

URN: 23-103

Report Title: Disciplinary Policy

Report to: Cabinet

Date of meeting: 11th September 2023

Responsible Cabinet Member: Councillor Carl Smith

Responsible Director / Officer: Karen Sly/Sarah Tate

Is this a Key decision? No

Date added to Forward Plan of Key Decisions if a Key Decision: N/A

EXECUTIVE SUMMARY / INTRODUCTION FROM CABINET MEMBER

This report presents the new Disciplinary Policy & Procedure to Cabinet, following full consultation with Executive Leadership Team (ELT), UNISON and the Joint Consultative Working Group (JCWG).

RECOMMENDATIONS:

That Cabinet:

1. Approves the new Disciplinary Policy and;
2. Gives delegated authority to the Head of Organisational Development to make minor and/or consequential amendments to the Policy for the purpose of keeping it up-to-date, clarifying its content or interpretation, correcting any errors or omissions, updating it in accordance with changes in legislation, and/or caselaw, or with changes in the management structure.

1. Introduction

A Disciplinary Policy promotes the fair treatment of employees and provides employees with information about expectations of standards and behaviour and the procedure which we will follow when dealing with an employee's unacceptable or improper behaviour /misconduct.

The current policy has been revised taking account of up-to-date legislation, the ACAS Code of Practice and reflects learnings from recent cases and case law.

2. Work to Date / Proposal

The policy has been thoroughly reviewed and updated by HR and has been through the consultation process with ELT, UNISON and JCWG. Feedback has been positive and only minor amendments were made to the draft policy. UNISON and the JCWG, independently provided very similar feedback.

It is proposed that Cabinet approve the policy.

The Head of Organisational Development is seeking delegated authority to make minor and/or consequential amendments to the Policy for the purpose of keeping it up-to-date, clarifying its content or interpretation, correcting any errors or omissions, updating it in accordance with changes in legislation and/or case law, or with changes in the management structure.

3. Impact / Next Steps

Once the policy has been approved it will be made available to staff via the Loop and training will be provided as and when required.

4. Financial Implications

None at this stage.

5. Risk Implications

The current policy is out of date and needed revision. The risk of not approving this policy is that we continue to work with an outdated policy which is not fit for purpose.

6. Legal Implications

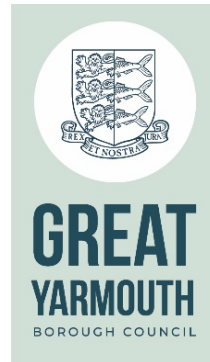
The revised policy considers and is compliant with all relevant employment legislation, ACAS guidance and case law.

7. Background Papers

- Current Discipline Policy
- ACAS Code of Practice

Areas of consideration: e.g. does this report raise any of the following issues and if so how have these been considered/mitigated against?

Consultations	Comment
Monitoring Officer Consultation:	Carried out
Section 151 Officer Consultation:	Carried out
Existing Council Policies:	Disciplinary Policy
Equality Issues/EQIA assessment:	Considered



Disciplinary Policy & Procedure

Author	HR
Version No.	2
Updated by	HR
Date of update	September 2023
Description of changes to this version	Updated to include guidance on what to consider before suspending, in line with ACAS guidance, Investigating Officer role, additional examples of misconduct and gross misconduct and scheme of delegation in line with new constitution.
Document Status	FINAL
Next review due:	September 2026

Disciplinary Policy & Procedure

1. Introduction

- 1.1 We have clear standards of conduct which all our employees must meet. These standards are set out in various ways including in our policies and procedures, in the Council's Constitution which includes the Code of Conduct, our Agreed Behaviours and contracts of employment, and they are communicated on a day-to-day basis through management instructions. They are also often a matter of common sense.
- 1.2 This Policy is the means by which rules are observed and standards are maintained and applies to all Council employees, other than the Chief Executive and Chief Officers who are covered by separate arrangements. The policy has been agreed with Unison.
- 1.3 The Policy takes into account the Acas Code of Practice on disciplinary & grievance procedures and sets out the procedure which we will normally follow if you breach the conduct standards expected of you, but we are not obliged to do so (particularly if you are in your probationary period). It applies where there are apparent issues of misconduct (as further defined below) including at all premises, sites and locations where the Council's business is conducted, to all Council related activities performed at any other location including when working from home; to any Council, or Council-related social function, activity, or trip where conduct (including acts or omissions and words, both spoken or written) may have an effect on the Council's employees, councillors, contractors, business partners, suppliers, customers, business interests, relationships or reputation and (in limited circumstances) to off-duty misconduct (see further below).
- 1.4 Day-to-day supervision of employees is outside the procedure's scope. For example, there will be occasions when it is appropriate for a manager to discuss certain issues with an employee as part of normal supervisory arrangements and without recourse to the formal procedures.
- 1.5 This Policy does not form part of an employee's contract of employment, and we reserve the right to amend or remove this Policy.
- 1.6 This policy does not apply to:
- Dismissals due to redundancy or the non-renewal of fixed-term contracts on their expiry
 - Cases which clearly involve performance rather than conduct, for example where there is a lack of capability, which should be dealt with under the Capability Policy
 - Cases which clearly involve attendance due to ill health, which should be dealt with under the Sickness Management Policy
- 1.7 This policy does not normally apply to employees who are subject to an initial probationary review period, who are dealt with under a separate procedure.
- 1.8 No matter what the outcome, we will keep a written record of all disciplinary cases to help with any questions or similar cases in the future.

2. Employee Assistance Programme – provided by Norfolk Support Line

2.1 Employees have free confidential access to telephone support 24/7, 365 days a year to the Norfolk Support Line, including face to face and virtual counselling, self-help workbooks and podcasts and blogs. They provide a range of information and signposting for practical support for problems at work and at home. To access the service call 0800 169 7676, or go to the [Norfolk Support Line](#) website.

3. Definitions of misconduct and gross misconduct

3.1. What is misconduct?

Misconduct is a general term referring to behaviour that falls below the standards we expect. You will not usually be dismissed for a first allegation of misconduct, unless it amounts to gross misconduct, which we discuss in the next section.

The following list gives examples of what we would normally regard as misconduct. The list is neither prescriptive or exhaustive and should be referred to as a guide; other types of behaviour which are of a comparable nature may also be construed as misconduct:

- i. A breach of the Data Protection Act, Council policies, procedures, guidelines and/or Code of Conduct
- ii. Minor breaches/less serious failure to comply with your employment contract or to carry out the duties of the post.
- iii. Breach of professional standards relevant to your employment
- iv. Less serious acts of insubordination, rudeness or inappropriate behaviour towards or in the presence of employees, councillors, contractors, business partners or members of the public
- v. Failure to comply with a reasonable, lawful, and safe instruction or request, whether verbal or written.
- vi. Unauthorised use of, or minor damage to, council property
- vii. Regular/persistent lateness and/or unauthorised absence from work or a failure to comply with absence reporting procedures.
- viii. Refusing to follow instructions, where doing so is not serious enough to be gross misconduct.
- ix. Making an excessive number of personal calls using work phones
- x. Using obscene language or otherwise behaving offensively
- xi. Being careless when carrying out your duties
- xii. Wasting time during your contracted working hours
- xiii. Smoking in areas where smoking is not allowed.
- xiv. Minor non-compliance with the Council's rules in relation to the Working Time Regulations
- xv. Failure to comply with a duty of care for the security of personal data you may use in the course of your job.
- xvi. Providing information to the media without authorisation
- xvii. Failing to take reasonable care for your health and safety and that of other people who may be affected by your actions or omissions.
- xviii. Gambling during work time / core business hours or on Council premises and/or using Council property or equipment.
- xix. Failure to report loss of or damage to Council property (including vehicles) issued to or used by the employee.
- xx. Aiding or procuring any act of misconduct or unreasonable failure to report any form of misconduct.

- xxi. Unauthorised use of Council equipment, clothing or other property whilst off duty

3.2. What is gross misconduct?

You will usually be dismissed without warning, without notice and without payment in lieu of notice if we find you have committed an act of gross misconduct. This is known as summary dismissal.

The following list gives examples of what we would normally regard as gross misconduct. This list is not prescriptive or exhaustive and other types of behaviour which are of a comparable nature may also be construed as gross misconduct; this should therefore be referred to as a guide.

- i. A serious or repeated breach of the Data Protection Act Council policies, procedures, guidelines and/or Code of Conduct
- ii. A breach of the Code of Conduct which is so serious as to undermine public confidence in the Council i.e., bring the Council into disrepute.
- iii. Serious breaches of confidence including providing information to the media without authorisation
- iv. Serious breaches/failure to comply with your employment contract or to carry out the duties of the post and/or insubordination, deliberate/serious failure to comply with a reasonable, lawful, and safe management instruction or request, whether verbal or written.
- v. Serious acts of rudeness or inappropriate behaviour towards or in the presence of employees, elected members, councillors, contractors, business partners or members of the public. Conduct that violates common decency or engaging in behaviour / conduct likely to bring the Council's name into disrepute and/or discredit the Council or its business.
- vi. A serious or unlawful act of discrimination, bullying, harassment, victimisation (whether it takes place in person or online), or physical violence.
- vii. Threatened or actual physical assault on Elected Members, Councillors, colleagues or members of the public; fighting or riotous behaviour at work and similar actions
- viii. Unauthorised use of, or serious and/or deliberate and/or malicious and/or intentional damage to, or sabotage of equipment, systems clothing or property (including vehicles) belonging to the Council, its employees, contractors, business partners, customers or members of the public
- ix. The use, possession, distribution, purchase, sale or being under the influence of any illegal/controlled drugs or alcohol whilst at work or on Council premises, incapability for work caused by the use of alcohol, or drugs which have not been prescribed by a qualified medical practitioner, or driving or operating machinery whilst impaired due to the influence of alcohol or drugs or appearing to be under the influence (e.g. smelling of alcohol).
- x. Continued absence without leave, including unauthorised absence from work where permission to be absent has been withheld.
- xi. Misuse of work phones, internal email, external email or other internet and computer-based facilities, including the storage and/or transmission of obscene, illicit or undesirable material.
- xii. Serious negligence including professional negligence, misconduct, omission, or, in certain situations, failure in performance to a reasonable and acceptable standard or carelessness, particularly if it leads to us losing trust and confidence in you.

- xiii. Deliberate breach of professional standards relevant to your employment
- xiv. A breach of security and/or deliberate and/or wrongful disclosure of passwords in connection with computers (and similar systems) and buildings. Unauthorised use/access to (computer) systems and information, including attempting to access/log in.
- xv. Viewing, receiving or sending anything that breaches our Harassment and Bullying Policy or our Equal Opportunities Policy and/or knowingly accessing websites containing offensive, obscene or pornographic material.
- xvi. Serious health and safety breaches including actions endangering life and limb.
- xvii. Gross negligence in carrying out (or failing to carry out) the duties of the employee's job.
- xviii. Aiding or procuring any act of gross misconduct or unreasonable failure to report any form of misconduct or gross misconduct.
- xix. Sexual misconduct at work.
- xx. Fraud, theft, loss or misappropriation of cash, property or data belonging to the Council, fellow employees or persons in the care of the Council or any act of dishonesty including deliberate falsification of time sheets, expenses, travelling and subsistence claim forms or other documents which would lead to a financial (or some other) benefit or corrupt practices including bribery.
- xxi. Requesting or accepting money or other consideration as an inducement or in return for use of GYBC's property or resources, the provision of GYBC services, the placing of orders/contracts or the showing of favour or otherwise the conferring a benefit by or on behalf of GYBC.
- xxii. Abuse of position for private advantage or satisfaction of self or others including an inappropriate or unprofessional relationship with a client/tenant and/or use of information obtained in the course of your employment for personal gain or benefit or passing it to others who might use it in such a way or divulging information received without prior approval.
- xxiii. Altering records, to put yourself in a better light even if there is no immediate financial benefit to you.
- xxiv. Malicious misuse of any of our procedures, for example, if you make up allegations when taking out a grievance against someone.
- xxv. Covertly recording your colleagues or any management (or other) meeting where the participants do not know you are recording.
- xxvi. Providing false information, including in support of an application for employment which are material to the success of the application or the level of remuneration payable.
- xxvii. Failure to disclose an unspent conviction whether incurred before or after appointment.
- xxviii. Actions outside of work/off-duty behaviour which is inconsistent with the employee's relationship with the Council and/or which seriously undermines the Council's trust and confidence in the employee, and/or affects your ability to carry out your job or has a negative effect on our reputation, including but not limited to:
 - ii. the charge of offences of dishonesty; or
 - iii. the charge of sexual, drug or violence offences.
 - iv. your use of social media.
 - v. brings GYBC into disrepute or reputational damage.
 - vi. Loss of Legal Authority to Continue Employment.

4.0 Fairness and respect

- 4.1 We recognise that a disciplinary procedure can be stressful and upsetting. Everyone involved in the process is entitled to be treated calmly and with respect and should be supported at all times by their line manager unless their line manager is acting as investigating officer, in which case this should be provided by another line manager.
- 4.2 We will not tolerate abusive or insulting behaviour from anyone taking part in a disciplinary procedure and treat any such behaviour as (further) potential misconduct.
- 4.3 Managers should maintain separate lines of communication with employees who are under investigation and alleged victims to prevent them from feeling isolated or abandoned, to give them reassurance that their views will be heard, that confidentiality will be maintained and that the number of people involved will be kept to a minimum. This should include a check on an individual's general wellbeing, including being aware of any signs of deteriorating mental health, when appropriate steps will need to be taken, in consultation with HR, for example consideration of a referral to Occupational Health.
- 4.4 Managers should remind employees of the support available from the Council's Employee Assistance Programme, Norfolk Support Line and continue to hold regular 1-1's and PDR's.
- 4.5 Remote proceedings - where it is not possible to hold a face-to-face meeting under this procedure, we will conduct the process remotely. We will ensure that you and your representative have access to the necessary technology for participating. Your rights will not be affected, and we will ensure that the procedure remains fair and reasonable.
- 4.6 Adjustments to proceedings – if you have a disability that may have an impact on your ability to participate fully in this procedure, or for example, if you need assistance because English is not your first language, you should let us know by contacting your line manager and HR, who will make appropriate arrangements for you.
- 4.7 Record of meetings - we will take a record of all meetings conducted under this procedure. This will be done either by the person holding the meeting or by an additional person arranged by us to take notes. The record of the meeting will be shared with the employee.
- 4.8 You, or any person acting on your behalf, are not normally permitted to record electronically any meeting that we hold under this procedure. This is to encourage openness and full participation. Any breach of this provision may lead to further disciplinary action, which could include dismissal.
- 4.9 In certain limited circumstances, we may record, or permit a meeting to be recorded electronically, for example where it is a reasonable adjustment for an employee with a disability. Where we permit a meeting to be recorded electronically, we will take responsibility for making the recording. Where we intend to record meetings held remotely, we will comply with our data protection obligations and obtain prior consent from all attendees.
- 4.10 Change of circumstances - sometimes circumstances prevent parts of this procedure from being followed in full. For example, employees may be too ill to participate in a disciplinary meeting for the foreseeable future or a specified manager may be unavailable to chair the meeting. When this happens, we will do our best to ensure that you fully understand the allegations, are given a proper opportunity to respond to them and that your response is fairly

and carefully considered.

- 4.11 Postponement of meetings - we will make every effort to ensure that any meeting we hold under this procedure is scheduled for a time and place that is reasonable and within your normal working hours. You are therefore required to attend the meeting if it is possible for you to do so.
- 4.12 If you are unable to attend a hearing within what we consider a reasonable period of time, then we will look at alternative ways of conducting the hearing. This may involve conducting the hearing virtually. We reserve the right to proceed with a meeting in your absence when it has not been possible to arrange a meeting that you are able to attend. In that case, we will make every effort to ensure that you are able to make representations in writing or asking a representative or colleague to attend on your behalf.
- 4.13 If your companion/trade union representative is not available to attend the hearing, we will agree to postpone once and seek to agree a mutually convenient time. However, any such postponement must be short, and we reserve the right to proceed with the original meeting if no new date can be found that is within ten working days of the scheduled date.
- 4.14 To protect the interests of the people involved, including any witnesses or otherwise, confidentiality will be maintained during any investigation process as far as is possible. If you fail to maintain confidentiality when you are involved in some way in a disciplinary, grievance or bullying and harassment complaint, then you may face action under our Disciplinary Policy.
- 4.15 We will keep a written record of any disciplinary cases we deal with. We will place information and documents about a complaint raised by an employee or about an employee on their personnel file. These will be processed in accordance with our Data Protection Policy.

5. Informal action / minor misconduct

- 5.1. Cases of minor misconduct may be dealt with informally; sometimes an informal discussion between an employee and their line manager is often all that is required to improve an employee's conduct. Your manager will usually make a confidential note of the discussion, which will be shared with you and placed on your personnel file for future reference, but we will not issue a formal warning. However, where informal action does not bring about an improvement, or the misconduct is considered too serious to be classed as minor then it may be dealt with under the formal procedure.
- 5.2. Where the line manager concludes that there is a need for informal coaching, counselling and/or an informal warning, they shall be responsible for putting the required measures in place. Any such information action must make clear why it is being taken, the period for which it is being taken and any change in behaviour required of the employee.
- 5.3. If your conduct does not improve (and in any case, where we believe it appropriate to do so), we will follow the formal process set out in this Policy.

6. Right to be accompanied

- 6.1. You are entitled to be accompanied by a colleague, an official employed by a trade union or a workplace trade union representative at all meetings held under the formal disciplinary process. Informal discussions or counselling sessions do not attract the right to be accompanied.

- 6.2. If you want to be accompanied, you should tell your line manager and the Investigating Officer as soon as possible who you want to accompany you and whether they are a colleague or trade union official or representative. It is your responsibility to arrange for them to attend. We will not prevent them from attending, but we may rearrange the meeting if their absence from work could cause operational problems. If you choose a work colleague, they must not be involved in the case or be a close relative.
- 6.3. You may, at management's discretion, also be allowed to bring a companion who is not a colleague or union representative. This will be considered in circumstances such as where your first language is not English, or to help overcome a disability, when you may be allowed to bring a friend or family member, for example, who is not acting in a legal capacity or involved in the case.
- 6.4. Should there be a disciplinary hearing, your colleague or union representative can, if you prefer, explain the key points of your case to the hearing (where applicable) and can respond on your behalf. You can also confer with them during the hearing. However, they must not answer questions put directly to you or try to prevent us asking questions or outlining our arguments.

7. Mediation

- 7.1. Although grievances most obviously lend themselves to the possibility of mediation, depending on the nature of the alleged conduct, we may suggest mediation at any stage to try to resolve issues. Mediation is a voluntary process where the mediator helps two or more people in dispute to reach an agreement. We will use mediation only where you, and the other individuals involved in the disciplinary issue, agree to do so. Any agreement comes from those in dispute, not from the mediator; the mediator is not there to judge or tell those involved what they should do.
- 7.2. Mediators may be employees trained and accredited by an external mediation service who act as internal mediators in addition to their day jobs or they may be from an external mediation provider. The mediator will discuss your alleged conduct with everyone involved and seek to facilitate a resolution.

8. Suspension and alternative options – for the procedure which should be followed when considering suspending an employee, including consideration of alternative options, managers/decision makers must refer to the suspension checklist and ACAS advice: www.acas.org.uk/suspension-during-an-investigation.

- 8.1. If there is an allegation of misconduct, your line manager will consider whether there is a need to suspend you from work whilst we follow the disciplinary process. Most disciplinary situations will not require suspension. Suspension should only be considered exceptionally if there is a serious allegation of misconduct and:

- there are reasonable grounds to believe that the employee might seek to tamper with or destroy evidence, influence witnesses and/or sway an investigation into the disciplinary allegation; or
- working relationships have severely broken down to the point that there is a genuine risk to other employees, property, customers or other business interests if the employee remains in the workplace; or
- the employee is the subject of criminal proceedings which may affect whether they can do their job.

8.2. Suspension can leave individuals feeling prejudged, demotivated and devalued. Managers should therefore only use suspension after very careful consideration. It should always be made very clear that suspension is not an assumption of guilt and is not considered a disciplinary sanction. The employee should be reminded and reassured that a fair procedure will follow in which their point of view will be listened to and fairly considered.

8.3. Some individuals may find it extremely distressing to be told they are being suspended. This may be the case even if the person does not show any obvious signs of stress. Managers should bear this in mind in deciding when and how to communicate a decision about suspension. They should encourage a suspended employee to access some immediate support and to offer help to do this, for example, to offer to contact a colleague, friend or relative of their choosing to meet them immediately. They should also remind the employee of Norfolk Support Line.

8.4. When deciding whether suspension is appropriate, the line manager should consider:

- what information is available so far – what has happened, who is involved and how serious it might be, and whether a decision to suspend is reasonable, including whether other employers in a similar industry, with the same information, would see that a decision to suspend was reasonable
- the well-being of the person under investigation and how their mental health might be affected if they're suspended
- the risks of not suspending – this might be a risk to others at work, the business, or the investigation
- how serious those risks are
- any alternatives to suspension they could use
- A plan of what support will be provided to anyone suspended, to support their wellbeing and mental health
- Suspension must never be used as a sanction against an employee prior to a disciplinary meeting and decision and a suspended employee must be kept informed of progress.

8.5. The employee's line manager/designated deputy should maintain contact with an employee who has been suspended, to check on their health and welfare and offer support. Where possible, this should normally be a minimum of weekly.

8.6. If the case changes during investigation, the employee's suspension should be reviewed by the person who made the original decision to suspend.

8.7. When considering suspending an employee Managers must refer to Appendix 1 for further information and complete the Suspension Checklist, give consideration to alternatives to suspension, and follow a fair process when suspending someone. A file note of the considerations must be made by the manager and retained with the disciplinary case.

9. Criminal offences

9.1 If the police are involved in any issues which we are also investigating, we will not usually delay our internal processes whilst we await the outcome of any decision to charge or criminal

prosecution. However, in carrying out a disciplinary investigation, we will exercise caution to ensure that it does not impede police enquiries.

9.2 Conduct outside of work which is alleged to be criminal may be considered a disciplinary matter by us if we reasonably believe that it is relevant to your job / your employment with the council.

10. Investigation

10.1 If the line manager becomes aware of an incident, complaint and/or allegation that requires an investigation, they should meet with you to make you aware and that an investigation will need to be carried out. You should cooperate fully with any investigation.

10.2 It is important that all disciplinary allegations are investigated fully before any action is taken.

10.3 The investigation will usually be conducted by a manager, which may be your line manager, unless they have been directly involved in which case. They will act in the capacity of Investigating Officer for the purposes of an investigation.

10.4 How much investigation is required will depend on the nature of the allegation. They may need to interview other witnesses, gather documents and view recordings. They will hold a meeting with you to discuss the allegation. You should cooperate fully with any investigation.

10.5 Investigation meetings are solely for the purpose of establishing the facts of the case. When getting information from a witness the Investigating Officer should seek their consent to share their statement and written evidence, if necessary.

The employee under a disciplinary investigation should be given a copy of any written evidence, including witness statements. Other people working on the investigation may also need to look at the information, as well as those chairing and supporting disciplinary and appeal hearings. This might mean that we need to make some information anonymous, for example private information about other people, before sharing it, although we cannot guarantee anonymity.

If the report includes people's details, it should be stored securely with access only allowed when necessary; anyone who has access needs to follow data protection law (UK GDPR) and should be securely disposed of once it's no longer needed or is out of date.

10.6 Disciplinary action will not be considered at an investigatory meeting, and no decision on disciplinary action will be taken until after a disciplinary hearing has been held, should one be required.

10.7 At the conclusion of the investigation, they will collate the evidence and pass it to a more senior person, who has usually not been involved in the process up to this point, this will usually be a Head of Service, for consideration.

10.8 Guidance from Acas on conducting workplace investigations, to be read in conjunction with this policy www.acas.org.uk/acas-guide-to-conducting-workplace-investigations

11 Disciplinary hearings

11.1 If a decision is taken that an allegation should be taken forward to a disciplinary hearing, then we will write to you to:

- Set out the disciplinary allegation which has been made against you
- Provide all the evidence we will look at when considering the allegation
- Confirm the date, time and venue for a formal disciplinary hearing
- Set out the possible outcomes of the meeting (including whether dismissal might result)
- Set out details of your right to be accompanied

11.2 The disciplinary hearing will be chaired by a Head of Service ('the Hearing Chair').

11.3 At the point the decision is made to go to a disciplinary hearing the employee(s) will be given a minimum of 14 calendar days' notice with case papers prior to a hearing to give them time to prepare.

11.4 All parties should make every effort to attend the hearing. You should let us know as soon as possible if there is a reason why you or your chosen companion cannot attend the meeting at the arranged time.

11.5 We will usually reschedule the meeting once, provided we are satisfied with your reason for not attending, for a jointly agreed time not normally exceeding 10 working days. We will not reschedule the meeting a second time unless there is a very good reason to justify this. Note that we may not reschedule at all if we decide it is likely to lead to unreasonable delay, and we may instead have to make our decision on the disciplinary issue without you being present.

11.6 If your chosen companion cannot attend on a proposed date, you can suggest an alternative time and date so long as it is reasonable and it is not more than 10 working days after the original date.

11.7 By agreement with the Hearing Chair, the employee may send their representative to the hearing on their behalf and/or submit a written statement.

11.8 If you fail to attend due to circumstances outside your control, such as illness, we may arrange another meeting. If you are off sick for the disciplinary hearing, we may pause the disciplinary procedure and refer you to Occupational Health to understand your fitness to attend work and participate in this process. If you still say you cannot attend or if you go on extended sick leave, we may see if it would help to make other arrangements, for example look at holding the meeting somewhere else. If you refuse to or cannot meet, we will need to look at the case and come to a reasonable decision; if we conclude that a decision will need to be made on the evidence available, we will inform you in writing. If you unreasonably refuse to attend, we will hold the hearing in your absence and inform you of the decision in writing.

11.9 You should review the evidence provided and contact us as soon as possible if there are any other documents, or further evidence, which you would like us to consider. Please provide copies

to the Chair and HR of anything you want us to look at least 5 days before the hearing, along with the name(s) of any witnesses you intend to call.

11.10 We will usually arrange for a designated note-taker to attend, for example, a member of HR or Democratic or Executive Services, or we may choose to record the meeting. You may also make notes (for your own purposes) but please do not covertly record the meeting e.g., using your mobile phone, as this suggests that you do not trust our process or the managers who are conducting the hearing. We may decide to deal with any covert recording under the Disciplinary Policy. If you have misgivings about either the process or the managers leading it, you should tell us openly so that we can address your concerns. In turn, we will not record the meeting without your knowledge.

11.11 At the hearing, introductions will be made, and the purpose of the hearing will be explained, including that the purpose of the meeting is to consider the facts and decide whether disciplinary action should be taken in accordance with the disciplinary policy and how the meeting will be conducted. We will go through all the evidence with you and make sure that you understand the allegation you are facing. We may call witnesses as part of this process, but we are not obliged to do so.

11.12 We will give you the opportunity and time to respond to the allegations and to put your own case. We will also give you the opportunity to ask us questions, present your own evidence, call your own witnesses and respond to the evidence we put forward. If there are any questions you want us to put to our witnesses, please tell us and (unless there is a good reason not to) we will make sure they are asked. We may seek to establish whether you are prepared to accept that you may have done something wrong and any steps you consider could remedy the situation.

11.13 We will summarise the main points of the discussion after questioning is completed, to remind all parties to be reminded of the nature of the offence, the arguments and evidence put forward. You can summarise or add if you have anything further to say.

11.14 At the conclusion of the disciplinary hearing, we will usually adjourn before a decision is taken about whether a disciplinary penalty is appropriate, to enable the Hearing Chair to consider their decision. We may advise you of the outcome, following the adjournment, or by letter within 5 working days of the disciplinary hearing. In any event the outcome will be confirmed in writing as soon as possible.

11.15 Possible outcomes of a disciplinary hearing include:

- No further action
- Informal counselling, coaching or a warning
- A written warning
- A final written warning
- Some other disciplinary sanction short of dismissal
- Dismissal with notice
- Summary dismissal (without notice)

12 Formal disciplinary action

- 12.1 A **First Written Warning** will set out the nature of the misconduct, the change in behaviour required and that a Final Written Warning may be considered if there is further misconduct. Unless you already have active written warning(s) relating to disciplinary matters on your personal file, a first written warning will usually remain in place for 12 months from the date you are notified of the decision; in exceptional circumstances it may be for a longer period. A copy of the Written Warning will be kept on your personnel file for employment history purposes but will be disregarded for disciplinary purposes after a period of 12 months unless there is a repetition, or you commit another misconduct during the period of the warning.
- 12.2 A **Final Written Warning** if there is an active first written warning on your record and you are involved in further misconduct, we will usually issue you with a Final Written Warning setting out the nature of the misconduct, the change in behaviour required and that any further misconduct may lead to dismissal or some other action short of dismissal. A copy of the Final Written Warning will be kept on your personnel file for employment history purposes but will be disregarded for disciplinary purposes after a period of 12 months unless there is a repetition, or you commit another misconduct during the period of the warning. If you do not meet the requirements of the final written warning in the timeframe set, it could lead to dismissal.
- 12.3 **In serious cases of misconduct, we may go straight to a Final Written Warning**, without first issuing a first written warning. In either case, the final written warning will usually remain in place for 12 months from the date you are notified of the decision; in exceptional circumstances this period may be extended up to 24 months. A copy of the Written Warning will be kept on your personnel file for employment history purposes but will be disregarded for disciplinary purposes after a period of 12 months unless there is a repetition, or you commit another misconduct during the period of the warning. If you do not meet the requirements of the final written warning in the timeframe set, it could lead to dismissal.
- 12.4 **Action short of dismissal** – If you already had a live Final Written Warning or in cases of more serious misconduct, you may be liable to be dismissed with notice. In such circumstances the Hearing Chair may, at their discretion, consider offering you the alternative of receiving a (further) Final Written Warning in conjunction with a transfer or relegation/demotion/loss of seniority (at a lower grade with a corresponding reduction in pay), and/or loss of increments. If you accept such offer in writing within 48 hours of the offer being made, that alternative action shall stand as the outcome and will be a permanent change to your terms and conditions and there will be no salary protection. The Hearing Chair shall be responsible for putting any alternative action in place. A note shall be placed on your personnel file to record the fact of the alternative action, along with any (further) Final Written Warning.
- 12.5 **Dismissal** - If there is an active (live) final written warning on your record and you are involved in further misconduct, you may be dismissed. You may also be dismissed for a first serious case of misconduct. Dismissal will be with notice, save for cases of gross misconduct, where it will be without notice.
- 12.6 In addition to the disciplinary action as above, the Council will in certain cases seek recovery of monies or property due to it from employees.

12.7 No matter what the outcome, the Hearing Chair shall be responsible for putting actions/alternative action in place and for providing HR with a note which shall be placed on the employees personnel file to record the fact.

12.8 We will keep a written record of all disciplinary cases to help with any questions or similar cases in the future.

13 Agreed Outcome

13.1 At any stage (except in cases of gross misconduct where dismissal is a potential outcome) under this Procedure, the employee may request that they be offered an Agreed Outcome. This will only be appropriate at the end of an investigation into a potential disciplinary issue where the disciplinary offence is admitted by the employee, the facts of the allegation are not in dispute and the employee has accepted their fault and they wish to conclude matters without going through a Disciplinary Hearing. Employees are encouraged to speak to their union representative, if they have one, who will liaise with HR, or directly with HR if they do not.

13.2 A request by an employee for an Agreed Outcome must be made by in writing and must state that it is a request for an Agreed Outcome under this Procedure.

13.3 Agreed outcomes are only appropriate where both parties are agreeable to the process. Upon receipt of such a request, the Head of Service and Head of Organisational Development will consider whether it is appropriate to offer an Agreed Outcome and if so, the outcome which GYBC is prepared to agree, including the level and duration of any sanction to be imposed.

13.4 Where there is agreement to an agreed outcome as being the acceptable way forward for both parties, the following principles should be followed: Both parties must be in agreement to proceed in this way; this decision is final and there should not be a later referral to a disciplinary hearing or appeal on this issue. If the employee accepts such Agreed Outcome in writing within 48 hours of an offer being made, that Agreed Outcome shall stand as the outcome. The disciplinary sanction issued, and accepted by the employee, will have the same status as those obtained via a hearing, except that there will be no necessity for an appeal. All relevant documentation, including a record of the meeting, must be retained in the usual manner on the personal file, with copies sent to Human Resources and the Trade Union.

13.5 In the absence of any Agreed Outcome which is offered being accepted or where it is not considered appropriate to offer an Agreed Outcome, the matter shall proceed as usual under this Procedure. No reference will be made by the Council to any Agreed Outcome requested or offered at any future Disciplinary Hearing.

14 Appeals

14.1 You have the right to appeal against any disciplinary action taken against you under this Policy. If you wish to appeal, you must submit your appeal in writing within 10 working days of receiving your outcome letter, clearly setting out your grounds of appeal, to the person detailed in the outcome letter you receive.

14.2 Once we have received your letter of appeal, we will arrange an appeal hearing. You s) will be given a minimum of 14 calendar days' notice with case papers prior to a hearing to give you time to prepare.

14.3 An Appeal Officer, who will be an Executive Director(s) within the Executive leadership Team, will be appointed to hear your appeal. They will not usually have had any involvement in the process or the allegation up to this point.

14.4 You will receive a letter inviting you to the Appeal Hearing, at which you have the right to be accompanied. It may be necessary to conduct further investigations depending on your grounds of appeal.

We will usually arrange for a designated note-taker to attend, for example, a member of HR or Democratic or Executive Services, or we may choose to record the meeting. You may also make notes (for your own purposes) but please do not covertly record the meeting e.g., using your mobile phone, as this suggests that you do not trust our process or the managers who are conducting the hearing. We may decide to deal with any covert recording under the Disciplinary Policy. If you have misgivings about either the process or the managers leading it, you should tell us openly so that we can address your concerns. In turn, we will not record the meeting without your knowledge.

14.5 The appeal could involve a review of the original decision, taking account of the specific grounds of appeal you have raised. Alternatively, it could involve a full re-hearing of the matter. We will decide which approach is most appropriate for your case.

14.6 You should be aware that our appeal officers are not limited in their options when considering your appeal. They can, if they believe it appropriate, decrease a sanction, approve the original outcome, remove a sanction or increase a sanction.

14.7 At the conclusion of the Appeal Hearing, you will be advised of the outcome, either on the day (following an adjournment to enable the Appeal Chair to consider their decision) or by letter; we will usually aim to do this within 10 days of your appeal hearing. In any event the outcome will be confirmed in writing as soon as possible. The decision you receive on appeal is our final decision. There is no further right of appeal.

15 If you raise a grievance during the disciplinary procedure

15.1 If you have a grievance that relates to ongoing disciplinary proceedings, you should raise this during the disciplinary procedure; we may pause the disciplinary and deal with the grievance first. We will consider whether it might be appropriate to deal with both at the same time if the grievance and disciplinary cases are related.

15.2 If you raise a grievance during disciplinary proceedings that is unrelated to those proceedings, the disciplinary proceedings and grievance procedure will normally run independently in parallel.

16 Administration of the Disciplinary Policy

HR is responsible for the administration of the Disciplinary Policy. Should you have any feedback, please contact hr@great-yarmouth.gov.uk

Appendix 1 – Suspension

1.1 As suspension can have a significant effect on the mental health and working relationships of those involved, it is important for managers to consider alternatives to suspension. Such alternatives can include the following temporary changes:

- change shifts
- work in a different part of the organisation
- work from home
- work from a different office or site
- stop doing part of the job
- work with different customers or away from customers – for example if we are investigating a serious complaint from a customer
- stop using a specific system or tool – for example removing access to the organisation's finance system if we are investigating a large amount of missing money.

1.2 If reasonable alternative duties can be identified which would remove the need for suspension, you may be assigned such alternative duties at the discretion of your line manager. Wherever possible, the reason for the temporary change should be kept confidential and your line manager should discuss with you what they will tell others at work about the temporary change.

1.3 When there is a need to separate two people, the individual making the complaint should not usually be moved, unless they ask to be moved and their manager agrees. In all situations the manager should support the wellbeing and health of both/all people involved and encourage them to seek support if they need it.

1.4 In the event that a decision is taken not to suspend, this can be reviewed later in the investigation if circumstances change.

If a decision is made to suspend you

1.5 Suspension is not an indication of our position on any allegation you may face and is not a disciplinary action; being suspended is not an indication that disciplinary action will be taken against you.

1.6 If a decision is made to suspend you, and you feel there is a problem with it, including if you do not agree with your suspension and want us to reconsider your decision or with how your suspension has been handled, you should raise it informally in the first instance, with your line manager. If the issue is not resolved at this stage, you can raise it formally, as a grievance, in line with the Council's Grievance Policy. If you are a member of a trade union you could also talk to your trade union representative. If you raise an issue, it is up to us, as your employer, to decide whether the suspension will continue.

1.7 In all situations the line manager should ensure that support is made available to you and other individuals involved to support your/their well-being and mental health.

The process when suspending someone

1.8 If the manager decides to suspend you, they should support you during the suspension, and should ensure that they:

- communicate clearly with you when you are advised that you are being suspended and throughout the process
- make it clear that the suspension does not mean that a decision has been taken about whether you have done something wrong.
- make clear that during the process your point of view will be listened to and considered before making any decisions.
- keep in regular contact with you throughout the suspension and support your mental health and wellbeing.
- update you about the investigation and when it's likely to end.
- make sure the suspension is as brief as possible and only lasts for as long as it needs to.
- make sure you know who you can contact if you have any concerns and make you aware that support can be accessed through the Employee Assistance Programme – Norfolk Support Line, your Trade Union, Citizen's Advice, ACAS or MIND.
- Carry out a fair investigation in line with this policy and the Acas Code of Practice on disciplinary and grievance procedures

1.9 It is important everyone involved keeps the suspension confidential wherever possible, that they discuss what they will tell people who work with the suspended person and will not share any personal information unless it is necessary. Circumstances where the manager or suspended person will need to discuss the suspension with someone else includes where the manager needs to tell the person or team investigating the matter and where the suspended person needs to discuss with their line manager what to tell others about why they are off work.

1.10 If we suspend you:

- a You will continue to be paid as normal during any period of suspension, subject to the following.
- b You should be contactable by your manager during your normal working hours. It is a condition of receiving full pay during any period of suspension that you remain ready, willing and able to attend work (including attending any meetings required under this Procedure) at all times during your normal working hours.
- c Save where otherwise advised, any suspension will be reviewed regularly.
- d You must stay away from work; not visit Council premises; and not make contact with staff, Council Members, clients, suppliers or contractors (unless we authorise this in writing) other than your manager, your work colleague or union representative who is supporting you and HR and must not undertake any activities as a Council employee.
- e You are not permitted to undertake any work during your contracted hours
- f You may contact somebody specifically to ask them to be a witness, or to accompany you at a meeting under this Policy, after asking your line manager first.
- g You must not discuss the issue with any representative of the media
- h If pre-approved holidays fall during a period of suspension, they will still count as holiday leave and will be deducted from your holiday entitlement as normal, unless otherwise agreed
- i If you request to take holiday during suspension, and the manager agrees, you can follow the usual process to book your holiday.
- j If we are cancelling your holiday, your line manager must give you notice as usual.

1.11 We will only suspend you for as long as reasonably necessary to allow us to complete our investigation and any formal process which follows it.

1.12 We will keep any suspension under review and may lift your suspension at any time if we decide that it is no longer necessary. Likewise, we may decide to suspend you at any point during the disciplinary process even if at the start of the process we did not choose to do so.

When considering whether to suspend someone / when suspending an employee, managers/Heads of Service should:

- refer to ACAS advice on suspension www.acas.org.uk/suspension-during-an-investigation/the-process-for-suspending-someone
- complete the Suspension Checklist Form which must be retained with the disciplinary case and reviewed if necessary; a copy must be provided to HR.
- Refer to the Disciplinary Policy which will give you more information.

CABINET



URN: 23-102

Report Title: Grievance Policy

Report to: Cabinet

Date of meeting: 11th September 2023

Responsible Cabinet Member: Councillor Carl Smith

Responsible Director / Officer: Karen Sly/Sarah Tate

Is this a Key decision? No

Date added to Forward Plan of Key Decisions if a Key Decision: N/A

EXECUTIVE SUMMARY / INTRODUCTION FROM CABINET MEMBER

This report presents the new Grievance Policy & Procedure to Cabinet, following full consultation with Executive Leadership Team (ELT), UNISON and the Joint Consultative Working Group (JCWG).

RECOMMENDATIONS:

That Cabinet:

1. Approves the new Grievance Policy and;
2. Gives delegated authority to the Head of Organisational Development to make minor and/or consequential amendments to the Policy for the purpose of keeping it up-to-date, clarifying its content or interpretation, correcting any errors or omissions, updating it in accordance with changes in legislation, and/or caselaw, or with changes in the management structure.

1. Introduction

The policy provides details of how an employee can raise a problem or complaint with their employer.

The current policy has been revised taking account of up-to-date legislation, the ACAS Code of Practice and reflects learnings from recent cases and case law.

2. Work to Date / Proposal

The policy has been thoroughly reviewed and updated by HR and has been through the consultation process with ELT, UNISON and JCWG. Feedback has been positive and only minor amendments were made to the draft policy. UNISON and the JCWG, independently provided very similar feedback.

It is proposed that Cabinet approve the policy.

The Head of Organisational Development is seeking delegated authority to make minor and/or consequential amendments to the Policy for the purpose of keeping it up-to-date, clarifying its content or interpretation, correcting any errors or omissions, updating it in accordance with changes in legislation and/or case law, or with changes in the management structure.

3. Impact / Next Steps

Once the policy has been approved it will be made available to staff via the Loop and training will be provided as and when required.

4. Financial Implications

None at this stage.

5. Risk Implications

The current policy is out of date and needed revision. The risk of not approving this policy is that we continue to work with an outdated policy which is not fit for purpose.

6. Legal Implications

The revised policy considers and is compliant with all relevant employment legislation, ACAS guidance and case law.

7. Background Papers

- Current Grievance Policy
- ACAS Code of Practice

Areas of consideration: e.g. does this report raise any of the following issues and if so how have these been considered/mitigated against?

Consultations	Comment
Monitoring Officer Consultation:	Carried out
Section 151 Officer Consultation:	Carried out
Existing Council Policies:	Grievance Policy
Equality Issues/EQIA assessment:	Considered



Grievance Policy & Procedure

Author	HR
Version No.	2
Updated by	HR
Date of update	September 2023
Description of changes to this version	Updated to include response to grievance and appeal. There is a separate policy on Bullying, harassment & victimisation.
Document Status	FINAL
Next review due:	September 2026

Grievance Policy

1. Introduction

If you have an issue or problem at work, you should aim to settle it informally with your line manager. Many problems can be raised and settled during the course of everyday working relationships. This also allows for problems to be settled quickly, before they develop into something more serious.

Examples of issues that may give rise to a grievance include:

- terms and conditions of employment
- health and safety
- work relations
- bullying and harassment
- new working practices
- working environment
- organisational change
- discrimination

1.1. This Policy:

- a takes into account the Acas Code of Practice on disciplinary & grievance procedures
- b Sets out the informal and formal processes that can be followed when raising a grievance
- c Explains what we will do if we receive a formal grievance
- d Explains how grievance meetings operate
- e Sets out how we will deal with situations like related grievances and grievances raised during a disciplinary process
- f Explains the role of the grievance officer
- g Provides an introduction to mediation and the circumstances in which it might be offered when a grievance has been raised

1.2. Please note that this Policy does not form part of your contract of employment. We reserve the right to amend or remove this Policy.

1.3. This Policy should be read alongside our Whistleblowing Policy and Bullying, Harassment & Discrimination Policy.

- 1.4. This Policy applies to all employees. It does not apply before your employment starts. If your employment has ended, we may refuse to investigate any grievance, or we may use a different procedure.
- 1.5. **Employee Assistance Programme** - All Council employees have free confidential access to telephone support 24/7, 365 days a year to Norfolk Support Line, who provide face to face and virtual counselling, self-help workbooks and podcasts and blogs as well as providing a range of information and signposting for practical support for problems at work and at home. To access the service call 0800 169 7676 or go to the Norfolk Support Line website. [Norfolk Support Line](#)

2. The informal grievance process

- 2.1 We aim to settle grievances informally first.

If you have an issue/problem/complaint about work or someone you work with, it is usually a good idea for you to raise it informally first. Before doing anything else, you should approach your line manager, as most issues can and should be resolved informally. You may be able to agree a solution informally between you. If your issue or concern involves your line manager – or there is some other reason you don't want to raise it with them – you should instead tell their line manager/Head of Service or HR.

- 2.2 You do not have to put anything in writing. The issue can be discussed verbally if you prefer.
- 2.3 Mediation can be considered at this and any stage if deemed appropriate by both parties.
- 2.4 If this informal approach does not solve your issue/problem/complaint, or you do not want to first raise the matter informally, you can use the formal procedure.

3. Mediation

- 3.1. Depending on the subject matter of the grievance, at any stage of the informal or formal process we may consider offering mediation to resolve it. We are not obliged to offer mediation, and it is an option which we will only look into with your agreement. It should be noted that both / all parties would need to agree this approach.
- 3.2. Mediation is a voluntary process which involves an independent, impartial person working with both sides to find a solution. It can help to diffuse tension and avoid issues escalating. We will use mediation only where you, and the other individuals involved, agree to do so. Any agreement comes from those in dispute, not from the mediator; the mediator is not there to judge or tell those involved what they should do.
- 3.3. Mediators may be employees trained and accredited by an external mediation service who act as internal mediators in addition to their day jobs or they may be from an external mediation provider. The mediator will discuss your alleged conduct with everyone involved and seek to facilitate a resolution.

4. Fairness and respect

- 4.1. We recognise that being involved in a grievance can be stressful and upsetting. Everyone involved in the process is entitled to be treated calmly and with respect and should be supported at all times by their line manager. Where the issues are directly related to your line manager, an alternative manager will be appointed to support you.
- 4.2 We will not tolerate abusive or insulting behaviour from anyone taking part in a grievance and treat any such behaviour as potential misconduct.
- 4.3 If we are unable to resolve your grievance informally, a grievance officer will be appointed to look at your grievance and maintain communications with all parties

During this time your manager should continue to hold regular 1-1's and PDR's with you, and check on your wellbeing, including being aware of any signs of deteriorating mental health, when appropriate steps will need to be taken, in consultation with HR, for example consideration of a referral to Occupational Health. Managers should also remind employees of the support available to them from the Council's Employee Assistance Programme, Norfolk Support Line.

- 4.4 Remote proceedings - where it is not possible to hold a face-to-face meeting under this procedure, we may conduct the process remotely. We will ensure that you and your representative have access to the necessary technology for participating. Your rights will not be affected, and we will ensure that the procedure remains fair and reasonable.
- 4.5 Adjustments to proceedings - if you have a disability that may have an impact on your ability to participate fully in this procedure, or for example, if you need assistance because English is not your first language, you should let us know by contacting your line manager and HR, who will make appropriate arrangements for you. Also see 3. Right to be accompanied.
- 4.6 Record of meetings - we will take a record of all meetings conducted under this procedure. This will be done either by the person holding the meeting or by an additional person arranged by us to take notes. The record of the meeting will be shared with the employee.

You, or any person acting on your behalf, are not normally permitted to record electronically any meeting that we hold under this procedure. This is to encourage openness and full participation. Any breach of this provision may lead to disciplinary action, which could include dismissal.

In certain limited circumstances, we may permit a meeting to be recorded electronically, for example where it is a reasonable adjustment for an employee with a disability. Where we permit a meeting to be recorded electronically, we will take responsibility for making the recording. Where we intend to record meetings held remotely, we will comply with our data protection obligations and obtain prior consent from all attendees.

- 4.7 Sometimes circumstances prevent parts of this procedure from being followed in full. For example, employees may be too ill to participate in a grievance meeting or a specified

manager may be unavailable to chair the meeting. When this happens, we will do our best to ensure that parties are given a proper opportunity to participate.

- 4.8 We will make every effort to ensure that any meeting we hold under this procedure is scheduled for a time and place that is reasonable and within your normal working hours. You are therefore required to attend the meeting if it is possible for you to do so.
- 4.9 If you are too ill to attend, we will consider re-arranging the meeting to a time when your attendance is possible. We may refer you to Occupational Health to understand your fitness to attend work and participate in this process. However, it is important to ensure that grievance procedures are completed within a reasonable timescale.
- 4.10 If you are unable to attend a hearing within what we consider a reasonable period of time, then we will look at alternative ways of conducting the hearing. This may involve conducting the hearing virtually i.e. via Teams. We reserve the right to proceed with a meeting in your absence when it has not been possible to arrange a meeting that you are able to attend. In that case, we will make every effort to ensure that you are able to make representations in writing or asking a representative or colleague to attend on your behalf.
- 4.11 If your companion/trade union representative is not available to attend the meeting, we will agree to postpone and seek to agree a mutually convenient time. However, any such postponement must be short, and we reserve the right to proceed with the original meeting if no new date can be found that is within ten working days of the scheduled date.
- 4.12 Confidentiality must be maintained to protect the integrity of an investigation and the employee(s) involved. If you fail to maintain confidentiality when you are involved in some way in a disciplinary, grievance or bullying and harassment complaint, then you may face action under our Disciplinary Policy.
- 4.13 Whilst employees can approach a colleague(s) to act as a witness, they should take care not to unduly influence them, in order to protect the interests of everyone involved, and the integrity of an investigation.
- 4.14 We may place information and documents about a complaint raised by or about you on your personnel file. These will be processed in accordance with our Data Protection Policy.

5. The right to be accompanied

- 5.1. You are entitled to be accompanied by a colleague or trade union representative at any grievance or grievance appeal meeting called under this Policy. Informal discussions, mediation or counselling sessions do not attract the right to be accompanied.
- 5.2. If you want to be accompanied, you should tell your line manager as soon as possible who you want to accompany you and whether they are a colleague or trade union official or representative. It is your responsibility to arrange for them to attend. We will not prevent them from attending, but we may rearrange the meeting if their absence from work would

cause operational problems. If you choose a work colleague, they must not be involved in the case or be a close relative.

- 5.3. Your colleague or trade union representative can, if you'd like them to, explain the key points of your grievance at the meeting and you can confer with them during the meetings. However, they must not answer questions put directly to you or try to stop us from asking questions or outlining our views.
- 5.4. You may, at management's discretion, also be allowed to bring a companion who is not a colleague or union representative. This will be considered in circumstances for example such as where your first language is not English, or to help overcome a disability, when you may be allowed to bring a friend or family member, , who is not acting in a legal capacity or involved in the case.

6. Grievance and grievance appeal officers

- 6.1. When we receive a formal grievance from you, a grievance officer will be appointed to investigate your grievance; this may be your line manager unless they are involved in your grievance. The Grievance Officer will, wherever possible, have had no involvement in the subject matter of the grievance. The role of the Grievance Officer usually includes investigating the grievance, holding a grievance hearing with you and communicating the outcome of your grievance.
- 6.2. If you appeal the outcome of a formal grievance, a Head of Service, or a member(s) of the Executive Leadership Team, acting as a Grievance Appeal Officer, will hear your appeal. Wherever possible the Grievance Appeal Officer will have had no prior involvement in the grievance process or the subject matter of the grievance. Their role includes reviewing the background, undertaking any further investigation, holding a grievance appeal hearing with you and communicating the outcome of your grievance appeal in writing.
- 6.3. If you wish to raise any issue regarding an appointed Grievance Officer or Grievance Appeal Officer, or if you are concerned about their actions, then please contact HR to discuss the matter further. We will not normally give credence to a belief by you that a grievance or grievance appeal officer is biased or has a personal animosity towards you unless you have raised it at the very earliest opportunity. The fact that someone does not agree with you, or tests your account by asking probing questions, is not evidence of bias or animosity.

7. Formal grievance

- 7.1. If the matter is serious or you wish to raise your concern formally, you should put your grievance in writing to your line manager; you can use the form at Appendix 1 if you wish. You should keep to the facts and avoid language that is insulting or abusive. If your grievance is against your manager and you feel unable to approach them, you should raise it with another manager, a Head of Service or HR. If we receive a formal grievance from you, we will:
 - a Follow a full and fair procedure

- b Investigate all matters raised
- c Act promptly
- d Keep you regularly updated with the status of the grievance investigation
- e Be mindful of the impact of the grievance and the grievance process on your wellbeing and provide appropriate support as required
- f Not treat you unfavourably for having raised a grievance
- g Retain all documentation collected as part of the grievance process securely, in accordance with our Data Protection Policy.

8. The formal grievance process

We follow a three-stage process when dealing with formal grievances.

8.1. Stage 1: Submission of a written grievance

Put your grievance in writing and send it to your line manager and HR (unless your concern is about them) in which case send it to your/a Head of Service and HR. Your letter/email/form should include the following:

- a What your complaint is – please provide as much specific information as possible.
- b Any evidence you have to support your grievance – this can be sent as an accompanying file or bundle if necessary.
- c What outcome you are hoping to achieve from the grievance process – this is particularly important, as if we don't know what you want, we can't help you achieve it.

Your line manager (or Head of Service/HR) will confirm receipt of your grievance promptly. The Grievance Officer will then investigate the complaint you have raised. How we do this will depend on the nature of your grievance. For example, it may involve a review of documents, or it may involve interviewing you and/or others involved in the complaint. You must cooperate with our investigation, or we will not be able to investigate it properly.

Guidance from Acas on conducting workplace investigations, to be read in conjunction with this policy www.acas.org.uk/acas-guide-to-conducting-workplace-investigations

8.2. Stage 2: Grievance hearing

The Grievance Officer, which may be your line manager (unless they are involved in your grievance), will invite you to a grievance hearing to discuss your grievance. They will usually do this as quickly as possible, although the process may take longer if the complaint is complex. We aim to act without unreasonable delay throughout the grievance process.

You have the right to be accompanied at this meeting by a work colleague or trade union representative (see section 3 for more details).

If you or your chosen companion are unable to attend the meeting at the time arranged, then you should let us know without delay and we will organise an alternative date and time. Unless there is a good reason, we are unlikely to rearrange a meeting more than once. If you do not attend a grievance meeting that we have set up (or rearranged) for you and you do not give us a good reason, we may treat the grievance as withdrawn by you.

At the grievance hearing, the Grievance Officer will discuss your grievance with you, including any desired outcome. A note-taker will usually be present. They may ask you questions and may challenge your perception of events – this is what they need to do to form a clear understanding of the situation and establish the facts.

You and your representative can:

- ask questions.
- ask for specific colleagues to be interviewed.
- ask for any other evidence to support your case to be obtained; or
- call an adjournment to the meeting at any time, for example if you need to discuss the matter with your representative, clarify an issue or seek further advice.

After the grievance hearing, the Grievance Officer is likely to need to complete their investigation. Sometimes this will involve looking at documents or interviewing other people. They may ask you for more information or for another meeting. They may conclude that there is no need for any further investigation.

A designated note-taker will usually be present, for example a member of HR or Democratic or Executive Services and/or we may record the meeting. If we propose to do so, we will let you know in advance. We will let you have copies of any notes taken or recording made.

You may also make notes for your own purposes but please do not covertly record the meeting without our consent, e.g., using your mobile phone, as this suggests that you do not trust our process or the managers conducting the meeting. If you record the meeting covertly, we will normally regard that as serious misconduct. If you have any concerns about the process or the management leading it, you should tell us openly so that we can address your concerns.

The Grievance Officer will decide on the appropriate course of action. This could mean:

- Upholding – they believe that your concerns are valid and will take steps to improve the situation.
- Not upholding – they believe that your concerns are not valid/there is no evidence to support your concerns; or
- Partly upholding - they agree with some parts of your grievance but not all.

You will receive a letter confirming the decision, and who you should raise an appeal with if you are unhappy with their decision.

Whether your grievance has been handled informally or formally, the Grievance Officer will consider the most appropriate option available when considering how to resolve the situation for you.

These options include: -

- an explanation for you as to why certain decisions have been made, to provide you with a better understanding of working practices etc.
- an informal resolution meeting between you and a colleague you have a concern with.
- formal mediation between you and the colleague you have a concern with (everyone involved must agree to this approach).
- re-training/coaching for you or someone else.
- aiming for no contact with the colleague you have a concern with e.g., working different shift patterns or transferring one or both of you.
- disciplinary action (the outcome of which is confidential); or
- ensuring appropriate apologies are received.

You will receive:

- a copy of any notes taken at meetings with you.
- a letter confirming the outcome of your grievance; and
- a report outlining the steps that have been taken to investigate your concerns, the findings of the investigating manager, and their conclusion.

We will seek consent from employees who provide a witness statement or information, and employees should be aware that the information they provide will be shared in the report and provided to the employee and others (for example those chairing / supporting meetings and hearings) as required. This might mean that we need to make some information anonymous before sharing it, for example private information about other people, although we cannot guarantee anonymity.

If the report includes people's details, it should be stored securely with access only allowed when necessary; anyone who has access needs to follow data protection law (UK GDPR) and should be securely disposed of once it's no longer needed or is out of date.

8.3. Stage 3: Appeal

You have the right to appeal any finding made in relation to your grievance. Any appeal should be submitted in writing to the Grievance Officer and HR within ten working days of receiving the grievance outcome letter. In your appeal letter, you should explain clearly why you are appealing and provide us with any additional evidence you would like us to consider as part of your appeal.

We will appoint a Grievance Appeal Officer (a Head of Service or Member(s) of ELT) to deal with your appeal. An appeal hearing will be held with you. We usually aim to arrange an appeal hearing as soon as reasonably practicable, and by no later than 28 days of the submission of your appeal. You have the right to be accompanied at the appeal hearing by a work colleague or trade union representative (see section 5).

Following the appeal meeting, we will carry out any additional investigation which we feel is required. Our final decision will be sent to you in writing. We will try to do this within two weeks of the appeal hearing. You do not have any further right of appeal, and this marks the end of the grievance process.

Where appropriate we may talk privately with any employees involved in the grievance. The grievance outcome and details will remain confidential.

9. Competing or related grievances

- 9.1. Where we receive competing grievances, we will usually follow the full formal process set out above in relation to both. We will not prioritise one over the other. We will keep all information confidential and separate in relation to the two processes.
- 9.2. Where grievances cover similar or related subjects, we may approach all those involved to seek to agree that the grievances can be joined, and a joint meeting held to discuss them. However, this would require the agreement of each person involved. Each person has the right to follow the full process individually if they wish to.

10. Grievances raised during a disciplinary or performance management process

- 10.1. Our approach is driven by the fact that we do not normally want a grievance to delay (or even derail) an ongoing disciplinary or performance management process.
- 10.2. Where a grievance is raised whilst a disciplinary or performance management process is in progress, we may choose any of these three options:
 - a Pause the existing process whilst we investigate the grievance
 - b Deal with the existing process at the same time as the grievance, as part of the same overall process
 - c Deal with the existing process at the same time as the grievance but run two independent processes concurrently

When making our decision on this, we will take into account the most appropriate course of action in each case and the need to act without delay.

11. Temporary changes to the working environment during the grievance process

- 11.1. Most grievance investigations can be conducted while you remain in your usual working environment. However, there will be some situations when we may consider moving you or others to a different work location or role while the investigation is carried out. If there are concerns about employees in a grievance case working together while the grievance is looked into, we will consider what else they can do in the short term. For example, where an employee has said that someone at work is bullying them, we will see whether work schedules can be rearranged temporarily so that the two people do not work together. If we

take this type of action, it is not a punishment but a temporary change while we look into the grievance. We will act reasonably and treat you fairly when considering any temporary change(s).

12. If a crime could have occurred

If the grievance could be a criminal matter (for example, related to an assault), the police might need to be involved. Line Managers should use their own judgement about when to involve the police, in consultation with a Head of Service and Head of OD.

If the police are involved in any issues which we are also investigating, we will not usually delay our internal processes whilst we await the outcome of any decision to charge or criminal prosecution. However, in carrying out a disciplinary investigation, we will exercise caution to ensure that it does not impede police enquiries.

13. Useful links

The following internal policies contain additional information and guidance:

- a Disciplinary Policy
- b Bullying, Harassment & Discrimination Policy
- c Whistleblowing Policy
- d Data Protection Policy

14. Administration of the Grievance Policy

14.1. HR is responsible for the administration of the Grievance Policy. Should you have any feedback, please contact hr@great-yarmouth.gov.uk



URN: 23-104

Report Title: Policy

Report to: Cabinet

Date of meeting: 11th September 2023

Responsible Cabinet Member: Councillor Carl Smith

Responsible Director / Officer: Karen Sly/Sarah Tate

Is this a Key decision? No

Date added to Forward Plan of Key Decisions if a Key Decision: N/A

EXECUTIVE SUMMARY / INTRODUCTION FROM CABINET MEMBER

This report presents the new Bullying, Harassment & Discrimination Policy, following full consultation with Executive Leadership Team (ELT), UNISON and the Joint Consultative Working Group (JCWG).

RECOMMENDATIONS:

That Cabinet:

1. Approves the new Bullying, Harassment & Discrimination Policy and;
2. Gives delegated authority to the Head of Organisational Development to make minor and/or consequential amendments to the Policy for the purpose of keeping it up-to-date, clarifying its content or interpretation, correcting any errors or omissions, updating it in accordance with changes in legislation, and/or caselaw, or with changes in the management structure.

1. Introduction

Currently information about bullying and harassment is contained within the old Grievance Policy. In reviewing the Grievance Policy, this information has been reviewed in line with ACAS guidance and is provided as a separate policy, with the addition of 'discrimination' and also includes information on 'victimisation' to bring it up to date.

As an employer we have a duty of care to do all we can to try to prevent and stop bullying, harassment, discrimination and victimisation happening at work and this policy should help us to achieve this.

Anyone who harasses, victimises or discriminates against someone at work is responsible for their own actions. But as an employer, we can be responsible too – this is called 'vicarious liability'. By law, we must do everything we reasonably can to protect staff from harassment, discrimination and victimisation. These cover:

- employees and workers
- contractors and self-employed people hired to personally do the work
- job applicants

The new policy provides clear information to employees, managers and others about what might constitute bullying or harassment and the steps which they can take to prevent and stop it.

2. Work to Date / Proposal

The policy has been written by HR and has been through the consultation process with ELT, UNISON and JCWG. The policy has been well received, feedback has been positive, and no amendments have been made to the draft following full consultation.

It is proposed that Cabinet approve the policy.

The Head of Organisational Development is seeking delegated authority to make minor and/or consequential amendments to the Policy for the purpose of keeping it up-to-date, clarifying its content or interpretation, correcting any errors or omissions, updating it in accordance with changes in legislation and/or case law, or with changes in the management structure.

3. Impact / Next Steps

Once the policy has been reviewed it will be made available to staff via the Loop and training will be provided as and when required.

4. Financial Implications

None at this stage.

5. Risk Implications

The current policy is out of date and needed revision. The risk of not approving this policy is that we continue to work with an outdated policy which is not fit for purpose.

6. Legal Implications

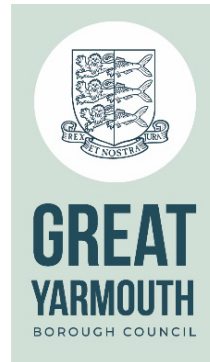
The new policy considers and is compliant with all relevant employment legislation, ACAS guidance and case law.

7. Background Papers

- Current Grievance Policy
- ACAS Code of Practice and guidance
-

Areas of consideration: e.g. does this report raise any of the following issues and if so how have these been considered/mitigated against?

Consultations	Comment
Monitoring Officer Consultation:	Carried out
Section 151 Officer Consultation:	Carried out
Existing Council Policies:	Grievance Policy
Equality Issues/EQIA assessment:	Considered



Bullying, harassment and discrimination policy

Author	HR
Version No.	2
Updated by	HR
Date of update	September 2023
Description of changes to this version	Updated with reference to ACAS, inclusion of discrimination and victimisation and provided as a separate policy, referring to the Grievance Policy.
Document Status	FINAL
Next review due:	September 2026

Bullying, harassment and discrimination Policy

1. Introduction

- 1.1. We are committed to providing a work environment where everyone is treated with dignity and respect. We do not tolerate bullying, harassment, discrimination or victimisation.
- 1.2. This Policy:
 - a Explains the concepts of 'bullying', 'harassment' 'discrimination' and 'victimisation'
 - b Sets out our expected standards of behaviour
 - c Sets out the process you should follow if you have a bullying harassment, discrimination or victimisation complaint
 - d Explains how we will deal with any complaints
- 1.3. This Policy applies to everyone who works for us, including employees, workers, agency workers, contractors, consultants, casual workers, volunteers and interns. It also covers job applicants.
- 1.4. This Policy does not form part of your contract with us. We reserve the right to amend or remove this Policy.

2. What is 'bullying'?

- 2.1. Bullying can be described as unwanted behaviour from a person or group that is one of the following:
 - a Offensive, intimidating, malicious or insulting
 - b An abuse or misuse of power that undermines, humiliates or causes physical or emotional harm
- 2.2. Bullying can take many different forms. Examples of bullying behaviour include:
 - a Spreading malicious rumours about someone
 - b Consistently putting someone down in meetings
 - c Deliberately giving someone a heavier workload than everyone else

- d Excluding someone from team social events
 - e Someone consistently undermining their manager's authority
 - f putting humiliating, offensive or threatening comments or photos on social media
- 2.3. Bullying could involve a pattern of behaviour or a one-off incident. It can be verbal and non-verbal and could happen face-to-face on social media, online, in emails, by phone or in writing. It can happen at work or in other work-related situations and may not always be obvious or noticed by others.
- 2.4. Although bullying is often connected to a power imbalance, that does not mean that it always involves a more senior person bullying a more junior person. It can also be directed at someone more senior than the bully. It may take the form of showing continued disrespect, spreading rumours, refusing to follow instructions or complete tasks, undermining authority, making fun of or mocking the more senior person, doing things to make someone seem unskilled or unable to do their job properly.
- 2.5. Constructive and fair feedback about your behaviour or performance from your manager or colleagues is not bullying. It is part of normal employment and management functions.
- 2.6. Sometimes bullying might be classed as harassment, if it is related to certain 'protected characteristics' under discrimination law (Equality Act 2010).

3. What is 'harassment'?

- 3.1. Under the Equality Act 2010 there are 3 types of harassment:
- sexual harassment, which is unwanted behaviour of a sexual nature
 - harassment related to certain 'protected characteristics' under the Equality Act 2010
 - less favourable treatment as a result of harassment related to sex, sexual harassment or gender reassignment
- 3.2. When bullying or unwanted behaviour is about certain protected characteristics under discrimination law, then we refer to it as 'harassment'. The protected characteristics which apply are:
- a Sex
 - b Sexual orientation
 - c Race
 - d Religion or belief
 - e Gender reassignment
 - f Age

g Disability

3.3. The law on harassment does not cover the protected characteristics of:

- marriage and civil partnership
- pregnancy and maternity

If someone experiences worse treatment because of having one of these protected characteristics, they might have been discriminated against.

3.4. Unwanted behaviour can include a serious one-off incident, repeated behaviour, spoken or written words, imagery, graffiti, gestures, mimicry, jokes, pranks, physical behaviour that affects the person. Behaviour can still be harassment even if the person being harassed does not complain or ask for it to stop.

3.5. We define harassment as unwanted behaviour which violated the person's dignity or created an intimidating, hostile, humiliating, degrading or offensive environment for the person. Name-calling, lewd comments, excluding colleagues, making insensitive jokes and displaying pornographic material are all examples of harassment.

3.6. It can be harassment if the behaviour has one of these effects even if it was not intended or if the behaviour was intended to have one of these effects even if it did not have that effect.

3.7. The law on harassment also applies if a person is harassed because they are thought to have a certain protected characteristic when they do not, is harassed because they are linked to someone with a certain protected characteristic or they witness harassment, if what they have seen has violated their dignity or created an intimidating, hostile, degrading, humiliating or offensive working environment for them.

4. Discrimination

By law, discrimination is when someone is treated unfairly because of any of the following 'protected characteristics':

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

For example, if someone is turned down for a job or promotion because of their sexual orientation, it is likely to be discrimination.

5. Victimisation

Victimisation is when someone is treated unfairly because they made or supported a complaint to do with a 'protected characteristic', or someone thinks they did or might do.

6. Our position

- 6.1. We have a responsibility to look after the wellbeing of our employees. We will not tolerate bullying, harassment, discrimination or victimisation by anyone working for us.
- 6.2. Anyone who harasses, victimises or discriminates against someone at work is responsible for their own actions. We expect you to treat people with respect and dignity in all communications you have with them, whether face-to-face, over the phone or in writing.
- 6.3. As a Council, we are also guided by our Agreed Behaviours. These Agreed Behaviours impact the way we view workplace behaviours and our expectations of you.
- 6.4. We have clear and universal standards of workplace conduct, including:
 - a Bad and/or offensive language or gestures of any nature should not be used in the workplace, whether directed at a particular person or not.
 - b Inappropriate images or other content should not be viewed or shared at work.
 - c You should always think before making a joke in the workplace – could anyone be upset or offended by what you say?
 - d You should never invade colleagues' personal space.
 - e You should not exclude colleagues unfairly from discussions or events.
 - f You should not use crude humour.
 - g You should not use an aggressive tone or aggressive language when speaking with colleagues.
 - h You should not be physically aggressive towards colleagues.
 - i You should not gossip about your colleagues.

7. If you think you are being bullied, harassed or discriminated against

- 7.1. It may be best to raise the matter informally first as informal resolution is usually quicker and less stressful for everyone. Dealing with it informally means taking steps to resolve the complaint without using a formal procedure like a grievance. You should speak to your line manager in the first instance unless your line manager is the person bullying you, when you can talk to someone else, for example another manager or HR, and decide the best approach together.

- 7.2. Sometimes, what seems like bullying may not be. You could consider talking it through with someone you trust. Talking it through can sometimes help you see the situation in a different way.
- 7.3. In some cases, the person you think has bullied you might not realise the impact of their behaviour. If you believe that you are being bullied or harassed, then you should consider whether it would be appropriate to discuss the matter informally with the person who is bullying or harassing you. Sometimes, people do not realise how their actions are impacting others and it might be that an informal discussion can resolve the issue and reset behaviours. You could talk with them, if you feel you can. If you decide to talk to them, you should explain what they did and how it made you feel, stay calm, be firm but not aggressive.
- 7.4. If you do not feel comfortable talking with the person directly, you could put it in an email, ask for support from a trade union representative if you are a trade union member, or talk with your manager or someone else at work you feel comfortable with.
- 7.5 You could keep a diary or record of the bullying including what happened, how it made you feel, dates and times it happened, any evidence, for example emails or screenshots of social media posts and names of witnesses, if there are any.
- 7.6 In some circumstances, your manager might be able to resolve the complaint informally by talking privately with you and the people involved.

To take this approach, they would usually start by talking the issue through again with you, including how you'd like to see it resolved. If your complaint is about another employee's behaviour, then they would talk separately with the person you've complained about. Depending on how the talks go, it may be possible to resolve the complaint this way.

Your manager might discuss different ways of resolving your complaint informally with you, including, if you agree, trying mediation, which involves an independent impartial person helping both sides to find a solution. Mediation is a voluntary process which involves an independent, impartial person working with both sides to find a solution. It can help to diffuse tension and avoid issues escalating. We will use mediation only where you, and the other individuals involved, agree to do so. Any agreement comes from those in dispute, not from the mediator; the mediator is not there to judge or tell those involved what they should do.

Mediators may be employees trained and accredited by an external mediation service who act as internal mediators in addition to their day jobs or they may be from an external mediation provider. The mediator will discuss your alleged conduct with everyone involved and seek to facilitate a resolution.

7. Raising a formal complaint

- 8.1. If you have tried to resolve things informally or a direct approach has not worked, or you feel unable to raise it informally or the situation is too serious to be resolved informally then you

should refer to our Grievance Policy, which sets out a clear process for raising complaints (both informally with an appropriate manager, and formally, if you prefer).

- 8.2. We may, if we think it necessary, temporarily separate you and the person you are complaining about whilst we investigate your complaint. This is not a prejudgment of your complaint. It is simply a way to stop things from getting worse during the investigation. We will not normally move the person who made the complaint unless they ask to be moved.
- 8.3. Sometimes it is necessary to suspend an employee(s); we will explore other options before doing so.
- 8.4. If you notice behaviour of others which may be in breach of this Policy, then you should first consider whether it is appropriate to challenge the behaviour yourself. Only do so if you feel comfortable. If you don't feel comfortable, or a direct approach has not worked, then please report the matter to your Line Manager who will investigate.
- 8.5. If we decide that your complaint is not upheld, we will always tell you why in accordance with our Grievance Policy. Regardless of the formal outcome, we will consider ways of improving your relationship with your colleague[s] and may, for example, suggest mediation or offer training.
- 8.6. Anyone who raises an allegation of bullying or harassment with us in good faith will not be subjected to any detriment as a result.

9. Supporting employees

- 9.1. It is likely to be stressful and distressing for someone to experience bullying, harassment, discrimination or victimisation or witness someone else being bullied, harassed, victimised or discriminated against or to be accused of bullying, harassment, discrimination or victimisation
- 9.2. Managers should consider their employee's wellbeing, offer them support while the complaint is being handled and afterwards and inform of the support that is available to them, in case they need it, including:
 - counselling through our employee assistance programme (EAP), Norfolk Support Line, for example if they are feeling stressed. GYBC employees have free confidential access 24/7, 365 days a year to the Norfolk Support Line, providing a range of information and signposting for practical support for problems at work and at home. To access the service call 0800 169 7676 or go to the Norfolk Support Line website. [Norfolk Support Line](#)
 - a referral to Occupational Health, which should be made via HR
 - trade union representatives, who can offer advice
 - specialist external organisations and charities that provide bullying, harassment and discrimination support

10. Confidentiality

- 10.1. To protect the interests of the person complained about, the person who has raised the complaint and any others who may be involved as witnesses or otherwise, confidentiality will be maintained during any investigation process as far as is possible.

10.2. If you fail to maintain confidentiality when you are involved in some way in a bullying and harassment complaint, then you may face action under our Disciplinary Policy.

10.3. We may place information and documents about a complaint raised by or about you on your personnel file. These will be processed in accordance with our Data Protection Policy.

11. Breaches of this Policy

11.1. Any breaches of this Policy will be handled under our Disciplinary Policy and may result in action including dismissal for gross misconduct or the termination of your contract with us.

12. Internal policies

In addition to this policy, the following internal policies contain additional information:

- a Grievance Policy
- b Disciplinary Policy
- c Data Protection Policy

13. Administration of the Bullying, Harassment & Discrimination Policy

13.1. HR is responsible for the administration of the Bullying, Harassment & Discrimination Policy. Should you have any feedback, please contact hr@great-yarmouth.gov.uk.

URN: 23-105

Report Title: Menopause Policy

Report to: Cabinet

Date of meeting: 11th September 2023

Responsible Cabinet Member: Councillor Carl Smith

Responsible Director / Officer: Karen Sly/Sarah Tate

Is this a Key decision? No

Date added to Forward Plan of Key Decisions if a Key Decision: N/a

EXECUTIVE SUMMARY / INTRODUCTION FROM CABINET MEMBER

This report presents the new Menopause Policy, following full consultation with Executive Leadership Team (ELT), UNISON and the Joint Consultative Working Group (JCWG).

RECOMMENDATIONS:

That Cabinet:

1. Approves the new Menopause Policy and;
2. Gives delegated authority to the Head of Organisational Development to make minor and/or consequential amendments to the Policy for the purpose of keeping it up-to-date, clarifying its content or interpretation, correcting any errors or omissions, updating it in accordance with changes in legislation, and/or caselaw, or with changes in the management structure.

1. Introduction

Every woman and trans and non-binary people will go through the menopause and around one in five will experience severe menopausal symptoms that are likely to affect them, and their colleagues, in the workplace.

At the Council, 62% of staff are female, and of those, 71% are of menopausal age. Currently 43% of our total workforce are of menopausal age and could suffer with symptoms which may affect them in the workplace.

Introducing a policy and educating managers is one of the best ways organisations can support menopause at work.

Menopausal women are demographically the fastest growing group of workers in the UK. Despite it being a natural life process, the menopause – and how menopause at work can affect employees – is rarely discussed.

Some of the facts sourced by relevant organisations are as follows:

- 1 in 10 women leave work due to their menopausal symptoms (source – Fawcett Society, Menopause and the Workplace, 2022)
- 81% suggest menopause has an impact on their performance at work (source – Talking Menopause Employee Surveys 2021)
- 98% want to see menopause normalised in the workplace (source – Talking Menopause Surveys 2021)
- The global workforce is becoming older, with a higher number of those directly experiencing symptoms in employment. This means more individuals than ever before are going through menopause at work
- 91% of Talking Menopause Survey* respondents suggested little or no acknowledgement of menopause in their organisations
- 81% of menopausal employees* suggested that menopause had a moderate to extremely high impact on their performance at work. *Talking Menopause Client Surveys 2021
- Approximately 14 million workdays are lost in the UK annually due to menopausal symptoms
- The impact of the menopause affects everyone - regardless of age, gender or status

ACAS recommends that employers have a menopause policy and states that:

- Managing the effects of the menopause at work is important for both employers and their staff.
- It's important for employers to be aware of all of the people who might go through the menopause and menopause symptoms and to support them all equally.
- the menopause is a health and wellbeing concern for staff and needs to be handled sensitively.
- It's important for employers to be aware that the menopause and its symptoms can affect staff at any time. Being aware of this can help staff continue to do their job confidently and effectively.
- The menopause can also have an impact on those supporting someone going through the menopause, for example a relative, partner, colleague or carer.
- Although the menopause will only be experienced by women and other people who have a menstrual cycle, men should also be included in conversations and training. This is because they might be supporting others going through it.
- Supporting and creating a positive and open environment between an employer and someone affected by the menopause can help prevent the person from:
 - losing confidence in their skills and abilities
 - feeling like they need to take time off work and hide the reasons for it
 - having increased mental health conditions such as stress, anxiety and depression

If an employee or worker is put at a disadvantage or treated less favourably because of their menopause symptoms, this could be discriminatory if connected to a protected characteristic.

2. Work to Date / Proposal

Although this policy is new, the Council have been supporting their staff regarding the menopause for some time. Managers have previously had training on the menopause and MENO Talk is a forum which provides a supportive and confidential environment in which staff can come together to talk about the effects of the menopause - whether that is their own personal experience or whether they are supporting a family member going through it. This forum has been running since 2019.

3. Impact / Next Steps

Once the policy has been approved it will be made available to staff via the Loop and training will be provided as and when required.

Further work will be undertaken to provide refresher training to all staff as well as continued MENO Talk sessions and consideration of menopause and wellbeing champions to be a point of contact for staff who may not feel able to speak to their manager but would feel more comfortable with support from colleagues who are going through similar things.

4. Financial Implications

None at this stage for the policy but there may be training costs as we roll out more training to staff.

5. Risk Implications

The risks of not introducing a policy and training for managers and others include a higher level of absence, poor performance, increase in leavers and potential claims.

6. Legal Implications

ACAS states that employers should make sure they have steps, procedures and support in place to help staff affected by the menopause.

The relevant law which relates to the menopause, includes the:

- Equality Act 2010, which protects workers against discrimination
- Health and Safety at Work Act 1974, which says an employer must, where reasonably practical, ensure everyone's health, safety and welfare at work

The menopause is not a specific protected characteristic under the Equality Act 2010, but if an employee or worker is put at a disadvantage and treated less favourably because of their menopause symptoms, this could be discrimination if related to a protected characteristic, for example:

- age
- disability
- gender reassignment
- sex

Having a policy and training for managers and others, should help to reduce the risk of claims for discrimination due to managers and others not being informed/aware.

The policy considers and is compliant with all relevant employment legislation, ACAS guidance and case law.

Areas of consideration: e.g. does this report raise any of the following issues and if so how have these been considered/mitigated against?

Consultations	Comment
Monitoring Officer Consultation:	Considered
Section 151 Officer Consultation:	Considered
Existing Council Policies:	Sickness Management Policy
Equality Issues/EQIA assessment:	Considered



Menopause Policy

Author	HR
Version No.	1
Updated by	HR
Date of update	September 2023
Description of changes to this version	N/a - new policy
Document Status	Draft
Next review due:	September 2026

MENOPAUSE POLICY

1.0 Introduction

- The menopause is something that we are all affected by, either directly or indirectly. We want to help you to understand what the menopause is and how it might affect people. We want to remove any stigma associated with the menopause. This is the best way of making sure that everyone impacted by it feels supported and understood.
- This Policy:
 - a Sets out what the menopause is
 - b Explains how it might affect people, both directly and indirectly
 - c Provides a clear explanation of the support networks in place across our business to help those who may need support on this issue
 - d Sets out expected conduct and behaviour towards colleagues who are affected, directly or indirectly, by the menopause
- Managing the effects of the menopause at work is important for both managers and their staff.
- For those experiencing symptoms it can be a difficult and stressful time. Everyone will experience the menopause differently and for some, symptoms can be quite severe and can affect people both physically and mentally.
- The menopause is a natural stage of life which affects most women and other people who have a menstrual cycle. This can include:
 - trans people – 'trans' is an umbrella term used to describe people whose gender is not the same as the sex they were assigned at birth
 - people with 'variations of sex development' (VSD) – some people might prefer to identify as intersex or use the term 'differences in sex development' (DSD)
- Please note that this Policy does not form part of your contract. We reserve the right to amend or remove this Policy.
- This Policy applies to all employees, contractors, agency workers, casual workers, interns and volunteers working for us.

2. What is the menopause?

- Menopause occurs when a woman stops having menstrual periods. It is triggered by a reduction in the production of the hormone oestrogen. Menopause can affect women of all ages, and although it usually occurs between 45 and 55 years old, women can experience an early menopause at any time before this. However, the timing and symptoms are different for everyone.
- It's not only those who identify as women who will experience menopause. Some transgender men, non-binary people and intersex people or people with variations in sex characteristics may also experience menopause. In this Policy, reference to a specific gender should be taken to include all genders.
- There are 3 different stages to the menopause:

- perimenopause - marks the start of menopausal symptoms and may last several years.
- menopause
- post menopause - the time after a woman experiences her last period.
- Some people might also experience early menopause or go through medical menopause earlier in their lives. These types of menopause can be medically complicated, and managers should consider this when supporting their staff.
- All stages and types of the menopause are different, and symptoms can vary from person to person, and range from very mild to severe.

3. What are the common symptoms of the menopause?

- The menopause affects each person differently. Three out of four women will have symptoms and one out of four women will have severe symptoms. Symptoms are both physical and psychological in nature and can change over time.
- Common symptoms include:
 - a Poor concentration
 - b Poor memory
 - c Lack of confidence
 - d Brain fog
 - e Hot flushes
 - f Headaches
 - g Dry eyes
 - h Anxiety
 - i Low mood
 - j Panic attacks
 - k Poor sleep
 - l Weight gain
 - m Fatigue
 - n Joint and muscle pain

4. The role of managers

- We are committed to supporting you through the menopause. This process starts with creating an environment where discussion about the menopause isn't taboo – it is out in the open and understood. We do not want our employees to feel embarrassed or awkward.
- Managers should be aware that the menopause and its symptoms can affect employees at any time. Recognising this, and the symptoms of the menopause, is vital to treating an affected employee fairly. It can explain certain behaviours that you might otherwise put down to a bad attitude or poor performance.
- We will give managers specific training in handling all menopause-related issues sensitively and with confidence. This is not just about legal compliance; good support at work leads to happier and better-performing employees who have valuable skills and experience. If you are a manager and think that someone who reports to you may be going through the menopause and it is affecting their performance, if you're not sure what to do, please contact HR. Women who don't get the right support can lose confidence in their ability to do their job (some even decide to leave) and may find that their mental health suffers.

5. Support through the menopause

We know that the menopause is a very personal matter. We might ask how you are, in general terms. You can then decide whether to talk to us about the menopause or not. We encourage you to do so because we want to support you.

We have a four-step approach that applies to discussions around the menopause and the action we will take.

- Step 1
 - a You could start by speaking with your GP or medical specialist about your menopause-related concerns and the help and advice available to you.
 - b You could also talk to your line manager, if you feel comfortable doing that, or to HR.
 - c If for any reason you are unable to approach your line manager, you can speak to another manager, of the same sex if you prefer.
- Step 2
 - a Meet with your line manager. All managers have been, or will be, trained in understanding and helping employees through the menopause. You should expect to be able to have a private, friendly, honest and constructive conversation.
 - We will discuss with you any ideas that could make things easier for you.
 - Your manager will conduct a risk assessment to include identification of any particular areas that are a detriment to individuals going through the menopause and ensure that menopause symptoms are not made worse by the workplace or its work practices and make changes to help staff manage their symptoms when doing their job; risk assessments should be reviewed regularly
 - b Adjustments will depend on different factors, but things you could ask us to consider include:
 - Modifying your uniform/the dress code
 - Allowing you more frequent breaks
 - Extending deadlines
 - Agreeing a flexible working arrangement (a change in working hours or homeworking, for example). We recognise that individuals may wish to work flexibly on a temporary (rather than permanent) basis; if you feel you would benefit from a temporary change to your working arrangements on an ad hoc basis speak to your manager. We will try to facilitate temporary flexible working arrangements wherever this is possible and will continue to review these to ensure that they meet your needs.
 - Altering some aspects of your duties
 - c Your conversation with your line manager will be confidential. They will probably need to discuss issues and possible solutions with others, including the Head of Service, other managers, HR, occupational health.
 - d We will work hard to balance your needs with those of your colleagues; however, on occasions, we may not be able to find a solution that works for everyone.

- e We will keep notes of the things we discuss and will comply with our data protection responsibilities in respect of the information that passes between us, in line with our Data Protection Policy.
- f After your initial meeting with your line manager, and periodically after that, we may carry out health and safety risk assessments and/or seek advice from occupational health.
- Step 3
 - a Taking account of any specialist advice, we will agree with you the adjustments that we will make.
 - b We will meet with you to make sure that the adjustments are working for you and us. If any modifications are needed, or if anything new needs to be put in place, we will discuss that with you.
- Step 4
 - a We will meet with you on an ongoing basis to check that your symptoms are being managed effectively.
 - b You may find that your symptoms change over time. Please tell us if that happens, so that we can look at making further or alternative adjustments. Once your symptoms pass, we expect you to tell us, and we may discuss with you removing the adjustments in place.
 - c We may need to consult with occupational health/your doctor at various points to make sure everything is being done that should be done.
- There is no expectation on you to work if you are unwell, including because of menopausal symptoms. If you are sick and unable to work, you should follow the procedure set out in our Sickness Management Policy. If you require time off to attend medical appointments related to the menopause you should speak to your line manager.
- We are aware that you may be indirectly affected by the menopause. It may directly affect a loved one or family member, and this may cause concern or distress. We are committed to supporting you too. We urge you to talk to your line manager or a member of HR so we can discuss how we might best support you.

6. Our expectations of our staff

- We may not be able to tell you about any menopause-related issues that a particular colleague is experiencing. We need you to accept that and respect their privacy.
- Employees must treat each other fairly. Any unfavourable treatment, harassment, teasing or inappropriate comments in relation to the menopause or a colleague's symptoms could constitute age, disability or sex discrimination. You are expected to treat each other with respect and compassion. We have a zero-tolerance policy on bullying, harassment, discrimination and victimisation (please see our Bullying, Harassment & Discrimination Policy for more information).
- If you treat a colleague badly (including making unwanted comments or jokes) because of their menopause symptoms, you could be disciplined.

7. Employee assistance programme

Help and support is also available through our employee assistance programme (EAP), provided by Norfolk Support Line. You can use our EAP to speak to an independent adviser on a confidential basis about any issue that is troubling you. To access the service call 0800 169 7676, or for further information go to the Norfolk Support Line website [Norfolk Support Line](#)

8. Useful links and contacts

The following internal policies contain additional information and guidance

- a Disciplinary Policy
- b Grievance Policy
- c Flexible Working Policy
- d Equal Opportunities Policy
- e Bullying & Harassment Policy
- f Data Protection Policy
- g Sickness Management Policy

9. External sources of help

There are various web-based resources and organisations that provide help and support on the menopause, including:

- <https://www.nhs.uk/conditions/menopause>
- <https://www.themenopausecharity.org>
- [Menopause matters](#), which provides information about the menopause, menopausal symptoms and treatment options;
- the [Daisy Network](#) charity, which provides support for people experiencing premature menopause or premature ovarian insufficiency; and
- the [Menopause Café](#), which provides information about events where strangers gather to eat cake, drink tea and discuss the menopause.

10. Administration of the Menopause Policy

HR is responsible for the administration of the Menopause Policy. Should you have any feedback, please contact HR@great-yarmouth.gov.uk