

Appendix 1

Grievance Policy



Walsall Council

Version Control

Document title	Grievance Policy		
Owner	Human Resources	Status	Draft
Version	8.0	Approved on	TBC
Effective from	TBC	Review date	TBC
Last updated	07/10/2019	Last updated by	HR Strategy and Planning
Purpose	To provide a framework within which grievances can be resolved swiftly and at the lowest possible level ensuring issues are dealt with in a fair, consistent and effective manner.		

This policy links to:

- Corporate Plan
- Walsall Proud Programme
- Appeals Policy
- Sickness Absence Policy
- Confidential Reporting (Whistleblowing) Policy
- Redundancy Policy
- Organisational Change Management Policy
- Collective Grievance Policy
- Dignity At Work Policy
- Workforce Strategy
- Behaviour & Standards Framework
- Equality and Diversity Protocol
- Job Evaluation and Grading Policy
- Mediation Guidance
- Performance & Ill Health Capability Policy
- Disciplinary Policy
- Code of Conduct for Employees
- Grievance Guidance

This list is not exhaustive.

For further advice or guidance on this policy, or if you would like this information in another language or format please contact:

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1.0 Introduction

- 1.1 Walsall Council is PROUD. We are proud of our past, our present and for our future. The council is committed to reducing inequalities and ensuring all potential is maximised and its employment policies, procedures and guidelines are designed to support this vision and deliver the council's priorities.
- 1.2 The council is committed to creating an environment that provides opportunities for all individuals and communities to fulfil their potential and this policy provides a framework in which employees will be supported to deliver the council's priorities in line with the council's expected behaviours and values; professionalism; leadership; accountability; transparency and ethical.
- 1.3 The council's values and behaviours will be at the core of everything the council deliver and through a culture of continuous improvement the council will increase performance, efficiency and champion the design of services to meet the needs of customers. As a digital by design council, employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment. The council is committed to technological investment to deliver transformation in order to improve the efficiency and effectiveness of its services, both internally and externally.
- 1.4 This policy framework promotes the council's strategic priority of internal focus ensuring all council services are effective and efficient and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.
- 1.5 The council believes that all employees should be treated fairly and with respect and recognises that from time to time employees may wish to raise issues regarding their employer or employment. Whilst line managers will be able to deal with most concerns during the course of their normal day to day management, when this is not possible or does not happen employees are able to raise a grievance under this policy.
- 1.6 The purpose of this policy is to provide a framework within which grievances can be resolved swiftly and at the lowest possible level ensuring issues are dealt with in a fair, consistent and effective manner. The aim is to help employees resolve issues in the workplace and resolution remains the focus of this policy.
- 1.7 Council operates a separate dignity at work policy to raise issues relating to working relationships and cover any situations of alleged bullying and harassment.

2.0 Scope

- 2.1 This policy applies to all council employees including Chief Officers;

2.2 With the exception of;

2.2.1 School-based employees/workers where the Governing Body has delegated authority and for whom separate arrangements apply.

2.3 This policy does not apply to contractors, consultants or any self-employed individuals working for the council.

2.4 This policy does apply to casual workers and agency workers, although agency workers should raise any concerns in the first instance directly with the agency.

2.5 There are separate arrangements for dealing with grievances raised by employees against the Chief Executive, as well as procedures for dealing with grievances raised by the Chief Executive. In these circumstances the Council will adopt the JNC Local Authority Chief Executive Handbook model procedure.

2.6 Some matters relating to employment do not fall within the scope of this Policy and are dealt with under separate arrangements. Out of scope of the Grievance Policy are the following;

- Use of or decisions made under the disciplinary policy, sickness absence policy, performance and ill health capability policy or the probation policy – issues raised in relation to any of these policies should be addressed through the hearing process of those policies or the council's formal appeals policy;
- Use of or decisions made under the redundancy policy or the organisational change management policy – issues raised in relation to any of these policies should be addressed through the formal change consultation process or the council's formal appeals policy;
- Use of or decisions made under the right to request flexible working policy – issues raised in relation to this policy should be addressed through the appeal process contained within the specific policy;
- Use of or decisions made under the recruitment and selection policy – issues raised in relation to this policy should be addressed through the complaints process contained within the specific policy;
- Any matters relating to pay and grading or job evaluation including levels of pay remuneration, applications for grading, re-evaluation requests and job evaluation outcomes/appeals – should be dealt with through the job evaluation and grading process (policy) and the separate appeals policy for job evaluation;
- Any matters relating to actions or decisions that are of a statutory nature;
- Any outcomes that are requested that are not achievable as an outcome of a grievance nor are they decisions made by the requester e.g. where the desired outcome is management to be dismissed, in these cases the grievance maybe valid but the desired outcome would need to be amended;
- Allegations of serious health and safety issues, unethical conduct, conduct that is an offence, fraud, corruption or financial malpractice - such issues

should be addressed through the confidential reporting (whistleblowing) policy and/or disciplinary policy;

- Payroll matters affecting income tax, national insurance, pension, etc. - should be addressed directly to Payroll, except where the collective grievance relates to the standard or provision of the payroll service rather than the nature of the payroll issue;
- Grievances raised by employees against Elected Members will be dealt with as set out in the council's constitution;
- Any matters that are the subject of collective negotiation or consultation with trade union colleagues are out of the scope of this policy.
- Any collective grievance should be raised using the council's collective grievance policy.

3.0 Principles

- 3.1 This policy enables employees to raise concerns that they may have about a wide range of issues including the treatment they have received or any aspect of their work including allocation of work, career development opportunities or the working environment or conditions.
- 3.2 The grievance must be raised within three months of the incident or action giving rise to it in order for timely address and resolution. Any grievance raised outside of that time limit will not normally be considered. Issues raised under this policy will be dealt with promptly and with no unreasonable delay (by any involved parties) to grievance meetings, decisions or confirmations of those decisions.
- 3.3 Any grievance must be raised only by an employee or ex-employee (subject to the time limits above). Criticisms of individuals or of the council through for example, exit questionnaires or interviews will not automatically be considered as a formal grievance, however if the matter is formally considered in accordance with this policy, the employee will be informed of the outcome even if this is determined after they have left the council's employment.
- 3.4 Collective or group grievances will be considered in accordance with the collective grievance policy.
- 3.5 Repeat grievances will not be reconsidered if the same or similar matter has previously been raised and dealt with under this policy.
- 3.6 The council reserves the right not to pursue any grievance which it reasonably believes to be repetitive, frivolous, vexatious or malicious. Managers should consult HR in such cases.
- 3.7 Where it is believed that a grievance has been submitted in bad faith to make deliberately false accusations or as a form of bullying, harassment or intimidation (towards management or work colleagues), then the matter will be progressed further and will be managed under the council's disciplinary policy.

- 3.8 At any stage in the policy, investigations may result in it being appropriate to invoke other alternative policies such as the disciplinary policy or performance policy where for example, the grievance has raised bullying/harassment concerns, capability issues or alleged misconduct.
- 3.9 Where grievance matters are related to and/or overlap with other ongoing or commenced employment procedures (e.g. organisational change management, performance, disciplinary or sickness absence etc.), the progression of such cases will be made at managements discretion as it may be appropriate to deal with both issues concurrently or alternatively wait for a process to be exhausted before another continues / commences. This will be a decision for the manager.
- 3.10 Consideration will be given within this process to any reasonable adjustments required in accordance with the Equality Act to enable employees to fully participate.
- 3.11 The focus of this policy is to provide a mechanism where concerns can be raised and a satisfactory resolution achieved, bearing this in mind there are two stages to this procedure, an informal stage and a subsequent formal stage. All attempts should be made to resolve issues at the informal stage (at the lowest possible level) by all relevant parties in the first instance.
- 3.12 At the formal stage of the procedure employees shall be given at least 5 working days written notice of formal meetings and are entitled to be accompanied at these meetings by their recognised trade union representative or a Walsall Council work colleague.
- 3.13 There is no right to be accompanied at the informal stage of this procedure.
- 3.14 Concerns raised during this procedure will be shared at the earliest appropriate opportunity with other involved parties (e.g. the subject of the grievance) to ensure open and transparent communication and promote active resolution. In certain circumstances where appropriate the employer may withhold some information if for example the employer believes there to be a risk of intimidation or harassment.
- 3.15 At any point in the grievance process the manager may choose to recommend mediation where it is felt this would be beneficial to help resolve any matters raised under the grievance policy. Mediation could take place (if appropriate) during the informal or formal stages of the grievance procedure or subsequently as a management recommendation following a grievance outcome. Mediation can only be considered where all parties agree to partake in the process. (HR will make mediation arrangements on request however the cost of mediation will be funded by the respective service areas).
- 3.16 The council recognises that a formal grievance procedure can be a stressful and upsetting experience for all parties involved. Everyone involved in the process is entitled to be treated calmly and with respect. The council will not tolerate

abusive or insulting behaviour from anyone taking part in or conducting grievance procedures and will treat any such behaviour as misconduct under the disciplinary policy.

- 3.17 Employees are reminded of the council's confidential (counselling) Employee Assistance Programme that is available to provide support and advice to any employee involved in a grievance matter. Details of which can be found on the HR intranet pages.
- 3.18 The council processes personal data collected during informal complaints and the formal grievance procedure in accordance with its information governance policies. In particular, data collected as part of informal complaints and the grievance procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of responding to the complaints or conducting the grievance procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's data protection arrangements immediately. It may also constitute a disciplinary offence, which will be dealt with under the disciplinary policy. Managers will retain their own notes relating to any informal procedure and HR will retain records on any formal grievance procedure or appeal.
- 3.19 Any matters discussed as part of a grievance process including minutes and witness statements should be kept confidential and only those directly involved in the process will be advised of any details relating to the case.
- 3.20 This policy and accompanying procedure is underpinned by and should be read in conjunction with the grievance guidance which offers further advice and support to employees and managers in the implementation of this policy.
- 3.21 A summary of the level of suitable appropriate managers to consider grievances dependent upon the level of employee raising the grievance is detailed at Appendix 1.
- 3.22 A copy of the grievance procedure flowchart is available at Appendix 2.

4.0 Accountabilities

- 4.1 Managers are accountable for the following;
- Applying this policy and procedure consistently, fairly and objectively in accordance with the council's vision and purpose and clearly demonstrate the council's management behaviours and values, seeking further advice and guidance from HR where necessary;
 - Act on any complaints or grievances brought to their attention in a timely manner;
 - Commit to engaging with the policy to actively encourage resolution at the earliest possible opportunity;
 - Ensuring that employees are aware of their responsibilities in accordance with this policy.

4.2 Employees are accountable for the following;

- All employees should support the delivery of the council's vision and purpose, clearly demonstrating the council's behaviours and values;
- Actively engage in employment practices and processes in which they are involved and ensure they understand this procedure, seeking further advice and guidance from managers where necessary;
- Raise any concerns as soon as possible with their line manager in the first instance and take responsibility for actively being part of the resolution or seeking to find a resolution;
- Comply with the requirements of this policy and procedure.

5.0 Procedure

5.1 Informal stage

- 5.1.1 Where an employee has a concern or issue regarding their employment they should initially raise the matter with their immediate line manager. Employees should use the grievance form, to detail the basis of the grievance/issue indicating that they would like the matter considering as an (informal) grievance, they should provide as much relevant information as possible, and must indicate the required outcome/resolution they are seeking. In the first instance all grievances (subject to 5.1.3 below) will be reviewed informally by the line manager to assess the matter and seek to reach a resolution/provide a response.
- 5.1.2 The immediate line manager and employee should meet within 5 working days or as soon as is reasonable practical to discuss the matter and the manager should take notes. The notes must include the date the issue was raised, the date of the meeting, the nature of the grievance, any advice given and the outcome (which may follow an adjournment of the meeting for the manager to conduct a preliminary investigation/fact find or hold other relevant meetings).
- 5.1.3 Where employees feel unable to raise the matter with their immediate line manager (because they are the subject of it) then the employee should raise the matter with their manager's line manager, who will seek to resolve the matter informally as above.
- 5.1.4 All attempts should be made (by all parties) to resolve the matter at the informal stage in the first instance, if the matter remains unresolved the employee may then choose to raise a formal grievance under this policy.

5.2 Formal stage

- 5.2.1 Where informal discussion(s) or response has not resolved the grievance and the employee remains dissatisfied they may raise their grievance formally and should do this by fully completing the grievance form.

- 5.2.2 The grievance form must include sufficient explanation of the basis for the grievance, what actions the employee has taken so far to resolve the matter, who has considered the matter informally and what was the response provided at the informal stage and what outcome is sought to satisfactorily resolve the issue at the formal stage.
- 5.2.3 The immediate line manager (or next tier line manager, in cases where the immediate line manager is the subject of the grievance) will acknowledge receipt of the grievance and convene a formal grievance meeting without undue delay and normally within 10 working days. Where this is not possible due to the nature of the grievance, level of further investigation required or due to organisational reasons, the employee will be made aware of the delay and provided with a date by which they can expect an update which should not unreasonably delay the process.
- 5.2.4 The purpose of this meeting is for the employee to explain the circumstances of the grievance, presenting any relevant information/evidence and to state how they would like the issue to be resolved.
- 5.2.5 The manager considering the matter and employee will seek to resolve the grievance at this meeting where ever possible. It may be necessary to adjourn the meeting for further investigation and/or conducting other necessary meetings before either reconvening and/or providing a response to the employee.
- 5.2.6 Possible outcomes of the formal grievance meeting may include;
- The manager **upholding** the grievance.
 - The manager **not upholding** the grievance.
 - The manager **part upholding** the grievance (depending on the nature and complexity)
 - The manager may adjourn the meeting and **initiate an investigation** (see 5.2.7 below) before reconvening and/or providing the grievance outcome.

Any confirmed outcome may be accompanied by specified management recommendations which may include mediation (if not already attempted at an earlier stage).

- 5.2.7 The manager should confirm the outcome of the grievance in writing usually with 5 working days of the decision being made and should detail the employees right of appeal. The manager should also inform the subject of the grievance of the outcome (if applicable). If the manager recommends any action against the subject of the grievance, this will be communicated in confidence to the subject's line manager who will progress the action accordingly. The employee who submitted the grievance will be informed of whether the manager has requested consideration of further actions against the subject of the grievance, but will not be informed of any detail or subsequent outcomes that relate directly to another employee (e.g. such as any disciplinary sanction that may ensue) as this is confidential.

Investigation stage

- 5.2.8 The manager may adjourn the meeting and initiate an investigation, dependent on the complexity of the grievance the manager may conduct the investigation themselves, decide to gather more facts, evidence, witness statements etc. or alternatively they may arrange for a separate officer (not connected with the issue) to carry out the investigation for them (in exceptional cases the investigator may be external to the council). The investigator will report their independent findings in writing to the manager considering the grievance.
- 5.2.9 In the event of an investigation being required, the confidentiality of the grievance process will be respected, wherever possible. The employee will be provided with a copy of any evidence gathered in the course of these investigations prior to the meeting being reconvened. In exceptional circumstances certain evidence provided by individuals may have to remain confidential, in such circumstances, this will be explained to the employee and a summary of the evidence provided.

6.0 Appeal process

- 6.1 Employees have the right to appeal against the grievance outcome and if they wish to exercise this right, they should submit their appeal in writing to the Assistant Director of HR within 10 working days of the date of the grievance outcome letter.
- 6.2 All appeals will be held in accordance with the council's appeals policy. Employees have the right to be accompanied at appeal hearings.

7.0 Recording of meetings

- 7.1 The employee, or any person acting on their behalf, is not permitted to record electronically any meeting held by the council as part of the grievance procedure. This is to encourage openness and full participation by all parties during meetings. Any breach of this provision may lead to disciplinary action against the employee, up to and including dismissal.
- 7.2 In very limited circumstances, where the employee is disabled, the council may permit the meeting to be recorded electronically as a reasonable adjustment under the Equality Act 2010. Where the council does permit the meeting to be recorded electronically, it will take responsibility for making the recording.

Appendix 1 – Appropriate Considering Manager

The below table sets out which level of manager would normally be appropriate to consider grievances and under which relevant circumstances (where ever possible this will be adhered to unless there are extenuating circumstances);

Who is submitting the grievance? (assumes the grievance is not against the Chief Executive)	Who normally considers the grievance (at the informal and formal stage)?	Who would consider the grievance (at the informal and formal stage) if the immediate line manager is the subject of it?	Appeal (in accordance with the council's appeals policy)
Employee	Immediate line manager	Next tier line manager (i.e. the line managers' manager)	Executive Director (any area) or their nominated officer who has had no previous involvement in the case
Head of Service	Immediate line manager (usually at Assistant Director level)	Next tier line manager (usually at Executive Director level) or their nominated officer (usually at Assistant Director level)	Where the grievance outcome was a decision of an Executive Director the appeal will be heard by another Executive Director (any area unless that Executive Director is the subject of the grievance). Otherwise the appeal may be heard by an Executive Director (as above) or their nominated officer (not below Assistant Director level any area) who has had no previous involvement in the case
Assistant Director	Immediate line manager (usually at Executive Director level)	Next tier line manager (usually Chief Executive) or their nominated officer (usually at Executive Director level)	Where the grievance outcome was a decision of the Chief Executive the appeal will be heard by Elected Members. Otherwise the appeal will be heard by

			Executive Director (any area unless that Executive Director is the subject of the grievance) who has had no previous involvement in the case
Executive Director	Immediate line manager (Chief Executive)	N/A - Any grievances against the Chief Executive will follow the JNC Local Authority Chief Executive Handbook model procedure	Elected Members

Please note: There are separate arrangements for dealing with grievances raised by employees against the Chief Executive, as well as procedures for dealing with grievances raised by the Chief Executive. In these circumstances the Council will adopt the JNC Local Authority Chief Executive Handbook model procedure.

Appendix 2 – Grievance Procedure Flowchart

(to follow once policy approved...)

Appendix 2

Collective Grievance Policy



Walsall Council

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1.0 Introduction

- 1.1 Walsall Council is PROUD. We are proud of our past, our present and for our future. The council is committed to reducing inequalities and ensuring all potential is maximised and its employment policies, procedures and guidelines are designed to support this vision and deliver the council's priorities.
- 1.2 The council is committed to creating an environment that provides opportunities for all individuals and communities to fulfil their potential and this policy provides a framework in which employees will be supported to deliver the council's priorities in line with the council's expected behaviours and values; professionalism; leadership; accountability; transparency and ethical.
- 1.3 The council's values and behaviours will be at the core of everything the council deliver and through a culture of continuous improvement the council will increase performance, efficiency and champion the design of services to meet the needs of customers. As a digital by design council, employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment. The council is committed to technological investment to deliver transformation in order to improve the efficiency and effectiveness of its services, both internally and externally.
- 1.4 This policy framework promotes the council's strategic priority of internal focus ensuring all council services are effective and efficient and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.
- 1.5 The council believes that all employees should be treated fairly and with respect and recognises that from time to time employees may wish to raise issues regarding their employer or employment. Whilst line managers will be able to deal with most concerns during the course of their normal day to day management, when this is not possible or does not happen employees are able to raise a collective grievance under this policy.
- 1.6 If one or more employees have identical grievances and they wish them to be addressed in the same grievance process, they can raise a collective grievance under this policy. The purpose of this policy is to provide a framework within which collective grievances can be resolved swiftly and at the lowest possible level ensuring issues are dealt with in a fair, consistent and effective manner. The aim is to help employees resolve issues in the workplace and resolution remains the focus of this policy.
- 1.7 The Council operates a separate dignity at work policy to raise issues relating to working relationships and cover any situations of alleged bullying and harassment.

2.0 Scope

- 2.1 This policy applies to all council employees including Chief Officers;
- 2.2 With the exception of;
- 2.2.1 School-based employees/workers where the Governing Body has delegated authority and for whom separate arrangements apply.
- 2.3 This policy does not apply to contractors, consultants or any self-employed individuals working for the council.
- 2.4 This policy does apply to casual workers and agency workers, although agency workers should raise any concerns in the first instance directly with the agency.
- 2.5 There are separate arrangements for dealing with grievances raised by employees against the Chief Executive, as well as procedures for dealing with grievances raised by the Chief Executive. In these circumstances the Council will adopt the JNC Local Authority Chief Executive Handbook model procedure.
- 2.6 Some matters relating to employment do not fall within the scope of this Policy and are dealt with under separate arrangements. Out of scope of the Collective Grievance Policy are the following;
- Use of or decisions made under the disciplinary policy, sickness absence policy, performance and ill health capability policy or the probation policy – issues raised in relation to any of these policies should be addressed through the hearing process of those policies or the council's formal appeals policy;
 - Use of or decisions made under the redundancy policy or the organisational change management policy – issues raised in relation to any of these policies should be addressed through the formal change consultation process or the council's formal appeals policy;
 - Use of or decisions made under the right to request flexible working policy – issues raised in relation to this policy should be addressed through the appeal process contained within the specific policy;
 - Use of or decisions made under the recruitment and selection policy – issues raised in relation to this policy should be addressed through the complaints process contained within the specific policy;
 - Any matters relating to pay and grading or job evaluation including levels of pay remuneration, applications for grading, re-evaluation requests and job evaluation outcomes/appeals – should be dealt with through the job evaluation and grading process (policy) and the separate appeals policy for job evaluation;
 - Any matters relating to actions or decisions that are of a statutory nature;
 - Any outcomes that are requested that are not achievable as an outcome of a grievance nor are they decisions made by the requester e.g. where the

desired outcome is management to be dismissed, in these cases the grievance may be valid but the desired outcome would need to be amended;

- Allegations of serious health and safety issues, unethical conduct, conduct that is an offence, fraud, corruption or financial malpractice - such issues should be addressed through the confidential reporting (whistleblowing) policy and/or disciplinary policy;
- Payroll matters affecting income tax, national insurance, pension, etc. - should be addressed directly to Payroll, except where the collective grievance relates to the standard or provision of the payroll service rather than the nature of the payroll issue;
- Collective grievances raised by employees against Elected Members will be dealt with as set out in the council's constitution.

- 2.7 The collective grievance policy covers collective employee's issues and is not intended to cover collective trade union negotiation and consultative matters which are addressed through other specific forums e.g. ERF / JNCC.

3.0 Principles

- 3.1 This policy enables employees to raise concerns that they may have about a wide range of issues including the treatment they have received or any aspect of their work including allocation of work, career development opportunities or the working environment or conditions.
- 3.2 The collective grievance must be raised within three months of the incident or action giving rise to it in order for timely address and resolution. Any grievance raised outside of that time limit will not normally be considered. Issues raised under this policy will be dealt with promptly and with no unreasonable delay (by any involved parties) to grievance meetings, decisions or confirmations of those decisions.
- 3.3 All employees raising a collective grievance must individually be in agreement to raise the grievance collectively (without any pressure being exerted on individual employees to join the collective process).
- 3.4 Participants of collective grievances will be entitled to one collective grievance meeting and if applicable one appeal hearing. However employees participating in a collective grievance will be notified individually of the outcome at each stage of the process.
- 3.5 Participants of a collective grievance will need to nominate and agree upon a representative from within the group to act on their behalf. The representative shall be given at least 5 working days written notice of formal meetings and are entitled to be accompanied at these meetings by their recognised trade union representative or a Walsall Council work colleague (who could be another participant of the collective grievance).

- 3.6 In cases where more than 6 employees are submitting a collective grievance the number of representing colleagues can be increased as follows;

Number of employees with the collective grievance:	Maximum number of nominated representatives
2 to 6	1
7 to 20	2
21 and above	3

- 3.7 Employee representatives are entitled to be accompanied at formal meetings by a trade union representative or fellow worker. Where a trade union official or fellow worker is accompanying the employee representative(s) only one 'companion' will be permitted to attend the formal meetings.
- 3.8 There is no right to be accompanied at the informal stage of this procedure.
- 3.9 Repeat grievances will not be reconsidered if the same or similar matter has previously been raised and dealt with under this policy.
- 3.10 The council reserves the right not to pursue any collective grievance which it reasonably believes to be repetitive, frivolous, vexatious or malicious. Managers should consult HR in such cases.
- 3.11 Where it is believed that a collective grievance has been submitted in bad faith to make deliberately false accusations or as a form of bullying, harassment or intimidation (towards management or work colleagues), then the matter will be progressed further and will be managed under the council's disciplinary policy.
- 3.12 At any stage in the policy, investigations may result in it being appropriate to invoke other alternative policies such as the disciplinary policy or performance policy where for example, the collective grievance has raised bullying/harassment concerns, capability issues or alleged misconduct.
- 3.13 Where collective grievance matters are related to and/or overlap with other ongoing or commenced employment procedures (e.g. organisational change management, performance, disciplinary or sickness absence etc.), the progression of such cases will be made at managements discretion as it may be appropriate to deal with both issues concurrently or alternatively wait for a process to be exhausted before another continues / commences. This will be a decision for the manager.
- 3.14 Consideration will be given within this process to any reasonable adjustments required in accordance with the Equality Act to enable employees to fully participate.

- 3.15 The focus of this policy is to provide a mechanism where concerns can be raised and a satisfactory resolution achieved, bearing this in mind there are two stages to this procedure, an initial informal stage and a subsequent formal stage. All attempts should be made to resolve issues at the informal stage (at the lowest possible level) by all relevant parties in the first instance.
- 3.16 Concerns raised during this procedure will be shared at the earliest appropriate opportunity with other involved parties (e.g. the subject of the grievance) to ensure open and transparent communication and promote active resolution. In certain circumstances where appropriate the employer may withhold some information if for example the employer believes there to be a risk of intimidation or harassment.
- 3.17 At any point in the grievance process the manager may choose to recommend mediation where it is felt this would be beneficial to help resolve any matters raised under the collective grievance policy. Mediation could take place (if appropriate) during the informal or formal stages of the grievance procedure or subsequently as a management recommendation following a grievance outcome. Mediation can only be considered where all parties agree to partake in the process. (HR will make mediation arrangements on request however the cost of mediation will be funded by the respective service areas).
- 3.18 The council recognises that a formal collective grievance procedure can be a stressful and upsetting experience for all parties involved. Everyone involved in the process is entitled to be treated calmly and with respect. The council will not tolerate abusive or insulting behaviour from anyone taking part in or conducting grievance procedures and will treat any such behaviour as misconduct under the disciplinary policy.
- 3.19 Employees are reminded of the council's confidential (counselling) Employee Assistance Programme that is available to provide support and advice to any employee involved in a grievance matter. Details of which can be found on the HR intranet pages.
- 3.20 The council processes personal data collected during informal complaints and the formal collective grievance procedure in accordance with its information governance policies. In particular, data collected as part of informal complaints and the collective grievance procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of responding to the complaints or conducting the collective grievance procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's data protection arrangements immediately. It may also constitute a disciplinary offence, which will be dealt with under the disciplinary policy. Managers will retain their own notes relating to any informal procedure and HR will retain records on any formal collective grievance procedure or appeal.

- 3.21 Any matters discussed as part of a collective grievance process including minutes and witness statements should be kept confidential and only those directly involved in the process will be advised of any details relating to the case.
- 3.22 This policy and accompanying procedure is underpinned by and should be read in conjunction with the grievance guidance which offers further advice and support to employees and managers in the implementation of this policy.
- 3.23 A summary of the level of suitable appropriate managers to consider grievances dependent upon the level of employee raising the grievance is detailed at Appendix 1.
- 3.24 A copy of the collective grievance procedure flowchart is available at Appendix 2.

4.0 Accountabilities

- 4.1 Managers are accountable for the following;
- Applying this policy and procedure consistently, fairly and objectively in accordance with the council's vision and purpose and clearly demonstrate the council's management behaviours and values, seeking further advice and guidance from HR where necessary;
 - Act on any complaints or collective grievances brought to their attention in a timely manner;
 - Commit to engaging with the policy to actively encourage resolution at the earliest possible opportunity;
 - Ensuring that employees are aware of their responsibilities in accordance with this policy.
- 4.2 Employees are accountable for the following;
- All employees should support the delivery of the council's vision and purpose, clearly demonstrating the council's behaviours and values;
 - Actively engage in employment practices and processes in which they are involved and ensure they understand this procedure, seeking further advice and guidance from managers where necessary;
 - Raise any concerns as soon as possible with their line manager in the first instance and take responsibility for actively being part of the resolution or seeking to find a resolution;
 - Agreeing collectively the nominated representative(s) that will present the collective grievance during the process and represent the group;
 - Comply with the requirements of this policy and procedure.

5.0 Procedure

5.1 Informal stage

- 5.1.1 Where an employee has a concern or issue regarding their employment they should initially raise the matter with their immediate line manager. Employees should use the collective grievance form, to detail the basis of the collective grievance/issue indicating that they would like the matter considering as an (informal) grievance.
- 5.1.2 The collective grievance form should include the names of all employees wishing to raise the grievance, the name(s) of the agreed representative (subject to the maximum numbers identified in point 3.7 above), the name of any agreed trade union representation (or alternatively Walsall Council work colleague). The form must be signed by all employees who wish to raise the grievance acknowledging that they have voluntarily consented to participate in the collective grievance procedure and confirming their understanding that the collective process will give each of them the right to only one collective grievance meeting, one identical outcome and (if applicable) one collective appeal hearing.
- 5.1.3 The collective grievance form should provide as much relevant information as possible, and must indicate the required outcome/resolution the group are collectively seeking. In the first instance all collective grievances (subject to 5.1.5 below) will be reviewed informally by the line manager to assess the matter and seek to reach a resolution/provide a response.
- 5.1.4 The immediate line manager and employee representative(s) should meet within 5 working days or as soon as is reasonable practical to discuss the matter and the manager should take notes. The notes must include the date the issue was raised, the date of the meeting, the nature of the grievance, any advice given and the outcome (which may follow an adjournment of the meeting for the manager to conduct a preliminary investigation/fact find or hold other relevant meetings).
- 5.1.5 Where employees feel unable to raise the matter with their immediate line manager (because they are the subject of it) then the employee should raise the matter with their manager's line manager, who will seek to resolve the matter informally as above.
- 5.1.6 All attempts should be made (by all parties) to resolve the matter at the informal stage in the first instance, if the matter remains unresolved the employee may then choose to raise a formal collective grievance under this policy.

5.2 Formal stage

- 5.2.1 Where informal discussion(s) or response has not resolved the collective grievance and the group remains dissatisfied they may raise their collective grievance formally and should do this by fully completing the collective grievance form.
- 5.2.2 The collective grievance form must include sufficient explanation of the basis for the grievance, what actions the employees have taken so far to resolve the

matter, who has considered the matter informally and what was the response provided at the informal stage and what outcome is sought to satisfactorily resolve the issue at the formal stage.

- 5.2.3 The collective grievance form should include the names of all employees wishing to raise the grievance (formally), the name(s) of the agreed representative (subject to the maximum numbers identified in point 3.7 above), the name of any agreed trade union representation (or alternatively Walsall Council work colleague). The form must be signed by all employees who wish to raise the formal collective grievance acknowledging that they have voluntarily consented to participate in the collective grievance procedure and confirming their understanding that the collective process will give each of them the right to only one collective grievance meeting, one identical outcome and (if applicable) one collective appeal hearing.
- 5.2.4 The immediate line manager (or next tier line manager, in cases where the immediate line manager is the subject of the grievance) will acknowledge receipt of the collective grievance (separately to all individuals participating the process) and convene a formal collective grievance meeting with the elected representative(s) without undue delay and normally within 10 working days. Where this is not possible due to the nature of the grievance, level of further investigation required or due to organisational reasons, the individual employees will be made aware of the delay and provided with a date by which they can expect an update which should not unreasonably delay the process.
- 5.2.5 The purpose of this meeting is for the employee representative(s) to explain the circumstances of the collective grievance, presenting any relevant information/evidence and to state how they would collectively like the issue to be resolved.
- 5.2.6 The manager considering the matter and the employee representative(s) will seek to resolve the grievance at this meeting where ever possible. It may be necessary to adjourn the meeting for further investigation and/or conducting other necessary meetings (the representative may wish to consult the other collective grievance participants) before the meeting is reconvened and/or a response provided.
- 5.2.7 Possible outcomes of the formal collective grievance meeting may include;
- The manager **upholding** the collective grievance.
 - The manager **not upholding** the collective grievance.
 - The manager **part upholding** the collective grievance (depending on the nature and complexity)
 - The manager may adjourn the meeting and **initiate an investigation** (see 5.2.7 below) before reconvening and/or providing the collective grievance outcome.

Any confirmed outcome may be accompanied by specified management recommendations which may include mediation (if not already attempted at an earlier stage).

- 5.2.7 The manager should confirm the outcome of the grievance to each individual participant in writing usually with 5 working days of the decision being made and should detail the employees right of collective appeal. The manager should also inform the subject of the grievance of the outcome (if applicable). If the manager recommends any action against the subject of the grievance, this will be communicated in confidence to the subject's line manager who will progress the action accordingly. The employee(s) who submitted the grievance will be informed of whether the manager has requested consideration of further actions against the subject of the grievance, but will not be informed of any detail or subsequent outcomes that relate directly to another employee (e.g. such as any disciplinary sanction that may ensue) as this is confidential.

Investigation stage

- 5.2.8 The manager may adjourn the meeting and initiate an investigation, dependent on the complexity of the grievance the manager may conduct the investigation themselves, decide to gather more facts, evidence, witness statements etc. or alternatively they may arrange for a separate officer (not connected with the issue) to carry out the investigation for them (in exceptional cases the investigator maybe external to the council). The investigator will report their independent findings in writing to the manager considering the grievance.
- 5.2.9 In the event of an investigation being required, the confidentiality of the grievance process will be respected, wherever possible. The employee(s) will be provided with a copy of any evidence gathered in the course of these investigations prior to the meeting being reconvened. In exceptional circumstances certain evidence provided by individuals may have to remain confidential, in such circumstances, this will be explained to the employee(s) and a summary of the evidence provided.

6.0 Appeal process

- 6.1 Employees have the right to submit a collective appeal against the grievance outcome and if they wish to exercise this right, they should submit their collective appeal in writing to the Assistant Director of HR within 10 working days of the date of the collective grievance outcome letter. The collective appeal should be signed by all parties wishing to submit the appeal and should indicate the name of the agreed employee representative(s) for the group. The collective appeal will follow the same principles as set out in this policy for the collective grievance meeting.
- 6.2 All appeals will be held in accordance with the council's appeals policy. Employees have the right to be accompanied at appeal hearings.

7.0 Recording of meetings

- 7.1 The employee, or any person acting on their behalf, is not permitted to record electronically any meeting held by the council as part of the collective grievance procedure. This is to encourage openness and full participation by all parties during meetings. Any breach of this provision may lead to disciplinary action against the employee, up to and including dismissal.
- 7.2 In very limited circumstances, where the employee is disabled, the council may permit the meeting to be recorded electronically as a reasonable adjustment under the Equality Act 2010. Where the council does permit the meeting to be recorded electronically, it will take responsibility for making the recording.

Appendix 1 – Appropriate Considering Manager

The below table sets out which level of manager would normally be appropriate to consider grievances and under which relevant circumstances (where ever possible this will be adhered to unless there are extenuating circumstances);

Who is submitting the grievance? (assumes the grievance is not against the Chief Executive)	Who normally considers the grievance (at the informal and formal stage)?	Who would consider the grievance (at the informal and formal stage) if the immediate line manager is the subject of it?	Appeal (in accordance with the council's appeals policy)
Employee	Immediate line manager	Next tier line manager (i.e. the line managers' manager)	Executive Director (any area) or their nominated officer who has had no previous involvement in the case
Head of Service	Immediate line manager (usually at Assistant Director level)	Next tier line manager (usually at Executive Director level) or their nominated officer (usually at Assistant Director level)	Where the grievance outcome was a decision of an Executive Director the appeal will be heard by another Executive Director (any area unless that Executive Director is the subject of the grievance). Otherwise the appeal may be heard by an Executive Director (as above) or their nominated officer (not below Assistant Director level any area) who has had no previous involvement in the case
Assistant Director	Immediate line manager (usually at Executive Director level)	Next tier line manager (usually Chief Executive) or their nominated officer (usually at Executive Director level)	Where the grievance outcome was a decision of the Chief Executive the appeal will be heard by Elected Members. Otherwise the appeal will be heard by

			Executive Director (any area unless that Executive Director is the subject of the grievance) who has had no previous involvement in the case
Executive Director	Immediate line manager (Chief Executive)	N/A - Any grievances against the Chief Executive will follow the JNC Local Authority Chief Executive Handbook model procedure.	Elected Members

Please note: There are separate arrangements for dealing with grievances raised by employees against the Chief Executive, as well as procedures for dealing with grievances raised by the Chief Executive. In these circumstances the Council will adopt the JNC Local Authority Chief Executive Handbook model procedure.

Appendix 2 – Collective Grievance Procedure Flowchart

(to follow once policy approved...)

Appendix 3

Dignity At Work Policy



Walsall Council

Version Control

Document title	Dignity At Work Policy		
Owner	Human Resources	Status	Draft
Version	1.0	Approved on	TBC
Effective from	TBC	Review date	TBC
Last updated	04/10/2019	Last updated by	HR Strategy and Planning
Purpose	To provide a framework where dignity at work is considered paramount and within which claims of bullying and harassment are addressed and resolved swiftly, in a fair, consistent and supportive manner.		

This policy links to:

- Corporate Plan
- Walsall Proud Programme
- Appeals Policy
- Sickness Absence Policy
- Confidential Reporting (Whistleblowing) Policy
- Redundancy Policy
- Organisational Change Management Policy
- Grievance Policy
- Collective Grievance Policy
- Workforce Strategy
- Behaviour & Standards Framework
- Equality and Diversity Protocol
- Job Evaluation and Grading Policy
- Mediation Guidance
- Performance & Ill Health Capability Policy
- Disciplinary Policy
- Code of Conduct for Employees
- Grievance Guidance

This list is not exhaustive.

For further advice or guidance on this policy, or if you would like this information in another language or format please contact:

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1.0 Introduction

- 1.1 Walsall Council is PROUD. We are proud of our past, our present and for our future. The council is committed to reducing inequalities and ensuring all potential is maximised and its employment policies, procedures and guidelines are designed to support this vision and deliver the council's priorities.
- 1.2 The council is committed to creating an environment that provides opportunities for all individuals and communities to fulfil their potential and this policy provides a framework in which employees will be supported to deliver the council's priorities in line with the council's expected behaviours and values; professionalism; leadership; accountability; transparency and ethical.
- 1.3 The council's values and behaviours will be at the core of everything the council deliver and through a culture of continuous improvement the council will increase performance, efficiency and champion the design of services to meet the needs of customers. As a digital by design council, employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment. The council is committed to technological investment to deliver transformation in order to improve the efficiency and effectiveness of its services, both internally and externally.
- 1.4 This policy framework promotes the council's strategic priority of internal focus ensuring all council services are effective and efficient and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.
- 1.5 The council is committed to creating a working environment for all of its employees that is free from all forms of bullying and harassment, where everyone is treated fairly and with dignity and respect. Acts of discrimination or bullying and harassment of any kind, whether intentional or otherwise, will not be tolerated.
- 1.6 The purpose of this policy is to provide practical guidance to assist in the maintenance of dignity at work and the management of working relationships within the council with the aim of fairly and consistently supporting employees to reach agreed resolutions and/or taking appropriate action.

2.0 Scope

- 2.1 This policy applies to all council employees including Chief Officers;
- 2.2 With the exception of;
 - 2.2.1 School-based employees/workers where the Governing Body has delegated authority and for whom separate arrangements apply.

- 2.3 This policy covers bullying and harassment of and by managers, employees, contractors, consultants, agency workers, any self-employed individuals working for the council, individuals from partner organisations, suppliers, clients or customers. In cases involving individuals who are not directly employed by the council, this policy will apply with any necessary modifications (e.g. the end result of an investigation may not be to dismiss but an alternative contractual action may be taken for example).
- 2.4 This policy covers bullying and harassment in the workplace and in any work related setting outside of the work place e.g. business trips and work related social events (including those that take place in the employees own time).

3.0 Definitions

3.1 Discrimination

- 3.1.1 Bullying and harassment will constitute unlawful discrimination where it relates to one of the protected characteristics, which are sex, gender reassignment, race (which includes colour, nationality and ethnic or national origins), disability, sexual orientation, religion or belief, age, pregnancy and maternity and marriage and civil partnership.

3.2 Bullying

- 3.2.1 Bullying is offensive, intimidating, belittling, malicious or insulting behaviour directed at an individual by one person or a group of people and/or an abuse or misuse of power that is meant to undermine, humiliate or injure the person on the receiving end.
- 3.2.2 Examples of bullying behaviour include remarks that are intimidating because of content or the manner in which they are made, initiation of malicious rumours concerning a colleague or colleagues, intimidation through physical proximity or body language, pointed exclusion of an individual from conversations or discussions, allocation of work in an inappropriate manner (e.g. setting unrealistic deadlines).

3.3 Harassment

- 3.3.1 Harassment is unwanted, unreciprocated conduct or behaviour of an offensive or hostile nature with the purpose of violating a person's dignity or creating an intimidating, degrading or humiliating environment causing distress or discomfort for that person; or is reasonably considered by that person to have such an effect, even if this affect was not intended by the person responsible for the conduct. Harassment includes any act motivated by one or more of the protected characteristics (3.1) which is designed to humiliate, intimidate, belittle, degrade or harm another in any way.
- 3.3.2 Harassment may also occur where an individual is bullied or harassed because of another person with a protected characteristic whom the individual is

connected or associated, for example if their child is disabled or friend is a devout Christian. Similarly harassment could take place where an individual is perceived (mistakenly) to have a protected characteristic (e.g. they are perceived to be gay or disabled) when in fact they do not. This includes instances where protected characteristics are used as an excuse for bullying and harassing behaviour, even if the accused does not believe the individual really possesses that characteristic e.g. a manager teasing an employee about being deaf as a 'joke' on occasions when they don't action something they have been asked to do or respond to a verbal cue.

- 3.3.3 Conduct may be harassment whether or not the person behaving in that way intends to offend. Something intended by one person as a 'joke' may offend another person. Different people have different levels of acceptability and offence. Everyone has the right to decide what behaviour is acceptable to them and to have their feelings respected by others. Behaviour that any reasonable person would realise would be likely to offend will be harassment without the recipient having to make it clear in advance that behaviour of that type is not acceptable to them e.g. sexual touching. It may not be so clear in advance that some other forms of behaviour would be unwelcome, or could offend a particular person e.g. certain 'banter', flirting or asking someone for a private drink after work. In these cases, first time conduct that unintentionally causes offense will not usually be considered harassment but it would become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to them.
- 3.3.4 Examples of harassment include unwelcome sexual advances or touching, unwelcomed jokes relating to a protected characteristic, unwanted nick names relating to a person's age or race, questions about a person's sex life, excluding an individual because they are related to or associated with someone with a protected characteristic, ignoring an individual because they are perceived to be transgender, openly displaying pictures or objects with sexual or racial overtones, even if these are not directed at any particular person e.g. pin-up calendars.

3.4 Forms of bullying and harassment

- 3.4.1 Bullying and harassment may be of a physical nature, verbal or non-verbal (e.g. hand gestures, stance and proximity, blatantly and intentionally ignoring an individual), in written or visual form via email or through posting on social media.

3.5 What employees should do if they are being bullied or harassed

- 3.5.1 Depending on the circumstances employees who feel bullied or harassed may be able to sort the matter out informally by having a discussion with the accused. They may not know that their behaviour is impacting on another person's dignity at work and may not realise that their actions are unwelcome or upsetting. An informal discussion may help them to understand the effects of their behaviour and agree to change it. Where employees do feel able to approach the person who is making them feel uncomfortable or upset themselves, then this would be

encouraged in the first instance as matters are more easily resolved where they can be addressed swiftly and at the lowest possible level. Employees may find it helpful to ask for support in this meeting from a trade union representative, member of HR or an appropriate work colleague. Alternatively an initial approach could be made on behalf of the employee by one of these people to facilitate a supportive, informal approach aimed at early resolution.

- 3.5.2 The employee should tell the accused that their behaviour has made them feel uncomfortable, and/or has offended/upset them and is unwelcome. The employee should tell the person that they would like their behaviour to stop immediately, they may also want to say, that if the behaviour continues they intend to raise the matter under the formal dignity at work procedure with a manager or HR. The employee should keep a note of the date of the discussion and what was said and agreed. This will be useful evidence if the unacceptable behaviour continues and the employee wishes to raise the matter more formally.
- 3.5.3 Employees are advised to keep notes of all bullying and harassment targeted at them, writing down what has been done or said to them, the time and date of the incident, any witnesses present and how the action(s) made them feel. This will be useful information to assist any future investigations into claims of bullying and harassment.
- 3.5.4 Where employees have attempted to address instances of bullying and harassment informally themselves and this has not resolved matters or the employee does not feel able or willing to do this, or where the matter is deemed too serious for informal resolution, the matter should be progressed further in accordance with this procedure (6.0).

3.6 What employees should do if they are accused of bullying or harassment

- 3.6.1 If an employee is approached by another, claiming that they feel bullied or harassed, notably they may not use these specific phrases, they may use words like upset, embarrassed, intimidated, belittled, offended, distressed, insulted, etc. the employee being approached should not dismiss the claims out of hand because they were not intended that way, were only a joke or because they feel the other person is being too sensitive.
- 3.6.2 Employees are reminded that different people find different things acceptable and everyone has the right to decide what behaviour is acceptable to them and to have their feelings respected by others. An employee may have offended someone without intending to and where this is the case the offended person may be content with being given the opportunity to explain their feelings and be given an explanation and/or apology from the accused.
- 3.6.3 Providing an explanation and/or apology together with an assurance that the accused will be careful in future not to behave in a way they now know may cause offence, maybe all that is required to informally resolve the matter, provided the behaviour that caused offence is not repeated.

4.0 Principles

- 4.1 This policy aims to create a positive working environment where everyone is treated with dignity and respect and where the council and its employees have zero tolerance for any form of bullying and harassment. Bullying and harassment can have very serious consequences for individuals and the council. Bullying and harassment may make people unhappy, may cause them stress and affect their health and family/social relationships, may affect their work performance and could cause them to leave their job. Severe cases of bullying and harassment could even lead to severe mental distress.
- 4.2 This policy is operated on the express understanding that it is the responsibility of all employees to implement measures relating to dignity at work.
- 4.3 Where it is believed that an employee may have been bullying or harassing another employee, whether or not there has been a formal complaint, management will initiate an investigation into the alleged bullying or harassment. All claims of bullying and harassment will be investigated and where appropriate, disciplinary action will be taken. Where it is considered that bullying behaviour or harassment has been malicious or intentional leading to a complaint under this policy, the matter will be managed under the council's disciplinary policy where disciplinary action may be taken up to and including dismissal.
- 4.4 Employees found guilty of bullying and harassment should be aware that in addition to action that maybe taken under the disciplinary policy, they could also be personally liable to pay compensation in legal claims. Employees should be aware that serious harassment may also be considered a criminal offence.
- 4.5 Any employee who believes that another employee's or individual's conduct amounts to bullying or harassment has the right to raise this with their line manager in the first instance, where this is not practicable (because they are the accused) the employee should raise the matter with the next tier line manager. Such matters can also be raised directly with HR, who will facilitate a conversation with the most appropriate manager to take the matter forward depending on the nature of the concern. Furthermore employees have the right to complain if they believe they have been bullied or harassed by a third party, such as a client or customer.
- 4.6 Bullying or harassment of customers, clients, suppliers, vendors, visitors or others by an employee will be investigated and should there be a case to answer will be dealt with under the council disciplinary policy.
- 4.7 Employees are encouraged to report any incidents of bullying or harassment that they experience or witness so that the council can investigate and resolve the matter. All such matters will be taken seriously and an employee who makes a genuine complaint or raises a genuine concern relating to bullying and harassment will be protected from victimisation under this policy.

- 4.8 Victimization of any individual who has reported matters relating to bullying or harassment, or who has had action taken against them for bullying or harassing behaviour will not be tolerated and will constitute misconduct potentially leading to disciplinary action.
- 4.9 All complaints or concerns raised under this policy will be investigated promptly. Where it is deemed necessary and usually as a last resort, the council may decide that an individual or individuals be removed from direct contact with each other whilst the complaint is being investigated/resolved. Where a different working arrangement is required, these will be discussed sensitively with those involved to seek a volunteer (where management can accommodate this) otherwise every effort will be made to remove the person against whom the complaint has been made. This may involve identifying different work locations, temporary relocation to another office, building or site, home working, alternative work or in some serious situations suspension from work whilst the matter is being investigated. Such suspensions will be for as short a time as possible and will be on full pay. Work relocation or suspension in these circumstances does not constitute disciplinary action, nor imply guilt.
- 4.10 Concerns raised during this procedure will be shared at the earliest appropriate opportunity with other involved parties (e.g. the subject of the complaint) to ensure open and transparent communication and promote active resolution. In certain circumstances where appropriate the employer may withhold some information if for example they believe there to be a further or additional risk of intimidation or harassment.
- 4.11 During the formal investigation process employees shall be given at least 5 working days written notice of formal investigation meetings and are entitled to be accompanied at these meetings by their recognised trade union representative or a Walsall Council work colleague.
- 4.12 Where a dignity at work issue has already been raised and dealt with under this policy, the same matter will not be reconsidered unless there have been repeated incidents since the issue was last considered, the issue is similar but not the same or new information or evidence has come to light.
- 4.13 The council reserves the right not to pursue any dignity at work concerns which it reasonably believes to be repetitive, frivolous, vexatious or malicious. Managers should consult HR in such cases.
- 4.14 Where it is believed that an issue / concern has been raised in bad faith to make deliberately false accusations as a form of bullying, harassment or intimidation (towards management or work colleagues), the matter will be progressed further and will be managed under the council's disciplinary policy.
- 4.15 At any stage in the policy, investigations may result in it being appropriate to invoke other alternative policies such as the disciplinary policy or performance

policy where for example, the complaint has raised capability issues or alleged misconduct.

- 4.16 Where dignity at work matters are related to and/or overlap with other ongoing or commenced employment procedures (e.g. organisational change management, performance, disciplinary, grievance or sickness absence etc.), the progression of such cases will be made at managements discretion as it may be appropriate to deal with both issues concurrently or alternatively wait for a process to be exhausted before another continues / commences. This will be a decision for the manager.
- 4.17 This policy is designed to complement existing council policies and procedures and does not impinge upon a manager's right to manage poor performance in an appropriate manner and in line with agreed council processes.
- 4.18 Consideration will be given within this process to any reasonable adjustments required in accordance with the Equality Act 2010 to enable employees to fully participate.
- 4.19 The council recognises that a dignity at work procedure can be a stressful and upsetting experience for all parties involved. Everyone involved in the process is entitled to be treated calmly and with respect. The council will not tolerate abusive or insulting behaviour from anyone taking part in or conducting dignity at work processes and will treat any such behaviour as misconduct under the disciplinary policy.
- 4.20 At any point in the dignity at work process the manager may choose to recommend mediation where it is felt this would be beneficial to help resolve any matters raised under the dignity at work policy. Mediation could take place (if appropriate) during any point in the formal stage of the procedure or subsequently as a management recommendation following a dignity at work outcome. Mediation can only be considered where all parties agree to partake in the process. (HR will make mediation arrangements on request however the cost of mediation will be funded by the respective service areas).
- 4.21 Employees are reminded of the council's confidential (counselling) Employee Assistance Programme that is available to provide support and advice to any employee involved in a dignity at work matter. Details of which can be found on the HR intranet pages.
- 4.22 The council processes personal data collected during informal complaints and formal procedures in accordance with its information governance policies. In particular, data collected as part of informal complaints and the dignity at work process is held securely and accessed by, and disclosed to, individuals only for the purposes of responding to the complaints or conducting a dignity at work investigation. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's data protection arrangements immediately. It may also constitute a disciplinary offence, which will be dealt with under the disciplinary policy. Managers will

retain their own notes relating to any informal discussions and HR will retain records on any formal procedures or investigations.

- 4.23 Any matters discussed as part of a grievance process including minutes and witness statements should be kept confidential and only those directly involved in the process will be advised of any details relating to the case.

5.0 Accountabilities

5.1 Managers are accountable for the following;

- Applying this policy and procedure consistently, fairly and objectively in accordance with the council's vision and purpose and clearly demonstrate the council's management behaviours and values, seeking further advice and guidance from HR where necessary;
- Ensuring that there is a supportive and open working environment and intervene to stop any incidents of bullying or harassment they witness or are made aware of by a third party;
- Treating all colleagues with dignity and respect to help create and maintain a working environment free from bullying or harassment;
- Act on any issues or concerns brought to their attention in a timely manner;
- Commit to engaging with the policy to actively encourage resolution at the earliest possible opportunity;
- Ensuring no victimisation takes place against any complainant for raising any claims of bullying or harassment;
- Ensuring that employees are aware of their responsibilities in accordance with this policy and that they are made aware of the standards of behaviour expected of them.

5.2 Employees are accountable for the following;

- All employees should support the delivery of the council's vision and purpose, clearly demonstrating the council's behaviours and values;
- Actively engage in employment practices and processes in which they are involved and ensure they understand this procedure, seeking further advice and guidance from managers where necessary;
- Treating all colleagues with dignity and respect to help create and maintain a working environment free from bullying or harassment;
- Being aware of how their own behaviour may affect others and changing it if necessary, offence can still be caused even if the employee was 'only joking' and says such;
- Intervening and/or reporting any concerns when witnessing bullying or harassment of others to management or HR;
- Making it clear to others where their behaviour is unacceptable, unless it should be obvious in advance that this would be the case e.g. sexual touching;

- Raise any personal concerns as soon as possible with their line manager and take responsibility for actively being part of the resolution or seeking to find a resolution;
- Ensuring no victimisation takes place against any complainant for raising any claims of bullying or harassment;
- Comply with the requirements of this policy and procedure which includes reporting all incidents of bullying or harassing behaviour of which you have either been subject to or witness to and providing accurate statements to that effect.

6.0 Procedure

- 6.1 If an employee believes that they are the target of behaviour which impacts upon their dignity at work they should first discuss the situation with their line manager. Where the line manager is the accused they should raise the matter with their next tier line manager and when this is not possible for a particular reason, advice should be sought from HR.
- 6.2 Employees should be made aware that the council has a legal duty of care to investigate all matters raised, therefore whilst personal preferred outcomes are acknowledged the manager will need to take appropriate action depending on the nature of the concern or complaint.
- 6.3 The aim at this stage of the process is for the manager to gather enough facts to enable a decision to be reached regarding the best way forward. How the investigation is taken forward will depend on the initial fact find and the circumstances of the particular case.
- 6.4 It may be appropriate at this initial stage for the manager to facilitate an informal meeting between the complainant and the accused, or for the manager to approach the accused on behalf of the complainant. Some simple cases are often misunderstandings or caused by communication errors and this maybe all that is required to resolve the matter.
- 6.5 More complex cases will require a thorough and more in-depth investigation, normally conducted by the complainant's line manager, or in some cases another investigating manager (where appropriate the investigator maybe external to the council).
- 6.6 Where matters are serious enough at this stage, even for a first incident or suspected offence, the manager may choose to refer the matter straight to the council's disciplinary policy without further investigation under the dignity at work procedure.

Investigation stage

- 6.7 The manager will conduct a thorough investigation which will include interviewing all parties separately, including any witnesses identified. Interviewees will be entitled to be accompanied by a trade union representative

or a Walsall Council work colleague, so long as this does not prejudice the case or compromise confidentiality. Notes will be taken of all meetings and interviewees will be asked to sign the interview notes or any statements they have disclosed. All parties interviewed as part of the investigation process should be made aware at the start of their interview that should the matter progress further then the notes of the interview or any statements provided could be used as part of disciplinary proceedings and form part of the evidence for formal disciplinary action. Witnesses should also be made aware that they may subsequently be requested to attend any such disciplinary hearing to provide evidence.

- 6.8 Confidentiality will remain paramount during the investigation / dignity at work procedure and information will only be disclosed to witnesses on a 'need to know' basis. For example, the identity of the employee making the complaint and the nature of the allegations must be revealed to the person being complained about so that they are provided with the opportunity to respond. Some details may also have to be given to potential witnesses but this will be limited as far as possible, whilst ensuring a fair and sufficiently thorough investigation. The importance of maintaining confidentiality must be emphasized to witnesses. Certain information may need to be shared with relevant managers for example in cases where a working agreement is put in place or when complaints have been upheld so that they can monitor and manage the risk of future harassment.
- 6.9 The investigation will be conducted in a sensitive and supportive manner and as swiftly as possible.
- 6.10 This stage will involve the manager making enquiries as to whether the employee suspected of bullying or harassment has had formal action taken against them previously for similar conduct and if so, whether there are any live active warnings in place.
- 6.11 Should any witnesses be identified, the manager will endeavor to persuade them to provide a witness statement where they are reluctant to be interviewed or require anonymity.
- 6.12 The manager will conduct the investigation objectively and avoid allowing personal views to influence the overall assessment of the conduct under review.
- 6.13 The employee under investigation will be given a full and fair opportunity to answer any allegations against them or explain their conduct during the investigation stage.
- 6.14 At the end of the initial investigation, the investigating manager will reach a number of conclusions on which to base subsequent action.
- 6.15 Possible outcomes of the dignity at work investigation may include;

- That behaviour affecting a person's dignity cannot be proven to have taken place e.g. one person's word against another with no witnesses or further evidence / information, historical or otherwise for a conclusion to be reached and therefore **no further action is recommended**.
 - That behaviour affecting a person's dignity has taken place but that this was unwitting on the part of the accused, in such cases **a number of management recommendations** (6.16) will be made to help resolve the situation, change behaviours and prevent reoccurrence.
 - The manager may **recommend mediation**, if appropriate and not previously attempted between the parties. Mediation can only be considered where all parties agree to partake in the process. (HR will make mediation arrangements on request however the cost of mediation will be funded by the respective service areas).
 - That behaviour affecting a person's dignity has taken place and was of a serious nature to constitute misconduct, and/or of a malicious, deliberate or intentional nature and/or repeat offences of a similar nature, in such cases the matter will be **referred to the council's disciplinary policy** and managed under that procedure.
- 6.16 An outcome of the dignity at work process might be a range of various management recommendations that are dependent on the investigation and conclusions reached, for example a manager might deem that there are requirements for behavioral changes by an individual, group of individuals or a team of colleagues, further training may be required in for example diversity or multicultural awareness. The manager may agree with the complainant that they meet with the accused to explain the impact their behaviour had on the complainant and their feelings about the incident(s). Other steps for improvement may also be set out in an action plan for the accused and this will be regularly monitored and discussed at supervision or 1 to 1 meetings. Where the manager deems that changes in the working relationship and behaviour of the individual(s) will help to resolve the situation a written working agreement will be drawn up and agreed by both parties (usually through a joint meeting facilitated by the manager), it will detail the changes required or other work specific actions agreed between the two parties regarding how they will agree to work together, communicate with each other etc. Where parties are unable to agree such a working agreement and where applicable the manager will formally instruct individual(s) to comply with the requirements and advise them of potential management actions if they do not. Any working agreement will need to be monitored and identify the period over which a review will take place. Similarly a working agreement can be used where an issue relates to a group of people and can be drawn up to cover all parties involved, refer to the Model Working Agreement template.
- 6.17 As soon as possible following the conclusion of the investigation, the manager will inform both the complainant and the alleged accused of the outcome and where necessary will arrange to discuss / follow up any recommended actions.

The outcome will be confirmed to both parties in writing, usually within 5 working days by the manager (with support from HR).

- 6.18 Any actions recommended will be shared with relevant managers in confidence (if this is not the investigating manager) so that progress can be monitored and reviewed accordingly. The employee who raised the dignity at work issue will be informed of whether the manager has requested consideration of further actions against the accused, but will not be informed of any detail or subsequent outcomes that relate directly to another employee (e.g. such as any disciplinary sanction that may ensue) as this is confidential.
- 6.19 In situations where employees working environments have had to be separated during the investigation process the communication and physical reintroduction of working environments/locations will be managed sensitively and in a supportive manner.
- 6.20 Where the outcome is that the matter be referred to the formal disciplinary policy, there may be a need to further extend any temporary amended working arrangements/locations or review suspension arrangements.

7.0 Recording of meetings

- 7.1 The employee, or any person acting on their behalf, is not permitted to record electronically any meeting held by the council as part of the dignity at work procedure. This is to encourage openness and full participation by all parties during meetings. Any breach of this provision may lead to disciplinary action against the employee, up to and including dismissal.
- 7.2 In very limited circumstances, where the employee is disabled, the council may permit the meeting to be recorded electronically as a reasonable adjustment under the Equality Act 2010. Where the council does permit the meeting to be recorded electronically, it will take responsibility for making the recording.

Appendix 4

Disclosure and Barring Service (DBS) Policy



Walsall Council

Version Control

Document title	Disclosure and Barring Service (DBS) Policy		
Owner	Human Resources	Status	Draft
Version	2.0	Approved on	TBC
Effective from	TBC	Review date	TBC
Last updated	04/10/2019	Last updated by	HR Strategy and Planning
Purpose	The purpose of this policy is to set out the council's approach to using Disclosure and Barring Service (DBS) Checks and implications arising from their use for employees and workers. The policy relates to checks carried out upon recruitment and during the life time of employment or placement.		

This policy links to:

- Corporate Plan
- Walsall Proud Programme
- Recruitment and Selection Policy
- Workforce Strategy
- Behaviour & Standards Framework

This list is not exhaustive.

For further advice or guidance on this policy, or if you would like this information in another language or format please contact:

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1.0 Introduction

- 1.1 Walsall Council is PROUD. We are proud of our past, our present and for our future. The council is committed to reducing inequalities and ensuring all potential is maximised and its employment policies, procedures and guidelines are designed to support this vision and deliver the council's priorities.
- 1.2 The council is committed to creating an environment that provides opportunities for all individuals and communities to fulfil their potential. This policy provides a framework in which employees will be supported to deliver the council's priorities in line with the council's expected behaviours and values; professionalism; leadership; accountability; transparency and ethical.
- 1.3 The council's values and behaviours will be at the core of everything the council deliver and through a culture of continuous improvement the council will increase performance, efficiency and champion the design of services to meet the needs of customers. As a digital by design council, employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment. The council is committed to technological investment to deliver transformation in order to improve the efficiency and effectiveness of its services, both internally and externally.
- 1.4 This policy framework promotes the council's strategic priority of internal focus ensuring all council services are effective and efficient and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.
- 1.5 The purpose of this policy is to set out the council's approach to using Disclosure and Barring Service (DBS) checks and implications arising from their use for employees and workers. This policy relates to checks carried out for the purposes of recruitment, employment, work placements and volunteering.

2.0 Scope

- 2.1 This policy applies to all positions within the council (excluding schools), whether paid or unpaid, permanent, temporary, casual, supply or volunteer.
- 2.2 In addition, this policy applies to certain other types of work such as fostering/adoption arrangements, student placements (aged 16 and over) etc.
- 2.3 This policy applies to any role that is deemed to be a regulated activity (including roles that involve unsupervised contact with children or vulnerable adults).

3.0 Principles

- 3.1 The Disclosure and Barring Service (DBS) check searches personal details provided by applicants and employees or workers against criminal records and other sources. The DBS check will either confirm that the person named either doesn't have a criminal record, or it will list any relevant convictions, cautions, reprimands, warnings and, if applicable, whether they have been barred from working with vulnerable groups. For an enhanced DBS check the police can also include non-conviction information, for example, fixed penalties, that may be considered relevant to the position the check is for.
- 3.2 All posts undertaking 'regulated activity' (defined in appendix 1) must have an enhanced DBS check, and may include one or both of the Barred List checks (Adult and/or Children's). The vast majority of roles eligible for DBS checks are those who work with children and vulnerable adults.
- 3.3 For posts not in a regulated activity, an enhanced DBS check will not provide barred list information. However, the check will show details of relevant criminal convictions that may indicate that the person is barred.
- 3.4 Where a new post is created that has not been previously identified as requiring a DBS check, the manager must firstly determine if the role is defined as regulated activity (see Appendix 1 for guidance). If it is regulated activity, the post will require both an enhanced DBS check and a Barred List check.
- 3.5 Managers must complete a DBS Risk Assessment to help determine if a DBS check is required for a post. The completed risk assessment must be sent to Human Resources who will confirm whether the post is eligible for a DBS check.
- 3.6 The Lead DBS Counter Signatory may challenge a manager's request for a DBS check where there is reasonable belief that to request a check would be unlawful. In such cases, the manager will be asked to provide a rationale for their request for a DBS check to be carried out.
- 3.7 Where a post requires a DBS check or barred list check to be undertaken, this should be included in the job description and must be clearly stated in the job advertisement.
- 3.8 When applicants are invited to interview for posts requiring a DBS check they should be advised in the invite that a DBS check will be required if they are successful, therefore they are required to bring the necessary documentation to the interview for verification and photocopying.
- 3.9 When a positive DBS check is received it is up to the manager to fully investigate the information provided directly with the person concerned. The manager must complete the Positive Disclosure Proforma and send it to HR. The information will be considered by the council's Safer Recruitment Panel who will decide if

the person can be engaged at the council. The decision of the panel will be communicated to the manager.

- 3.10 Under the Rehabilitation of Offenders Act 1974 a person with a criminal record is not required to disclose any spent convictions unless the position they are applying for (or are currently undertaking) is listed as an exception under the Act.
- 3.11 The council cannot legally employ someone to work in 'Regulated Activity' with children if they have been barred through the DBS Children Barred List or with vulnerable adults if they are barred through the DBS Adult Barred List.
- 3.12 It is an offence for a person to seek work (or to volunteer) with children or vulnerable adults if they are barred. Where this occurs the DBS Counter Signatories on behalf of the council will report the barred person to the DBS.
- 3.13 Where there is a requirement for a DBS Check or barred list check to be undertaken checks must be satisfactorily completed and DBS cleared before the manager can agree a start date with the prospective employee/worker/volunteer.

4.0 Accountabilities

4.1 Managers are accountable for the following;

- Applying this policy and procedure consistently, fairly and objectively in accordance with the council's vision and purpose and clearly demonstrate the council's management behaviours and values, seeking further advice and guidance from HR where necessary;
- Determine if a post undertakes 'regulated activity' requiring a DBS check.

4.2 Employees are accountable for the following;

- All employees should support the delivery of the council's vision and purpose, clearly demonstrating the council's behaviours and values;
- Actively engage in employment practices and processes in which they are involved and ensure they understand this procedure, seeking further advice and guidance from managers where necessary;
- Comply with the requirements of this policy and procedure.

5.0 Procedure

5.1 Recruitment

- 5.1.1 Where a post requires a DBS check or barred list check to be undertaken, this should be included in the job description and must be clearly stated in the job

advertisement. This is in line with the council's Recruitment and Selection Policy.

- 5.1.2 When applicants are invited to interview for posts requiring a DBS check they should be advised in the invite that a DBS check will be required if they are successful, therefore they are required to bring the necessary documentation to the interview for verification and photocopying.
- 5.1.3 Personal documents (identity documents etc) that have been copied at interview must not be retained for unsuccessful candidates; managers must ensure these documents are confidentially shredded.
- 5.1.4 Where an enhanced DBS check is required the recruiting manager will ask all candidates at interview if they wish to declare anything in light of the requirement for a DBS disclosure or barred list check. Any comments made by the candidate should be written in the interview notes. This information will only be shared by those that need it as part of the recruitment process.

5.2 Offer of employment

- 5.2.1 The initial offer of employment is 'conditional' and subject to the satisfactory completion of all pre-employment checks, including DBS.
- 5.2.2 HR Transactional team will issue 'log on' details to the successful candidate for them to complete an online DBS application (through the e-bulk service). The candidate will also be made aware of the DBS Code of Practice.

5.3 DBS application and identity checking

- 5.3.1 When making a DBS application, the manager or e-bulk identity checker will evidence the person's documents. The documents that can be used as identity checks are listed at;

www.gov.uk/government/publications/dbs-identity-checking-guidelines.

- 5.3.2 Further detailed information can be found in the DBS Identity Checking Guidelines available at;

www.gov.uk/disclosure-barring-service-check/documents-the-applicant-must-provide-

- 5.3.3 The applicant must disclose any previous names and/or gender to the DBS.
- 5.3.4 In cases of gender reassignment the DBS have established a Special Application Contact Officer to maintain gender confidentiality. These may be contacted via:

email: sensitive@dbs.gsi.gov.uk

telephone: 0151 676 1452

5.4 Candidates or employees with a pre-existing check

- 5.4.1 The council will accept an existing enhanced DBS certificate from a candidate if they have one that is relevant to the workforce they will be working in (i.e. Children's or Adults) and if they are signed up to the online update service. The council will carry out an online status check to ensure the disclosure is valid and, if necessary, conduct a relevant barred list check.
- 5.4.2 Where a person applies to work in a different workforce (i.e. are moving from Adults to Children's or visa versa) a new DBS check will be required, and if necessary a relevant barred list check.
- 5.4.3 Managers should check the applicants DBS clearance with the HR Transactional team.

5.5 Candidates who have lived or worked abroad

- 5.5.1 A DBS check will provide details of convictions, cautions, reprimands, warnings and other relevant police information that has taken place in the UK. However, the DBS check will not provide information from overseas.
- 5.5.2 Candidates who have worked or been resident overseas in the last 10 years (including UK citizens who have worked or lived overseas) will require an Overseas Criminal Records Certificate (OCRC) or Statement of Good Conduct (SOGC).
- 5.5.3 The manager will request that an OCRC/SOGC is provided by the candidate if one is required. It is recommended that managers advise candidates to obtain their SOGC or OCRC prior to interview. The manager should consider the OCRC/SOGC along with all other employment checks before taking a decision regarding appointment.
- 5.5.4 It is the candidates responsible to obtain an OCRC/SOGC from the relevant UK embassy for each country in which they were resident or in employment. The OCRC/SOGC should be in English or the candidate will incur the costs for translation.
- 5.5.5 Further information on the OCRC/SOGC application process can be found at: <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

5.6 Special approval to work before DBS disclosure returned

- 5.6.1 In exceptional circumstances, such as where the council urgently needs to maintain legal staffing levels, a manager may request special approval to allow a person to start work before DBS clearance is confirmed.

- 5.6.2 The manager must email an Executive Director (or delegated deputy chief officer) stating the rationale for the dispensation to start a person and what safeguarding measures they will put in place whilst waiting for the DBS disclosure to be returned. A record of the rationale and safeguarding measures must be retained by the service and reviewed fortnightly until the DBS is received.
- 5.6.3 Once approved the Executive Director (or delegated deputy chief officer) must inform HR in writing of the approved dispensation.

5.7 Dealing with positive disclosures

- 5.7.1 If a DBS check provides a positive information of a conviction, caution, reprimand or warning, or additional information from the Police, the Safer Recruitment Panel process will apply.
- 5.7.2 **Safer Recruitment Panel Process:**
- HR will inform the manager that a positive disclosure has been received and will request the individual to provide their DBS certificate to the manager.
 - The manager must then meet with the individual to discuss the details of the disclosure in line with the DBS Code of Practice and complete a Positive Disclosure Proforma. The manager must send the completed proforma to HR with a copy of the DBS certificate provided by the individual as well as the job description and employee specification for the role.
 - The information will then be considered by the Safer Recruitment Panel, which consists of representatives from Human Resources, Legal Services, Children's Services Safeguarding and Adult's Social Care Safeguarding. The panel will determine whether in their view an individual applying to work in regulated activity is suitable to hold such a post.
 - The Chair of the panel will inform the manager of the panel's decision to confirm or withdraw an offer of employment.
 - The manager will then inform the individual of the panel's decision. Where there is a withdrawal of the offer of employment the manager must confirm this in writing, with advice from HR.
- 5.7.3 When assessing the suitability of the candidate for the position the Safer Recruitment Panel will consider any declared conviction information supplied on the application form or disclosed at interview, the information supplied on

the Positive Disclosure Proforma and the relevance of the offences to the post in question.

- 5.7.4 The panel will be aware that no two offences are exactly alike, e.g. a premeditated burglary that involves extensive damage to property and the physical intimidation of the occupants is different from the opportunist convicted of reaching in through an open window and stealing a purse.
- 5.7.5 Having a conviction will not necessarily bar someone from employment with the council. The council will only take a criminal record into account when the conviction is relevant to the job they are to undertake. Protection of the applicant's rights and interests must be weighed against the rights and interests of clients, employees and the public, including the council's duties and responsibilities towards these or other groups.

5.8 DBS and Barred List rechecks during employment

- 5.8.1 If a post requires a DBS check the council can legally request employees be re-checked as regularly as they wish to (usually 5 yearly) through the online e-bulk service.
- 5.8.2 Where an employee's actions or activities give 'cause for concern' the council reserves the right to ask employees in relevant positions to apply for a DBS re-check. The grounds for 'cause for concern' could include allegations of suspicious or inappropriate behaviour made by a child or other person or a colleague, parent, carer or member of the public. In such instances, a full investigation of any such allegations will be conducted in accordance with the council's disciplinary policy.
- 5.8.3 Where an existing employee is subject to a re-check which results in a positive disclosure the DBS Lead Counter Signatory will check for any new offences or information (i.e. "new activity");
- If the re-check identifies "new activity" then the above Safer Recruitment Panel process will be applied. The Panel will make a recommendation to the line manager on whether the individual be removed from a regulated post pending appropriate action.
 - If the previous disclosure was positive and re-check identifies no "new activity" then the Safer Recruitment Panel's decision from previous will still stand and no further action is required.
- 5.8.4 Where there is "new activity" it may be appropriate to move the employee to an alternative post with no access to children and/or vulnerable adults, property/information/resources etc. depending on the nature of the disclosures and pending the outcome of a full investigation. It may be that there are no suitable duties the employee could undertake that does not bring them into contact with children/vulnerable adults. If this is the case, the manager must

take guidance from HR when considering suspending the employee on full pay pending the outcome of any disciplinary investigation.

- 5.8.5 When the manager completes the Positive Disclosure Proforma for the Safer Recruitment Panel to consider, they should establish whether the conviction is relevant to the post and should not use convictions to seek to dismiss a person for poor job performance. The track record of the individual should be carefully assessed and if it is satisfactory, this should be considered positively.
- 5.8.6 If the disclosure results are considered to be of a serious nature, only after a full appraisal of the situation, including the risks involved and investigation of other alternative employment options (such as the introduction of safeguard measures or redeployment) should dismissal be considered in accordance with council's disciplinary policy.

5.9 New requirement for disclosure during employment

- 5.9.1 Where, due to changes in legislation, occupational groups become subject to a DBS for the first time, the council will write to existing employees in those groups informing them of the requirement to obtain a DBS check. All employees will be expected to comply.
- 5.9.2 Any existing employee refusing to comply with the request for a DBS check will be advised that their deliberate and unreasonable refusal to carry out lawful and safe instructions issued by an appropriate manager and/or to comply with a contractual agreement may lead to the employee being subject to disciplinary action.

6. Referral to the Disclosure and Barring Service

- 6.1 The Safeguarding Vulnerable Groups 2006 Act sets a legal duty for the council to refer information to the DBS if an employee or volunteer is dismissed or removed from working with children and/or adults and meets the referral criteria.
- 6.2 Referral criteria – the following two conditions must both be met:
 - 1) The council withdrawn permission of a person to work in a regulated activity with children and/or adults either through dismissal or by moving the person to another area of work that is not a regulated activity. This also includes situations where the above would or may have occurred had the person not resigned, retired or otherwise left before the dismissal or move could occur.
 - 2) The council believes that the individual has carried out one of the following;
 - i) Been cautioned or convicted of a relevant barring offence;

- ii) Engaged in relevant conduct (i.e. an action or inaction has harmed a child or vulnerable adult, or put them at risk or harm);
 - iii) Satisfied the harm test in relation to children and /or vulnerable adults (i.e. there has been no relevant conduct but a risk of harm to a child or vulnerable adult still exists).
- 6.3 The referral will be undertaken by the manager in conjunction with the DBS Counter signatories.

7. Non-council employees

7.1 Agency Workers

- 7.1.1 The supplier agency assumes the position of employer for the purpose of obtaining a relevant DBS check for agency workers/consultants and the responsibility to ensure the DBS check is satisfactory lies with them.
- 7.1.2 When using an agency worker it is up to the manager to obtain and record confirmation from the agency that clearance has occurred to ensure that each worker supplied to them has had a satisfactory DBS check and checks against the children's and/or adult's barred list, if applicable.

7.2 Contractors

- 7.2.1 The organisation providing the contractor assumes the position of employer where contractors contract directly with the council and the responsibility to obtain a relevant DBS check lies with them.
- 7.2.2 Where contractors are provided through a third party, they are expected to complete the DBS checks as specified in the above agency relationship.
- 7.2.3 When using a contractor it is up to the manager to obtain and record confirmation from the contracting organisation that clearance has occurred and that a satisfactory DBS check has been obtained and a children's/adult's barred list check has been undertaken, if applicable.

7.3 Volunteers

- 7.3.1 A volunteer is described as a person who performs an activity which involves spending unpaid time doing something that benefits others (individuals or groups), excluding close relatives.
- 7.3.2 Volunteers who assist others on a regular basis may meet the criteria for requiring an enhanced DBS check and, if necessary, a relevant barred list check (see appendix 1).
- 7.3.3 The role of the volunteer must be described accurately by the manager under the 'role of the applicant' on the DBS disclosure form (e.g. "classroom helper",

“parent helper”). The use of the word volunteer must not be used as the role title as this does not describe the activities the person will carry out. There is a separate place on the form to identify the DBS check is for volunteer, as the check is provided free of charge for volunteers providing that the applicant does not directly benefit from the position.

8. Complaints

- 8.1 Candidates or employees unhappy with any aspect of the DBS process, including the application of this policy, should initially raise their concerns through the appointing officer or line manager.
- 8.2 The above complaints are intended to deal with the council’s own internal processes. Complaints relating to mistaken identity or the nature of the information given in a criminal record disclosure can only be dealt with by the Disclosure and Barring Service.

Appendix 1 - Definition of Regulated Activity

The Protection of Freedoms Act 2012 has resulted in a differentiation between those posts which can legally have an enhanced DBS check and those posts which can also be legally checked against the Children or Adult Barred Lists (an enhanced check for regulated activity).

Regulated Activity relating to Children

The definition of regulated activity relating to children comprises only:

a) Activity of a specified nature

- Teaching, training, instruction care for or supervision of children if carried out by the same person frequently or overnight (except if the person is under regular supervision)
- Advice or guidance provided wholly or mainly for children which relates to their well being if carried out by the same person frequently or overnight
- Driving a vehicle being used only for children (and their carers/supervisors) when carried out by the same person frequently;
- Fostering a child (any frequency)
- Early years or later years childminding (any frequency)

b) Activity within a specified establishment

- Work for or on behalf of a specified establishments with opportunity for contact with children if carried out frequently.
- 'specified establishments' include schools/academies, children's homes, children's centres, childcare premises including nurseries.
- Exception to this is work by volunteers under regular supervision or temporary contract work that is not an 'activity of a specified nature' listed above.

c) Providing healthcare (any frequency)

- any health care professional providing health care to a child, or anyone who provides health care under the direction or supervision of a health care professional.

d) Providing personal care (any frequency)

- Providing physical assistance with eating/drinking, toileting, washing/bathing or dressing because of a child's age, illness or disability.
- Prompts and then supervises a child who, because of their age, illness or disability, cannot make the decision in relation to the above personal care without prompting or supervision;
- Trains, instructs or offers advice or guidance on the above personal care to children who need it because of their age, illness or disability;

e) Day to day management of regulated activity

- Day to day management on a regular basis of a person who is providing a regulated activity in relation to children

Exceptions: Family and personal relationship are exceptions to regulated activity relating to children if the activity is conducted in the course of a family relationship or personal relationship for no commercial consideration.

Definitions:

- **Any frequency** means doing the activity one or more
- **Frequently** means once a week or more, or four or more times in any 30 day period
- **Overnight** means once or more between 2am and 6am with the opportunity for face to face contact with children
- **Supervision** must be regular and day to day by a person engaging in regulated activity and reasonable in all circumstances for the protection of children.

Regulated Activity relating to Adults

The definition of regulated activity relating to adults no longer labels adults as 'vulnerable'. Instead the definition identifies the activities which, if any adult requires them, lead to that adult being considered vulnerable at that particular time.

This means that the focus is on the activities required by the adult and not on the setting in which the activity is received, nor on the personal characteristics or circumstances of the adult receiving the activities. There is also no longer a requirement for a person to do the activities a certain number of times before they are engaging in regulated activity.

There are six categories of people who will fall within the new definition of regulated activity (and so will anyone who provides day to day management or supervision of those people)

a) Providing healthcare

- any health care professional providing health care to an adult, or anyone who provides health care under the direction or supervision of a health care professional.

b) Providing personal care

- Providing physical assistance with eating/drinking, toileting, washing/bathing, dressing, oral care or care of the skin, hair or nails because of an adult's age, illness or disability;
- Prompts and then supervises an adult who, because of their age, illness or disability, cannot make the decision in relation to the above personal care without prompting or supervision;
- Trains, instructs or offers advice or guidance on the above personal care to adults who need it because of their age, illness or disability;

c) Providing social work

- The provision by a social care worker of social work which is required in connection with any health care or social services to an adult who is a client or potential client;

d) Assistance with general household matters

- Assistance with cash, bills and/or shopping;
- The provision of assistance to an adult because of their age, illness or disability, if that includes managing the person's cash, paying their bills or shopping on their behalf;

e) Assistance in the conduct of a person's own affairs

- Anyone who provides various forms of assistance in the conduct of an adult's own affairs, for example, by virtue of an enduring power of attorney;

f) Conveying

- Any driver or assistant who transports an adult (including any carer) because of their age, illness or disability either to or from their place of residence and a place where they have received, or will be receiving, health care, personal care or social care; or between places where they have received or will be receiving health care, personal care or social care.
- This will not include family and friends or licensed taxi drivers or private hire drivers.

Appendix 5

Clear Desk & Screen Policy



Walsall Council

Version Control

Document title	Clear Desk and Screen Policy		
Owner	Human Resources	Status	Draft
Version	2.0	Approved on	TBC
Effective from	TBC	Review date	TBC
Last updated	04/10/2019	Last updated by	HR Strategy and Planning
Purpose	To provide guidelines to ensure all data is protected, reducing the risk of security breaches, fraud and information theft.		

This policy links to:

- Corporate Plan
- Walsall Proud Programme
- Agile Working Policy
- Code of Conduct
- Email and Internet Usage Policy
- Statement of Particulars
- Workforce Strategy
- Behaviour & Standards Framework
- Information Governance Policy Framework
- Data Protection e-learning training
- Data Breach Protocols

This list is not exhaustive.

For further advice or guidance on this policy, or if you would like this information in another language or format please contact:

HR Operational Services Team

Telephone: 01922 655656

Text phone: 01922 654000

Email: hrdoperationalservices@walsall.gov.uk

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1.0 Introduction

- 1.1 Walsall Council is PROUD. We are proud of our past, our present and for our future. The council is committed to reducing inequalities and ensuring all potential is maximised and its employment policies, procedures and guidelines are designed to support this vision and deliver the council's priorities.
- 1.2 The council is committed to creating an environment that provides opportunities for all individuals and communities to fulfil their potential. This policy provides a framework in which employees will be supported to deliver the council's priorities in line with the council's expected behaviours and values; professionalism; leadership; accountability; transparency and ethical.
- 1.3 The council's values and behaviours will be at the core of everything the council deliver and through a culture of continuous improvement the council will increase performance, efficiency and champion the design of services to meet the needs of customers. As a digital by design council, employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment. The council is committed to technological investment to deliver transformation in order to improve the efficiency and effectiveness of its services, both internally and externally.
- 1.4 This policy framework promotes the council's strategic priority of internal focus ensuring all council services are effective and efficient and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.
- 1.5 This policy is part of a set of information governance and council policies and procedures which provides guidelines that aim to protect data and reduce the risk of security breaches, fraud and information theft. The Council has an obligation to ensure that it is compliant with the Data Protection Act 2018 in relation to the management and processing of personal data and is required to comply with the General Data Protection Regulations (GDPR).

2.0 Scope

- 2.1 This policy applies to all council employees (including Chief Officers and fixed term and temporary employees);
- 2.2 With the exception of;
 - 2.2.1 School-based employees/workers where the governing body has delegated authority and for whom separate arrangements apply.
- 2.3 This policy also applies to all of the following;
 - Casual workers, agency workers and volunteers on all sites;

- Self-employed individuals and contractors working on Walsall Council premises;
- All visitors to Walsall Council premises, including partners, service users and clients;
- Elected members.

3.0 Principles

- 3.1 Data protection is the responsibility of everyone and all employees / workers must take responsibility for the management of information within their working environment. Information is a valuable asset of the council and it is the responsibility of all employees to ensure its confidentiality.

Clear Desks

- 3.2 At the end of the working day, employees/workers should store away all work-related files and paperwork, and any removable storage devices to leave their desks or workstations paper-free, except for personal items such as photographs or stationery. All paperwork and equipment should be secured in lockable cupboards or drawers, or disposed of safely. Employees who work in an agile working area must leave their desk or workstation clear of all items.
- 3.3 When leaving the desk or workstation for a major part of the working day, including lunch breaks, employees are expected to store away all work-related paperwork and files.
- 3.4 Laptops left in the office overnight should be securely stored away in a lockable cupboard/drawer.
- 3.5 Employees should also be mindful of their surroundings and take appropriate steps to protect confidential information that maybe on their desks during the working day e.g. turning over confidential papers that are not actively being worked on.

Clear Screens

- 3.6 Whenever employees/workers are leaving their desks or workstations, even for brief breaks e.g. toilet visit or to collect printing, they should ensure their computer screen or laptop is locked (Ctrl+Alt+Delete, or Ctrl+Alt+End).
- 3.7 Employees should be aware of their surroundings at all times and take appropriate steps to protect confidentiality of information on their screens.

4.0 Accountabilities

- 4.1 Managers are accountable for the following;
- Applying this policy and procedure consistently, fairly and objectively in accordance with the council's vision and purpose and clearly demonstrate the

council's management behaviours and values, seeking further advice and guidance from HR where necessary;

- Ensuring that employees are aware of their responsibilities in accordance with this policy;
- Monitoring and addressing any non-compliance with this policy;
- Undertaking random checks to ensure compliance.

4.2 Employees are accountable for the following;

- All employees should support the delivery of the council's vision and purpose, clearly demonstrating the council's behaviours and values;
- Actively engage in employment practices and processes in which they are involved and ensure they understand this policy, seeking further advice and guidance from managers where necessary;
- Raise any issues or concerns regarding compliance with their line manager in order to seek a resolution;
- Comply with the requirements of this policy.

5.0 Monitoring and Compliance

- 5.1 Managers/supervisors are responsible for ensuring that their staff clearly understand and adhere to this policy, and will undertake random checks to ensure compliance. However, it is the responsibility of all employees to adhere to this policy to maintain the security and confidentiality of council information.
- 5.2 Failure to comply with this policy may result in data breaches and/or formal action being taken under the disciplinary policy, which may ultimately lead to a sanction up to and including dismissal.
- 5.3 All data breaches must be reported in line with the council's data breach guidelines, refer to the information governance intranet pages.

Appendix 6

Fixed Term and Temporary Contracts Policy



Walsall Council

Version Control

Document title	Fixed Term and Temporary Contracts Policy		
Owner	Human Resources	Status	Draft
Version	2.0	Approved on	TBC
Effective from	TBC	Review date	TBC
Last updated	04/10/2019	Last updated by	HR Strategy and Planning
Purpose	This document sets out the arrangements for managing staff employed on a Fixed Term or Temporary Contract.		

This policy links to:

- Corporate Plan
- Walsall Proud Programme
- Redundancy Policy
- Workforce Strategy
- Behaviour & Standards Framework
- Redeployment Policy

This list is not exhaustive.

For further advice or guidance on this policy, or if you would like this information in another language or format please contact:

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1.0 Introduction

- 1.1 Walsall Council is PROUD. We are proud of our past, our present and for our future. The council is committed to reducing inequalities and ensuring all potential is maximised and its employment policies, procedures and guidelines are designed to support this vision and deliver the council's priorities.
- 1.2 The council is committed to creating an environment that provides opportunities for all individuals and communities to fulfil their potential. This policy provides a framework in which employees will be supported to deliver the council's priorities in line with the council's expected behaviours and values; professionalism; leadership; accountability; transparency and ethical.
- 1.3 The council's values and behaviours will be at the core of everything the council deliver and through a culture of continuous improvement the council will increase performance, efficiency and champion the design of services to meet the needs of customers. As a digital by design council, employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment. The council is committed to technological investment to deliver transformation in order to improve the efficiency and effectiveness of its services, both internally and externally.
- 1.4 This policy framework promotes the council's strategic priority of internal focus ensuring all council services are effective and efficient and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.
- 1.5 The purpose of this policy is to set out for managers how to safely recruit, manage, and terminate employees on fixed term or temporary contracts of employment. This policy will also provide information to help those employees know what to expect from the council.

2.0 Scope

- 2.1 This policy applies to all council employees on fixed term or temporary contracts of employment;
- 2.2 With the exception of;
 - 2.2.1 Apprentices
 - 2.2.2 Placement students / interns
 - 2.2.3 Those participating in government or European Social Fund Training
 - 2.2.4 Work experience students
 - 2.2.5 Agency workers
 - 2.2.6 Casual / sessional workers
 - 2.2.7 School-based employees/workers where the governing body has delegated authority and for whom separate arrangements apply.

- 2.3 For employees classified as either a Chief Officer or Deputy Chief Officer, the council's constitution determines that appointment and dismissal will be by the council's appropriate Board/Committee. The fixed term and temporary contracts policy will be amended accordingly to satisfy that requirement.

3.0 Principles

- 3.1 A **fixed term contract** will be issued to an employee when the end date or length of the contract is known. The contract must state clearly the reason for the fixed term status to establish those specific elements of the role which could attract a redundancy payment; or whether the role is to provide cover; backfill etc. which defines the objective justification.
- 3.2 A **temporary contract** will be issued to an employee when the end date or length of the contract is unknown, however, the contract will indicate the anticipated length of the contract. The contract should also state the reason for the temporary status.
- 3.3 Employees on fixed term or temporary contracts have important statutory rights which include;
- The right not to be treated less favourably than a comparable employee on a permanent contract in respect of pay, contractual terms and conditions;
 - The right to join the occupational pension scheme;
 - The opportunity to receive training and not to be subjected to any other detriment on grounds of status as a fixed term or temporary employee;
 - The right to a statutory redundancy payment where the expiry [i.e. dismissal] of a fixed term or temporary contract gives rise to a redundancy situation. This does not normally apply if the dismissal is for 'some other substantial reason' e.g. where the employee is brought in on a fixed term contract to provide temporary cover, normally for less than 2 years;
 - The right not to be selected for redundancy or be unfairly dismissed if the principal reason for the selection was because the employee is on a fixed term contract;
 - The right to be informed and have access to information regarding permanent employment opportunities within the organisation;
 - Limiting the use of successive fixed term contracts to no more than 4 years, after which a fixed term or temporary contract should become permanent, unless the continued use of a fixed term contract can be justified on objective grounds.
- 3.4 The termination of a fixed term or temporary contract, or non-renewal of a fixed term or temporary contract beyond its expiry date is regarded as a dismissal. The reason for dismissal will be due to either;
- **Redundancy**; e.g. where the requirement for the work to be undertaken has diminished or ceased;

Or,

- **Some Other Substantial Reason (SOSR);** e.g. where the requirement for the work to be undertaken has not reduced and the substantive post holder has returned to work or a permanent employee is recruited.

3.5 Redundancy dismissals will include the following;

- The completion of a specific task, such as project work that is dependent on external funding and the post will end once the funding ceases or no further funding can be found;
- The completion of a specific task which is then completed;
- The employee is recruited to provide additional staffing and the provision of services reduces or ceases – for example as a resource whilst a service determines future staffing requirements or is going through a restructure process.

This list is not exhaustive.

3.6 An employee who is dismissed on the grounds of redundancy will be entitled to a redundancy payment, providing they have at least 2 years continuous service with the council or related employers as listed under the Redundancy Payments (Continuity of Employment in Local Government) (Modification) Order 1999 and subsequent amendments. The employee may also be entitled to access redeployment in line with the redeployment policy.

3.7 SOSR dismissals will include the following;

- Cover for adoption/ maternity/parental leave;
- Cover for a substantive post holders secondment;
- Cover for long-term absence e.g. sickness.

This list is not exhaustive.

3.8 In SOSR dismissals the employee is not normally eligible for a redundancy payment nor are they eligible to access redeployment. Especially when it was made known, at the commencement of fixed term employment, that any of the above were the reason for the employment.

3.9 Where a fixed term or temporary contract is brought to an end earlier than the stated expiry date, the employee will be eligible to the appropriate notice, based on length of service or specified in their contract, whichever is the longest. Notice may be paid in lieu or worked at the discretion of the manager.

3.10 The council reserves the right when applying the equal treatment requirement, to objectively justify different terms and conditions for employees on fixed term or temporary contracts.

- 3.11 If an employee on a fixed term or temporary contract becomes pregnant, they have additional rights above those relating to equal treatment given to all fixed term and temporary workers. Managers should consult HR in such cases.

4.0 Accountabilities

4.1 Managers are accountable for the following;

- Applying this policy and procedure consistently, fairly and objectively in accordance with the council's vision and purpose and clearly demonstrate the council's management behaviours and values, seeking further advice and guidance from HR where necessary;
- To ensure there is a justifiable and demonstrable reason for appointing to a post on a fixed term or temporary basis, and that this is fully explained during the recruitment process and in any subsequent correspondence relating to the post/contract.
- To ensure that all fixed term or temporary employees understand the nature of their contracts, and are consistently advised as to the likelihood of extension/renewal and the reasons for this, within the timescales outlined in this procedure.
- To liaise with employees, appropriate trade union representatives and HR as appropriate, regarding formal procedures and meeting arrangements.
- To ensure the dismissal process is followed when ceasing or not renewing a fixed term or temporary contract.
- To update HR on any changes in status/duration of contracts to ensure that the employee receives the correct payment(s).

4.2 Employees are accountable for the following;

- All employees should support the delivery of the council's vision and purpose, clearly demonstrating the council's behaviours and values;
- Actively engage in employment practices and processes in which they are involved and ensure they understand this procedure, seeking further advice and guidance from managers where necessary;
- To ensure they have a clear understanding of the fixed term or temporary nature of their employment, and reasons for this.
- To have no expectations that their employment will be extended or made permanent, unless they received formal, written clarification of this.
- To raise any issues relating to their fixed term or temporary employment and any perceived less favourable treatment, with their manager at the earliest opportunity.
- To attend meetings as necessary in connection with their fixed term or temporary contract, noting their right to be accompanied by a work colleague, or recognised Trade Union representation at any such meetings.
- Comply with the requirements of this policy and procedure.

5.0 Procedure

- 5.0.1 A procedure flowchart can be found at appendix 1 which also covers the template letters available to support managers with the various processes.

5.1 Advertising a fixed term or temporary contract

- 5.1.1 When advertising a fixed term or temporary vacancy the advert must specify the length of the appointment (where this is known) and the purpose of the contract. If there is a possibility of permanency or renewal on expiry of the period, this should also be included in the advert.

5.2 Filling a vacancy which a fixed term or temporary employee is covering

- 5.2.1 Should a fixed term or temporary post subsequently become available to fill on a permanent basis, then the manager has the flexibility to decide to;

a) Commence a recruitment and selection exercise and advertise the post (which the current fixed term or temporary employee will have the opportunity to apply for);

b) Or alternatively, if the current fixed term or temporary employee has demonstrated the required level of skills and performance and were originally subject to a recruitment and selection process for that specific post (when they began the post) then the incumbent fixed term or temporary post holder can be offered a permanent contract (without the need to advertise or a further recruitment and selection exercise being undertaken).

- 5.2.2 If the post-holder does not meet the above criteria (5.2.1), the post should be advertised in accordance with normal recruitment procedures. The manager should meet with the fixed term or temporary employee to inform them that the post is due to be advertised, and if they are subsequently unsuccessful at interview, the dismissal process outlined below should be followed.

5.3 Fixed term or temporary employees applying for secondments

- 5.3.1 In cases where a fixed term or temporary employee applies for and is successful in obtaining a secondment opportunity and the fixed term or temporary contract is due to expire before the end of the secondment:

- The original manager should ensure that they meet with the individual in advance of the required contractual notice to bring their fixed term/temporary contract to an end and the seconding Manager must create a new post and issue a new fixed term or temporary contract.

- 5.3.2 When you are considering extending or ending a fixed term or temporary contract early or on the due date, you are advised to discuss this at the earliest opportunity with HR.

5.4 Extending a fixed term or temporary contract

- 5.4.1 Where fixed term or temporary contracts are extended, all continuous fixed term or temporary periods of employment will count towards an employee's continuity of service.
- 5.4.2 Where an employee has been continuously employed under one or more fixed term or temporary contracts for a period of four years, their contract will become permanent unless the employer can show that the use of a fixed term contract is objectively justified.
- 5.4.3 The date that the fixed term contract will become permanent is the earlier of the two following dates:
- The date on which the employee acquired four years' continuous employment under fixed term contracts. (i.e. anniversary of start date)
 - The date on which that contract was entered into or last renewed, for example if an employee has 3.5 years' service, and is offered another 12 month contract, they will automatically become permanent with the establishment of the contract
- 5.4.4 In order to ensure that the extension or change in contract status is actioned the line manager must ensure that they complete the necessary post amendment/ extension form and send it to HR.
- 5.4.5 Managers should confirm the extension in writing to the employee.

5.5 Terminating a fixed term or temporary contract

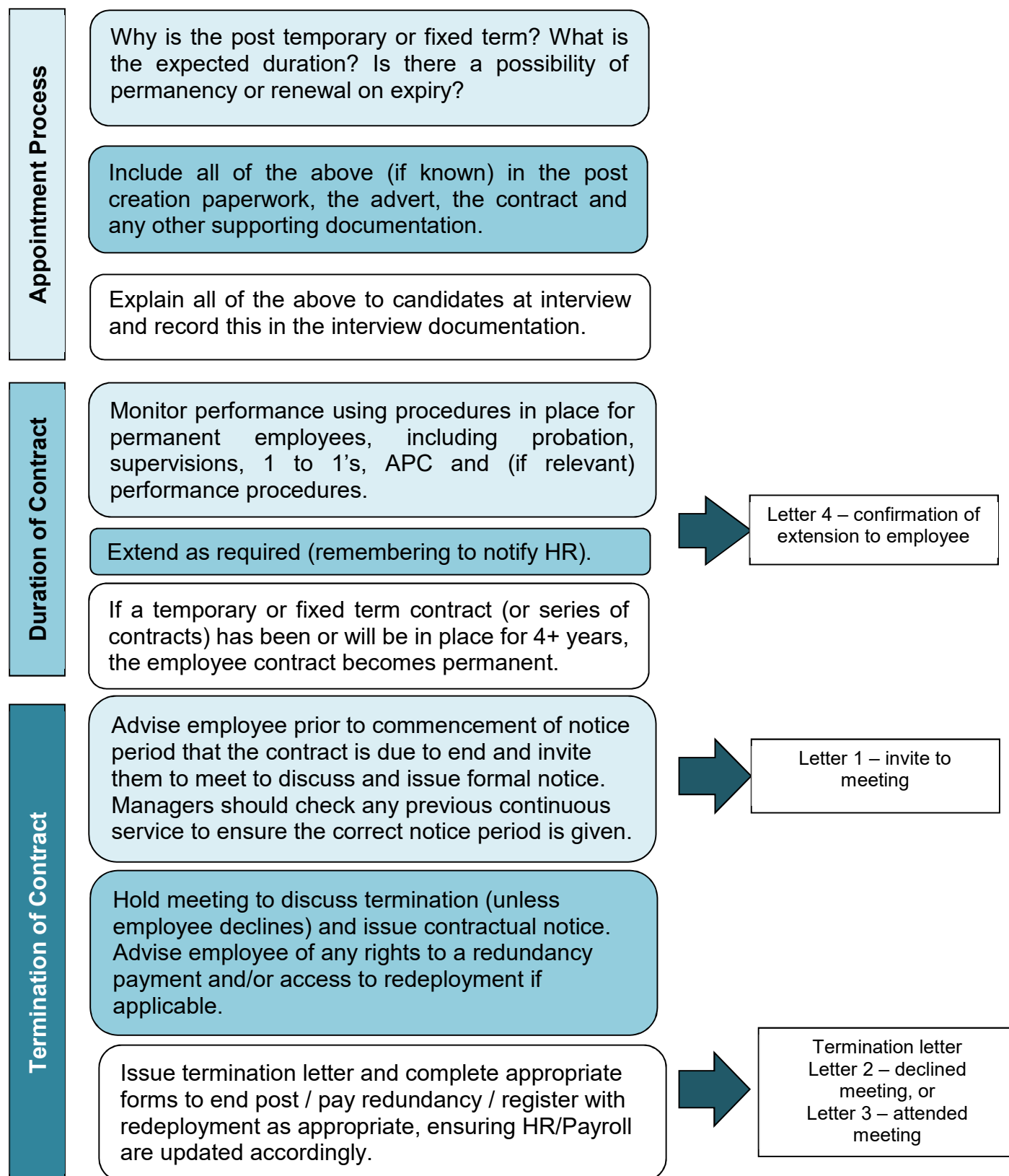
- 5.5.1 The Line Manager should on an on-going basis monitor the use of fixed term or temporary contracts.
- 5.5.2 Managers should invite employees to a meeting in order to issue them with their relevant notice, this meeting must take place before the notice period needed to terminate the contract commences. The manager should notify the employee in writing that their fixed term or temporary contract will not be renewed and as such will result in the termination of employment on the grounds of redundancy or SOSR, and invite the employee to a meeting as soon as possible.
- 5.5.3 The employee should be given a minimum of 5 working days' notice of this meeting, and they have the right to be accompanied at the meeting by a recognised Trade Union Representative or work colleague.

- 5.5.4 The meeting should be held prior to the commencement of the required notice period to ensure that the appropriate notice is issued taking account of the employee's continuous service date if applicable.
- 5.5.5 If the employee confirms that they understand that the fixed term or temporary contract is due to end, and confirms in writing that they do not wish to attend the meeting, written confirmation of expiry of fixed term or temporary contract can be issued by the manager.
- 5.5.6 If the employee confirms that they wish to attend the meeting, the following agenda should be covered:
- Confirm with the employee that the contract of employment is to expire, the date of expiry and that it will not be renewed.
 - Explain the reason for the non-renewal.
 - Confirm the dismissal, the reasons and the termination date. The dismissal will be on grounds of redundancy (with or without a payment) or SOSR.
 - If the employee is one of a pool of employees on fixed term or temporary contracts from which selection for redundancy has to be made, the criteria that will be used to make this selection should be explained.
 - Check and confirm whether the employee is eligible for redeployment in accordance with the redeployment policy.
 - Check that the individual is made aware of their rights in accordance with the redeployment policy and where relevant provide any appropriate support e.g. completing redeployment registration forms and/or providing guidance on accessing job vacancies.
 - Where an employee has been on fixed term or temporary contract(s) of 2 years or more and the reason for the dismissal is due to redundancy make them aware that they will be entitled to a redundancy payment. The manager should contact HR who will obtain an estimate of redundancy costs.
- 5.5.7 Following the meeting, the manager should confirm the above in writing to the employee and notify Payroll.
- 5.5.8 If an extension or renewal of the contract is made, the manager should confirm this in writing to the employee and notify Payroll.

6.0 Appeal process

- 6.1 Employees have the right to appeal against their dismissal and if they wish to exercise this right, they should submit their appeal in writing to the Head of HR within 10 working days of the date of their formal notice letter.
- 6.2 All appeals will be held in accordance with the council's appeals policy. Employees have the right to representation at appeal hearings.

Appendix 1 Fixed Term and Temporary Contracts Procedure Flowchart



Appendix 7

Right to Request Flexible Working Policy



Walsall Council

Version Control

Document title	Right to Request Flexible Working Policy		
Owner	Human Resources	Status	Draft
Version	2.0	Approved on	TBC
Effective from	TBC	Review date	TBC
Last updated	04/10/2019	Last updated by	HR Strategy and Planning
Purpose	This policy provides guidance and support to employees who would like to request changes to their working patterns, exercising their statutory right to request flexible working and provides a framework by which managers can consider such requests in a fair and transparent manner.		

This policy links to:

- Corporate Plan
- Walsall Proud Programme
- Workforce Strategy
- Behaviour & Standards Framework

This list is not exhaustive.

For further advice or guidance on this policy, or if you would like this information in another language or format please contact:

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1.0 Introduction

- 1.1 Walsall Council is PROUD. We are proud of our past, our present and for our future. The council is committed to reducing inequalities and ensuring all potential is maximised and its employment policies, procedures and guidelines are designed to support this vision and deliver the council's priorities.
- 1.2 The council is committed to creating an environment that provides opportunities for all individuals and communities to fulfil their potential. This policy provides a framework in which employees will be supported to deliver the council's priorities in line with the council's expected behaviours and values; professionalism; leadership; accountability; transparency and ethical.
- 1.3 The council's values and behaviours will be at the core of everything the council deliver and through a culture of continuous improvement the council will increase performance, efficiency and champion the design of services to meet the needs of customers. As a digital by design council, employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment. The council is committed to technological investment to deliver transformation in order to improve the efficiency and effectiveness of its services, both internally and externally.
- 1.4 This policy framework promotes the council's strategic priority of internal focus ensuring all council services are effective and efficient and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.
- 1.5 This policy implements the statutory right of employees to request flexible working and provides a framework for reviewing and processing such requests. The policy supports both managers and employees to align service delivery requirements with the needs of both our employees and our customers and provides guidance on different working arrangements as well as the procedure for submitting and considering flexible working requests.

2.0 Scope

- 2.1 This policy applies to all council employees with a minimum of 26 weeks continuous service (including those of fixed term and temporary contracts);
- 2.2 With the exception of;
 - 2.2.1 School-based employees/workers where the governing body has delegated authority and for whom separate arrangements apply.
- 2.3 This policy also applies to agency workers with a minimum of 26 weeks continuous service returning to work from a period of ordinary parental leave.

- 2.4 This policy does not apply to contractors, consultants, casual workers, or any self-employed individuals working for the council.

3.0 Principles

- 3.1 There are many forms of flexible working. An employee can request a temporary or permanent change to:
- the hours that he or she is required to work;
 - the times that he or she is required to work;
 - where he or she is required to work;
 - accommodate job share arrangements.
- 3.2 Employee's should be aware that any permanent change requests will result in a permanent change to their terms and conditions, unless a trial or temporary period has been agreed. Managers and employees should be aware that any change in contract as a result of a flexible working request could;
- impact upon the salary (which will be on a pro-rata basis);
 - impact upon annual leave (which will be on a pro-rata basis);
 - have pension implications;
 - impact upon the grade of the role (where duties are amended by agreement).
- 3.3 An employee can only make one flexible working request in any 12 month period, unless their previous request was of a temporary nature lasting for less than 12 months.
- 3.4 Employees shall be given at least 5 working days written notice of any meeting (including the appeal) under this policy and are entitled to be accompanied by their recognised trade union representative or a Walsall Council work colleague. Advance notice of such meetings can be waived by mutual agreement.
- 3.5 If the employee fails to attend an arranged meeting (including the appeal), a subsequent meeting should be agreed. If the employee fails to attend a rearranged meeting without good cause, the manager will treat the request or appeal as having been withdrawn.
- 3.6 If a manager considering the flexible working request or subsequent appeal is reasonably unable to do so within the timescales specified within this procedure, the timescale may be extended by mutual agreement and confirmed in writing.

4.0 Accountabilities

- 4.1 Managers are accountable for the following;
- Applying this policy and procedure consistently, fairly and objectively in accordance with the council's vision and purpose and clearly demonstrate the council's management behaviours and values, seeking further advice and guidance from HR where necessary;

- To consider requests in accordance with this policy and respond to the employee in a reasonable time frame.

4.2 Employees are accountable for the following;

- All employees should support the delivery of the council's vision and purpose, clearly demonstrating the council's behaviours and values;
- Actively engage in employment practices and processes in which they are involved and ensure they understand this procedure, seeking further advice and guidance from managers where necessary;
- Submitting applications in good time and well in advance of when they would like the arrangement to commence;
- Comply with the requirements of this policy and procedure.

5.0 Procedure

- 5.1 To submit a flexible working request employees should complete a flexible working application form and submit this to their line manager. Employees are encouraged to submit their applications well in advance of the date that they would like the flexible working arrangement to commence in order that the request can be fully considered.
- 5.2 The application will be deemed to have been made on the date the employee's manager receives it. The manager should date and acknowledge receipt of the submitted application in writing and arrange a meeting with the employee to discuss the request. If the manager intends to approve the request, a meeting may not be required, neither does the meeting need to be face to face, if mutually agreed it could be held over the telephone or skype.
- 5.3 The meeting provides an opportunity for the manager to explore with the employee exactly what changes they are seeking and how these might be accommodated. It also allows the employee to explain the reasons why they are seeking the change (if they choose to disclose this) and to expand upon any points within their application. The meeting may also provide an opportunity for the manager and employee to propose alternative working patterns if appropriate, as well as discussing the option of trial periods.
- 5.4 Following the meeting the manager should consider the request fairly and objectively looking at the benefits of the requested changes for the employee and the business and weighing these against any adverse business effects of implementing the changes.
- 5.5 Managers are under no obligation to agree flexible working requests, however they should only be refused where they cannot be accommodated by business grounds set out in the legislation;
- the burden of additional costs;
 - detrimental effect on ability to meet customer demand;
 - inability to recruit additional staff;

- inability to reorganise work among existing staff;
- detrimental impact on quality;
- detrimental impact on performance;
- insufficiency of work during the period the employee proposes to work;
- planned structural changes.

5.6 The manager should confirm their decision in writing to the employee as soon as practically possible and normally no later than 6 weeks after having received the initial request.

5.7 All completed paperwork, including the original application form and management decisions for all approved and rejected requests should be forwarded to HR for contract amendments to be made, action by payroll and inclusion on the employees personnel file.

6.0 Appeal process

6.1 An employee has the right to appeal against a rejection of their flexible working request. Should the employee wish to exercise this right, they should complete the Flexible Working Appeal Form and submit this to their manager within 10 working days of the date of the written outcome.

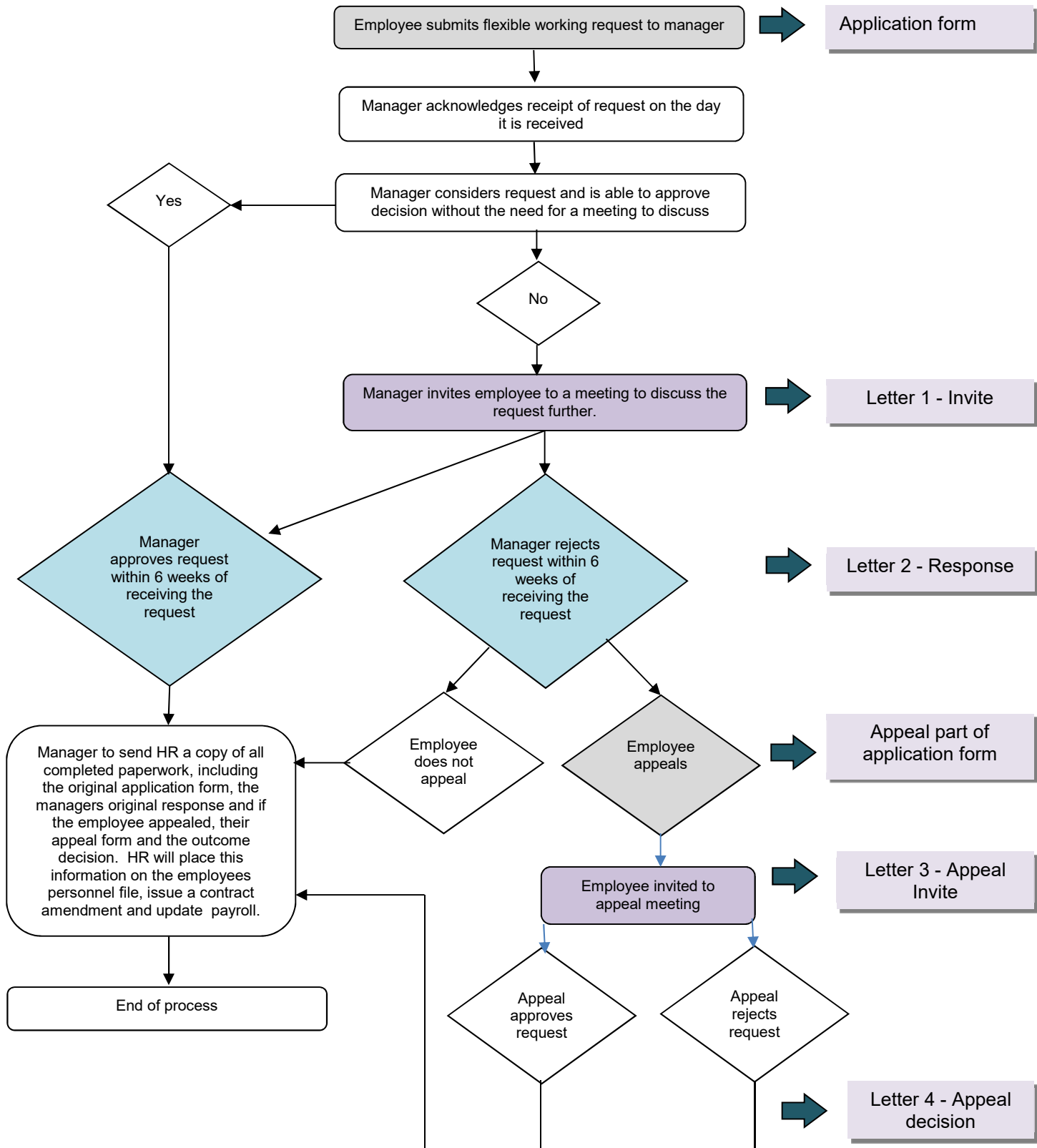
6.2 The appeal will be considered by another manager within the council, this will normally be the deciding manager's line manager or an alternative manager normally from within the service area or directorate.

6.3 The manager considering the appeal will convene a meeting with both parties to discuss the application and the rejection rationale including any new information not available at the time of the original request being made.

6.4 The manager having considered the appeal should confirm their decision in writing to the employee as soon as practically possible, however this must be no later than 3 months after the initial request to work flexibly was submitted.

6.5 There is no further right of appeal, nor can the matter be raised under the council's grievance policy.

Appendix 1 - Right to Request Flexible Working Procedure Flowchart



Whole process - from the employee submitting the initial request to work flexibly to any appeal response must be completed within 3 months.