for enhanced rates to be paid when night work is carried out when it is not part of the normal working week and this therefore needs to be agreed locally.

3. Local Conditions of Service

- 3.1 There is no local collective agreement on enhanced rates payable for night working when this is not part of an employee's normal working week. Both Stoke City Council and Stafford Borough Council have been contacted for details of what arrangements they have in place to cover such circumstances but unfortunately, neither have been able to provide any relevant information.

4. Issues

- 4.1 Officers initially proposed that an enhanced rate of time + $\frac{1}{3}$ rd be paid for all hours worked by volunteers at night (ie, between 11.00pm and 6.00am) when this is not part of the normal working week.

- 4.2 The trade unions subsequently submitted an alternative proposal of time + $\frac{1}{3}$ rd *plus a day off* for each night worked. (It should be noted that in the event that employees volunteer to work at night, this is *instead of* their normal working hours. They would not be required to work the following day. The trade union proposal is time and $\frac{1}{3}$ rd *plus an additional day off in lieu of further payment.*) In effect, this is equivalent to an employee's hourly rate being multiplied by a factor of 2.33.
- 4.3 At its meeting on 18 February 2013, the Employees Consultative Committee resolved:
- (i) To recommend the trade unions' proposal to the Staffing Committee; and
 - (ii) That a further report on the operation of any proposals implemented be submitted in due course, with particular reference to their application to A500 night working cleansing operations.
- 4.4 At the meeting of the Staffing Committee on 13 March 2013, it was agreed that the matter be deferred to allow Officers to have further discussions with the trade unions.
- 4.5 Subsequently, the Head of Operations had discussions with the Secretary of the Employees Side Joint Consultative Committee, raising the council's offer first to time + $\frac{1}{2}$ and then to time + $\frac{3}{4}$ in respect of A500 night working.
- 4.6 Both offers were rejected and as it was necessary for a proposal to be clarified in relation not only to A500 cleansing work but also civil contingency situations, the matter was discussed briefly with the trade unions at a meeting with the Head of HR and the Chair of the Employees Consultative Committee on 10 May 2013 when it was agreed that Officers would confirm a revised proposal to cover both scenarios.
- 4.7 Other than several Streetscene employees being asked to volunteer to work at night for approximately one week per year, to undertake cleansing works on the A500, the need for volunteers to work at night on an occasional basis is extremely rare.
- 4.8 It is necessary to ensure that any enhancements/arrangements made to compensate employees who volunteer to change their hours of work on an occasional basis are fair and operationally viable and the associated staffing costs are reasonable and justifiable.

5. Revised Proposal

- 5.1 After further discussions with the Secretary of the Employees Side Joint Consultative Committee, the council's revised proposal is as follows:
- *For all hours worked between the hours of 7pm and 7am by employees who have volunteered to undertake night work instead of working the hours they would work during a normal working week, in addition to their normal pay they be be paid an additional hourly rate equivalent to $\frac{3}{4}$ of their normal hourly rate (based on a 37 hour working week)*
 - *The additional payment to apply provided the hours worked include a four-hour period from 11pm to 3am.*
 - *The additional payment also to apply during authorised breaks.*

5.2 Employees working flexible hours

The enhanced rate would be payable for all hours not covered by Standard and Enhanced Flexible Working Scheme which is 7am to 7pm.

Civil contingency emergency examples:

- (i) An employee on Grade 6 (grade max £21,734 – hourly rate based on 37 hours £11.26) and who is on the Standard Flexible Working Hours Scheme volunteers to work an 8 hour 'shift' assisting at a Rest Centre from 10pm on a Monday evening to 6.00am on the Tuesday morning.

The employee would continue to be paid their normal monthly salary plus a payment of £67.56 ($£11.26 \times 0.75 \times 8$) and they would not be required to attend work on the Tuesday.

- (ii) An employee on Grade 6 who is on the Standard Flexible Working Hours Scheme volunteers to work an 8 hour 'shift' assisting at a rest centre from 10.0pm on a Friday evening through to 6.00pm on a Saturday morning would receive an additional payment of £67.56 and would not be required to attend work on the following Monday.

5.3 Summer/winter working arrangements (Streetscene employees/planned A500 nightworking)

Streetscene employees receive a monthly salary based on an average 37 hour working week but their actual hours of work vary between 45 per week during the summer period and 32 per week during the winter period.

The enhanced rate would be payable for all hours worked between the hours of 7pm and 7am by employees who have volunteered to undertake night work instead of working the hours they would work during a normal either summer working or winter working week (whichever applies at the time).

5.4 Planned A500 night work

A500 street cleansing work would have to be scheduled so that employees who volunteer to work at night are not required to attend work on the day on which the night work has been completed.

This can be managed either by the night work being scheduled for a full week (Monday to Friday), or employees working for consecutive nights at the back end of the week (with the last night worked being the Friday evening/Saturday morning), or by use of rest days, or in the winter working period using a non-working day, or re-scheduling a non-working day as appropriate.

Streetscene examples:

- (i) During the summer working period (45 hours per week worked – 9 hours per day), a Grade 6 (grade max £21,734 – hourly rate based on 37 hours £11.26) Streetscene employee volunteers to work a 9 hour 'shift' undertaking night street cleansing work for a period of 3 nights (Wednesday, Thursday, Friday) between the hours of 10pm and 7am.

They would continue to be paid their normal monthly salary plus a payment of £228.00 (£11.26 x 0.75 x 9 x 3) (£76.00 per night).

- (ii) During the winter working period (32 hours worked over 4 days – 8 hours per day) a Grade 6 Streetscene employee volunteers to work an 8 hour 'shift' undertaking night street cleansing work for a period of 3 nights (Monday, Tuesday, Wednesday) between the hours of 10pm and 7am.

They would continue to be paid their normal monthly salary plus a payment of £202.68 (£11.26 x 0.75 x 8 x 3) (£67.56 per night)

Their winter 'non-working' day would, if necessary, be re-scheduled to be taken on the Thursday.

Being based on a 37 hour working week, the enhancement paid equates to an hourly payment that is only slightly lower (81p per hour for a Grade 6 employee) than the payment made to Streetscene employees previously when carrying out A500 street cleansing duties and it is envisaged that on this basis, it is likely that a sufficient number of employees would volunteer.

In accordance with current overtime working arrangements, for any additional hours worked by volunteers at night in excess of:

- 7.4 hours – employees on Flexible Working Scheme
- 9 hours – Streetscene employees during summer working
- 8 hours – Streetscene employees during winter working

an overtime payment would be paid based on the employee's standard hourly rate (ie, based on a 37 hour working week) as follows:

- additional hours worked between midnight and 6am – time and three quarters
- all other times – time and a half
- employee on Grade 10 or above to be paid at single time only

- 5.5 It is considered that the above proposal is cost effective, workable, fair, equitable and reasonable having regard to employer's oncosts and current budget constraints.
- 5.6 The trade unions have indicated that they still support the alternative proposal they submitted previously (see paragraph 4.2 above) i.e. time + one third *plus an additional day off in lieu of further payment.*
- 5.7 The revised proposal was discussed at the Employees Consultative Committee on 24 March 2014 when Committee recommended that the revised offer be approved. However, the trade unions were of the view that their existing alternative proposal (detailed at 4.2) should be implemented.

6. Options Considered

- 6.1 Depending on both budget and operational commitments, it may on occasions be appropriate for night work to be carried out by non-council staff as an alternative to use of volunteers.

7. Legal and Statutory Implications

- 7.1 As employees would be volunteering to change their working hours, there would be no contractual issues.
- 7.2 It would be necessary to ensure that the number of consecutive nights worked, the pattern of hours worked at night and associated rest breaks are in accordance with the requirements of the European Working Time Directive.

8. Equality Impact Assessment

- 8.1 Any enhancements/arrangements approved will be applied equally to all employees.

9. Financial and Resource Implications

- 9.1 The cost of any enhanced payments would need to be financed either from within existing approved salary budgets or from income generated by undertaking the work.

10. Major Risks

- 10.1 The authority is required to undertake cleansing of verges and the central reservation of the A500 on average, on an annual basis.

11. List of Appendices

Appendix A Details of agreements on enhanced payments paid to Streetscene employees who volunteered to change their working hours re A500 cleansing works in September 2010.

Appendix B Revised Proposal.

12. Earlier Committee Resolutions

Employees Consultative Committee – 17 October 2012
Employees Consultative Committee – 18 February 2013
Staffing Committee – 13 March 2013
Employees Consultative Committee – 24 March 2014

Re: Night Working, A500

In conjunction with partners from Stoke-on-Trent City Council and Stafford Borough Council, an agreement was reached to carry out cleansing works on the A500 from Junction 15 to 16.

Employees were to be invited to participate in the cleansing operations from Streetscene Services at Newcastle Borough Council. Selection would be carried out by a fair and equitable process agreed with employees who volunteered.

Newcastle Borough Council does not have a night working agreement and discussions have taken place between the Human Resources and Streetscene Management sections of the council.

The sections accept that the employees who have taken part have done so as a good will gesture, knowing that there was no agreement in place at the time of carrying out the cleansing operation of the carriageway indicated.

The Management have made an offer to the Trade Unions, on a one off basis, of double time of the hourly rate received at the time the duties were carried out. Payment would be made for all hours employed, inclusive of any breaks taken.

This would effectively identify that the calculation would be as follows:

| Hours of Work x Hourly Rate | |
|---|--------------------------------------|
| e.g. Monday night start time | 8.30 pm |
| Tuesday morning finish time | 6.00 am |
| Rate of pay per hour (taking into consideration season) | 45 th rate per hour x 9.5 |

This calculation would follow through the week.

There would be no payment for the normal working day as this would not be worked and would be classed as rest time.

This agreement is accepted as a one off payment and both the Management and the Trade Unions accept the spirit of the agreement.

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

Enhancements for Night Working**1. Employees volunteering to undertake night working**

- 1.1 For all hours worked between the hours of 7pm and 7am by employees who have volunteered to undertake night work instead of working the hours they would work during a normal working week, in addition to their normal pay they be be paid an additional hourly rate equivalent to $\frac{3}{4}$ of their normal hourly rate (based on a 37 hour working week)
- 1.2 The additional payment to apply provided the hours worked include a four-hour period from 11pm to 3am.
- 1.3 The additional payment also to apply during authorised breaks.

2. Employees working flexible hours

- 2.1 The enhanced rate would be payable for all hours not covered by Standard and Enhanced Flexible Working Scheme which is 7am to 7pm.

3. Summer/winter working arrangements (Streetscene employees/planned A500 nightworking)

- 3.1 Streetscene employees receive a monthly salary based on an average 37 hour working week but their actual hours of work vary between 45 per week during the summer period and 32 per week during the winter period.
- 3.2 The enhanced rate would be payable for all hours worked between the hours of 7pm and 7am by employees who have volunteered to undertake night work instead of working the hours they would work during a normal either summer working or winter working week (whichever applies at the time).

4. Planned A500 night work

- 4.1 A500 street cleansing work is to be scheduled so that employees who volunteer to work at night are not required to attend work on the day on which the night work has been completed.
- 4.2 This is to be managed either by the night work being scheduled for a full week (Monday to Friday), or employees working for consecutive nights at the back end of the week (with the last night worked being the Friday evening/Saturday morning), or by use of rest days, or in the winter working period using a non-working day, or re-scheduling a non-working day as appropriate.
- 4.3 Streetscene employees' winter 'non-working' days will, if necessary, be re-scheduled to be taken on the day following which night working has been completed.

5. **Overtime Working**

5.1 In accordance with current overtime working arrangements, for any additional hours worked by volunteers at night in excess of:

7.4 hours – employees on Flexible Working Scheme

9 hours – Streetscene employees during summer working

8 hours – Streetscene employees during winter working

an overtime payment would be paid based on the employee's standard hourly rate (ie, based on a 37 hour working week) as follows:

- additional hours worked between midnight and 6am – time and three quarters
- all other times – time and a half
- employee on Grade 10 or above to be paid at single time only

ITEM FOR STAFFING COMMITTEE – 23 APRIL 2014

PROPOSED POLICY ON RELIGIOUS OBSERVANCE DURING WORKING HOURS

Submitted by: Executive Management Team

Portfolio: Finance and Resources

Purpose of the Report

To obtain the Committee's approval for a proposed policy regarding arrangements for employees in respect of religious observance during working hours.

Recommendation

That the policy detailed at Appendix A be approved.

1. Background/Issues

- 1.1 The Borough Council aims to fulfil its responsibilities as an equal opportunities employer and to create a working environment based on good relations between all employees with a shared commitment to respecting dignity and diversity.
- 1.2 To this end, it is recognised good practice to have a policy in place regarding the arrangements relating to religious observance during working hours and the development and implementation of such a policy has been approved by the Staffing Committee as part of its agreed work schedule.
- 1.3 Legal advice received regarding the provision of washroom facilities/designated Quiet Rooms is as follows:

"You are not obliged to have to provide washroom facilities near the designated quiet room.

As you are not obliged to provide a quiet room (although it is good practice to consider this), it is also your choice whether you want to provide a quiet room at each site or have one room for all sites (presumably much will depend on how large the room is and whether it can accommodate the numbers of staff you anticipate will use it). The same would apply to those employees based at other sites; you would need to decide whether to provide these facilities or not and it will probably be dependent on whether it is possible or not."
- 1.4 It is considered that any quiet room facility provided at the Civic Offices could also be made available to employees of partner organisations based in the building. A copy of the proposed policy is attached at Appendix A.
- 1.5 The trade unions were provided with a draft copy of the policy on 7 March 2014. Their view is that their support for implementation of the policy would be dependant on quiet room facilities being provided at all of the council's workplaces.

- 1.6 The proposed policy was considered by the Employees Consultative Committee on 24 March 2014. The Committee recommended that the policy be adopted. The trade unions were of the view that the policy should only be adopted if 'quiet rooms' were provided at all workplaces.

2. Legal and Statutory Requirements

- 2.1 The council is not required by law to have a policy on religious observance during working hours and is not obliged to provide 'quiet room' facilities. However, it is recognised good employment practice to do so and to provide quiet room facilities where practicable and this is in accordance with the Equalities Act 2010.

3. Equality Impact Assessment

- 3.1 Not having a religious observance at work policy in place could be detrimental to some categories of employees.

4. Financial and Resource Implications

- 4.1 'Quiet Rooms' will only be provided where appropriate space is available and it is practicable to do so.
- 4.2 There may be some minimal resource required to administer room bookings but it is anticipated this will be undertaken from within existing clerical resources.

5. Major Risks

- 5.1 None identified.

6. List of Appendices

Appendix A – Proposed Policy on Religious Observance During Working Hours

7. Earlier Committee Resolutions

Employees Consultative Committee – 24 March 2014

**POLICY ON RELIGIOUS OBSERVANCE
DURING WORKING HOURS**

DRAFT

Version 6
March 2014

Introduction

Newcastle under Lyme Borough Council supports people with different religions and beliefs and aims to protect them against discrimination. It will seek to create a working environment based on good relations between all employees with a shared commitment to respecting dignity and diversity.

It will encourage its employees to respect the freedom of individuals to live their life in accordance with their beliefs without discrimination.

The aim of this policy is to ensure that the rights of individuals of different religions and beliefs are fairly and reasonably balanced against the council's service delivery needs.

Scope of Policy

The policy applies to all employees of any religion or belief. However, employees have no right to force their beliefs on others. Any attempt at canvassing, coercion or bullying of others to comply with a particular belief will be dealt with under the council's Workplace Bullying and Harassment Policy and Procedure and the appropriate disciplinary action will be taken. For example; distribution of hate literature, propaganda or making offensive remarks.

This Policy has been assessed for its impact on equality issues using the Service Impact Assessment Toolkit, the results of which have been published separately. Findings from the assessment have been used to develop the policy.

It is the council's policy to ask all employees, on a voluntary basis, to disclose their religion or belief so that any religious needs can be assessed and fair consideration given to what facilities and arrangements it might reasonably provide for staff. While no employee is obliged to disclose their religion, belief or religious practices, employees are encouraged to do so for this reason and for equalities monitoring purposes. Information held will be kept confidential, published only in a manner that does not disclose the religion or belief of any particular individual and in accordance with the requirements of the Equality Act 2010.

Religious Observance and Hours of Work

All employees, regardless of religion or belief, are required to work their contracted hours and follow the reasonable instructions of management to maintain the delivery of services to residents and the undertaking of the council's public functions.

Managers should make every reasonable attempt to ensure that those whose religion requires them to pray at certain times during the day are free to do so and on request, should alter an employee's working pattern so that start/finish times are varied and breaks can be granted at times that coincide with their needs for religious observance. For example, an extra hour at midday on Friday, or not to work beyond sunset on Friday, or on a Saturday should be accommodated taking into account the needs of the service and whether or not such arrangements might cause disturbance or disruption to other members of staff and/or their work or work patterns.

Such time off will normally be via the Flexible Working Hours Scheme or, if appropriate, by taking annual leave, lieu leave or unpaid leave (eg, leave for days that are of religious significance).

Employees that have particular prayer requirements should put in a written request to their manager who will try to ensure that the Quiet Room is a suitable place for prayer and is

available when required.

Leave for Religious Festivals

Every effort will be made to accommodate employees that want to use some of their annual leave entitlement on days that are of religious significance to them. Such requests will be prioritised and granted in line with the needs of the service. Requests will also be balanced against the priorities and rights of other employees.

However, where an employee requests time off at a particularly busy time or at a time when the employee's absence would otherwise cause difficulties for the service, or where the amount of time off requested is unreasonable or excessive (taking into account the needs of the service), the council reserves the right to refuse to grant some or all on any of the time off requested.

Quiet Room

The council will provide dedicated Quiet Rooms at the Civic Offices and the Knutton Lane Depot for contemplation and prayer which is available to all employees. Employees who choose to use the room provided for the purposes of quiet contemplation or rest are requested to respect the rights of other individuals to observe their personal religion or beliefs.

Consideration will be given to arrangements being put in place to make any Quiet Room facility provided at the Civic Offices available to employees of partner organizations who share the building.

Employees who wish to use the room for the reasons stated above are entitled to do so whenever it is vacant. See Appendix A 'Use of the Quiet Room'.

Grievance Procedure

Any member of staff who feels their request has not been treated fairly and in accordance with this policy should firstly try to resolve the matter through discussion with their manager. If the matter is unresolved the employee should follow the council's Grievance Procedure.

Related Policies

- Workplace Bullying and Harassment Policy
- Code of Conduct
- Flexible Working Hours Policy
- Disciplinary Procedure
- Grievance Procedure
- Recruitment and Selection Policy and Procedure

Policy Review

This Policy will be reviewed as appropriate should there be any legislative changes or any other influencing factors.

Appendix A

Use of the Quiet Room

Employees requiring to use the room should firstly check its availability and book the room via HR (Operational Services Admin for Depot Quiet Room).

Employees who require anything for use within the room, e.g. a prayer mat, should provide this themselves. All personal items should be removed from the room after use and the room should be left clean and tidy.

There should be no religious items displayed on the walls.

The room should only be used for the purposes set out in this policy unless permission is given by management for use of a different nature. In normal circumstances this should not affect any permitted use as described in this policy.

All users of the room will be reminded to be respectful of other users.

Any enquiries or complaints about Quiet Rooms or their use should be sent to the Head of Human Resources.

DRAFT