

AGENDA FOR EMPLOYMENT PANEL



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To: All Members of Employment Panel

Councillors : T Rafiq (Chair), R Bernstein, J Grimshaw,
C Cummins, E Moss, M Walsh, T Tariq, J Lancaster and
L Smith

Dear Member/Colleague

Employment Panel

You are invited to attend a meeting of the Employment Panel which will be held as follows:-

Date:	Thursday, 11 July 2024
Place:	Microsoft Teams
Time:	5.00 pm
Briefing Facilities:	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
Notes:	

AGENDA

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

Members of the Employment Panel are asked whether they have an interest in any of the matters on the agenda and, if so, to formally declare that interest.

3 MINUTES OF THE PREVIOUS MEETING *(Pages 3 - 4)*

The minutes of the meeting held on 3 April 2024 are attached for approval and accuracy.

4 TERMS OF REFERENCE *(Pages 5 - 8)*

The terms of reference of the Employment Panel are attached for information only.

5 CORPORATE PARENTING CHAMPION

Each Committee is required to have a nominated Corporate Parenting Champion; they will receive training from Childrens Services and will be responsible for advocating for Corporate Parenting matters in each committee. Champions will be appointed by each Committee at their first meeting of the municipal year. If the representative wishes to also attend Corporate Parenting Boards scheduled for the municipal year 2024-2025 these are:

02nd July 2024
10th September 2024
03rd December 2024
09th January 2025
04th March 2025

6 WORKFORCE POLICY REVIEW *(Pages 9 - 144)*

Report and appendices attached.

7 PERFORMANCE AND DEVELOPMENT FRAMEWORK FOR THE CHIEF EXECUTIVE *(Pages 145 - 152)*

Report attached.

8 URGENT BUSINESS

9 MEMBER TRAINING

PowerPoint slides to be shared at the meeting.

Minutes of: **EMPLOYMENT PANEL**

Date of Meeting: 3 April 2024

Present: Councillor T Rafiq (in the Chair)
 Councillors R Bernstein, E Moss, M Walsh, L Dean and T Tariq

Also in attendance: Sam McVaigh, Director of People and Inclusion, Jeanette Richards, Director of Children and Young People, Kelly Barnett, Democratic Services Officer.

Public Attendance: No members of the public were present at the meeting.

Apologies for Absence: Councillor J Grimshaw and Councillor C Cummins

5 APOLOGIES FOR ABSENCE

Apologies for absence are noted above.

6 DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

7 MINUTES OF THE PREVIOUS MEETING

It was agreed that the notes of the meeting held on 29 February 2024 be approved as a correct record and signed by the Chair.

8 EXCLUSION OF PRESS AND PUBLIC

It was agreed:

1. To exclude the press and public.

9 RECRUITMENT OF DIRECTOR OF SOCIAL CARE AND EARLY HELP

It was agreed:

1. to interview the candidate to consider their suitability for permanent appointment to the Director of Social Care and Early Help.

10 URGENT BUSINESS

There was no urgent business.

COUNCILLOR T RAFIQ
Chair

EMPLOYMENT PANEL TERMS OF REFERENCE

1. FUNCTION

The Employment Panel is responsible for the employment functions as set out in the Officer Employment Procedure Rules; including;

- Act as the Investigating and Disciplinary Committee for statutory Officers of the Council
- Appeals against dismissal and grievances by employees of the Council
- Applications for premature retirement and
- Appointment Panel for Chief and Deputy Chief Officers.

2. MEMBERSHIP

2.1 The Employment Panel will be Chaired by the Cabinet Member with responsibility for human resources. The Committee will be a politically balanced committee of the Council with nine members.

2.2 A politically balanced 3 member panel will be convened to fulfil the appeals functions.

2.3 A politically balanced 6 member panel will be convened to fulfil the employment functions, the 5th/and if necessary, 6th member will be the Cabinet Member(s) with responsibility for the portfolio area under consideration or their appointed deputy.

2.4 A politically balanced 7 member panel will be convened to fulfil the employment functions to discharge their function in appointing the Chief Executive, Monitoring Officer and the S151 Officer.

The 7 member panel will consist of:

1. Chair of the Employment Panel
2. The Leader of the Council
3. The Deputy Leader of the Council
4. One further Cabinet Member to be nominated by the Leader of the Council
5. The Leader of the largest opposition group
6. One further Member to be nominated by the Leader of the Largest opposition group
7. The Leader of the second largest opposition group

If any member of the panel (as outlined above) is not already a member of the Employment Panel, they will be co-opted to the Employment Panel for the purpose of these appointments.

On completion of the appointment process, the Panel will make a recommendation to Full Council for final approval.

2.5 Any panels convened must comprise of the 9 members appointed to the Employment Panel except in instances when a Cabinet Member is required to fulfil an employment function as detailed in point 2.3.

2.6 Officers supporting the Employment Panel will make every attempt to ensure ad hoc Panels are constituted politically proportionally. There may be occasions when this is not possible, in such circumstances any decisions regarding composition, will be taken in consultation with the Leader and the Cabinet Member, with oversight from the Monitoring Officer.

3. KEY RESPONSIBILITIES OF THE BOARD

1. Be the appropriate body including acting as the Investigating and Disciplinary Committee.
2. To fulfil the employment functions as set out in part 4 section 8, the Officer Employment Procedure Rules in relation to: Chief Officers and Deputy Chief Officers including the Head of Paid Service (to include Returning Officer and Electoral Registration Officer functions), Deputy Chief Executive; Director for Adults and Communities, Director of Children and Families; Director of Public Health, Monitoring Officer and S151 Officer.
3. Review the annual pay policy statement and make recommendations to Council.
4. Be a consultee on all terms and conditions including policies for all staff.
5. Approve the performance and development framework for annual assessment of the Chief Executive.
6. Appeals against dismissal and grievances by employees of the council and applications for premature retirement.
7. The Chair of the Employment Panel has delegated authority to suspend the Head of Paid Service.

5. MEETINGS

The Employment Panel is a Committee of the Local Authority and so as such the Access to Information provisions will apply. The Panel will meet four times a year.

The **date and timings** of the meetings will be fixed in advance by the Council, as part of the agreed schedule of meetings.

Additional meetings may be convened at the request of the Chair, and with the agreement of the Council Leader.

The meeting will be Chaired by the Cabinet Member with responsibility for the human resources function. The Chair will be appointed annually and the appointment would be ratified by Council. **In the absence of the Chair** - a replacement Chair will be elected for the duration of the meeting.

A **quorum** of three will apply for meetings of the Full Panel and to consider appeals and appointments.

The Director of People & Inclusion or their representative will act as the **lead officer**.

The agenda and supporting **papers** shall be in a standard format and circulated at least five clear working days in advance of meetings.

Meetings will be **clerked** by a representative of Democratic Services.

Public Engagement

Agendas will be available to view by members of the public in line with Access to Information Requirements on the Councils website at <https://www.bury.gov.uk/index.aspx?articleid=10465>

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Unis Classification Open	Item No.
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Meeting:	Employment Panel
Meeting date:	11th July 2024
Title of report:	Workforce Policy Review
Report by:	Cllr. Tahir Rafiq, Cabinet Member for HR & Corporate Affairs
Decision Type:	Council
Ward(s) to which report relates	All

Executive Summary:

A key component of the Council's HR improvement and modernisation programme is the review of core HR systems, processes and policies to ensure they are fit for purpose, reflective of modern HR practice and align with the organisational culture described by the LET'S values. As part of this work, Employment Panel has agreed revisions to 19 employment policies during 2023 and 2024.

This report sets out the next phase of this policy review work including four new policies for approval. Trade Union colleagues have been fully engaged in this work.

Changes are proposed in the following areas:

1. Disciplinary Procedure – a revised, more streamlined procedure which empowers managers to take a lead on managing conduct issues.
2. Grievance Procedure – a revised Grievance Procedure to replace the existing document, which will also cover any future complaints concerning potential harassment and bullying issues. The currently separate Dignity at Work Policy will be withdrawn.
3. Family Leave Policy – a consolidation of the existing family leave documents and an update to reflect the Paternity Leave (Paternity Leave (Amendment) Regulations 2024).
4. Agile Working Policy – a revised and updated Agile Working Policy, to remove reference to Covid and establish a clearer framework for agile working informed by learning from the last three years.

RECOMMENDATION(S)

That the Employment Panel:

1. Agree the revised Disciplinary Procedure
2. Agree the revised Grievance Procedure and withdrawal of the Dignity at Work Policy.
3. Agree the new Family Leave Policy and withdrawal of the current separate policy arrangements.
4. Agree the revised Agile Working Policy

Subject to Employment Panel's approval, the new and revised policies/procedures will go forward for endorsement via the Trade Union Consultation Meeting and the Council's Corporate Joint Consultative Committee before being published on the Council's intranet pages and communicated to staff with the intention to come into force from 1 August 2024.

KEY CONSIDERATIONS

1. **Disciplinary Procedure**

1.1 **Background**

- 1.1.1 The current Disciplinary Procedure forms Appendix B of the Council's Local Conditions of Service. It was last reviewed and updated in February 2017.
- 1.1.2 It is complemented by the Hearing Procedure and Employment Appeal Procedure which forms Appendix B1 of Local Conditions of Service.
- 1.1.3 Feedback received from employees and managers refers to the Disciplinary Procedure not being streamlined and relying too heavily on input from HR at all stages. The proposed procedure focuses on managers leading the process, with support from a HR representative, and on senior managers having an oversight of conduct issues.

1.2 **Procedure Headlines**

- 1.2.1 The new Disciplinary Procedure will replace the current procedure in addition to the following documents:
 - Disciplinary procedure Flowchart
 - Suspension guidelines
 - Duty to refer to the Independent Safeguarding Authority
 - Notes to be read before an investigation
 - Letter templates – Disciplinary
 - Disciplinary investigation procedure flowchart
 - Investigation information leaflet – Employee under investigation
 - Investigation information leaflet – Witness

It will be supported by new guidance on suspension and investigations and a programme of management training to begin over the summer.

1.2.2 The currently separate Hearing Procedure and Employment Appeal Procedure will be over-ridden by procedures set out within the proposed new Disciplinary Procedure for disciplinary matters.

1.2.3 A summary of the proposed key changes to the procedure is set out below:

Subject	Current	Proposed
Grievance	If a grievance is raised at any time during the formal stage, then the disciplinary procedure may be suspended whilst the grievance is dealt with. Should the grievance be related to the case then it might be appropriate for both procedures to run concurrently.	If a grievance is raised at any time during the formal stage, then the disciplinary procedure would not be suspended unless to continue with the process would prejudice the case. Should the grievance be related to the case then it would usually be appropriate for both procedures to run concurrently
HR involvement	A departmental HR representative must be involved at all stages of the procedure	Manager will contact HR for advice.
Informal stage	Informal stage is part of formal procedure	Minor misconduct to be dealt with through management action rather than instigating the formal procedure. Informal stage not part of procedure.
Some other substantial reason (SOSR)	SOSR included	No reference to SOSR as the procedure is regarding Misconduct
Sickness	Sickness on the day of the hearing – not referenced	Alternative arrangements will be considered before going ahead in the employee's absence
Appeals	11 working days of the decision being communicated	10 working days of the decision being communicated

1.2.4 The proposed changes reflect a review of Disciplinary Procedures from across other Greater Manchester Authorities and the ACAS Code of Practice. They have been tested with a range of managers, and shared with the Council's Legal Team and Equality, Diversity and Inclusion Manager. They have also been shared with the Trades Unions and their feedback incorporated.

1.3 This procedure will apply to all Council services staff including former employees Six Town Housing.

1.4 The revised procedure and EqIA are attached as appendix 1 and 1A.

2. Grievance Procedure

2.1 Background

2.1.1 The current Grievance Procedure and Dignity at Work Policy respectively form Appendix C and Appendix T of the Council's Local Conditions of Service. The Grievance Procedure was last reviewed in January 2016 and the Dignity at Work Policy was developed in 2010.

2.1.2 The intention is to withdraw both documents from Local Conditions of Service and establish a new Grievance Procedure.

2.2 Procedure Headlines

2.2.1 The key changes proposed for the new procedure are:

- A greater emphasis on informal resolution and mediation
- Clarification over the matters that cannot be raised as part of a grievance
- Removal of reference to the Modified Grievance Procedure, which is no longer legally valid
- Inclusion of dignity at work, harassment and bullying issues
- A reduction from 11 to 10 days for an appeal to be lodged following the outcome of a hearing being communicated.

2.2.2 Revised template letters and forms have been drafted to support the new procedure. It would also be the intention to retain an intranet page detailing the support options available to staff.

2.2.3 The Hearing Procedure and Employment Appeal Procedure will be over-ridden by procedures set out in the proposed new Grievance Procedure for grievance matters.

2.2.4 The proposed changes have been shared with the Council's Legal Team and with the Trades Unions, and their feedback incorporated.

2.3 This procedure will apply to all Council services staff including former employees Six Town Housing.

2.4 The revised procedure and EqIA are attached as appendix 2 and 2A

3. Family Leave Policy

3.1 Background

3.1.1 The Council has a comprehensive suite of family friendly leave opportunities that employees can access to support them in their roles of prospective or new

parents. This is in line with the Council's commitment to being an inclusive employer.

3.1.2 New legislation has been introduced, in the form of the Paternity Leave (Paternity Leave (Amendment) Regulations 2024), which mean that the current documents require updating.

3.1.3 Developing a new Family Leave Policy will allow the Council to make the required changes and also provide an opportunity to make the Authority's policy provision in this area clearer as current arrangements are spread across a number of different policy documents which crossover and risk causing confusion. This is particularly the case for:

- Shared parental leave which is easily confused with unpaid parental leave
- Maternity support leave which should always be considered alongside statutory paternity leave and pay, to identify the best option for each individual.

3.1.4 Additionally, the new policy reflects the Council's move to using iTrent Employee Self-Service for the majority of operational HR transactions.

3.2 Policy Headlines

3.2.1 It is proposed that the new Family Leave Policy consolidates the following 12 documents into a single, consistent and easy to understand policy:

- Adoption leave and pay policy
- IVF guidance
- Parental bereavement leave
- Foster friendly policy
- Guide for new and expectant mothers
- Maternity support leave (Local Conditions – Appendix R)
- Keeping in touch day record sheet
- Parental leave policy
- Paternity leave and pay
- Time off to attend ante natal appointment guidance
- Time off to attend ante natal appointment application form
- Shared parental leave policy (and 16 appendices)

3.2.2 In the draft policy, much of the content of the documents listed above remains unchanged, apart from:

IVF

- Removal of reference to the old Occupational Health Unit
- Reference to the Work Life Balance Toolkit has been replaced by the Flexible Working Policy

Pregnancy and Maternity

- Glossary of terms removed – terms are rarely used and therefore explained in the document when they are

- Health and safety moved ahead of notification to highlight the importance of considering this as soon as an employee knows they are pregnant
- Changes have been made throughout this section to guide employees and managers to use iTrent self service
- Surrogacy and breastfeeding have been brought forward in the document to reflect the timeline of pregnancy, maternity and returning to work

Time off to accompany a pregnant woman to ante natal appointments

- The initial wording remains unchanged, but the FAQs are removed and key ones incorporated into the guidance, these are:
 - Regarding the fact that there is no qualifying period
 - Pension implications of taking unpaid absence
- Changes have been made to guide employees and managers to use iTrent self service

Maternity Support Leave

- The 2 x 5 days of leave (where eligible) previously should have been taken in one block – but has been amended to be able to be taken in 2 consecutive or separate blocks of 5. This is in line with the changes to Statutory Paternity Leave (see below)

Statutory Paternity Leave

- In line with Paternity Leave (Paternity Leave (Amendment) Regulations 2024) employees can take either 1 or 2 weeks' leave. If they are taking 2 weeks, they can either be taken consecutively or separately. Previously they could only be taken in one block.
- Additional Paternity Leave has been removed – it was replaced by Shared Parental Leave w.e.f. 5 April 2015

Shared Parental Leave

- Changes have been made throughout this section to guide employees and managers to use iTrent self-service – this has also enabled us to significantly reduce the number of letter templates

Adoption Leave

- Removal of the glossary - terms are rarely used and therefore explained in the document when they are
- Removal of FAQs
- Application Form for Adoption Leave and Pay is now via iTrent

Parental Bereavement Leave

- Support options for employees have been updated

3.2.3 The proposed changes have been shared with the Trades Unions.

3.3 This procedure will apply to all Council services staff including former employees Six Town Housing.

3.4 **The revised policy and EqIA are attached as appendix 3 and 3A.**

4. **Agile Working Policy**

4.1 Background

- 4.1.1 The Council formally adopted an Agile Working Policy in June 2021 in advance of the phased withdrawal of the government's Covid restrictions on office-based working. The policy agreed was set in the context of both the medium-term implications of Covid (in particular in relation to health and safety in the workplace) and both local and national uncertainty around the longer-term impact of changes over the preceding two years on the nature of work.
- 4.1.2 The current Policy is based on the fundamental principle that: ***work is something you do, not somewhere you go***. For all workers who can do so (given the nature of their role and their personal circumstances) it promotes a highly flexible model of working which requires staff to agree their 'workstyle' with managers to ensure they work from the best location (office, home or other) to perform the duties of their role without a prescriptive framework or quota for time at any specific base. The policy emphasises the importance of regular 'face time' for staff with their managers and is routed in the priority of service need. No contractual workplaces were changed through the adoption of the policy and there is a clear stipulation that staff could be expected to attend the office with 24 hours' notice.
- 4.1.3 It is worth highlighting that, as set out in the policy, agile working is not an option for many staff, whose work is linked directly to location. Managers were, and continue to be, encouraged to identify and support other elements of flexibility for these colleagues and the Council agreed a new Flexible Working Policy earlier in the year which will further support this.
- 4.1.4 It is challenging to provide clear quantitative and causal evidence on the impact of agile working in Bury given the wider changes in both society and the world over this period however the following are worth noting:
- Turnover levels in the Council increased following the implementation of Agile Working from 11% in November 21 to a high of 16.5% in March 23 but are now falling closer to levels seen previously, with the latest (April 24) figure showing turnover of 12.2%. This increase followed by a reduction and re-stabilisation mirrors the picture seen in the wider economy.
 - Sickness levels in the Council saw a small rise from 13.87 in September 2021 to a high of 14.88 in January of this year. Again, this mirrors (but is far less stark than) the national trend which has seen public sector average sickness levels increase by over 2 days (from 8 to 10.6) between 2020 and 2023. (The Council's latest reported sickness level in April 2024 of 13.47 is the lowest reported since January 2022.)
 - Bury continues to face challenges in terms of recruitment which is contributing to an increase in agency spend (in some areas in particular) and is requiring different and more innovative approaches to recruitment and role design and evaluation. This is a challenge faced by 9 out of 10 Councils according to LGA research and a recent MJ article. Hybrid working is supporting this. Whilst this presents a significant positive in terms of recruitment it is important that work to provide employment opportunities for

Bury people is not negatively impacted. – In reality, there has been little impact here through agile working with the proportion of Council employees who are Bury residents fluctuating only marginally from 68% in February 2020 to 65% in June 2024 and a consistent level (7%) of employees living outside of greater Manchester at both points.

- 4.1.5 There is no evidence to suggest agile working has had any sort of negative impact on service delivery and qualitative and quantitative feedback from staff continues to broadly support the approach. Indeed, in response to the Pulse Survey question regarding whether agile working supported their wellbeing colleagues' view increased from 80.8% in April/May 22 to 86.2% in October 23. Furthermore, in the increasingly challenging recruitment market, offering an element of agile / hybrid working is now a clear expectation of candidates.
- 4.1.6 Whilst, broadly speaking, the model has worked well, its practical application has shifted significantly over time. This has, in part, been led by colleagues' desire to spend more time together. However, it has also been driven by a recognition of the importance of physical engagement between colleagues as a key factor in supporting wellbeing, enabling development, particularly for new staff, and assuring service delivery quality by facilitating collaboration and coworking. In some service areas, Children's Social Care in particular, the importance of this has been emphasised by external partners and regulators. It is also worth highlighting that, the very nature of Local Authority work must also necessitate staff to have a connection with the place and the communities they serve as a critical enabler to demonstrating the LET'S values.

4.2 Policy Review

- 4.2.1 Over recent months work has been undertaken to consider the current Policy and develop a revised framework for agreement. This work has been informed by:
- Feedback from staff through Pulse Surveys, a range of engagement sessions and via the Trade Unions. This has included a focused session with the Council's Senior Managers' Forum (top 100 leaders), inclusion as a standing item on the Change Agents meeting.
 - A review of approaches taken elsewhere both within and beyond the Local Government sector.
 - Research and best practice on the changing world of work and effectiveness of agile working models on both organisational productivity and colleague wellbeing, recruitment and retention.
- 4.2.2 This work emphasises the importance of a continued agile working offer in supporting the recruitment and retention of staff, colleague wellbeing and inclusion and as an enabler of efficiencies through estate rationalisation. Leaders emphasised the importance of a clear framework and structure for agile working, however the strong view was that this should remain flexible to recognise the different nature of both service requirements and individuals. Leaders want the trust and support to manage flexibly within a framework and have found the support provided through the Council's Management Development Programme (now delivered to circa. 300 managers) as a key tool to supporting them to manage performance in this context.

- 4.2.3 In agreeing the best approach going forward it is also important to highlight the context of the Council's estates rationalisation work through the Future Asset programme. This work is a key programme for the Council and is predicated on a continued model of agile working. Clarification of the demand on the organisation's office estate (through an agreed desk to person ratio) will be crucial to supporting the delivery of this work. However, it should also be emphasised that a significant shift in the nature and configuration of our operational estate will be key to enabling and embedding a true model of agile working. This was one of the strongest themes emerging from the engagement undertaken over recent months.

4.3 Policy Proposal

- 4.3.1 Much of the content and approach of the proposed policy remains consistent with the current policy, specifically:

- There is no proposal to change any contractual places of work through the adoption of agile working.
- The importance of manager and individual consideration of the health and safety, information governance and broader wellbeing implications of agile working are emphasised.
- The exact nature of an individuals' workstyle remains flexible and a matter for discussion and agreement between a manager and their employee based on service need and taking account of personal circumstances.
- There remains a commitment to providing office space for colleagues who can't work remotely and to providing workplace adjustments (including potentially a fixed desk) to colleagues who need it.
- There is a continued emphasis on effective performance management through outcomes not presenteeism.

- 4.3.2 The revised policy removes reference to Covid and looks to establish Agile Working as a normal approach to work in the modern era. Taking account of the feedback received, there are, however a number of key amendments:

- For those working in community focused and desk-based roles, the policy sets out clearly that they should normally be spending at least two days of their working week (pro-rata) together with colleagues in an office or community setting and that more frequent office attendance may well be required for some roles dependant on the nature of the work undertaken and service delivery and personal and team development needs. A desk ratio of 2 employees per 1 desk is set out in the policy to support this.
- The policy is also clear that, to support development, engagement and learning, team meetings, one-to-ones, employee reviews and learning and development sessions should ordinarily take place in person wherever possible and that new staff or those who need extra support may need to spend more time in an office setting so they are surrounded by colleagues to learn from. (Noting the potential impact of this for the wider team).

- The policy strengthens the emphasis on managers identifying other opportunities for agility and flexibility to support those in location dependant roles.
- The policy clearly identifies three categories of staff: location dependant, community focused and desk based. This categorisation is used to set out how the policy operations. However, its use will be of more significance in supporting the guidance, engagement and development planned in support of the Policy's launch.

4.3.3 The policy will be supported by an updated set of Agile Working Frequently Asked Questions. Whilst the policy itself is relatively high level, the FAQs include some practical examples of what workstyles may look like for different staff groups and is intended to provide clarity and support to both staff and managers.

4.3.4 Discussions have taken place with the Trade Unions about the proposed direction of the policy change and they are broadly supportive, recognising the importance of increased clarity.

4.4 We will look to apply this new agile working policy to all employees of Bury Council including those who transferred from the former Six Town Housing.

4.5 The revised policy and EqIA are attached as appendix 4 and 4A

Community impact/links with Community Strategy

A modern and effective employee policy framework is essential to ensuring the effective operation of the organisation and, in turn the delivery of our commitment to the Community Strategy.

Equality Impact and considerations:

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we

are paying 'due regard' in our decision making in the design of policies and in the delivery of services.

Equality Analysis	Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.
Where appropriate, Equality Impact Assessments have been carried out in relation to the proposed changes and are appended.	

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
Trade Union objection to policy changes	Prior discussions have taken place with Unison

Consultation:

All of the above proposed changes have been shared with the Trade Unions, and where appropriate there have been consultations with HR colleagues, managers, the EDI Manager and the Legal Team.

Legal Implications:

These policy changes have been drafted in line with all applicable legislation and guidance. Appropriate EIAs have been drafted and are appended for Members consideration.

Financial Implications:

None. The policy changes update and simplify the current policies and bring these in line with best practice. There are no direct financial impacts.

Report Author and Contact Details:

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Sam McVaigh
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Background papers:

Employment Panel 24 January 2023 – Workforce Policy Review Phase 1

Employment Panel 1 March 2023 – Workforce Policy Review Phase 2

Employment Panel 22 June 2023 – Workforce Policy Review Phase 3

Employment Panel 29 February 2024 – Workforce Policy Review Phase 4

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning

Appendix 1 & 1A: Disciplinary Procedure and EqIA

Appendix 2 & 2A: Grievance Procedure and EqIA

Appendix 3 & 3A: Family Leave Policy and EqIA

Appendix 4 & 4A: Agile Working Policy and EqIA

Disciplinary Procedure

July 2024

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1. Aim

The Council is committed to ensuring a supportive, safe, and inclusive working environment and culture. The overall purpose of this policy is to ensure that any disciplinary matter is dealt with promptly, fairly, and that, if appropriate, steps are taken to establish the facts and to give the employee an opportunity to respond before taking any formal action. This includes ensuring that all individuals involved in the disciplinary process are treated reasonably and equitably, with dignity and respect.

Employees are expected to maintain high standards of professional conduct at all times. This includes times when they are not at work and in a situation where their conduct may potentially bring the Council or profession into disrepute.

This procedure takes account of the Advisory, Conciliation and Arbitration Service (ACAS) Code of Practice. It also replaces any previous policies and procedure that have been in place.

The aim is to ensure consistent and fair treatment for all in the organisation.

This procedure does not form part of any contract of employment or other contract to provide services.

2. Scope

This procedure applies to all employees of the Authority except:

- Employees in locally managed schools where there are separate arrangements.
- The Chief Executive, Chief Officers and all other officers whose conditions of service are governed by the NJC for Chief Officers, where there are separate arrangements described in the Council's Constitution.

The Council will not take any action under this procedure against a Shop Steward or other accredited Trade Union representative (including safety representatives) until the circumstances of the case have been discussed with a full-time official of the Trade Union concerned, after obtaining the employees agreement.

3. Principles

Matters will be dealt with informally, where appropriate, to resolve problems.

In some cases, it will be appropriate to issue a Management Instruction as an alternative to formal action. This will be confirmed in writing and placed on file.

Formal disciplinary action will not be considered until the case has been fully investigated.

There is the right to representation at any formal meeting or investigatory meeting.

Employees will be informed of the allegations against them and will be given the opportunity to state their case before any decision is taken at a disciplinary hearing.

Employees will be provided with, where appropriate, written copies of evidence and relevant witness statements before a disciplinary hearing.

An employee will not normally be dismissed for a first act of misconduct, except in the case of gross misconduct, when the penalty may be dismissal without notice and without payment in lieu of notice.

Employees have the right to appeal against any formal disciplinary action. See **Appendix 3 – Appeal Procedure**

4. Setting standards of behaviour

In cases of minor misconduct, it may be more appropriate for managers to deal with issues of concern through management action rather than instigating the disciplinary procedure. This can often be the most effective solution.

The manager should try resolving the issue with the employee by:

- Privately talking with the employee
- Listening to their point of view
- Setting out improvements to be made
- Setting up a training or development plan. It may be more appropriate to deal with performance under the capability procedure; however, HR will be able to advise regarding this. Brief confidential notes of the discussion(s) with the employee should be kept by the manager on any agreed actions and may be recorded on file. The manager should also write to the employee (a letter or email) to confirm what was agreed during the meeting. As this is not formal action under the policy there is no right to be accompanied or a right of appeal.

5. Roles and responsibilities

Individual responsibilities

Employees are required to co-operate with the employer in respect of the application of the employer's disciplinary procedure, including attending any disciplinary hearings.

Employees are expected to comply with the Code of Conduct and LET'S values and behaviours and other relevant policies.

Employees may seek advice and representation if needed from Trade Unions or another colleague when a disciplinary issue is identified.

Management responsibilities

Managers should ensure that they are fully conversant with the disciplinary procedure and are able to take action in line with the procedure. Managers should attend any training or briefing sessions in relation to the disciplinary procedure.

Managers should deal with issues where possible through management action rather than instigating the disciplinary procedure to prevent minor disciplinary problems from escalating unnecessarily.

Managers are responsible for creating an environment in which staff feel well supported. The manager is responsible for addressing issues regarding conduct and managing it in accordance with this policy and procedure.

Managers are also responsible for ensuring that their staff are aware of support available to them in terms of health and wellbeing.

HR responsibilities

HR will provide guidance, and support in the application of the procedure, including training for managers to enable them to deal with issues regarding conduct.

Where appropriate HR will liaise with Trade Union colleagues.

6. The disciplinary procedure

Where the allegation is of a more serious nature or cannot be dealt with through a management discussion, the manager must contact HR for advice.

If a grievance is raised at any time during this formal stage, then the disciplinary procedure will not be suspended except in a situation where to continue with the disciplinary process could cause clear prejudice to the employee. Should the disciplinary and grievance issues be related, it may be appropriate for both procedures to run concurrently.

Investigation process

An investigation should normally be carried out prior to a decision being made as to whether to hold a Disciplinary Hearing. In all cases as part of the investigation there should be checks in place to ensure there are no equalities concerns.

If it is decided that an investigation should take place, the manager should inform the employee, giving the reasons for the investigation, as soon as possible and confirm this in writing. The purpose of an investigation is to produce a fair and thorough report that collates evidence which may or may not support a complaint/ allegation (for full details see Managers Guidance: Investigations & Suspension).

Suspension

Suspension is when the matters of concern are so serious it is necessary for the person being investigated not to temporarily carry out work, until the matter has been resolved. Suspension may be considered before an investigation commences or during any part of the investigation.

Employees will receive their normal pay during any period of suspension.

An employee should only be suspended if it is needed. For example:

- suspending an employee whilst an investigation is carried out, if the matter is potentially Gross Misconduct and there is no other alternative see section 2
- medical suspension to protect an employee's health and safety. See Managing Attendance policy.

Suspension is a holding measure only to ensure a fair investigation is carried out and manage risk and is not classed as a disciplinary sanction in any way.

Suspension is a last resort, and other options including temporary redeployment should be considered as an alternative to suspension.

In all circumstances, advice should be sought from HR by the Suspending Manager and the Chief officer from the HR Service must approve any suspension before it is actioned.

For full information on Suspension.

Invitation to a disciplinary hearing

Where the investigation indicates the employee has a sufficient case to answer, the investigating manager will write to them to invite them to attend a disciplinary hearing.

The invitation letter will set out sufficient information about the allegations and the potential consequences to enable the employee to prepare their case.

The investigating manager will present evidence to the Hearing Officer at a disciplinary hearing and may be supported by a HR representative.

See **Appendix 2** Hearing Procedure and Managers Guidance Suspension and Investigations.

The right to be accompanied

An employee can be accompanied at all formal stages of the disciplinary procedure.

They may choose from one of the following:

- a work colleague
- a trade union representative who's certified or trained in acting as a companion
- an official employed by a trade union.

It is the employee's responsibility to make these arrangements.

The person accompanying the employee is permitted to address the disciplinary hearing, including putting the employee's case, asking questions of any witnesses, summing up, and responding on the employee's behalf to any view expressed at the hearing. The person accompanying should not answer questions on behalf of the employee.

Adjustments will be considered in accordance with the Equality Act 2010. This might, for example, include allowing someone else to accompany the individual, such as a support worker or someone with knowledge of a disability and its effects.

The disciplinary hearing

The Chair of the Disciplinary Hearing will consider the findings of the investigation and the response of the employee before deciding whether the allegations are upheld and, if so, what disciplinary sanction should be imposed. The outcome of the disciplinary hearing will be confirmed in writing including any sanctions imposed, or other recommendations made (e.g. further training).

The Chair will not have any previous involvement.

7. Sanctions following a hearing

First written warning

A first written warning would be appropriate for cases of minor misconduct. The warning will be in writing and set out the nature of the misconduct, the change in behaviour required and the right of appeal. The warning will state that a written warning may be considered if there is any further misconduct. A copy of the record will be kept on file, but it will normally be disregarded for disciplinary purposes after 6 months from the date issued.

Written warning

A written warning for misconduct will be issued if the employee commits a further act of misconduct or if conduct does not meet acceptable standards but does not merit a final written warning. The warning will be in writing and set out the nature of the misconduct, the change in behaviour required and the right of appeal. The warning will state that a final written warning may be considered if there is any further misconduct. A copy of the record will be kept on file, but it will normally be disregarded for disciplinary purposes after 12 months from the date issued.

Final written warning

A final written warning will be issued if the offence is sufficiently serious (Serious Misconduct) in itself, or there is further misconduct following a first written warning

A letter will be issued confirming the full details of the misconduct. It will also warn that any further misconduct may lead to dismissal (or some other action short of dismissal) and will refer to the right of appeal.

A copy of the record will be kept on file, but it will normally be disregarded for disciplinary purposes after 18 months from the date issued.

Dismissal or other action

If there is further misconduct the final step in the procedure may be dismissal or some other action short of dismissal.

Dismissal with Notice: This may take place where an employee already has a final written warning and commits another act of misconduct which, on its own might not be serious enough to warrant dismissal. In all cases (except gross misconduct – see below), the employee will be given appropriate statutory or contractual notice (whichever is the greater).

Dismissal without Notice: An employee may be dismissed without notice (summarily dismissed) where no previous warnings have been given if the misconduct is considered to be gross misconduct. Gross misconduct is so serious that it fundamentally breaches the contractual relationship between the employee and the employer.

In all cases of dismissal, the employee will be provided in writing with the: reasons for dismissal date the employment will end confirmation of all final payments owed, including holiday pay and notice pay right of appeal

Examples of unsatisfactory conduct can be found in Appendix 1.

Action short of dismissal

A final written warning will be issued for a period of 18 months if action short of dismissal is taken.

Action short of dismissal is disciplinary action taken by employer to signal the gravity of misconduct which would result in dismissal if misconduct persisted. Examples where action short of dismissal may be applicable include committing an act of gross misconduct following a lengthy period of unblemished service or statutory bar from a specific profession.

The action could include demotion within the team or redeployment within the department into a vacant post without pay protection/other job specific benefits.

Regulated roles

For employees in regulated role, it may be necessary to inform the relevant regulatory body and/or the Disclosure and Barring Service of action taken under this procedure.

In circumstances where an employee resigns or leaves employment in the course of disciplinary proceedings, and the allegations are such that it could have led to dismissal, the case may be referred to the relevant regulatory body and/or the Disclosure and Barring Service as appropriate.

If the employee is absent or off sick

Normally, if an employee is sick while suspended, this will over-ride their suspension. During their sickness, they will be subject to the Managing Attendance Policy and require to present medical certificates and be paid at the appropriate rate i.e. Occupational Sick Pay, Statutory Sick Pay, or no pay. If at the end of their period of sickness, the disciplinary investigation has not been completed, they will continue to be suspended.

However, if the employee is a Statutory Officer, then this is covered by the Officer Employment Procedure Rules which is part of the Council Constitution.

If the employee is unable to attend on the date of the disciplinary hearing the hearing will normally be rescheduled on one occasion only.

If the employee is unable to attend on the date of the rescheduled hearing, alternative arrangements may be considered.

For example, the hearing could be held in an alternative location or remotely, or the employee could provide written submissions.

If no other alternative is possible, the hearing may be held in the employee's absence. If so, the employee should be informed of this in writing in advance of the hearing.

Appendix 1: Misconduct and gross misconduct

Examples of misconduct and gross misconduct

Misconduct

- refusing to do work ('insubordination')
- being absent without permission (absent without leave or 'awol')
- persistent lateness/bad timekeeping.
- negligence or deliberate breach of GDPR

Gross misconduct

The following list provides some examples of offences which are normally regarded as gross misconduct:

- attending work when unfit due to the influence of alcohol or drugs (taking into account the Alcohol and Substance Misuse Policy)
- being in possession of or using drugs for non-medical purposes,
- theft or fraud
- inappropriate social networking - for example, posting derogatory or offensive comments on the internet about the company or a work colleague.
- fighting or making violent threats at work
- bullying in the workplace or cyberbullying
- deliberate and serious damage to property
- serious misuse of an organisation's property or name
- serious misuse of computer, email, and internet systems, including accessing pornographic, offensive, or obscene websites or distributing emails of this nature.
- serious insubordination
- discrimination, harassment, or victimisation
- bringing the organisation into serious disrepute
- causing loss, damage, or injury through serious negligence
- a serious breach of health and safety rules
- a serious breach of GDPR
- a serious breach of professional standards or registration

Appendix 2 – Hearing Procedure

Arranging the hearing

- Where possible Hearings will be scheduled to take place on one day or, if necessary, on consecutive days; although it may be necessary to adjourn to seek further information or advice.
- The employee must be informed in writing that he/she is required to attend a Hearing and that he/she has the right to be accompanied by a work colleague or a Trade Union representative, or an official employed by a Trade Union. It will be for the employee to arrange the person who will accompany the employee at the Hearing. The employee must be given at least 7 calendar days' notice of the Hearing date, time, and venue from the expected date of receipt of the letter.
- The letter will include the allegations and possible consequences. It will also ask if the employee has any requests for reasonable adjustments for the Hearing.
- The employee will be asked to confirm the name of the Trade Union representative or work colleague attending the Hearing or other companion agreed as a reasonable adjustment. The employee will be asked to provide any documentation that he or she intends to present or rely on at the Hearing at least 3 working days before the Hearing.
- If the employee cannot attend on the scheduled date through circumstances outside of the employee's control, the Hearing will be rearranged for another date. If the employee's Trade Union representative or work colleague cannot attend on the rescheduled date, the employee can suggest an alternative date and the Hearing will be rearranged for that date. However, ideally the rescheduled Hearing will take place no more than 5 working days after the date of the original Hearing.
- If two Hearings have been convened which the employee has been unable to attend, the second Hearing will take place in the employees' absence and a decision will be made based on the evidence available.
- If required, the Chair of the Hearing will seek a medical view from Occupational Health as to whether the employee is fit to attend the Hearing.

Hearing Procedure

The Chair of the Hearing will introduce everybody and explain the following procedure to both sides: -

1. The Investigating Manager will state the nature of the case, referring to evidence gathered. They will be permitted to produce relevant documentation.

2. The employee will be given the opportunity to ask questions of the Investigating Manager.
3. The Chair and the HR representative may also take the opportunity to ask questions.
4. The employee will be given the opportunity to state his/her case, to produce relevant documentation.
5. The employee's companion will be allowed to address the hearing to:
 - Present the employee's case
 - Sum up the employee's case
 - Respond on the employee's behalf
 - Confer with the employee during the hearing
6. The employee's companion will be able to participate as fully as possible in the hearing, including asking witnesses questions. However, the employee's companion cannot answer questions on the employee's behalf, address the hearing if the employee does not wish it, or prevent the management representative from explaining the Management case. An exception may be made if the employee requests their companion to speak on their behalf as a reasonable adjustment.
7. No other person, for example partner or relative, will be allowed to attend the Hearing.
8. The Chair and the HR representative will take the opportunity to ask questions.
9. If appropriate, there may be a general discussion to establish all the facts and/or clear up any misunderstandings.
10. The Investigating Manager and employee may summarise the main points of their case. No new evidence or information may be included.
11. The Chair will adjourn to consider the case, with the HR representative.
12. If the Chair wishes to clarify any points of evidence, both sides will be recalled.
13. The Chair will reconvene the hearing to deliver the decision of the Hearing.
14. The decision of the Chair will normally be given verbally at the end of the Hearing and will be confirmed in writing to both parties.
15. The employee will be given the right of appeal (if appropriate) after the decision.

Appendix 3 – Appeal Procedure

Staff have the right of appeal against any dismissal or any formal sanction within 10 working days of the decision being communicated:

- Appeals against dismissal to be sent to the Director of People and Inclusion for a members' appeal.
- Appeals against any other sanctions should be addressed to the relevant Director/Assistant Director for the service.

The appeal must state the reasons for the appeal, which will be one of the following:

- Any part of the procedure was wrong or unfair.
- The dismissal/ sanction was for an unfair reason.
- There is new evidence.

Upon receipt of an appeal, the Director of People and Inclusion or Director/ Assistant Director for the service will provide acknowledgement in writing, ideally within 2 working days.

Appeal hearings should ideally take place within 30 working days of receipt of the written request. Where this is not possible, the applicant should be informed as soon as practically possible.

Appeals against dismissal.

Following acknowledgement of receipt of the appeal, the Director of People and Inclusion will provide the necessary information to the Democratic Services team, who will co-ordinate and arrange the hearing in consultation with all parties.

The panel is made up of the Chair of the Human Resources and Appeals Panel and elected Members of the Council supported by a HR representative. A member of Democratic Services will be present to take notes of the hearing.

Appeals against other sanctions.

Following acknowledgement of receipt of the appeal, the Director/ Assistant Director for the service will make arrangements for the appeal to be heard.

The panel is made up of 2 Senior Managers who have not previously been involved in the case, supported by a HR representative. A note taker may also be present at the hearing.

Process

- The Chair of the original Hearing will present the management case to the hearing panel and may be accompanied by the HR representative who advised them during the Hearing. The HR representative's role is to provide support during the hearing if required, not to present the case.
- The applicant and respondent will be given at least 12 working days' notice of the date of the appeal.
- All statements and documentation to be referred to at the hearing (including any new evidence to be considered) will be submitted 6 working days prior to the hearing date, along with the names of any witnesses to be called.
- Papers will be distributed to Panel members, applicant, and respondent 5 working days prior to the appeal.

Procedure

The Chair of the appeal Hearing will introduce everybody and explain the following procedure to both sides: -

1. The employee will be given the opportunity to state his/her case, explaining the reasons for the appeal.
2. Management may ask the employee questions.
3. The panel and the HR representative may also take the opportunity to ask questions.
4. Management will state the nature of the case, and the reasons for the sanction/dismissal.
5. The employee and representative may ask management questions.
6. The panel and the HR representative may also take the opportunity to ask questions.
7. If appropriate, there may be a general discussion to establish all the facts and/or clear up any misunderstandings.
8. Management and employee may summarise the main points of their case. No new evidence or information may be included.
9. The panel will adjourn to consider the case, with the HR representative.
10. If the Chair wishes to clarify any points of evidence, both sides will be recalled.

11. The Chair will reconvene the hearing to deliver the decision of the Hearing.
12. The decision of the Chair will normally be given verbally at the end of the Hearing and will be confirmed in writing to both parties.
13. There is no further right of appeal, so the process ends.

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Equality Impact Analysis

This equality impact analysis establishes the likely effects both positive and negative and potential unintended consequences that decisions, policies, projects and practices can have on people at risk of discrimination, harassment and victimisation. The analysis considers documentary evidence, data and information from stakeholder engagement/consultation to manage risk and to understand the actual or potential effect of activity, including both positive and adverse impacts, on those affected by the activity being considered.

To support completion of this analysis tool, please refer to the equality impact analysis guidance.

Section 1 – Analysis Details (Page 5 of the guidance document)

Name of Policy/Project/Decision	Disciplinary Procedure
Lead Officer (SRO or Assistant Director/Director)	Sam McVaigh Director of People & Inclusion
Department/Team	Human Resources
Proposed Implementation Date	1.8.24
Author of the EqIA	Vanessa Brockbank, HR&OD Business Partner
Date of the EqIA	17.5.24

1.1 What is the main purpose of the proposed policy/project/decision and intended outcomes?
<p>The current disciplinary procedure was last reviewed and updated in February 2017.</p> <p>Feedback received from staff relates to the procedure not being streamlined and relies too heavily on HR Input at all stages. The revised procedure focuses on Managers leading the process with support from a HR representative and Senior Managers having an oversight of conduct issues.</p>

Section 2 – Impact Assessment (Pages 6 to 10 of the guidance document)

2.1 Who could the proposed policy/project/decision likely have an impact on?
<p>Employees: Yes</p> <p>Community/Residents: No</p> <p>Third parties such as suppliers, providers and voluntary organisations: No</p>

If the answer to all three questions is 'no' there is no need to continue with this analysis.

2.2 Evidence to support the analysis. Include documentary evidence, data and stakeholder information/consultation

Documentary Evidence:

Data: [Employment Equality Report 2023 \(bury.gov.uk\)](https://www.bury.gov.uk/media/1444444/employment-equality-report-2023.pdf)

Stakeholder information/consultation:

Meeting with the Trade Unions to discuss the detail
Sign off at JCC
Sign off at Employment Panel
Met with managers to discuss the proposed policy and gain feedback

2.3 Consider the following questions in terms of who the policy/project/decision could potentially have an impact on. Detail these in the impact assessment table (2.4) and the potential impact this could have.

- Could the proposal prevent the promotion of equality of opportunity or good relations between different equality groups?
- Could the proposal create barriers to accessing a service or obtaining employment because of a protected characteristic?
- Could the proposal affect the usage or experience of a service because of a protected characteristic?
- Could a protected characteristic be disproportionately advantaged or disadvantaged by the proposal?
- Could the proposal make it more or less likely that a protected characteristic will be at risk of harassment or victimisation?
- Could the proposal affect public attitudes towards a protected characteristic (e.g. by increasing or reducing their presence in the community)?
- Could the proposal prevent or limit a protected characteristic contributing to the democratic running of the council?

2.4 Characteristic	Potential Impacts	Evidence (from 2.2) to demonstrate this impact	Mitigations to reduce negative impact	Impact level with mitigations Positive, Neutral, Negative
Age				
Disability	Some employees may not be able to engage fully		Colleagues are able to request adjustments that they require in	Neutral

	with the process due a disability		order to engage with the procedure	
Gender Reassignment				
Marriage and Civil Partnership				
Pregnancy and Maternity	Employees may be on maternity leave whilst involved in an allegation		Necessary arrangements will be made taking into account personal circumstances and availability	
Race	Potential impact for colleagues whose first language isn't English		There should be a communication method in place agreed between the manager and the employee. The process can be adapted to adopt this method. There is a language translation service that can be accessed if required.	Neutral
Religion and Belief	Availability of colleagues observing religious periods or days of worship during the process		Dates of meetings/investigations will be mindful of religious periods and holy days. A reminder will be included in the guidance document	Neutral
Sex				

Sexual Orientation				
Carers				
Looked After Children and Care Leavers				
Socio-economically vulnerable	Some behaviours may be because of socio-economic vulnerability i.e unable to afford travel to work, addiction, insecure housing		A check is to be completed at investigation stage if disciplinary is the most appropriate policy to apply. Behaviours could be supported through other means and policies	Neutral
Veterans				

Actions required to mitigate/reduce/eliminate negative impacts or to complete the analysis

2.5 Characteristics	Action	Action Owner	Completion Date
Disability	Include in managers guidance about putting in place adjustments	VB	
Race	Include in managers guidance about access to the translation contract	VB	
Religion & Belief	Include in managers guidance about religious festivals and holy days	VB	
Socio-economic	Include in managers guidance to check if disciplinary is the most appropriate policy to apply where there are socio-economic impacts	VB	

Section 3 - Impact Risk

Establish the level of risk to people and organisations arising from identified impacts, with additional actions completed to mitigate/reduce/eliminate negative impacts.

3.1 Identifying risk level (Pages 10 - 12 of the guidance document)

Impact x Likelihood = Score			Likelihood			
			1	2	3	4
			Unlikely	Possible	Likely	Very likely
Impact	4	Very High	4	8	12	16
	3	High	3	6	9	12
	2	Medium	2	4	6	8
	1	Low	1	2	3	4
	0	Positive / No impact	0	0	0	0

Risk Level	No Risk = 0	Low Risk = 1 - 4	Medium Risk = 5 – 7	High Risk = 8 - 16
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3.2 Level of risk identified	No risk
3.3 Reasons for risk level calculation	No additional impact from current procedure

Section 4 - Analysis Decision (Page 11 of the guidance document)

4.1 Analysis Decision	X	Reasons for This Decision
There is no negative impact therefore the activity will proceed	X	Progress with implementing procedure subject to approval
There are low impacts or risks identified which can be mitigated or managed to reduce the risks and activity will proceed		
There are medium to high risks identified which cannot be mitigated following careful and thorough consideration. The activity will proceed with caution and this risk recorded on the risk register, ensuring continual review		

Section 5 – Sign Off and Revisions (Page 11 of the guidance document)

5.1 Sign Off	Name	Date	Comments
Lead Officer/SRO/Project Manager	Vanessa Brockbank, HR&OD Business Partner	17.5.24	
Responsible Asst. Director/Director	Sam McVaigh , Director of People & Inclusion	03.07.24	
EDI	Lee Cawley, Equality, Diversity and Inclusion (EDI) Manager	04.07.24	

EqIA Revision Log

5.2 Revision Date	Revision By	Revision Details

Grievance Procedure

July 2024

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1. Policy Statement

This procedure takes account of the ACAS Code of Practice on Disciplinary and Grievance Procedures and replaces any previous procedures that were in place. Dignity at Work issues will also now be dealt with under this Procedure.

This procedure applies to all employees of the Authority except employees in locally managed schools where there are separate arrangements.

A grievance can be defined as a cause of distress (such as an unsatisfactory working condition or an unfair practice) leading to a genuine reason for complaint. This may also include discrimination, bullying, harassment, and victimisation.

Unacceptable, Inappropriate and Unwanted Behaviours

These are behaviours that cause discomfort or distress to a person or a group of people and/or could bring the council and its officers into disrepute. These behaviours could be linked to a protected characteristic, but this is not always the case.

Protected characteristics for the purpose of this policy are:

- Age
- Care experienced children and care leavers
- Carers
- Disability
- Gender reassignment and gender identity
- Marriage and civil partnership
- Military veterans
- Pregnancy and maternity
- Race
- Religion and belief
- Sex and gender
- Sexual orientation
- Socio-economically vulnerable

All protected characteristics are equal, unwanted behaviour towards one characteristic based on another is unacceptable behaviour.

Behaviours could be physical, verbal or non-verbal, written or graphical, digital or non-digital and can be isolated incidents or sustained behaviours.

Definitions of Discrimination, Bullying, Harassment and Victimisation

Discrimination – This is where a person or a group of people are treated unfairly, less favourably or negatively due to a protected characteristic.

Bullying – This is where a person or group of people experience unwanted behaviour that is offensive, intimidating or humiliating.

Harassment – This is bullying based on a protected characteristic or sustained acts of bullying.

Victimisation – This is where a person or group of people experience unfair, less favourable or negativity due to making a report or complaint of discrimination, bullying or harassment.

In these situations, employees may wish to contact their Trade Union representative who can offer support and advice in these difficult situations.

Purpose

The primary purpose of this procedure is to resolve any grievance quickly and the focus is on the remedial steps required to resolve the situation. Employees are encouraged to talk to their manager in the first instance about any work-related issue or complaint they may have as concerns can often be addressed without acceleration to a formal process.

The Council is committed to ensuring that all employees have access to a procedure to help deal with any grievances relating to their employment fairly and without unreasonable delay. Before a grievance progresses to a formal stage, it may be appropriate to consider mediation. Mediation can help to resolve disputes between two or more parties. It can be used where informal discussions have failed to resolve the matter satisfactorily or where a complainant feels that the matter needs to be raised more formally. Both sides **must agree** to mediation and either side has the right to withdraw during the process. If the offer of mediation is rejected by one or both parties, or if mediation fails to resolve the issue, then the complainant still has the option to proceed to the formal stage of the Grievance Procedure. The Council employs Officers who are trained in Mediation Techniques, and employees are strongly encouraged to explore this as an option where appropriate. Further information about Mediation is attached at **Appendix 2**.

It is in the interests of all parties to try and resolve issues informally; instigating a formal grievance can be stressful and time consuming, and a positive outcome is not guaranteed. If the issue cannot be resolved via mediation or at the informal stage, the aim is to investigate any formal grievance raised, hold a meeting to discuss the matter with the employee, inform them in writing of the outcome, and offer a right of appeal if they are not satisfied.

This procedure **cannot** be used to:

- Complain about the use of any other procedure or process (e.g. disciplinary, capability, grievance, restructuring/redundancy, pay issues, absence management, job evaluation outcome) as separate procedures/policies are in place for these matters.
- Appeal against any decision to terminate employment whether on grounds of ill-health, incapacity, redundancy, poor performance or other grounds.

- Complain about matters which are more than three months old (though this shall not prevent an employee referring to matters more than three months old in relation to a current grievance).

The Council shall not usually seek to resolve grievances raised after an employee has ceased to be an employee. Any issues will be dealt with under the Complaints Procedure.

In exceptional circumstances, an external investigation may be required.

2. Informal resolution

Before raising a formal grievance under this procedure, an employee should try to resolve the matter informally with their Line manager or, where applicable, with the other party. It may be appropriate to confirm the outcome of informal resolution in writing to the employee. The Council is committed to trying to resolve issues at the earliest opportunity, to avoid protracted and difficult situations for employees. Mediation may be appropriate as outlined above. **See Appendix 1 for detailed information about Mediation.**

If an issue cannot be resolved informally, an employee should follow the formal procedure below. Progression to the formal stage must be within 10 working days from the date of mediation, or the informal meeting, if one has been held.

3. Formal Grievance

If an employee has not been able to resolve a problem through informal discussions, they should submit a formal grievance to their Line Manager. (If the grievance concerns their Line Manager, the employee should contact that individual's Line Manager, their Trade Union representative, or HR for advice).

The employee should complete the Grievance Form available on the intranet and submit this to their Line Manager/ Manager's Manager/HR as appropriate. The Manager to whom the Grievance is submitted, or an alternative Manager appointed by HR, will arrange to meet with the employee as soon as possible but normally within 20 calendar days to discuss the issues raised and the steps needed to investigate the concerns. (In some circumstances, it may not be appropriate for the Line Manager to deal with the Grievance so a more senior Manager will identify an appropriate person). (The Manager considering the grievance will be referred to as the Grievance Manager from this point).

Some initial investigation may have already been carried out by the Grievance Manager at the time of this hearing and depending on the nature of the issues raised by the employee, it may be necessary to undertake further investigations to resolve the issues.

The employee should outline their grievance and explain how they think this should be resolved. Where necessary a general discussion can take place about the issues and possible ways forward. The hearing may be adjourned if further information, evidence, or investigation is required by the Grievance Manager.

After the hearing, the Grievance Manager will confirm the outcome in writing to the employee and any relevant parties as soon as possible and where possible, within 10 calendar days. The letter should indicate what action will be taken to resolve the grievance and a copy of this letter will be placed on the employee's personal file. If the employee continues to be aggrieved in respect of the original complaint, they may appeal and take their grievance to the Employment Appeals Panel, whose decision will be final. The employee must lodge their appeal within 10 working days of receipt of the letter outlining the decision of the grievance hearing. The appeal must be addressed to the Director of People and Inclusion who will acknowledge receipt.

4. Right to be Accompanied

An employee can be accompanied at all stages of the Grievance process.

The employee may choose from one of the following:

- a work colleague.
- a trade union representative who is certified or trained in acting as a companion.
- an official employed by a trade union.

It is the employee's responsibility to make the necessary arrangements.

The person accompanying the employee is permitted to address the meeting, including putting the employee's case, asking questions of any witnesses, summing up, and responding on the employee's behalf to any view expressed at the meeting. The person accompanying should not answer questions on behalf of the employee.

Adjustments can be considered in accordance with the Equality Act 2010. This might mean allowing someone else to accompany them, for example a support worker or someone with knowledge of a disability and its effects.

The employee must let the Grievance Manager know who their companion will be at least 2 working days before the meeting. The Procedure does not allow for any legal representation.

If the employee or companion is unable to attend on the date of the scheduled meeting, this will normally be rescheduled on one occasion only.

5. Confidentiality

Proceedings and records of any grievance will be kept as confidential as possible, but employees must appreciate that circumstances can mean that grievances cannot always be dealt with on an entirely confidential basis.

A grievance raised could result in the instigation of disciplinary action in respect of another employee. To protect the confidentiality of that process, the Council may not be able to inform the employee of the fact of the disciplinary process or any disciplinary outcome.

An employee should not disclose the fact of or content of any grievance to any employee or third party without the express consent of the Grievance Manager (except that an employee is allowed to approach a prospective companion or Trade Union Representative).

Employees will not be disadvantaged or victimised for raising a Grievance.

6. False, Vexatious or Malicious Grievances

Making a deliberately false, vexatious, or malicious grievance under this procedure is unacceptable and may result in disciplinary action. Such issues will not normally be progressed through the Grievance Procedure.

If a Grievance is raised at any time during the formal stage of the Disciplinary Procedure, the Disciplinary procedure will not be suspended except in a situation where to continue could cause clear prejudice to the employee. If the Disciplinary and Grievance issues are related, it may be appropriate for both procedures to run concurrently.

Appendix 1: Examples of unacceptable, inappropriate or unwanted behaviour

Examples include (but are not limited to):

AGE	Considering someone as too young or too old for promotion; making derogatory remarks or assumptions about someone's ability or competence based upon their age; pressuring someone to retire.
DISABILITY	Derogatory remarks; mimicking; invasive personal questions; staring; ostracising, which is directed at any individual with an impairment, or group of disabled people, which results in the individual feeling threatened or compromised; making assumptions about an individual's ability because of their impairment; assuming that a disability means that the individual is inferior; assuming that a mental disability means that the person lacks intelligence; excluding people from social activities; failing to direct comments to a disabled person; use of words specific to impairment being used in a derogatory way (e.g. spastic); unreasonably highlighting a person's disability.
GENDER/SEX	Unwelcome sexual advances; touching; standing too close; forms of sexual assault; sexual jokes; displaying pornographic photographs or drawings or sending emails with material of a sexual nature; unwanted or derogatory comments about clothing or appearance; leering or suggestive gestures or remarks.
GENDER INDENTITY	Transphobic comments, 'jokes' and name calling; verbal or physical abuse or intimidation; refusing to treat a person as of their new gender when they transition; failing to address a person by their preferred name and correct gender pronouns; denying people access to the appropriate single sex facilities such as toilets/changing rooms; outing a person as transgender/non-binary without their consent or spreading rumours (this may also be a criminal offence); excluding a person from conversation or activities; sexual harassment; intrusive questions.
RACE	Racial abuse; racially explicit derogatory statements; offensive jokes; racist graffiti; display of offensive material; an offensive or dismissive manner; insulting someone on the grounds of their race; refusing to work with someone or deliberately isolating them because of their race, colour, nationality or ethnic origin; unfair work allocation.
RELIGION OR BELIEF	Mocking or deriding people's religious or other beliefs; making unwanted comments on dress; making it unnecessarily difficult for people to conform to their religions or beliefs; pressure to participate in political/religious groups.
SEXUAL ORIENTATION	Making homophobic or biphobic insults or threats; making unnecessary and degrading references to an individual's

	sexual orientation; engaging in banter or making jokes which are degrading to a person's actual or perceived sexual orientation; outing an individual as LGB without their permission; ignoring or excluding a colleague because they are LGB; spreading rumours or gossip about an individual's sexual orientation; asking an LGB colleague intrusive questions about their private life; making assumptions and judgements about a colleague based on their sexual orientation; using religious belief to justify anti-gay bullying and harassment; displaying or circulating homophobic or biphobic materials; assuming that everyone is heterosexual; assuming that all gay men are HIV positive.
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Appendix 2: Mediation

What is Mediation?

Mediation in organisational settings is used as a conflict resolution strategy. It is a clearly structured, formal process between two individuals, facilitated by a neutral, trained mediator. It is an entirely voluntary process and aims to defuse conflicts, allow parties to constructively resolve problems, mend broken relationships and establish ground rules for future behaviour.

Mediation should not be confused with arbitration, conciliation, or investigation. The mediator is a neutral facilitator and does not make judgements or decisions about the conflict. Their role is to assist the disputants in creating their own resolution by concentrating on future rather than past behaviours.

It is not intended that the Mediation Service replaces good management practice; rather that it offers appropriate support to managers if or when required.

How does the Mediation Service fit with other Bury Council procedures?

Mediation acts as a 'working partner' alongside Bury Council's formal procedures such as the Grievance Procedure. Where appropriate, mediation should be suggested and offered to employees in the first instance as an alternative process in conflict resolution, aiming to avoid the use of the formal procedures. It may also be used in addition to other procedures, typically at the end of the use of these procedures; aiming to assist the individuals concerned to find ways of rebuilding and maintaining working relationships.

When is it suitable to use mediation?

Mediation is suitable for use in most disputes, irrespective of either their origin or duration.

Examples of when mediation can prove useful are listed below:

- Personality clashes
- Disputes/conflict between colleagues
- Disputes/conflict between staff and supervisors/managers
- Repairing working relationships after management investigations
- Communication difficulties
- Return to work situations.

It is recommended that mediation be used as early as possible in a disagreement, to prevent conflicts from escalating or becoming entrenched.

The only prerequisite for mediation is that both parties agree to the process and wish to attempt to resolve their dispute - this is vital to its success.

Therefore, it should not be used punitively. Sometimes, however, the basis for the dispute may be so serious that mediation is inappropriate.

Disputants can seek guidance from their trade union representative before making any decision to agree to participate in mediation.

Ultimately, we will assess the suitability of a case for mediation.

Who is involved in the Bury Council Mediation Service?

The service consists of a team of trained mediators, representing different departments. This means that employees wishing to take part in mediation can work with a mediator who they don't know and who is from a different department to their own. This is to ensure the neutrality and objectivity of the mediator and that he/she is perceived as such by the two disputants.

What happens when a 'case' is referred for mediation?

Managers, HR professionals or Trade Union representatives can all refer cases for mediation.

In the first instance a confidential discussion concerning the "case" will be held with the referrer. Dependant on the circumstances we may also contact the disputants to discuss the process of mediation. The referral will either be accepted or declined and given information about alternative courses of action. These could include recourse to a formal Bury Council procedure, training, counselling, Occupational Health, or another suitable option.

Mediation is generally not a lengthy process, and we aim to have all stages completed within 10 working days of an initial referral being made.

The referrer will be informed whether mediation was successful. However, the content of the mediation session remains confidential to the two disputants and the mediator; unless they both agree that the agreement can be circulated more widely.

Accessing the service

You can access mediation services by contacting: HRBusinessManagement@Bury.gov.uk



Appendix 3: Hearing Procedure

1. The employee will explain the nature of the Grievance and will be able to call witnesses if relevant.
2. The Manager and HR Advisor hearing the grievance will be able to ask questions of the employee and any witnesses in attendance.
3. If appropriate, there will be a general discussion to establish the facts/clear up any misunderstandings.
4. The employee will be able to summarise the main points of their case if they so wish. No new evidence or information should be included.
5. The Manager and HR Advisor will adjourn to consider the matter.
6. If any further clarification is required, the meeting will be reconvened.
7. The Manager will normally reconvene the meeting to deliver the outcome verbally and this will then be confirmed in writing. If this is not possible for any reason, a letter will be sent to the employee within 10 working days of the meeting.
8. The letter will include a right of appeal if appropriate.

Appendix 4: Appeal Procedure

Staff have the right of appeal against the outcome of a grievance within 10 working days of the decision being communicated:

- Appeals against the outcome of a Grievance process are to be sent to the Director of People and Inclusion for a members' appeal.
- The appeal must clearly state the reasons for the appeal, which can include new evidence becoming available and/or any part of the procedure was wrong or unfair.

Upon receipt of an appeal, the Director of People and Inclusion or Director/ Assistant Director for the service will provide acknowledgement in writing, ideally within 2 working days.

Appeal hearings should ideally take place within 30 working days of receipt of the written request. Where this is not possible, the applicant should be informed as soon as practically possible.

Process

- The Chair of the original Hearing will present the management case to the hearing panel and may be accompanied by the HR representative who advised them during the Hearing. The HR representative's role is to provide support during the hearing if required, not to present the case.
- The applicant and respondent will be given at least 12 working days' notice of the date of the appeal.
- All statements and documentation to be referred to at the hearing (including any new evidence to be considered) will be submitted 6 working days prior to the hearing date, along with the names of any witnesses to be called.
- Papers will be distributed to Panel members, applicant and respondent 5 working days prior to the appeal.

Procedure

The Chair of the appeal Hearing will introduce everybody and explain the following procedure to both sides: -

1. The employee will be given the opportunity to state his/her case, explaining the reasons for the appeal.
 2. Management may ask the employee questions.
 3. The panel and the HR representative may also take the opportunity to ask questions.
 4. Management will state the nature of the case, and the reasons for the sanction/dismissal.
-

5. The employee and representative may ask management questions.
6. The panel and the HR representative may also take the opportunity to ask questions.
7. If appropriate, there may be a general discussion to establish all the facts and/or clear up any misunderstandings.
8. Management and employee may summarise the main points of their case. No new evidence or information may be included.
9. The panel will adjourn to consider the case, with the HR representative.
10. If the Chair wishes to clarify any points of evidence, both sides will be recalled.
11. The Chair will reconvene the hearing to deliver the decision of the Hearing.
12. The decision of the Chair will normally be given verbally at the end of the Hearing and will be confirmed in writing to both parties.
13. There is no further right of appeal, so the process ends.

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Equality Impact Analysis

This equality impact analysis establishes the likely effects both positive and negative and potential unintended consequences that decisions, policies, projects and practices can have on people at risk of discrimination, harassment and victimisation. The analysis considers documentary evidence, data and information from stakeholder engagement/consultation to manage risk and to understand the actual or potential effect of activity, including both positive and adverse impacts, on those affected by the activity being considered.

To support completion of this analysis tool, please refer to the equality impact analysis guidance.

Section 1 – Analysis Details (Page 5 of the guidance document)

Name of Policy/Project/Decision	Grievance Procedure
Lead Officer (SRO or Assistant Director/Director)	
Department/Team	Human Resources
Proposed Implementation Date	1.8.24
Author of the EqlA	Mel Cunningham, HR&OD Business Partner
Date of the EqlA	26.06.24

1.1 What is the main purpose of the proposed policy/project/decision and intended outcomes?
<p>The Council is committed to ensuring a supportive, safe and inclusive working environment. The primary purpose of this procedure is to resolve any grievances and the focus is on the remedial steps required to resolve the situation.</p> <p>The Council wishes to ensure that all employees have access to a procedure to help deal with any grievances relating to their employment fairly and without unreasonable delay.</p> <p>The intended outcomes are to ensure that any legitimate grievances are resolved and that employees feel supported to successfully continue with their employment.</p>

Section 2 – Impact Assessment (Pages 6 to 10 of the guidance document)

2.1 Who could the proposed policy/project/decision likely have an impact on?
<p>Employees: Yes</p> <p>Community/Residents: No</p> <p>Third parties such as suppliers, providers and voluntary organisations: NO</p>

If the answer to all three questions is 'no' there is no need to continue with this analysis.

2.2 Evidence to support the analysis. Include documentary evidence, data and stakeholder information/consultation

Documentary Evidence: There have been ten grievances / DAW issues during the latest 12-month period. Some of these have been lengthy, complex and difficult to resolve. The new procedure is more streamlined and aims to conclude issues more quickly and effectively.

Data: [Employment Equality Report 2023 \(bury.gov.uk\)](https://www.bury.gov.uk/employment-equality-report-2023)

Stakeholder information/consultation:

Discussions with senior colleagues in Departments to obtain their views and comments re changes to the existing procedure.
Meeting with the Trade Unions to discuss the detail.

Signed off by SLG

Sign off at JCC

Sign off at Employment Panel

2.3 Consider the following questions in terms of who the policy/project/decision could potentially have an impact on. Detail these in the impact assessment table (2.4) and the potential impact this could have.

- Could the proposal prevent the promotion of equality of opportunity or good relations between different equality groups?
- Could the proposal create barriers to accessing a service or obtaining employment because of a protected characteristic?
- Could the proposal affect the usage or experience of a service because of a protected characteristic?
- Could a protected characteristic be disproportionately advantaged or disadvantaged by the proposal?
- Could the proposal make it more or less likely that a protected characteristic will be at risk of harassment or victimisation?
- Could the proposal affect public attitudes towards a protected characteristic (e.g. by increasing or reducing their presence in the community)?
- Could the proposal prevent or limit a protected characteristic contributing to the democratic running of the council?

2.4 Characteristic	Potential Impacts	Evidence (from 2.2) to demonstrate this impact	Mitigations to reduce negative impact	Impact level with mitigations Positive, Neutral, Negative
Age	None			Neutral

Disability	Some employees may not be able to engage fully with the process due a disability		Employees can request adjustments to engage with the procedure	Neutral
Gender Reassignment	May increase the risk of harassment or victimisation		Employee will be supported as required by HR colleagues/TU representative	Neutral
Marriage and Civil Partnership	None			Neutral
Pregnancy and Maternity	Employees may be on maternity leave whilst involved in a grievance		Necessary arrangements will be made taking into account personal circumstances and availability	Neutral
Race	Potential impact for colleagues whose first language is not English.		Grievance Manager to liaise with employee/TU rep about the most effective/appropriate way of communication. There is a language translation service that can be accessed if required.	Neutral
Religion and Belief	Availability of colleagues		Dates of meetings/investigations	Neutral

	observing religious periods or days of worship during the process		will be mindful of religious periods and holy days.	
Sex	None			Neutral
Sexual Orientation	May increase the risk of harassment or victimisation		Employee will be supported as required by HR colleagues/TU representative	Neutral
Carers	May need flexibility to attend meetings		Manager to accommodate changes to timescales	Neutral
Looked After Children and Care Leavers	May need additional support		Manage to be aware of circumstances and accommodate additional support/extension of timescale as appropriate	Neutral
Socio-economically vulnerable	None			Neutral
Veterans	None			Neutral

Actions required to mitigate/reduce/eliminate negative impacts or to complete the analysis

2.5 Characteristics	Action	Action Owner	Completion Date
Disability	Include need to consider adjustments as part of manager training	MC	July 24
Pregnancy & Maternity	Include need to sensitively consider personal circumstances and availability in managers training	MC	July 24

Race	Include reminder of the translation service as part of manager training	MC	July 24
Religion & Belief	Include need to take account of religious festivals and holy days when setting dates of meetings in manager training	MC	July 24
Carers	Include information at training sessions to allow additional time/flexibility	MC	July 24
Looked After Children and Care Leavers	Include information at training sessions to allow additional time/flexibility /offer additional support	MC	July 24

Establish the level of risk to people and organisations arising from identified impacts, with additional actions completed to mitigate/reduce/eliminate negative impacts.

3.1 Identifying risk level (Pages 10 - 12 of the guidance document)

Impact x Likelihood = Score			Likelihood			
			1	2	3	4
			Unlikely	Possible	Likely	Very likely
Impact	4	Very High	4	8	12	16
	3	High	3	6	9	12
	2	Medium	2	4	6	8
	1	Low	1	2	3	4
	0	Positive / No impact	0	0	0	0

Risk Level	No Risk = 0	Low Risk = 1 - 4	Medium Risk = 5 – 7	High Risk = 8 - 16
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3.2 Level of risk identified	No risk
3.3 Reasons for risk level calculation	No additional impact from current procedure

Section 4 - Analysis Decision (Page 11 of the guidance document)

4.1 Analysis Decision	X	Reasons for This Decision
There is no negative impact therefore the activity will proceed	X	Progress with implementing procedure subject to approval
There are low impacts or risks identified which can be mitigated or managed to reduce the risks and activity will proceed		
There are medium to high risks identified which cannot be mitigated following careful and thorough consideration. The activity will proceed with caution and this risk recorded on the risk register, ensuring continual review		

Section 5 – Sign Off and Revisions (Page 11 of the guidance document)

5.1 Sign Off	Name	Date	Comments
Lead Officer/SRO/Project Manager	Mel Cunningham, HR&OD Business Partner	26.06.24	
Responsible Asst. Director/Director	Sam McVaigh	04.07.24	
EDI	Lee Cawley	03.07.24	

EqIA Revision Log

5.2 Revision Date	Revision By	Revision Details

Family Leave Policy

July 2024

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1. Introduction

- 1.1 This policy sets out the support available for employees who are new parents or who are expecting a child either by birth, adoption, surrogacy and/or foster care.
- 1.2 It explains the arrangements for family related pay and leave, and for compliance with health and safety requirements and legislative timescales.
- 1.3 Furthermore, it reflects the Council's commitment to equality, and together with our Flexible Working Policy offers support for an effective work-life balance.

2. Scope

- 2.1 This policy applies to all employees of Bury Council with the exception of those employed within Local Authority schools, agency and casual workers.
- 2.2 It is written in accordance with the following legislation:
 - Employment Rights Act 1996
 - Employment Relations Act 1999
 - Employment Act 2002
 - Work and Families Act 2006
 - Equality Act 2010
 - Children and Families Act 2014
 - The Shared Parental Leave Regulations 2014
 - The Shared Parental Pay (General) Regulations 2014
 - The Maternity and Adoption Leave (Curtilment of Statutory Rights to Leave Regulations 2014)
 - Neonatal Care (Leave and Pay) Act 2023
 - Paternity Leave (Amendment) Regulations 2024

3. Key principles

- 3.1 All Family Leave requests will be dealt with confidentially. Any documentation will be stored in accordance with GDPR and the Council's data retention policy.
- 3.1 Applications made under this policy must be treated consistently, fairly and sensitively for all employees.
- 3.2 It should be recognised that all individuals have different personal circumstances, and so consultation between employees and line managers is essential.
- 3.3 Line managers are encouraged to support requests for family leave wherever possible, but subject to service requirements.
- 3.4 It is the employee's responsibility to ensure that any information provided in relation to family friendly leave is accurate.
- 3.5 If the Council suspects that fraudulent information has been provided, or if the Council has been informed by HMRC that a fraudulent claim has been made, disciplinary action may be taken.

4. Pension Implications

4.1 The following information is important for members of the Greater Manchester Pension Fund.

4.2 Should you have any period of unpaid leave, there will be implications for your pension. This includes unpaid leave related to IVF, maternity, shared parental, parental and adoption leave, as well as time off to accompany pregnant women to appointments.

Under the LGPS 2014 Regulations you will not be paying pension contributions for any period of unpaid absence; so, this will reduce your pension benefits when you retire. Active members of the Scheme can recoup lost benefits by paying Additional Pension Contributions (APCs) by completing Greater Manchester Pension Fund Form P38(1). This form can be downloaded from www.gmpf.org.uk and should be returned to the Pensions Team, pensions@bury.gov.uk.

If the form is returned within 30 days of your last day of absence, your Employer will contribute 2/3rds of the cost; otherwise, the full cost of buying the lost pension is payable by you.

The Pensions Team can tell you how much pension you have lost as a result of the break and then you can get a rough idea of the cost by going on the APC online calculator at www.gmpf.org.uk

For further information contact the Pensions Team at pensions@bury.gov.uk

4.3 In situations where you receive reduced pay (e.g. maternity pay, shared parental pay and adoption pay), in line with the Local Government Pension Scheme Regulations, you will be required to make pension contributions on that pay that you receive during your period of absence.

4.4 Whilst you remain in employment and a member of the Scheme, your pension rights will continue during your period of absence.

5. In-Vitro Fertilisation (IVF)

5.1 Introduction

Bury Council is committed to providing support to all employees who are undergoing IVF treatment and recognise that this may be an emotional and traumatic time. We will therefore not treat employees undergoing treatment less favourably.

This policy provides essential information for both employees and managers on the issues involved and any relevant time off arrangements.

5.2 Infertility

Infertility is a medical condition that affects both men and women. There are many different treatments available ranging from medication to assisted conception. Although both men and women are affected, women will often receive the more prolonged treatment and this guidance particularly focuses on IVF treatment.

5.3 Legal considerations

When dealing with requests for time off, it is important to act in accordance with our Equality Policy for Employment to avoid any form of discrimination linked to the Equality Act 2010.

5.4 Time Off Arrangements

A flexible approach should be taken, and employees should discuss suitable options with their manager. Depending on the circumstances this might include any of the following:

- Use of the Extended Flexi Time Policy
- Use of annual leave
- Use of TOIL
- Flexible start and finish times
- Working from home
- Authorised absence under special leave provisions will apply for all hospital appointments, including scans
- Agreed additional paid/unpaid leave (agreement should be in consultation with the Head of Human Resources as per Local Conditions of Service). Periods of unpaid leave may have implications for members of the pension fund – see section 4.

5.5 Sickness

During IVF treatment the employee may feel unwell, and this may lead to sickness absence. Sickness should be recorded as 'sickness – pregnancy related'. However, as with pregnancy related sickness, sickness due to side effects of IVF treatment should not be counted in the trigger point calculations.

Managers should, however, continue to carry out return to work meetings to discuss any issues and possible reasonable adjustments or alternative approaches to absences.

5.6 Other Support

IVF treatment can be a stressful time. Employees, should they feel they would benefit, can be referred through their manager to Occupational Health.

Should employees have to self-administer injections at work, managers should ensure there is a comfortable, private place available to do this.

5.7 Frequency of IVF

IVF often has to be repeated before it is successful; therefore, these guidelines apply to employees who may undergo multiple treatments.

5.8 Partners Support

Should the Partner (including same sex partner) of a woman undergoing IVF treatment be required to help and support during the process, they should either request time off under the normal special leave arrangements, take leave or flexitime or consider working more flexibly to accommodate their particular circumstances. The Flexible Working Policy may be useful to consider a range of different options available.

5.9 Employees are asked to:

- Communicate with their line manager at all stages of the process.
- Supply, if requested, copies of appointment cards/letters.
- Try to arrange appointments at time that will cause minimal amount of inconvenience to the service/team they work within.
- Give as much notice as possible of the days on which time off is required.

5.10 Managers are asked to:

- Treat the situation with sensitivity and keep information confidential
- Not make any assumptions about treatment or possible side effects.
- Ensure a risk assessment is carried out once the fertilized eggs have been implanted and the employee has notified them.

6. Pregnancy and Maternity

6.1 Introduction

This section details all employment related matters regarding pregnancy and maternity. A useful summary checklist is included as Appendix 1.

6.2 Health and safety

It is essential that particular attention is paid to the health and safety requirements of employees who are pregnant, who have given birth within the previous 6 months or who are breastfeeding.

To ensure this happens, it is important that your manager is made aware that you are pregnant as soon as possible. They should then carry out specific risk assessments and review them regularly using the [guidance and template](#) available on the Health and Safety pages of the intranet. Further information is available in the [Health and Safety Executive's guidance on protecting pregnant workers and new mothers](#). The legal protections also apply to transgender men, non-binary people, and people with variations in sex characteristics, or who are intersex.

If you receive medical advice that recommends adaptations to your working environment, or if you have concerns relating to your work, then you should inform your manager immediately. Your manager can contact HR for support and advice.

6.3 Notification of pregnancy

As your employer, it helps us to support you throughout your pregnancy if we are aware that you are expecting a baby as soon as possible. We would encourage you to speak to your line manager and/or HR, who will be able to provide advice and guidance regarding your entitlement to paid time off for antenatal care, calculate your benefits and arrange cover for your maternity leave.

Formal notification, normally no later than the 15th week before your expected due date, should be made by completing the maternity questionnaire on iTrent Self Service, which will include your expected week of childbirth, the dates in which your maternity leave will start and end and your intention to return to work.

You can change your expected end date provided you give 28 days' notice to your manager.

As soon as you receive your maternity certificate (MATB1) you should upload this on iTrent Self Service. You will then receive written confirmation, outlining the conditions of your maternity leave and your entitlement.

Guidance can be found in the [iTrent user information](#) pages of the intranet on how to find the maternity questionnaire and upload any documents, or alternatively speak to your manager for advice.

6.4 Antenatal care

You will be granted leave of absence as appropriate for antenatal appointments arranged on the advice of a registered medical practitioner, including scans. You must be able to provide evidence of any such appointments upon request.

6.5 Sickness

If you are off sick during pregnancy you are obliged to follow the normal sickness absence procedures. If your sickness is pregnancy related you should inform your manager. Sickness during pregnancy will be recorded; however, pregnancy related sickness will not be counted as set out in the Managing Attendance policy.

If you are absent from work partly or wholly due to pregnancy, in the 4 weeks before your baby is due, your maternity leave will be automatically triggered the day after your first day off.

6.6 Maternity leave

All employees irrespective of length of service are entitled 52 weeks continuous leave, this is made up of 26 weeks ordinary maternity leave (OML) and 26 weeks additional maternity leave (AML). If you are on a temporary contract your maternity leave will expire on the termination of your contract.

Your maternity leave can start from up to 11 weeks before your baby is due or the day you give birth. You must provide 28 days' notice of your intention to start maternity leave, where reasonably practicable. If your baby arrives earlier, contact your manager as soon as possible, and refer to the section on early birth.

It is compulsory to take at least 2 weeks leave.

6.7 Maternity pay

There are 3 ways in which your maternity pay is calculated depending on your service length and earnings. Payments will be subject to deductions for income tax, NI and pension. All pay rates can be found on the family friendly rates table on the [intranet](#).

Statutory Maternity Pay (SMP)

To qualify for SMP:

- You must have been employed by your employer without a break for at least 26 weeks before your 15th week that you are due

- You must earn at least £123 per week on average for 8 weeks before the 15th week that you are due

If you do not return to work, SMP is non-refundable to the Council.

Pay:

- 90% of your current pay for the first 6 weeks
- SMP rate for 33 weeks

If you take 52 weeks leave, the final 13 weeks will be unpaid.

If you have changed employer during your pregnancy, please seek advice on your entitlement from HR as you may not meet the continuous employment rule. Exceptions to this are if you worked for an employers signed up to the Greater Manchester Continuity of Service Protocol, or if you are a teacher in a school maintained by a local education authority and you move to another school maintained by the same authority; in these circumstances your continuous employment for SMP purposes is maintained.

Occupational Maternity Pay (OMP)

To qualify for OMP:

- You must have completed 1 year's continuous local government service, 11 weeks before your due date. Continuous service under the Greater Manchester Continuous Commitment is included
- You must confirm you intend to return to work for at least 3 months

OMP must be repaid if you do not return to work.

Pay:

- 90% of your current pay for the first 6 weeks
- Half of your current pay plus SMP for the next 12 weeks (subject to this not exceeding normal full pay)
- SMP for the next 21 weeks

If you take 52 weeks leave, the final 13 weeks will be unpaid.

If you meet the continuous service requirements for payment of OMP as detailed above, but do not qualify for SMP or MA you will be paid at nine-tenths of a week's pay for the first six weeks' of your maternity leave, but this will not be offset against SMP or MA.

Maternity Allowance (MA)

If you do qualify for statutory or occupational maternity pay, you may qualify for maternity allowance. This is based on your recent employment and earnings and is a state benefit.

To qualify for MA:

- You must be employed or have been employed for at least 26 weeks in the 66 weeks before the due date

- You must have been earning at least £30 a week on average in at least 13 weeks of your employment

You will need to complete a SMP1 form which can be obtained from HR Operations and take this to your local benefits agency office who can advise on your entitlement.

See section 4 for the implications for pension fund members.

6.8 **Surrogacy**

If you are acting as a surrogate mother, you are entitled to the same maternity leave and pay.

If someone is acting as surrogate for you, you are not entitled to maternity leave or pay, as entitlement is dependent on actual pregnancy and production of a MATB1 certificate.

6.9 **Salary sacrifice schemes**

You are advised to think very carefully as to whether you join any salary-sacrifice schemes if you are likely to have maternity leave during the period of your agreement. This is because Statutory Maternity Pay (SMP) and Occupational Maternity Pay (OMP) are calculated on the amount of average weekly earnings during the 8-week period, fifteen weeks prior to the expected date of confinement (weeks 17 to 25 of pregnancy).

A salary-sacrifice arrangement will reduce the amount of salary that is liable to National Insurance Contributions; and consequentially will reduce the level of your SMP/OMP.

Car lease scheme

If you have an agreement under the car lease scheme, to maintain the level of your SMP/OMP, the Council will make a payment to you based on the salary you would have received prior to salary-sacrifice.

From the start date of payment of your SMP you will pay for your car on a net deduction basis which is more expensive than the salary-sacrifice deductions. When you return to work you will automatically revert back to the salary sacrifice arrangement.

If you are pregnant and have a lease car, another option is for you to return the car, but you will be subject to early termination charges.

6.10 **Birth**

You (or someone on your behalf) should notify your manager as soon as possible after the birth.

6.11 Early birth

If your baby is born before the start of your planned maternity leave, your maternity leave and payment of your SMP will commence on the day following the day your baby was born.

6.12 Miscarriage

If a miscarriage happens in the first 24 weeks of pregnancy, there is no entitlement to maternity leave. However, as many see this as a bereavement, employees should be supported in the same way. Any sickness absence should be categorised as 'pregnancy related' and not counted towards sickness triggers.

A miscarriage after 24 weeks is classed as a stillbirth.

6.13 Stillbirth/Death of a baby after birth

In the tragic event of you giving birth to a stillborn baby, you are still entitled to maternity leave if the birth happens after 24 weeks of pregnancy. As with an early birth, should this happen before the planned start date of the maternity leave your maternity leave and payment of SMP would commence the day following the stillbirth. If the stillbirth occurs before the end of the 24th week of pregnancy, you should take sick leave or special leave if appropriate.

If your baby is born alive but then later dies, you are entitled to maternity leave.

6.14 Keeping in touch (KIT) days

Keeping in Touch (KIT) days are designed to encourage a smooth return to work for you following your maternity leave and allow you to return to work for up to 10 days without bringing your maternity leave to an end. KIT days are not compulsory and must be arranged by mutual agreement between you and your manager. Even if you don't have any KIT days you may find it beneficial to keep in touch more informally during your maternity leave.

Any work done, whether it is a one-hour team meeting, a two-hour training session, or a full day, would be classed as one of your KIT days. Your manager must record when your KIT days have been taken and the number of hours you worked on iTrent (see [Bury Family Friendly Leave Guidance for Managers](#)). You will be paid at your current spine point or rate of pay for the hours you work so your manager must enter details of these hours into iTrent (see [iTrent Self Service Family Friendly Leave Guide for Managers](#)) in order for you to be paid correctly.

Your SMP will be offset against your earnings on a KIT day so, for example, if you earn £50.00 for a KIT day, the £50.00 will be offset against the SMP payment for the week and you will still receive the SMP payment. If you worked 3 KIT days in a week and received £150.00 for the 3 days, the SMP

payment will be offset, and you would receive £150.00 for the week.

6.15 **Returning from maternity leave**

You may return to work at any time during your maternity leave subject to you taking 2 weeks' compulsory maternity leave. Compulsory maternity leave will commence from the birth of the baby.

No notification is required if you intend to return to work at the end of the maternity leave (52 weeks). However, if you choose to return **before the end** of the 52 weeks you must give 21 days' notice in writing to your manager and HR. Where insufficient notice is given your department may postpone your return to ensure the required notice.

Providing you meet eligibility requirements you have the choice to transfer up to 6 months' leave to the child's father should you want to. The leave can be taken by the father once you have returned to work. [The term "father" refers to the person taking the additional paternity leave but is available to either sex and also applies to employees married to or the partner (including same sex partner) and civil partner of mothers]. Some of the leave may be paid if it is taken during what would have been your 39-week statutory pay period; in these cases, then you must bring your maternity leave to an end by giving notice to return early and must bring your SMP or maternity allowance to an end by actually returning to work.

If you have notified us of your date of return but cannot return to work because of sickness you are required to produce a doctor's certificate before the notified date of return. If you haven't yet informed us of your date of return you must produce a Doctor's certificate on the expiry of your maternity leave period. At this stage normal contractual sick pay arrangements apply.

You will be entitled to return to the post that you now occupy or a suitable alternative post where for some reason, e.g. redundancy or restructure, it is not practicable for you to return to the original post.

If you wish to return to work on a job share or part time basis, it is important that you apply for this in line with the Flexible Working Policy at the earliest opportunity.

If your request is agreed, you will be entitled to retain the 12 weeks $\frac{1}{2}$ pay that you received during your maternity leave, as long as you work for at least 3 months upon your return.

6.16 **Breastfeeding**

The Council is required to provide an appropriate area for mothers to rest and express milk. Toilets are not considered suitable for this.

A risk assessment should be completed in line with health and safety guidelines, as referred to above.

A suitable arrangement should be in place for mothers to store milk, should they choose to express during the working day

6.17 Holiday Entitlement

You are allowed to take your full holiday entitlement in the year in which your maternity leave falls on the understanding that you reimburse the Council as appropriate on a pro rata basis should you choose not to return to work. This applies if you are entitled to paid or unpaid maternity leave.

You will also be entitled to any fixed holidays such as Bank Holidays that fall during your paid or unpaid maternity leave. These fixed holidays will be treated as annual leave for this purpose and taking these days as leave, either before or after maternity leave, must be requested in the usual way. Your manager must mark any bank holidays on iTrent as not taken.

If your maternity leave straddles two leave years you will be permitted to carry over any untaken leave into the next leave year, should the need arise. Your manager will need to inform HR so iTrent can be updated.

If you work term time only your pay is calculated as 12 equal monthly installments across the year. Each installment includes a combination of your salary payment and payment for your annual leave and bank holidays; and you are required to take your leave during school closure periods. Annual leave accrued whilst on maternity leave will be offset by any period of school closure that occurs in the leave year in question, both before and after your maternity leave.

If you have salary deductions for 3 days' unpaid leave the deductions will cease altogether for the full period of the maternity leave and the deduction is pro-rated for the months that you commence and return from maternity leave. The 3 days' unpaid leave will also be pro-rated to reflect this.

Prior to your return to work following maternity leave HR will assess whether or not you are owed any annual leave entitlement. If you have outstanding leave you will be given the option to either take the leave: -

- During term-time, but only with the approval of your line manager. In these cases there will be no adjustment to your pay; or
- During school closure periods when your pay will be adjusted to reflect any shortfall in holiday pay received during your period of maternity leave.

You cannot insist on payment for untaken annual leave unless you are leaving the Council.

These arrangements will also apply to term time only employees taking adoption leave and additional paternity leave.

6.18 Employee support

The Council recognises that in some cases women can suffer mental or physical trauma as a result of giving birth. Our [Employee Assistance Programme](#) offers support with immediate access to counselling and a free confidential phone service.

7. Time off to accompany a pregnant woman to antenatal appointments

- 7.1 If you are an expectant father (biologically) or the partner (including same sex) of a pregnant woman, you are entitled to take unpaid time off work to accompany the woman on to up to 2 of her antenatal appointments. "Partner" includes the spouse or civil partner of the pregnant woman or a person in a long-term relationship with her.
- 7.2 The right applies whether the child has been conceived naturally or through donor insemination. It also extends to those who will become parents through a surrogacy arrangement if they expect to satisfy the conditions for and intend to apply for a Parental Order for the child born through that arrangement.
- 7.3 There is no qualifying period for Council employees – it is a day one right. Agency workers must have been working for the Council for 12 weeks or more.
- 7.4 Employees accompanying the expectant mother to her ante-natal appointments are entitled to unpaid leave for 1 or 2 appointments. The time off is capped at six and a half hours for each appointment.

Periods of unpaid leave may have implications for members of the pension fund – see section 4.

- 7.5 The Council is not entitled to ask for any evidence of the antenatal appointments, such as an appointment card, as this is the property of the expectant mother attending the appointment.

However, the Council is entitled to ask you for a declaration stating the date and time of the appointment, that you qualify for the unpaid time off through your relationship with the mother or child, and that the time off is for the purpose of attending an antenatal appointment with the expectant mother that has been made on the advice of a registered medical practitioner, nurse or midwife.

- 7.6 Time off to accompany a pregnant woman for antenatal appointments must be recorded on iTrent via Employee Self Service (see [Other Leave – Unpaid Leave instructions](#)) which will notify HR.

8. Maternity Support Leave

Maternity Support Leave should be considered alongside Statutory Paternity Leave and Pay, and advice sought from HR as to the option that best suits your circumstances. You cannot take both.

- 8.1 The intention of Maternity Support Leave (MSL) is to give employees leave to care for the child or support the mother following childbirth. Male and female employees may be eligible, irrespective of marital status.
- 8.2 There are 2 levels of leave:-
- For all employees irrespective of length of service:
All employees will be entitled to 5 working days. Leave must be taken as a block within 3 months of the birth. Pay will be based on contractual pay.
 - For employees with 26 weeks service when the baby is born:
You will be entitled to an additional 5 days, which must be taken within 3 months of the birth. Pay will be based on contractual pay. This additional 5 days should also be taken as a block and can be either be taken consecutively or separately to the first block of 5 days.

Service as defined above includes all continuous service with an employer that is part of the Greater Manchester Continuity of Service Protocol.

- 8.3 To qualify employees need to satisfy the following criteria:-
- Be the biological father of the child, the mother's husband or partner (including same sex partner)
- Or, if any of the above are unable to assist the mother (for example if the father/partner (including same sex partner) is in the armed forces); or, If the mother has no relationship(s) as defined above:
- Be a close family member or, in exceptional circumstances, a friend of the mother, whom the mother has nominated to assist in the care of herself and the child following the birth. That person should have or expect to have some ongoing involvement in the child's upbringing.
- 8.4 To be granted MSL the employee must produce a medical certificate which includes the name and address of the mother and expected date of birth); **and**, in the case of a designated nominated carer, a note from the mother confirming the relationship and her wish for the person to act as a designated nominated carer.
- 8.5 Only one period of MSL (up to 10 days, where eligible) will be granted in any 12-month period.
- 8.6 Leave can start:
- From the date of the child's birth (whether this is earlier or later than expected)
 - From a chosen date, providing the date is within 3 months of the date of the birth

Only one period of leave will be available irrespective of the number of children born as a result of the same pregnancy.

- 8.7 Leave will be paid at full pay for the period chosen and payment will be automatically offset by Statutory Paternity pay (if SPP is applicable).

If your pay has been offset this means that for that birth your entitlement to Statutory Paternity Pay (SPP) has been exhausted as part of your full pay MSL and the Council has claimed this money back from the Government. It is not possible to double count, i.e. MSL plus SPP for the same birth.

If an employee leaves the service of Local Government within 3 months from the last day of maternity support leave, they will be required to reimburse the occupational element of pay. The statutory element is not refundable.

- 8.8 Employees will be required to inform HR of their intention to take leave. Leave will be granted by agreement with their manager.

9. Statutory Paternity Leave

Statutory Paternity Leave and Pay should be considered alongside Maternity Support Leave, and advice sought from HR as to the option that best suits your circumstances. You cannot take both.

9.1 This section provides a basic summary of rights to paternity leave and pay.

9.2 Eligibility

Following the birth of the child/placement of a child for adoption, eligible employees will have the right to request paid paternity leave to care for their new child or support the adopter.

To apply for paternity leave and pay you must make a written declaration that you are the biological father of the child, or the spouse, partner (including same sex partners) or civil partner of the mother/other adopter and: -

- have or expect to have responsibility for the child's upbringing;
- have worked continuously for the Council for 26 weeks ending with the 15th week before the baby is due or, in cases of adoption, the end of the week in which the child's adopter is notified of being matched with a child;
- will take time off work to support the mother/other adopter and/or the baby/adopted child

A partner is defined as someone who is not an immediate relative and lives with their partner in an enduring family relationship. It may include a female partner in a same sex couple.

To apply for paternity leave and/or pay you must complete a form SC3, or SC4 in cases of adoption, available on the gov.uk website.

9.3 Length of Paternity Leave

You can take either 1 or 2 weeks' leave. If you are taking 2 weeks they can either be taken consecutively or separately. The amount of time is the same even if you have more than one child (for example twins).

Leave cannot start before the birth. The start date must be one of the following:

- the actual date of birth
- a specified number of days after the birth
- a set date which is after the date of birth

Leave must finish within 52 weeks of the birth (or due date, if the baby is early).

Or, if you are taking paternity leave because you are adopting, you can start your leave:

- on the date of placement

- an agreed number of days after the date of placement
- on the date the child arrives in the UK or an agreed number of days after this (overseas adoptions)

Leave must be taken within 52 weeks of the date of the placement or arrival.

9.4 Pay

During paternity leave you will be able to apply for Statutory Paternity Pay (SPP) which is the same as the standard rate of Statutory Maternity Pay (All pay rates can be found on the financial provisions table - [Conditions of Service - Bury Council Intranet](#)). To qualify for SPP you must continue to work with Bury Council right up until the baby is born or the child is placed for adoption. Employees who have average weekly earnings below £123 per week (gross) do not qualify for SPP.

9.5 Notice of intention to take Paternity Leave

You will be required to inform us of your intention to take paternity leave at least 15 weeks before the baby is expected/within seven days of the adopter being notified by their adoption agency that you have been matched with a child, unless this is not reasonably practicable. You will need to inform us:

- Of the baby's due date/the date when the child is expected to be placed;
- Whether you wish to take one or two weeks' leave;
- When you want your leave to start.

You should give at least 28 days' notice of the date that you expect any payments of Statutory Paternity Pay to start.

9.6 Salary sacrifice schemes

You are advised to think very carefully as to whether you join any salary-sacrifice schemes if you are likely to have paternity leave during the period of your agreement. This is because Paternity Pay (SPP) is calculated on the amount of average weekly earnings during the 8-week period, fifteen weeks prior to the expected date of confinement (weeks 17 to 25 of pregnancy).

A salary-sacrifice arrangement will reduce the amount of salary that is liable to National Insurance Contributions; and consequentially will reduce the level of your SPP.

10.Shared Parental Leave

Shared Parental Leave (SPL) should not be confused with unpaid Parental Leave, which is unaffected by SPL. Unpaid parental leave is the entitlement to up to 18 weeks' unpaid leave for parents who have responsibility for a child aged up to 18. For more information see Section 11.

10.1 Introduction

This section outlines the statutory right to take shared parental leave (ShPL) to care for a child due to be born or placed for adoption on or after 5th April 2015. It also outlines the arrangements and notification requirements before a period of ShPL and the entitlement to pay during ShPL.

ShPL gives employees with caring responsibilities for babies or newly adopted children the opportunity to share up to 52 weeks' leave should they wish to do so. Parents taking ShPL can take leave in separate blocks, returning to work in between blocks, and can be on leave at the same time. Eligible employees are entitled to submit up to three 'period of leave' notices. Requests for continuous periods of leave will be granted.

Employees and managers should, where possible, have an informal discussion prior to employees giving formal notification of intention to take ShPL so that entitlements to other types of leave and pay can be discussed, and to ensure that plans for any discontinuous periods of leave can be considered as early as possible.

10.2 Entitlement to ShPL

To be entitled to ShPL you must:

- be the mother, father, or main adopter of the child, or the partner of the mother or main adopter (each will be referred to in this policy as a parent);
- have (or share with the other parent) the main responsibility for the care of the child;
- have at least 26 weeks' continuous service at the 15th week before the expected week of birth or at the week in which the main adopter was notified of having been matched for adoption with the child (known as the 'relevant week');
- still be in continuous employment until the week before any ShPL is taken.

In addition, the other parent must:

- have at least 26 weeks' employment (employed or self-employed) out of the 66 weeks prior to the relevant week;
- have average weekly earnings of at least £30 during at least 13 of the 66 weeks prior to the relevant week

If the other parent meets those conditions, but does not qualify for ShPL, you may be entitled to the whole ShPL period – the main advantage being the

ability to request leave in different blocks and return to work in between those blocks.

If you want to calculate your entitlement to ShPL and ShPP you can do so at [Plan your Shared Parental Leave and Pay - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/plan-your-shared-parental-leave-and-pay)

To access your entitlement, you must also follow the statutory notification and information requirements detailed below.

10.3 Amount and timing of ShPL

ShPL must be taken in blocks of at least one week and within a one-year period beginning with the date of the baby's birth or the child's placement for adoption.

The maximum of 52 weeks' ShPL will be reduced by the number of weeks' maternity or adoption leave that has already been taken by the mother or main adopter (or the number of weeks' statutory maternity/adoption pay or maternity allowance already taken if the mother or main adopter is not entitled to statutory maternity/adoption leave).

After the birth of a child, it is compulsory to take two weeks' maternity leave, so in the majority of cases working parents will have the opportunity to split 50 weeks of ShPL.

ShPL is in addition to the statutory right to two weeks' paternity leave for fathers and partners. If you wish to take maternity support leave or paternity leave you must do so before you take any ShPL.

10.4 Entitlement to Shared Parental Pay

In addition to the requirements regarding entitlement to leave outlined above, if you wish to claim shared parental pay (ShPP) within the one year period following the baby's birth, you must have average weekly earnings equal to or above the Lower Earnings Limit over the eight week period ending with the relevant week.

A maximum of 39 weeks' ShPP is payable, and this will be reduced by the number of weeks' statutory maternity/adoption pay or maternity allowance already taken by the mother or main adopter. The statutory ShPP is a standard weekly rate (or 90% of the employee's normal weekly earnings if this is lower) which is set by government each tax year.

(All pay rates can be found in the family friendly rates table on the [intranet](#))

The payment will be enhanced to include 12 weeks at half pay plus ShPP (subject to normal full pay not being exceeded) if the following conditions are met:

- ShPL to be taken as one continuous block;

- the occupational element must be repaid if you do not return to work for 3 months following your ShPL;
- in the event that both parents/adopters are employed by Bury Council the occupational element of 12 weeks half pay must be shared

To access your entitlement to ShPP you must follow the statutory notification and information requirements detailed below.

Periods of unpaid leave may have implications for members of the pension fund – see section 4.

You are advised to think very carefully as to whether you join any salary-sacrifice schemes if you are likely to have shared parental leave during the period of your agreement. This is because Shared Parental Pay (ShPP) is often calculated based on average weekly earnings. A salary-sacrifice arrangement will reduce the amount of salary and consequentially will reduce the level of your ShPP.

10.5 Notification requirements

The notification requirements for ShPL and ShPP are very specific and detailed.

Notice of entitlement and intention to take ShPL and ShPP

You must notify Bury Council in writing at least **eight weeks** before the start date of the first period of ShPL, but preferably sooner. You should do this by completing the form on iTrent – see [Bury Family Friendly Leave Application guidance](#).

The form will require the following information:

- Your name and the other parent's name
- The start and end dates of the mother's or main adopter's maternity/adoption leave (or the start and end dates of the statutory maternity/adoption pay or maternity allowance period if the mother/main adopter is not entitled to statutory leave)
- The expected date of birth/placement and the actual date of birth/placement if the written notice is given after the birth/placement
- The amount of ShPL and ShPP available and an indication of how much each parent intends to take (this may be varied by a subsequent written notice signed by both parents)
- An indication of the start and end dates of the periods of ShPL and ShPP that you intend to take. This indication is not binding and can be amended at a later date.
- A declaration that you meet the conditions for entitlement to ShPL, the information provided is accurate and that you will notify Bury Council immediately if you cease to meet the conditions for entitlement.
- A declaration from the other parent containing his or her name, address and National Insurance number, confirmation that s/he meets the employment and earnings conditions, consents to the amount of leave the

employee intends to take and will immediately inform you if s/he ceases to satisfy the employment and earnings conditions.

You will be sent an email acknowledging receipt of your Notice of entitlement to take ShPL and ShPP.

Note: this email confirms your intention to take ShPL/ShPP but in order to book leave you must do this via iTrent self-service – see [ESS Guide to Family Friendly Leave](#).

When giving notice of entitlement this will include a Maternity/Adoption Leave Curtailment Notice which you, as the mother/main adopter must sign to give your employer 8 weeks' notice of the date on which maternity/adoption leave is to end (or the date on which maternity/adoption pay is to end if you are not entitled to maternity/adoption leave).

If you are not entitled to ShPL but want to curtail you maternity/adoption leave and/or pay to free up the entitlement to ShPL for the other parent/adopter you must also submit a curtailment notice. Your maternity allowance cannot be reinstated, so you are in effect giving consent for your partner to take the whole of any ShPP entitlement.

Notice of curtailment is usually binding, but may be revoked in the following circumstances:

- it becomes apparent that neither parent is entitled to ShPL or ShPP;
- if the curtailment notice was given before the birth and is revoked within six weeks of the birth (in this case another curtailment notice can be submitted);
- if the other parent dies.

In practice, at least the first period of ShPL will usually be identified in the initial notice of entitlement and intention to take ShPL. You are entitled to submit a maximum of a further two 'period of leave' notices – to do this email HROperations@bury.gov.uk. Each notice must be given at least eight weeks before the start of a period of leave, stating the dates of the leave and the dates on which ShPP will be claimed, if applicable.

If the first 'period of leave' notice is given prior to the birth of a child, the notice may express the start date in relation to the date of birth, for example 'starting two weeks after the baby is born for a period of four weeks'.

The Council reserves the right to ask for further information to support this request.

10.6 Confirmation of ShPL and ShPP

If a continuous period of leave is requested in each period of leave notice, you will be entitled to take that period of leave and this will be confirmed in writing.

If more than one period of leave is requested in a period of leave notice, your manager will seek to accommodate the request but this cannot be guaranteed. Your manager will discuss the request with you to determine if it can be accommodated. If it cannot be accommodated, there may be an alternative pattern of leave which can be agreed, or the request may be refused. The manager's decision will be confirmed in writing.

If no agreement is reached within two weeks of the period of leave notice being submitted you can:

- take the discontinuous periods of leave requested in one continuous block, beginning on the original start date
- take the continuous block starting on a new date, as long as the new date is later than the original start date, and you notify Bury Council of the new date within five days of the two week period referred to above
- withdraw the request at any time up to the 15th day after it was originally made. If the request is withdrawn in these circumstances it will not count as one of your three requests

10.7 Varying a period of leave

You are entitled to submit a request to vary a period of leave in the following ways:

- vary the start or end date as long as the variation is requested at least eight weeks before the original start date and the new start date;
- vary or cancel the amount of leave requested at least eight weeks before the original start date;
- request that a single period of leave become a discontinuous period of leave, or vice versa.

A variation will count as one of your three period of leave notices unless:

- it is made as a result of the child being born earlier or later than the expected week of childbirth;
- Bury Council has requested the variation
- Bury Council has agreed to accept more than three period of leave notices.

To cancel or vary a period of ShPL please email HROperations@bury.gov.uk.

The usual eight-week notice requirement may be modified if your child is born early and the new start date for the period of leave is the same length of time following the birth as in the original notice. In this case notice to vary the start date should be given as soon as reasonably practicable after the birth of the child.

10.8 Shared Parental Leave in Touch Days (SPLiT)

You may be asked to attend work on occasional days during your ShPL period. These days could be for training, to attend department meetings, or just for keeping in touch (SPLiT). You may work for up to 20 days without

bringing the ShPL to an end, but work during ShPL will not have the effect of extending your ShPL period. If you do work, you will be paid your normal rate of pay inclusive of any ShPP entitlement. You are under no obligation to work during ShPL, and Bury Council is under no obligation to offer work.

Any work done, whether it is a one hour team meeting, a two hour training session, or a full day, would be classed as one SPLiT day. You must record when SPLiT days have been taken and the number of hours worked. Payment will be at current spine point or rate of pay for the hours worked so your manager must enter details of these hours into iTrent (see [iTrent Self Service Family Friendly Leave Guide for Managers](#)) in order for you to be paid correctly.

The 20 SPLiT days available during ShPL are in addition to the 10 KIT days available during maternity and adoption leave.

10.9 Terms and conditions during ShPL

Contractual benefits (apart from remuneration) will continue to be accrued during periods ShPL period.

Employees taking ShPL will continue to accrue contractual holiday entitlement.

Holiday entitlement accrued before ShPL

Entitlement to accrue holidays is not affected by ShPL and employees are entitled to accrue statutory and contractual holiday during the entire ShPL period.

Employees will be advised, prior to ShPL, of any holiday they are entitled to take before ShPL is due to start.

Holiday entitlement accrued during ShPL

Holiday entitlement continues to accrue during ShPL. Employees on ShPL will also be entitled to any fixed holidays such as Bank Holidays that fall during a period of ShPL. These fixed holidays will be treated as annual leave for this purpose and taking these days as leave must be requested in the usual way.

There may be discussions between managers and employees around the various options regarding holiday entitlement before a return to work.

Requests to take annual leave should be made in compliance with Bury Council procedures for requesting annual leave.

10.10 Returning from ShPL

If you wish to return early from ShPL, or extend the period of your ShPL, you must notify Bury Council at least eight weeks' before both the original end date and the new end date.

If you return to work immediately after a period of ShPL which (together with any statutory maternity/adoption leave you may have taken to care for the same child) was 26 weeks or less, you will return to work in the same job that you left.

If you return to work from a period of ShPL which (together with any maternity/adoption leave you may have taken to care for the same child) was 26 weeks or more you will be entitled to return to the post that you now occupy or a suitable alternative post if, for some reason, e.g. redundancy or restructure, it is not practicable for you to return to the original post.

Your right to return means that you return on terms and conditions no less favourable than those that would have been applied if you had not been absent and with the same level of seniority, pension rights and other similar rights.

11. Parental Leave

11.1 An employee who is entitled to apply for parental leave is defined by the regulations as having 'responsibility for a child'. i.e.

- The mother of the child(ren)
- Adoptive parent
- The father of the child(ren) if he was married to the mother at the time of the birth or he is registered as the child's father
- If not covered by the above, the father if he has acquired parental responsibility under the Children Act 1989
- A legal guardian appointed under Section 5 of the Children Act 1989
- Nominated Carer (as defined in Appendix H of Local Conditions of Service), subject to production of documentary evidence of 'responsibility for a child' as defined in section 10.8 below.

Agreements reached under the NJC for Local Government Services state that parental leave should also be extended to employees with parental responsibilities but who do not fall under the legal definition. This might include foster parents; adoptive parents prior to placement; grandparents with a significant parenting role and step-parents.

11.2 A total of 18 weeks unpaid parental leave is available for eligible employees, per parent, per child, up to their 18th birthday. The aim of the leave is to support their child's welfare, for example to:

- Spend more time with their children
- Look at new schools
- Settle children into new childcare arrangements
- Spend more time with family, such as visiting grandparent

11.3 A week is normally defined as an employee's contracted working week where this does not vary.

Where the working pattern normally varies from week to week or over a longer period, or if the employee is normally required to work in some weeks and not others, a week is the total of all periods in which they work, divided by 52.

11.4 Entitlement

To qualify to apply for parental leave an employee must:

- Have completed 1 year's continuous service with Bury Council (previous relevant continuous service does not qualify)
- Have, or expect to have, responsibility for a child (see 10.1 above)

An employee who qualifies to apply for parental leave is entitled to 18 weeks unpaid leave, in addition to leave granted under any other terms or conditions of service (except Maternity Support Leave), to be taken as follows:

- As block of a week or multiples of a week for a maximum of 4 weeks per year (per child), unless the child is disabled in which case it may be taken as individual days.
- The maximum of 4 weeks per year (per child) is the statutory guidance but can be varied with agreement.
- In patterns which provide a part time or reduced hours working arrangement for a period of time equivalent to taking 18 weeks leave.

Example

If an employee works 3 days a week, one 'week' of parental leave equals 3 days. If an employee works irregular weeks the number of days in a 'week' is the total number of days they work a year divided by 52.

Parental leave is an individual entitlement for each employee. It is the employee who attracts the statutory entitlement, not each individual contract of employment. In circumstances where both parents, as defined in paragraph 3.1. of this policy, are employees, they may both apply to take parental leave, together or separately, in respect of the same child.

An employee is entitled to apply for parental leave separately for each child for whom they have responsibility that meets the qualifying criteria.

11.5 Application process

Every attempt should be made by an employee to give as much notice as possible with a minimum of 21 days' notice in writing required before the day on which they propose to take the leave. Employees should apply HR specifying when the requested leave is to begin and end. In the case of multiple employments, such employees will be required to give notice to all relevant parties. Employees may apply to take parental leave immediately prior to or after annual leave, maternity leave, adoption leave, shared parental leave or maternity support leave.

If the parental leave is to be taken by a partner immediately after a child is born the notice must specify the expected week of childbirth, the amount of parental leave to be taken and be given at least 21 days before the beginning of the expected week of childbirth. Fathers who wish to apply for paid maternity support leave or paternity leave and pay may continue to do.

If parental leave is to be taken immediately after a child is placed for adoption, the notice must specify the expected week of placement, the amount of parental leave to be taken and be given at least 21 calendar days before the expected week of placement, or as soon as it is reasonably practicable.

Parental leave may be granted to employees who have not given the required notice in special circumstances at the discretion of the Head of Service. Such discretion shall not be unreasonably withheld.

It is the responsibility of both employees and relevant Supervisors/Managers to keep accurate records in order to facilitate the granting of parental leave (to be processed in accordance with the Data Protection Act 1998).

11.6 Production of evidence of responsibility for a child

The Council has the right to request to see reasonable evidence of the following:

- the child(ren)'s date of birth e.g. birth certificate
- an employee's responsibility or expected responsibility for the child(ren) e.g. Adoption papers

Evidence must be requested and produced prior to the granting of the initial period of parental leave for each child. Re-production of such evidence in respect of further requests for parental leave in respect of the same child may be necessary where the employing department changes or where an employee may have ceased to satisfy the qualifying criteria set down in the Regulations.

11.7 Postponement of the timing of parental leave

By the Council

If an employee meets the qualifying conditions and gives the required notice the employee is entitled to take the leave and the request cannot be refused. In the case of multiple employments agreement to take the leave will be subject to consultation between all relevant departments. Every attempt will be made to avoid postponement. In any event, leave shall not be postponed for more than three months except in exceptional circumstances.

However, in accordance with the Regulations, the Council may postpone the timing of parental leave if the operation of the business would be unduly disrupted.

The Council may not postpone the parental leave in the following circumstances:

- Following maternity support leave
- Following maternity leave
- At the time of adoption, at times prior to adoption where the parent is required to be at home by the adoption process, or following adoption leave

In circumstances where the Council wishes to postpone a period of parental leave an employee must be notified in writing within 7 calendar days of receipt of the request for leave and the reason for the postponement.

The Council must consult with the employee with a view to coming to agreement over alternatives. These might include:

- A different pattern of leave – e.g. part time rather than full time
- A shorter or longer period of leave
- Alternative dates within a three month period.

Where there is no agreement, the Council must as a minimum, permit the employee to take a period of leave of the same duration and beginning on a date determined in consultation with the employee no later than three months after the originally notified start date.

An employee may be accompanied by a Trade Union representative or work colleague during consultations with the Council.

By an Employee

An employee may postpone the timing or cancel a period of agreed parental leave where the Council considers that there are justifiable circumstances, for example:

- they no longer have responsibility for the child(ren) as defined by the regulations;
- if the leave was requested to cover a specific purpose (for example, absence of normal childcare arrangements, hospitalisation of child, absence of partner) and this need or purpose no longer exists.

In such circumstances an employee should, in the first instance, discuss the matter with their manager. Where it is then agreed that the cancellation or postponement of an agreed period of parental leave is justifiable, an employee must request the postponement or cancellation in writing, stating the dates of the agreed period of parental leave they wish to cancel/postpone and their reasons for doing so.

In normal circumstances, an employee must allow a minimum of 7 calendar days to elapse before rebooking the leave.

In exceptional circumstances, consideration may be given to a request to extend the agreed period of parental leave, where the maximum parental leave has not yet been taken.

Upon receipt of the written notification of postponement/cancellation or extension, the manager must notify HR immediately, to ensure that the appropriate amendment to pay may be made without delay.

11.8 Protection during parental leave

Although an employee's contract will continue during the period(s) of parental leave, only the following terms are binding:

Terms binding the Council

The Council's implied obligation to an employee of trust and confidence;
Any term relating to notice of termination, compensation for redundancy, or disciplinary or grievance procedures

Terms binding the Employee

An employee's implied obligation to the employer of good faith
Any term relating to notice of termination, the disclosure of

confidential information, the acceptance of gifts or other benefits or an employee's participation in any competing business.

11.9 Right to return

An employee has the right to return to the same job or, if that is not reasonably practicable, to another one that is suitable and appropriate for them to do in the circumstances unless the leave is for 4 weeks or less and does not immediately follow additional maternity leave when an employee has the right to return to the same job.

Upon return to the workplace, an employee's terms and conditions must be no less favourable than they would have been had they not been absent from work. Periods of unpaid parental leave may have some effect on certain employee rights (e.g. pension fund) but will not affect continuous service.

11.10 Protection from detriment/unfair dismissal/redundancy

An employee is protected from detriment (i.e. an act, or failure to act) and dismissal or selection for redundancy on the grounds that they:

- took, or sought to take, parental leave
- declined to sign a workforce agreement, or
- performed functions or activities (or proposed to do so) as a workforce representative, or a candidate for election to representative, under the Regulations.

11.11 Deduction of pay

Corresponding deductions will be made from an employee's remuneration in the next available pay period after notification. Wherever possible this will be in the same pay period as the leave is taken.

Periods of unpaid leave may have implications for members of the pension fund – see section 4.

12.Foster Care and Placement Leave

12.1 Introduction

Bury Council recognises and values the contribution that foster carers make to society and especially the lives of children in care. We understand that foster carers who do other work in addition to fostering need some flexibility in their working arrangements in order to meet the needs of their fostered child.

The Council is committed to supporting staff members who are a main or linked foster carer and those who are applying to be a foster carer with a local authority or independent fostering service.

We will, wherever possible, create a fostering friendly organisation that offers flexible working arrangements which respond to the needs of employees who are foster carers.

This policy sets out the additional time off that we will offer foster carers and those going through the approval process.

It recognises that the process of seeking approval to become a foster carer can be lengthy and places a number of reasonable but demanding expectations upon prospective carers, particularly in relation to the training, assessment and approval process.

It also recognises the circumstances when employees who are foster carers are taking on a placement/child under a short or long-term fostering arrangement.

12.2 Foster care leave

Foster care leave is available to staff who:

- are applying to become foster carers
 - are approved foster carers and have a child in placement (or have had a child in placement for 75% of the previous 12 months), and
 - have three months or more employment service with Bury Council
- School staff, casual staff and contractors are not eligible for foster care leave.

Bury Council values and will support foster carers by giving paid time off in any 12-month period as follows:

- assessment and initial training prior to approval as a foster carer - up to three days
- attendance at panel for approval – half a day
- looked after child statutory review meetings, child review meetings, annual foster carer review meeting and training – up to five days.

The employee's line manager will approve the leave on a discretionary basis taking into account individual circumstances of each case and operational requirements of the business. The leave will be considered and approved on

a pro rata basis. The employee will provide necessary evidence to support their request for leave if requested.

Foster care leave should be requested via the iTrent Employee Self Service system.

12.3 Foster placement leave

To qualify for leave when taking on a placement/child under a short or long-term fostering arrangement, staff members must:

- have continuous service of 3 months or more with Bury Council
- provide a notice of acceptance for a placement
- have not taken child placement leave in the last 12 months
- be the primary carer of the child

In exceptional circumstances, when the needs of the child requires both carers' full time involvement, leave may be granted when the staff member is not the primary carer.

Staff employed in schools, casual staff and contractors are not eligible for foster placement leave.

Qualifying staff are eligible for up to six weeks paid leave of absence following the placement being made.

If the Council employs both foster carers, then they are only entitled to receive a single allocation of leave, however it may be split between both carers with agreement from the appropriate Heads of Service.

Where only one foster carer works for the Council, there shall be entitlement, provided that their partner is working but not entitled to claim equivalent leave. There shall be no entitlement where the partner is not working; unless there are exceptional circumstances, when the needs of the child require both carer's full-time involvement.

There is only one period of leave and or pay available irrespective of the number of children being fostered.

Where the child placed is under five years of age on the day of placement:

- weeks 1–3 inclusive will be paid at 90 per cent of pay
- weeks 4–6 inclusive will be paid at half pay. Staff not returning to work by the first day of the seventh week shall repay the three weeks at half pay.

Where the child placed is over five years of age on the day of placement one week's leave with pay shall be available to the primary carer in consultation with the line manager.

In exceptional circumstances, when the needs of the child require the carer's full-time involvement for a longer period of time, the leave entitlement for a

child under five years of age may apply at the discretion of the Head of Service.

Foster placement leave should be requested via the iTrent Employee Self Service system.

13. Adoption Leave

13.1 The Work and Families Act 2006 introduced provisions for employees who are adopting a child to have an entitlement to statutory adoption leave and pay. These provisions have been extended by the Children and Families Act 2014, which provides additional rights and entitlements to eligible adopters; to surrogate parents who intend to apply for a parental order and to foster parents where they intend to adopt (known as dual approved prospective adopters).

13.2 Adoption leave and pay is available to a qualifying employee who is a sole adopter, or to one member of a couple where a couple jointly adopts (including same sex partners and civil partners) where both qualify and are employed by the Council. A couple who jointly adopt must choose which partner will take adoption leave. The other partner may choose to take paternity leave. If the adopter wants to share the equivalent of the adoption leave period, they can end the adoption leave and enter into shared parental leave arrangements.

13.3 Eligibility for adoption leave

To qualify for adoption leave, the employee must:

- be newly matched with a child for adoption by an approved adoption agency recognised in the UK;
- have notified the adoption agency that they agree the child will be placed with them and have an agreed date of placement;
- given the correct notice to the Council (see 12.8 below);
- produce documentary evidence confirming the adoption is taking place – usually a ‘matching certificate’ from their adoption agency

Although adoption leave is a “day one” entitlement, adoption pay is subject to the qualification requirements as detailed below.

13.4 Adoption pay

Statutory adoption pay is the statutory minimum adoption pay set by the government that employers must pay employees. In order to qualify for statutory adoption pay, the employee:

- must have worked continuously for the Council for 26 weeks or more by the end of the ‘qualifying week’.
- The qualifying week is the week the employee was notified that they were matched for adoption. The week begins on the Sunday before the match took place and ends on the Saturday after that date.
- must have earned, on average, at least the lower earnings level for national insurance contributions in the 8 weeks leading up to the date they were notified of a match with a child by the adoption agency.
- Details of the lower earning level for national insurance contributions can be found at: www.gov.uk/government/publications/rates-and-allowances-national-insurance-contributions

In order to qualify for occupational adoption pay, the employee must have continuous local government service of at least one year or more by the end of the 'qualifying week'. Continuous service with an employer that is part of the Greater Manchester Continuous Service Commitment is included.

OAP will only be paid if you make a written declaration that you intend to return to work for a period of at least 3 months following your adoption leave; if you do not return you will have to repay the OAP paid to you.

Adopters will not qualify for adoption leave and statutory/occupational pay in the following circumstances:

- Private adoption i.e. not by an approved adoption agency recognised in the UK
- Becoming a special guardian or kinship carer
- Adopting a stepchild
- Adopting a family member

You are advised to think very carefully as to whether you join any salary-sacrifice schemes if you are likely to have adoption leave during the period of your agreement. This is because Occupational Adoption Pay (OAP) is calculated based on average weekly earnings in an 8 week period before the matching week. A salary-sacrifice arrangement will reduce the amount of salary and consequentially will reduce the level of your OAP.

13.5 **Surrogate parents**

Parents in a surrogacy arrangement who are entitled to and intend to apply for a Parental Order under section 54 of the Human Embryology and Fertilisation Act 2008 will be able to take adoption leave and pay, if they meet the qualifying conditions. A parental order transfers the legal rights from the birth mother to the intended parents when a surrogate has been used to have a child.

In order to apply for a Parental Order you must be genetically related to the child; ie the egg or sperm donor; and in a relationship where you and your partner are either:

married

- civil partners
- living as partners

In order to qualify for adoption leave and/or pay, the conditions are that:

- the intended parent gains a parental order in respect of the child; or
 - they intend to apply for such an order within 6 months of the child's birth and they expect the order will be made
- AND
- Sign form SC6 (available on the gov.uk website) if they are adopting a child from overseas with their partner. This official notification is permission from a UK authority that you can adopt from abroad. Form SC6 confirms you're not taking paternity leave or pay.

Where parents in a surrogacy arrangement are adopting a child through a registered adoption agency, they will be entitled to take adoption leave and pay, providing each parent meets the normal qualifying conditions set out above.

13.6 **Fostering for adoption**

Dual Approved Prospective Adopters are foster parents who foster a child in the expectation that they will adopt that child in accordance with section 22C of the Children's Act 1989.

To be eligible for adoption leave and/or pay, the dual prospective adopter must:

- be a local authority foster parent who has been approved as suitable to adopt the child that they will initially foster;
- have been notified by the local authority of its decision to place a child with him/her; and
- have notified the local authority that they have agreed to the placement (initially for fostering) and the date that it will take place.

A dual approved prospective adopter is entitled to take adoption leave and pay from up to 2 weeks before the child is placed with the family in accordance with section 22C of the Children Act 1989 (i.e. from up to 2 weeks before the child joins the family, initially for fostering).

The dual approved prospective adopter will only be eligible for statutory adoption pay if they meet all of the conditions for adoption leave and also have:

- 26 weeks continuous employment with the same employer at the 'qualifying week';
- Earned, on average, at least the lower earnings level in the 8 weeks leading up to the date they were notified of a match with a child;
- Notified their employer that they are entitled to statutory adoption pay and when this is to begin;
- Stopped working for the employer;
- Elected to receive statutory adoption pay.

Adoption leave and pay is not available to other types of foster carers.

13.7 **Notification**

Employees should always aim to have early conversations with their managers about their proposed adoption plans, so that forward planning can take place. Formal notice to take adoption leave must be given by the employee within 7 days of being informed that they have been matched for adoption by the adoption agency (unless there is a reason that makes this impossible). In rare cases where an employee is unable to give 7 days' notice, managers do have the discretion to delay the start date of the adoption leave and pay, but not after the start of the placement date.

To give formal notice, the employee must make an application via iTrent – see [Family Friendly Leave Application Guidance](#).

As soon as you receive your matching certificate you should upload this on iTrent Self Service. You will then receive written confirmation, outlining the conditions of your maternity leave and your entitlement.

Surrogate Parents will also need to confirm in writing the expected week of child's birth and will also need to confirm the date the child was born (after the child's birth). This should be given as soon as reasonably practicable.

Changing the start date

Employees may bring forward or postpone the adoption leave start date, by providing written notification at least 28 days before the new start date.

13.8 Time off to attend adoption appointments

Employees intending to adopt a child have the right to paid time off to attend up to five appointments for any purpose connected with the adoption. There is no qualifying period of service, meaning the right can be exercised from the first day of employment.

Employees adopting a child or children on their own (i.e. without a partner) will be entitled to paid time off to attend up to five appointments. This will also apply to joint adopters where there is only one qualifying employee.

Joint adopters (i.e. adopting with a partner) where both are qualifying employees of the Council, will need to choose which member of the couple will take paid time off to attend up to five appointments, while their partner may take unpaid time off to attend up to two appointments. Please note, the adopter employee who takes paid time off for appointments cannot claim paternity leave and pay. This means that the parent who intends to take adoption leave and pay should take the paid time off for pre-adoption leave.

The time off available for each appointment (whether paid or unpaid) is a maximum of six and a half hours. Time off cannot be taken on or after the date of the child's placement.

Only those officially adopting the child are entitled to time off to attend adoption appointments.

Intended parents of a child in a surrogacy arrangement will also be eligible for unpaid time off to accompany a pregnant woman with whom they are having a child of up to two antenatal appointments (of up to six and a half hours for each appointment).

Employees wishing to make a request for time off for pre-adoption leave should put their request in writing to their manager.

13.9 Adoption leave

Adoption leave is for a period of up to 52 weeks, consisting of 26 weeks ordinary adoption leave followed by 26 weeks additional adoption leave.

Adoption leave can start on the day the child is placed for adoption, or up to 14 days earlier. For overseas adoptions, the adoption leave may start from the date the child arrives in the UK or within 28 days of this date.

To ensure service delivery is not disrupted, the employee should discuss the timing of his or her adoption leave with his or her manager as early as possible.

Employees wishing to return to work before the end of the 52 week adoption leave period will need to give 8 weeks' notice. If the child's placement ends during the adoption leave period, the employee will be able to continue adoption leave for up to eight weeks after the end of the placement.

Periods of unpaid leave may have implications for members of the pension fund – see section 4.

13.10 Keeping in touch

Keeping in Touch (KIT) days are optional and intended to help employees keep in touch with the workplace and ease an eventual return to work. Employees may do up to ten KIT days during the adoption leave period. These are paid at the employee's normal pay rate and do not affect their adoption leave/pay.

There is no legal requirement for KIT days and both the manager and employee must agree to these days. KIT days can be used to attend a conference, undertake training, attend a team meeting or carry out any activity that would be classed as work under the employees' contract.

Working for part of a day will count as one day i.e. if an employee works for 2 hours, they will receive payment for these hours, but this will count as one full 'KIT' day.

Your manager must enter details of these hours into iTrent (see [iTrent Self Service Family Friendly Leave Guide for Managers](#)) in order for you to be paid correctly.

13.11 Contact during adoption leave

The Council reserves the right to maintain reasonable contact with employees during adoption leave. This may be to discuss the employee's plans to return to work, discuss any training to ease the employee back into work, or to provide an update on developments at work during their absence.

13.12 Returning to work

You will be entitled to return to the post that you now occupy or a suitable alternative post where for some reason, e.g. redundancy or restructure, it is not practicable for you to return to the original post.

13.13 **Shared parental leave**

Shared parental leave is available to the main adopter and their partner, allowing both adoptive parents to share their leave and pay. If the parents meet the qualifying requirements and wish to take shared parental leave and/or pay the main adopter must formally end their adoption leave and pay.

14. Parental Bereavement Leave

14.1 Introduction

The Parental Bereavement Leave and Pay Regulations (known as Jack's Law) came into effect on the 6th April 2020. The Regulations give parents who suffer the devastating loss of a child 2 week's statutory leave. This leave gives parents the opportunity to take leave at a time that feels right for them up until the first anniversary of the child's death.

14.2 Qualification

To be eligible for this leave, employees will have:

- Lost a child under the age of 18 or
- Suffered a still birth from 24 weeks of pregnancy

The leave entitlement is from 'day one' of the loss therefore no qualifying service is required.

14.3 Entitlement

Eligible employees will be able to take 2 weeks statutory leave.

Leave can be taken as either a block of 2 weeks, or as 2 separate blocks of one week each taken at different times up until the first anniversary of the child's death.

This leave is in addition to existing parental leave and special leave entitlements.

14.4 Payment

The Council has agreed that, regardless of service, staff will be paid full pay for the duration of the 2 weeks Parental Bereavement Leave, exceeding the statutory provision which is included below for information:

Statutory provisions provide that for staff with less than 26 week's service the leave will be unpaid. Where staff have been employed for 26 weeks or more and their weekly average earnings are over the lower earnings limit they will be entitled to Statutory Parental Bereavement Pay (SPBP) which will be paid and administered in line with other family related statutory payments like SPP and SMP. Payment will be based on the current statutory payment (or 90% of average weekly earnings where this is lower).

14.5 Support

Losing a child is every parent's worst fear, but no-one could ever fully understand the utter devastation of such a loss. Managers should reflect the Council's intent and demonstrate compassion and empathy towards staff

throughout this difficult time and as far as possible offer any support they might need.

The Council has a range of options in place to help support staff at these difficult times including:

- [Employee Assistance Programme](#)
- [Occupational Health Service](#)
- [Flexible Working Policy](#) to help staff during significant life events
- [Workforce wellbeing guidance](#) which includes links to local and national organisations who offer emotional wellbeing support

14.6 **Process**

Employees requesting Parental Bereavement Leave should do so in writing (including by email) to their Manager confirming the date(s) of the leave requested. If unable to do so employees should do this verbally with their Manager.

Managers should approve and forward details to payroll Payroll@bury.gov.uk who will make the necessary pay arrangements.

Managers should record the absence on iTrent seeking advice on how to do this if needed.

Appendix 1: Pregnancy checklist

1. Notify your manager and complete a Maternity Questionnaire on iTrent Self Service:
 - Of your pregnancy
 - Of your expected week of childbirth
 - When you wish to commence maternity leave (you must give at least 28 days' notice)
 - If you are intending to return to work and if so when
2. Your manager will carry out risk assessment.
3. Upload your MATB1 to iTrent Self Service upon receipt
4. Human Resources (HR) will notify you in writing of the conditions of your maternity leave.
5. Notify your manager of antenatal appointments
6. Give 28 days' notice of your intention to start your maternity leave. You can choose to start your maternity leave any time 11 weeks before your due date
7. Notify HR when your baby is born
8. Arrange any required KIT days
9. Notify your manager of the date you are returning to work (you must give at least 21 days' notice if you are returning before the end of your maternity leave (52 weeks))

Equality Impact Analysis

This equality impact analysis establishes the likely effects both positive and negative and potential unintended consequences that decisions, policies, projects and practices can have on people at risk of discrimination, harassment and victimisation. The analysis considers documentary evidence, data and information from stakeholder engagement/consultation to manage risk and to understand the actual or potential effect of activity, including both positive and adverse impacts, on those affected by the activity being considered.

To support completion of this analysis tool, please refer to the equality impact analysis guidance.

Section 1 – Analysis Details (Page 5 of the guidance document)

Name of Policy/Project/Decision	Family Leave
Lead Officer (SRO or Assistant Director/Director)	Sam McVaigh
Department/Team	HR
Proposed Implementation Date	June 2024 following employment panel.
Author of the EqlA	Andrew Smith
Date of the EqlA	21/05/2024

1.1 What is the main purpose of the proposed policy/project/decision and intended outcomes?
<p>Following new employment legislation related to Paternity Leave (Paternity Leave (Amendment) Regulations 2024), we have deemed it a good opportunity to modernize our relevant policies related to family leave.</p> <p>We propose to combine all the family leave related policies into one policy, namely 'Family Leave Policy'.</p> <p>This policy is reflective of Bury Council's supportive organisational stance towards existing and prospective working parents. This policy is created to empower colleagues as individuals using this Family Leave policy together with the Council's flexible working policy.</p> <p>The main aim of combining these policies into one is to provide greater accessibility to manager and staff to understand their options and entitlements for family associated leave all in one place.</p>

Section 2 – Impact Assessment (Pages 6 to 10 of the guidance document)

2.1 Who could the proposed policy/project/decision likely have an impact on? Employees: Yes Community/Residents: No – internal policy Third parties such as suppliers, providers and voluntary organisations: No – Internal policy If the answer to all three questions is 'no' there is no need to continue with this analysis.
2.2 Evidence to support the analysis. Include documentary evidence, data and stakeholder information/consultation Documentary Evidence: Our Employment Equality Report illustrates the demographics of the staff this policy relates to.
Data:
Stakeholder information/consultation:
2.3 Consider the following questions in terms of who the policy/project/decision could potentially have an impact on. Detail these in the impact assessment table (2.4) and the potential impact this could have. <ul style="list-style-type: none"> • Could the proposal prevent the promotion of equality of opportunity or good relations between different equality groups? No • Could the proposal create barriers to accessing a service or obtaining employment because of a protected characteristic? No • Could the proposal affect the usage or experience of a service because of a protected characteristic? No • Could a protected characteristic be disproportionately advantaged or disadvantaged by the proposal? Yes – the policy is designed to support employees who are parents or prospective parents – it should not disadvantage others • Could the proposal make it more or less likely that a protected characteristic will be at risk of harassment or victimisation? Less • Could the proposal affect public attitudes towards a protected characteristic (e.g. by increasing or reducing their presence in the community)? No • Could the proposal prevent or limit a protected characteristic contributing to the democratic running of the council? No

2.4 Characteristic	Potential Impacts	Evidence (from 2.2) to demonstrate this impact	Mitigations to reduce negative impact	Impact level with mitigations Positive, Neutral, Negative
Age				
Disability	<p>Unable to navigate iTrent self service</p> <p>Surrogacy, fostering and adoption are included as options</p>	Employment Equality Report 2023	Manual form available and support from HR colleagues to complete	<p>Neutral</p> <p>Positive</p>
Gender Reassignment	<p>Gender based terminology could discriminate or exclude transgender and non binary people.</p> <p>Surrogacy, fostering and adoption are</p>		Gendered language only is used where referring to titles of legislation or processes not set by the council. Gender neutral language only has been used where this is possible and where this is not possible, gender neutral language has been used alongside gendered language	<p>Positive</p> <p>Positive</p>

	included as options			
Marriage and Civil Partnership				
Pregnancy and Maternity	Policy sets out clearly how colleague's pregnancy and maternity will be supported at work			Positive
Race	If English is not first language and difficulty using a PC	Employment Equality Report 2023	Manual form available and support from HR colleagues to complete	Neutral
Religion and Belief				
Sex				
Sexual Orientation	Surrogacy, fostering and adoption are included as options			Positive
Carers				
Looked After Children and Care Leavers				
Socio-economically vulnerable				
Veterans				

Actions required to mitigate/reduce/eliminate negative impacts or to complete the analysis

2.5 Characteristics	Action	Action Owner	Completion Date
All	Ensure communication is accessible and specific concerns in relation to Protected Characteristics are referenced.	CK	

Section 3 - Impact Risk

Establish the level of risk to people and organisations arising from identified impacts, with additional actions completed to mitigate/reduce/eliminate negative impacts.

3.1 Identifying risk level (Pages 10 - 12 of the guidance document)

Impact x Likelihood = Score			Likelihood			
			1	2	3	4
			Unlikely	Possible	Likely	Very likely
Impact	4	Very High	4	8	12	16
	3	High	3	6	9	12
	2	Medium	2	4	6	8
	1	Low	1	2	3	4
	0	Positive / No impact	0	0	0	0

Risk Level	No Risk = 0	Low Risk = 1 - 4	Medium Risk = 5 – 7	High Risk = 8 - 16
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3.2 Level of risk identified	0
3.3 Reasons for risk level calculation	Positive impact, greater accessibility for staff to navigate the full remit of family associate leave on one document.

Section 4 - Analysis Decision (Page 11 of the guidance document)

4.1 Analysis Decision	X	Reasons for This Decision
There is no negative impact therefore the activity will proceed	X	
There are low impacts or risks identified which can be mitigated or managed to reduce the risks and activity will proceed		
There are medium to high risks identified which cannot be mitigated following careful and thorough consideration. The activity will proceed with caution and this risk recorded on the risk register, ensuring continual review		

Section 5 – Sign Off and Revisions (Page 11 of the guidance document)

5.1 Sign Off	Name	Date	Comments
Lead Officer/SRO/Project Manager	Andrew Smith	19/05/2024	
Responsible Asst. Director/Director			
EDI			

EqIA Revision Log

5.2 Revision Date	Revision By	Revision Details

Agile Working Policy

January 2024

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4. Approach and guidance6



1. Introduction and Aims

- 1.1 The Covid Pandemic accelerated the speed at which hybrid working patterns were adopted across all sectors, facilitated through the adoption of new technology by both the workforce and those who the Council serves. In recognition of this, the Council adopted an Agile Working Policy in June 2021 which has worked well for the last three years. This policy updates that document and aims to help create the conditions for a high performing, engaged and motivated workforce which is effectively supported and enabled to drive delivery of the Council's Corporate Plan and the LET'S Do It Strategy
- 1.2 The development of this policy document has been informed by:
1. Feedback from staff through Pulse Surveys, a range of engagement sessions and via the Trade Unions
 2. Feedback from residents and service users
 3. A review of approaches taken elsewhere both within and beyond the Local Government sector
 4. Research and best practice on the changing world of work.
- 1.2 This updated policy recognises that:
- The nature of work has been changed by the Pandemic and, in order to attract, retain and engage an effective workforce, elements of agility are critical. – **Let's proactively find ways to innovate and improve things**
 - Agile working supports inclusion and wellbeing and is an enabler to cost savings through supporting a reduction in the corporate estate and carbon reduction through estate rationalisation and reducing business travel. – **Let's make and explain decisions, keeping Bury residents at the heart of everything I do**
 - Regular time together, in person, is essential to the development and maintenance of an engaged and high-performing organisation, supporting colleagues to build relationships and to learn and grow. – **Let's be a respectful and positive member of the team**
 - As a local authority, engagement with and within the communities we serve is crucial. – **Let's spend time connecting with our communities, understanding their challenges and preferences**
 - To make agile working effective the Council will need to continue to embrace technological developments and develop and shape our estate to align with new ways of working. – **Let's proactively find ways to innovate and improve things**

- The balance of time spent in different locations may vary because of the nature of roles and may also be influenced by personal circumstances and choice: Managers should be empowered to manage based on the needs of their service, within a clear and transparent framework. – **Let's actively work with others to shape the way we do things**
 - Due to their nature, many roles in the Council can not work across different locations. There are, however, other ways that flexibility and agility can and will be supported in these roles. – **Let's work through challenges when they arise, and focus on finding solutions**
 - Time together, in person, is particularly crucial for the induction of new starters and to support learning and development. – **Let's build trusted relationships by asking questions, listening and responding.**
- 1.3 This policy complements the Council's existing flexible working options, supporting employees' wellbeing through enabling a more flexible integration of their work and home lives, it also supports the Council's commitment to Equality, Diversity and Inclusion.

2. Scope

- 2.1 This policy sets out a fair and consistent approach for considering and, where appropriate, supporting agile working for all staff who wish to participate and are employed directly by the Council, including part time and temporary workers.
- 2.2 Within some services, Council staff will work alongside staff from other organisations. Staff external to the Council will need to refer to their own organisational policies regarding flexible working.

3. Principles

- 3.1 The guiding principle of our approach to agile working is that **'work is something you do, not somewhere you go'**.
- 3.2 No contractual places of work will change as a result of this policy.
- 3.3 All staff are encouraged to work with agility on the basis it is mutually beneficial for both the service and the individual. However, agile working is only applied by agreement, and so any staff who are unable or unwilling to work with agility will be provided with appropriate space to work from. Agile working may be revoked by either side if it is proven not to be effective or able to meet reasonable service requirements or individuals' needs.
- 3.4 For some staff, the nature of their role will directly dictate the location which they work in. (*Location dependant roles*). For these staff, managers are

encouraged to explore other elements of agility and flexibility with reference to the Council's Flexible Working Policy.

- 3.5 Other staff will generally fall into two groups and the Agile Working Policy is predominantly focused on these colleagues:
 - Staff for whom the majority of their work is desk-based and have more flexibility to work between home, the office and other sites. (*Desk-based role*).
 - Staff for whom their role will involve spending much of their time with and within Bury communities and mixing this with time working in the office and from home. (*Community focused roles*).
- 3.6 For those working in community focused and desk-based roles the balance of time spent in different locations will vary dependant on the nature of the role, the specific work commitments in any given week, and personal circumstances. All staff in these roles should, however, normally be spending at least two days of their working week (pro-rata) together with colleagues in an office or community setting. – More frequent office attendance may well be required for some roles dependant on the nature of the work undertaken and service delivery and personal and team development needs.
- 3.7 Where staff work will differ across teams with some spending higher proportions of time at home and others spending more time in the office. Teams should have discussions about what is right for them and liaise with others sharing the same office space. Some teams may agree set 'office days' whereas others may need more fluidity. Staff will have input into discussions, however the split of time will ultimately be determined by service need, as agreed by Service Managers, and informed by desk capacity.
- 3.8 To support development, engagement and learning team meetings, one-to-ones, employee reviews and learning and development sessions should ordinarily take place in person wherever possible.
- 3.8 New staff or those who need extra support may spend more time in an office setting so they are surrounded by colleagues to learn from. Consideration also needs to be given to ensuring enough colleagues are in the office to facilitate this.
- 3.9 To maximise the efficiency of the Council's operational estate staff will not ordinarily have access to a fixed desk. (Although fixed desks will be provided where necessary to support an agreed workplace adjustment). Desks will normally be allocated to Services on a 1:2 desk to person ratio. – To ensure suitable office space to enable teams to regularly come together during the working week, managers will need to work collaboratively to plan how the available space will be used.
- 3.10 Agile working requires the ongoing commitment of all employees to maintain a high trust / high accountability environment where:
 - Staff have greater freedom to deliver.

- Work is measured by outcomes not attendance.
 - These impacts are demonstrated through more routine performance reviews.
- 3.11 Agile workers are subject to the same rules, policies, procedures and expected standards of conduct, attendance and performance irrespective of where they are located. Agile workers must remain contactable at all times during their agreed working hours.
- 3.12 Agile working should not create financial hardship for employees and any additional costs experienced, e.g. utilities and broadband, should ordinarily be mitigated by savings which may otherwise be incurred in attending a fixed workplace each day, e.g. travel, workplace parking and workwear. Normal travel costs in relation to attending the workplace (such as petrol and parking) are a regular part of working life and should not act as a barrier to attending the workplace. - Support, where possible, is provided for any individual for whom financial issues are a barrier to agile working. HR coordinate this process with line managers via our financial wellbeing offer and separate guidance relating to this is available. Flexible discounted parking is also available for staff, which can be purchased from two days a week upwards.
- 3.13 Staff are expected to operate in accordance with this policy in a fair manner and not abuse or fail to comply with its terms. Abuse of this policy may result in the withdrawal of agile working or action under other associated policies such as disciplinary.

4. Approach and guidance

4.1 Workstyle

Every employee should determine their workstyle (i.e. location-dependant, desk based or community focused and the practical implications of this for their way of working) in consultation with their line manager. This should be considered by all staff, at least annually, as part of the Employee Review process, and discussed on an ongoing basis through one-to-ones.

Workstyle discussions will be led by service needs, with further consideration given to:

- Mitigating costs and maximising convenience for both sides
- Taking a digital-first approach
- Organising and clustering time into activities, to minimise travel and inefficiency
- Ensuring the working practices are mindful of the wellbeing and development of the individual and their wider team
- Building on previous experience of agile working, to ensure positive aspects are maintained and concerns mitigated
- Ensuring privacy and confidentiality at all times.

4.2 Work Bases

On-site Council facilities

Desk space will be made available for employees whenever required, usually based on a 1:2 desk to employee ratio, in Service Zones which should be used flexibly. – All staff should be welcoming to other colleagues who need to ‘touch down’ within their Service Zone whenever possible.

The Council will make available specialist facilities/equipment to be accessed by employees as and when required for their work, e.g., confidential meeting space, secure storage, specialist (e.g. large/non-transportable) equipment and on premises ICT systems. Services are required to self-organise access to these facilities, which may require booking them.

Personal Base

When working from home staff should identify an environment which has suitable space, heat and light and where the employee is fully contactable and able to access Council systems and communication. The location must be risk assessed by the employee using the agreed Health and Safety risk assessment .

The Council is responsible for ensuring the home/alternative base is a safe and proper working environment on the basis that it remains liable for any accidents or incidents which occur during working time. As such, the Council has in-place safe and appropriate systems for homeworking including:

- Practical assistance in setting up and risk assessing home working arrangements.
- The implementation of reasonable adjustments for disabled workers working at home.

Staff are responsible for:

- Arranging, as far as reasonable, the alternative home base.
- Completing a risk assessment for their workspace and addressing, with their line manager, any issues identified.
- Ensuring digital connectivity at all times, as far as is within their control.
- Notifying their home insurance provider, mortgage provider or Landlord as appropriate.

Should it not be possible for an individual worker to provide or maintain a safe, secure place of work they will need to work from the office.

If circumstances arise where an employee temporarily cannot work remotely, such as in the event of a system/Wi-Fi issue or they no longer have an appropriate environment to work, staff will be expected to travel into the workplace to undertake their duties.

Working in the community and on the move

In addition to home working and Council workspaces staff may also choose to work in other spaces such as partner buildings, cafes or public spaces such

as libraries. Staff may use these spaces for meetings and to work using portable technology but on the basis that:

- Locations are recorded in work diaries and the individual is contactable at all times during their agreed working hours.
- Confidentiality is maintained and private or sensitive information is not discussed in meetings or visible on screens (please refer to the Council's data protection policies).

4.3 Non-agile workers

All staff who require a council-provided desk space for their whole working time are able to access this. In the majority of cases this will be through the flexible use of their Service Zones and not a fixed desk. Staff requiring access to a Council office base each day will include those who:

- Require particular adaptations on the grounds of disability and wish to work from the office.
- Do not have a safe or healthy environment to work from at home.
- Do not have the facilities to work effectively from home.
- Work in a team where it is essential that staff sit near one-another and cannot perform their duties by working remotely.
- Require particular adaptations on the grounds of disability and wish to work from the office. (This may require access to a fixed desk).

Staff must leave desk spaces clean and tidy when they vacate them, on the basis that they are unlikely to be seated at the same desk every day.

4.4 Health and safety

Staff have a responsibility to take reasonable care of their own health and safety, wherever they are based. Staff are required to:

- Ensure all working arrangements and workspaces have been risk assessed.
- Notify the council of any accidents or incidents as required under the Reporting of Injuries, Diseases and Dangerous Occurrence Regulations (RIDDOR) 2013, via the on-line system which can be found here

Particular regulations to consider in completing health and safety assessments include:

- Display screen equipment
- Heating, lighting and ventilation;
- Workplace ergonomics;
- Electrics, cabling and trip hazards;
- Working time;
- Lifting and carrying equipment;
- Security, including data security;
- Safety of third parties, including family members;
- Lone working.

The [Health and Safety pages on the intranet](#) should be used by employees to

access further advice on the implications of working from home.

4.5 Inclusion

Any reasonable adjustments will be supported and implemented – this may need to be both in the home and office.

Consideration should be given to employees' personal circumstances and characteristics when arranging meetings and agreeing working patterns. This is to support, as far as is reasonable, caring responsibilities, religious commitments and disabilities, etc.

4.6 Equipment

Staff will be provided with the equipment they require to work in an agile way – for example:

- A device, normally a laptop, which allows access to all council systems and information.
- Where required, a council mobile or soft telephone.
- Access to equipment within a Council building as necessary e.g. printers, postage, plotters and secure storage and disposal provision. Staff are encouraged to reduce reliance upon stationery, for example by using Microsoft OneNote rather than writing pads.

Council-owned equipment remains the property and liability of Bury Council, subject to normal and proper use. Staff are responsible for:

- Keeping equipment in good order, wear and tear accepted, and resolving any malfunctions or deficiencies.
- Taking all reasonable steps for security.

On termination of employment the Council has the right to recover all Council equipment and intellectual property including hard and software and information. Without prejudice to the Council's legal rights, entry to home bases to recover property is by mutual agreement.

4.7 Information governance

Staff are reminded to operate high standards of information governance to protect confidential information belonging to the Council, partner organisations, other work colleagues, clients, customers, service users, suppliers and contractors etc. Practical requirements to support this include:

- Considering the data protection risks of working in an agile way. This should highlight any risks to manage and actions to mitigate these.
- Completing the GDPR e-learning module (Only those who have completed this module within the last twelve months will be permitted to access the Council's Agile Working arrangements and completion every twelve months will be a requirement of ongoing access to agile working)
- Ensuring that confidential conversations are conducted out of ear shot of other people.

- Ensuring that computer screens are locked when unattended.
- Limiting the amount of hard copy information and locking away confidential records when not in use and ensuring these are never accessible to other householders.
- Disposal of all confidential waste in the bins provided on council sites only and never through domestic waste.
- Not sending work related information to personal devices e.g. phones or personal email addresses.

To assist in the practical discharge of these requirements it is assumed that agile workers will operate on a paperless basis as far as possible. Home printers will not be provided and staff should access office sites for either printing or disposal requirements by exception.

Staff must report any actual or potential breach of security, confidentiality or data to their line manager immediately. Serious data breaches and/or wilful neglect of information governance may be treated as misconduct under the council's disciplinary policy.

Staff who are unsure about any aspect of security, confidentiality or data protection, should seek advice from their line manager.

4.8 Working time and ability to be contacted

All employees must be fully available for work during the hours of work agreed with their manager. Agile workers must be contactable at all working times during these hours and the location of work stipulated in their diary, which must be open to their line manager. Staff must be available to be recalled to an office site if required by their manager, with 24 hours' notice (or more swiftly for any staff formally working on an 'on call' basis).

Agile workers must ensure that they take adequate rest breaks of at least 20 minutes for time worked over 6 hours during each working day and must not work over the 48 hours a week limit.

Agile workers must comply with Bury Council's sickness absence policy and ensure they report their sickness to their line manager when they are sick and unable to work.

Arrangements must be in place to cover any domestic or caring arrangements when working from home. Home working is not a substitute for caring responsibilities. The Council's flexible working framework should be used for temporary or permanent applications for different working patterns which allow carers or parents to manage the demands of these responsibilities, if helpful or necessary.

Agile workers continue to be managed within the relevant corporate policy framework including the flexi time scheme.

All agile workers are still expected to work their normal number of working hours. Employees working from home are encouraged to work within the core

hours of business for their service, but where appropriate and in-line with business needs employees may work at other times, as agreed with their line manager.

4.9 Performance management

Individual performance management arrangements will vary, based on the needs of the service, the nature of an individual's role and priorities. Some employees, including for example apprentices, may require greater levels of support and face-to-face time with their manager.

All employees should be supported through regular (at least monthly) one-to-one meetings and an annual employee review held in person.

If, at any point, the performance of an employee is suffering significantly because of agile working then this arrangement may be amended or withdrawn.

Employees must complete all mandatory training prior to being supported to work with agility.

4.10 Wellbeing

The Council values the wellbeing of all staff. Agile working is an opportunity to strengthen personal wellbeing by taking account of individual preferences and demands in the patterns and locations of work.

Long periods away from a work base can be isolating for some staff and unhelpful to collaboration. Ordinarily spending at least two days of the working week (pro-rata) together with colleagues in an office or community setting will help to mitigate this.

Employees can also obtain support for their physical and mental wellbeing via the Council's workplace wellbeing support offer, including the EAP provision.

Equality Impact Analysis

This equality impact analysis establishes the likely effects and unintended consequences that decisions, policies, projects and practices can have on people at risk of discrimination, harassment and victimisation. The analysis considers documentary evidence, data and information from stakeholder engagement/consultation to manage risk and to understand the actual or potential effect of activity, including both positive and adverse impacts, on those affected by the activity being considered.

To support completion of this analysis tool, please refer to the equality impact analysis guidance.

Section 1 – Analysis Details (Page 5 of the guidance document)

Name of Policy/Project/Decision	Agile Working Policy
Lead Officer/SRO/Project Manager	Sam McVaigh
Department/Team	HR, Corporate Core
Proposed Implementation Date	July 2024
Author of the EqIA	Catherine King
Date of the EqIA	June 2024

1.1 What is the main purpose of the proposed policy/project/decision and intended outcomes?
<p>The Council's original Agile Working Policy was adopted in June 2021, to facilitate agile working arrangements in the context of the Covid pandemic. A new revised version has been developed based on feedback from employees, trade unions and service users, plus best practice from the Local Government sector and beyond.</p> <p>The Policy complements the Council's existing flexible working options, supporting employees' wellbeing through enabling a more flexible integration of their work and home lives, and it also supports the Council's commitment to Equality, Diversity and Inclusion. It sets out a fair and consistent approach for considering and, where appropriate, supporting agile working for all staff who wish to participate.</p> <p>The Policy's guiding principle is that 'work is something you do, not somewhere you go'. All staff are encouraged to work with agility on the basis it is mutually beneficial for both the service and the individual. However, agile working is only applied by agreement, and so any staff who are unable or unwilling to work with agility are provided with appropriate space to work from.</p>

Section 2 – Impact Assessment (Pages 6 to 9 of the guidance document)

2.1 Who could the proposed policy/project/decision likely have an impact on?
<p>Employees: Yes/No</p> <p>Community/Residents: Yes/No</p> <p>3rd parties such as suppliers, providers and voluntary organisations: Yes/No</p> <p>If there is no likely impact on any of these, a full equality impact analysis is not required</p>
2.2 Evidence to support the analysis. Include documentary evidence, data and stakeholder information/consultation
<p>Documentary Evidence:</p>
<p>Data:</p> <p>Employment Equality Report 2023 https://www.bury.gov.uk/asset-library/employment-equality-report-2023.pdf</p> <p>Baseline data was collated when the original Agile Policy was developed. Comparisons to recent data have now been added:</p> <ul style="list-style-type: none"> ▪ Full time/part time: 1 April 20 = 43.7% FT and 56.3% PT 31 Dec 21 = 46.0% FT and 54.0% PT 31 Mar 23 = 39.63% FT and 60.47% PT This illustrates a significant increase in part time workers. Possibly illustrating that people are valuing their work life balance more, or have responsibilities linked to equality characteristics. ▪ Successful work life balance applications: 19/20 = 583 20/21 = 452 22/23 = 422 This shows a continual reduction which could suggest that that agile working is generally supportive of people's work life balance ▪ Employees with grade increases within the same post:

19/20 = 469/3118 (15.4%)
 20/21 = 190/2904 (6.5%)
 22/23 = 1212 – but this high number includes grade increases to reflect the real living wage changes, so isn't a realistic comparator

Stakeholder information/consultation:

Pulse survey data shows:

I am able to strike the right balance between my work and home life

April 22 = 74% positive

March 24 = 79.2% positive (of which the strongly agree response increased by 10.8%)

Agile working supports my wellbeing

April 22 = 80.8% positive

October 23 = 86.2% positive (of which the strongly agree response increased by 5.5%)

Consultations with the trade unions, change agents, Inclusion Working Group, special SMF session and leadership focus groups.

2.3 Consider the following questions in terms of who the policy/project/decision could likely have an impact on. Detail these in the impact assessment table (2.4) and the likely impact this would have.

- Could the proposal prevent the promotion of equality of opportunity or good relations between different equality groups? Yes
- Could the proposal create barriers to accessing a service or obtaining employment with us for people from an equality group? Yes
- Could the proposal affect the usage or experience of a service by people from an equality group? Yes
- Could people from an equality group be disproportionately advantaged or disadvantaged by the proposal? **Disabled employees and those with caring responsibilities may be disproportionately disadvantaged**
- Could the proposal make it more or less likely that people from an equality group will be at risk of harassment or victimisation? **No**
- Could the proposal affect public attitudes towards people from an equality group (e.g. by increasing or reducing their presence in the community)? **No**
- Could the proposal prevent or limit people from an equality group contributing to the democratic running of the council? **No, this will have no impact on public meeting approach**

2.4 Characteristic	Potential Impacts	Evidence (from 2.2) to demonstrate this impact	Mitigations to reduce negative impact	Impact level with mitigations Positive, Neutral, Negative
Age	Agile working may have a detrimental impact on new (and potentially younger) workers, due to a lack of experiential learning		<p>The induction guidance requires managers to work with new employees in the office for the first 2 weeks and with regular face to face check-ins thereafter. The mandatory Management Development Programme and an Outcome Based Management e-learning package enable managers to better support staff working with agility.</p> <p>Supporting new colleagues and learning is a specific stated objective of the policy.</p>	Neutral

Age	Some older workers who may have acquired health conditions/disabilities or caring responsibilities and have shaped a work/life balance around the current agile working policy may struggle with the need to come into the office 2 days per week. This could result in people leaving the Council.		Managers will be advised to speak to affected colleagues sensitively and compassionately to find solutions and adjustments	Neutral
Disability	Working at home may affect mental & physical wellbeing e.g. if working in poor conditions or with the incorrect equipment or an increase of feeling isolated		<p>The Policy requires staff to spend at least 2 days (pro rata) in the office each week.</p> <p>Our management development programme is supporting managers to develop and hone their skills to support employees in this regard</p> <p>All employees must complete a Health and Safety Toolkit to ensure their working environment and equipment are</p>	Positive

			appropriate. This is reviewed annually as part of Employee Reviews. Adjustments are offered for both home and office locations when reasonable. Guidance is available.	
	Agile working provides flexibility to better manage long term health conditions. Improving sickness absence and productivity. It also supports the recruitment and retention on disabled colleagues			Positive
	Colleagues have adjustments in place or a work/life balance that are disrupted with the change in the agile working policy		As part of the implementation of this policy, managers will be required to discuss the needs of colleagues in terms of workplace adjustments they will need to achieve a work/life balance whilst agile working	Neutral

	Workspaces and workplace practices impact the working styles and needs of neurodivergent colleagues		<p>As part of the implementation of this policy, managers will be required to discuss the needs of colleagues in terms of workplace adjustments they will need in workplaces whilst agile working.</p> <p>Support and advice available to managers and colleagues from EDI manager and Disability Employee Group</p>	Neutral
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	Reduced estate and 'hot desking' impacting provision of set desks & equipment as workplace adjustments		As part of the implementation of this policy, managers will be required to discuss the needs of colleagues in terms of workplace adjustments they will need in workplaces whilst agile working. Facilities management will assist in providing adapted furniture and storage for specialist equipment.	Neutral
Gender Reassignment				
Marriage and Civil Partnership				
Pregnancy and Maternity	Requirement for adequate facilities to express and store milk for mothers required to be in the office		Colleagues are advised to discuss requirements with their manager	Neutral
Race				

Religion and Belief	Requirement to provide adequate multi faith rooms and food preparation areas accessible for all colleagues		<p>Multi faith rooms available in 3KP and Town Hall. Provision to be reviewed at Bradley Fold and Killilea House. Colleagues requiring a private space to practice their faith can request a meeting room to be booked through their manager where there is no specific multi faith room provision.</p> <p>Food preparation and storage areas are available in all buildings. Colleagues are advised to discuss with their manager if they require additional provisions</p>	Neutral
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	Religious periods and days of worship conflict with decisions of when teams/colleagues should be in the office		<p>Colleagues and managers are encouraged to discuss religious and spiritual days to accommodate these needs where possible.</p> <p>Colleagues are encouraged to note their religion on iTrent which can be used for workforce planning</p>	Neutral
Sex				
Sexual Orientation				
Carers	Agile working gives carers more flexibility to support those that they provide care for. This increases productivity and supports recruitment and retention			Positive

	Some carers have built a work life balance around the current agile policy may struggle with the need to come into the office 2 days per week. This could result in people leaving the Council.		As part of the implementation of this policy, managers will be required to discuss the needs of colleagues in terms of workplace adjustments they will need to achieve a work/life balance whilst agile working	Neutral
Looked After Children and Care Leavers				
Socio-economically vulnerable	Working from home may bring costs for employees (higher electricity and heating bills etc.)		All employees can work from an office full time if they wish. Costs of working at home are offset by reduced travel and office wear costs	Positive
Veterans				

Actions required to mitigate/reduce/eliminate negative impacts or to complete the analysis

2.5 Characteristic	Action	Action Owner	Completion Date
Age	Comms to remind managers of the onboarding and induction guidance	CK	
All	Comms to remind managers of the opportunity to review current workplace and work arrangements adjustments in place	CK	

All	Comms to encourage colleagues to discuss specific needs with managers to agree workplace adjustments and work/life balance needs	CK	
All	Encourage colleagues to update sensitive data on iTrent to support workforce and workplace planning	CK	
Religion & Belief	Management teams in Bradley Fold and Killilea House to review multi faith room provision	CK	

Section 3 - Impact Risk (Pages 9 and 10 of the guidance document)

Establish the level of risk to people and organisations arising from identified impacts, with additional actions completed to mitigate/reduce/eliminate negative impacts.

3.1 Level of impact / Likelihood	Unlikely (U)	Possible (P)	Likely (L)	Very Likely (V)
High Impact (H)	4	8	12	16
Medium Impact (M)	3	6	9	12
Low Impact (L)	2	4	6	8
Positive or No Impact (N)	1	1	1	1
Risk Level	No Risk = 1	Low Risk = 2 - 4	Medium Risk = 6 – 9	High Risk = 12 - 16

3.2 Level of risk identified	4
3.3 Reasons for risk level calculation	The Agile Working Policy brings many positive impacts, and actions are in place to mainly mitigate any potential negative impacts. However, due to the nature of our complex roles and service provision, not all impacts can be fully mitigated in some cases.

Section 4 - Analysis Decision (Page 11 of the guidance document)

4.1 Analysis Decision	Reasons for This Decision
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There is no impact therefore the activity will proceed		
There are low impacts or risks identified which can be mitigated or managed to reduce the risks and activity will proceed	X	
There are medium to high risks identified which cannot be mitigated following careful and thorough consideration. The activity will proceed with caution and this risk recorded on the risk register, ensuring continual review		

Section 5 – Sign Off and Revisions (Page 11 of the guidance document)

5.1 Sign Off	Name	Date	Comments
Lead Officer/SRO/Project Manager	Catherine King	27.06.24	
Responsible Asst. Director/Director	Sam McVaigh , Director of People & Inclusion	03.07.24	
EDI	Lee Cawley	03.07.24	

EqIA Revision Log

5.2 Revision Date	Revision By	Revision Details

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Classification	Item No.
Open	

Body:	Employment Panel
Date:	11 th July 2024
Title of report:	Performance and Development Framework for the Chief Executive
Report by:	Director of People and Inclusion
Decision Type:	Non Key Decision
Ward(s) to which report relates	All

Executive Summary:

This report proposes to continue to use the existing performance and development framework for the annual assessment of the Chief Executive for a further 3 performance cycles. The framework was developed with reference to the 'Joint Guidance on Appraisal of the Chief Executive' included within the Joint Negotiating Committee (JNC) for Local Authority Chief Executives National Salary Framework and Conditions of Service Handbook and with guidance from an external advisor.

Recommendation(s)

The Employment Panel is asked to approve the continued use of the existing performance and development framework for the annual assessment of the Chief Executive for a further 3 performance cycles.

Key considerations

1. Introduction

Regular performance appraisal of all employees is a fundamental aspect of good organisational management. This is no less important with a Local Authority's Chief Executive. The JNC for Local Authority Chief Executives handbook includes specific guidance to support this process which is appended below. It should be noted that a regular process of appraisal is a contractual obligation on the part of both the Chief Executive and the council.

Approval of the performance and development framework for the annual assessment of the Chief Executive is included within the Terms of Reference for the Employment Panel and this report sets out that framework for the Panel's consideration and approval.

Broadly speaking, any effective performance appraisal approach must contain three core elements:

1. Looking back over the previous period (usually 12 months) to review performance, in particular with reference to previously set objectives.
2. Looking forward over the coming period (usually 12 months) to agree performance objectives. – These should be SMART (Specific, Measurable, Achievable, Realistic and Time-bound).
3. Agreeing personal and professional development goals and activities to support the development of skills and expertise in the context of the role.

Once set it is important that agreed objectives (both for performance and development) are reviewed regularly.

2. The Performance and Development Framework for the Annual Assessment of the Chief Executive

In accordance with the guidance appended, the Council sought the advice of the Regional Employers Organisation (North West Employers) to develop the existing Chief Executive's Performance and Development Framework which was agreed by Employment Panel in September 2021 and has operated effectively for the last three years.

As part of these arrangements the Chief Executive of North West Employers has acted as an independent expert facilitator and provided overall oversight of the process.

The current arrangements recognise that the Chief Executive is employed by the council as a whole, not by the controlling group with a local framework which is designed to take account of these arrangements.

Box 1: Current Framework

1. Gathering feedback.

It is important that the Chief Executive is able to reflect on the views of colleagues, external peers and direct reports as part of the appraisal process. 360⁰ feedback is an important tool to support this and North West Employers are able to support this via their established and tested 360⁰ tool. Alternatively, existing sources of feedback that already exist may be utilised.

2. Input from group leaders.

The independent facilitator meets with the Leader of the largest opposition group to gather feedback and input into the process. This spans the three areas considered above (i.e. performance over the previous year, suggestions for future priorities and personal and professional development). Written feedback is also sought from the other group leaders.

3. Feedback discussions with the Chief Executive and Leader

To support their preparations for the appraisal discussion the independent facilitator meets individually with the Chief Executive and Leader. During this meeting the facilitator provides feedback from engagement with other group leaders.

4. The Performance Appraisal Discussion

The independent facilitator meets together with the Chief Executive and Leader to facilitate the formal appraisal discussion. They also support the completion of relevant appraisal paperwork confirming delivery against previously agreed objectives, setting out the SMART performance objectives for the future period and personal and professional development goals.

5. Sharing the outcomes

Once agreed by the Leader and Chief Executive a copy of the completed appraisal is shared, confidentially, with other group leaders.

6. Regular review

The Leader and Chief Executive regularly review progress against both performance and development objectives at each of their one-to-one meetings. A formal mid-point review takes place, supported by the independent facilitator half-way through the cycle.

The Chief Executive's most recent review in line with this model took place on 5th march 2024 with a review planned for August.

This process is working well and the suggestion is that it is agreed for a further period of up-to three performance cycles and reviewed by no later than June 2027. An earlier review may take place if national guidance is revised or at the request of either the Leader or Chief Executive.

Community impact/links with Community Strategy

The Chief Executive is the Council's most senior officer and has overall responsibility for the delivery of the Council's contribution to the Community Strategy. A strong approach to performance appraisal will act to assure the effective delivery of this role.

Equality Impact and considerations:

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.

Equality Analysis

No equality impacts have been identified. The proposal has been developed with reference to national guidance and the engagement of an independent expert facilitator will ensure a fair and equitable process.

**Please note: Approval of a cabinet report is paused when the 'Equality/Diversity implications' section is left blank and approval will only be considered when this section is completed.*

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
Failure to conduct this process would be a potential breach of the contractual obligations on the part of both the chief executive and the employing council.	The use of a clear and robust process agreed by members and the Chief Executive.
Delivery without external input or the involvement of all group leaders would risk accusations of partiality and not align with the Chief Executive's employment on behalf of the Council as a whole.	Engagement of an independent expert facilitator and the involvement of all group leaders
The fast-paced nature of changes means objectives may become out of date	Regular review by the Chief-Executive and Leader.

Consultation:

The proposed independent facilitator (Chief Executive of North West Employers), the Leader and Chief Executive have been consulted on these proposals.

Legal Implications:

Failure to conduct this process would be a potential breach of the contractual obligations on the part of both the chief executive and the employing council. The process outlined aligns with the guidance contained within the JNC for Local Authority Chief Executives handbook.

Financial Implications:

None. North West Employers will support this process within the terms of the Council's annual membership subscription.

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Background papers:

Report to Employment Panel: 30th September 2024: Performance and Development Framework for the Chief Executive.

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning
JNC for Chief Executives	Joint Negotiating Committee for Chief Executives
NWEO	North West Employers Organisation

APPENDIX: JOINT GUIDANCE ON APPRAISAL OF THE CHIEF EXECUTIVE

(Taken from the: JOINT NEGOTIATING COMMITTEE for LOCAL AUTHORITY CHIEF EXECUTIVES NATIONAL SALARY FRAMEWORK & CONDITIONS OF SERVICE HANDBOOK)

1. INTRODUCTION

This guidance is intended for use by senior elected members and the chief executive when agreeing a process for appraising the performance of the chief executive. The focus of this process should be on clarifying what the chief executive is expected to achieve and on identifying any continuing developmental needs which, if met, would maintain a high level of performance. The process of setting objectives should be by agreement and the result should be to identify objectives which are relevant and challenging but achievable.

The process should not become complex. At all times it needs to focus clearly on a few basic issues: what the chief executive's job is; what has been done well; what could have been done better; the major issues over the next year; and what developmental needs the process clearly identifies.

2. RESPONSIBILITY FOR APPRAISAL

The responsibility for appraising the chief executive lies with senior elected members. It is a contractual obligation on the part of both the chief executive and the employing council to engage in a regular process of appraisal.

It will be for local decision in the light of local circumstances whether the appraisal should be carried out by a small committee representing all political groups or by a senior representative or representatives of the controlling group. Whichever approach is adopted, those conducting the appraisal need to bear in mind at all times that the chief executive is employed by the council as a whole, not by the controlling group, and is therefore required to serve all of the council.

3. AIMS OF APPRAISAL

- To identify and clarify the key objectives, priorities and targets of the council and appropriate timescales for their achievement over the next (e.g. twelve) months
- Agree what the chief executive should personally achieve over the next (e.g. twelve) months and identify required standards of performance, in order to deliver the council's key objectives, priorities and targets. Wherever possible standards of performance should be expressed in ways which can be monitored objectively
- Discuss positive achievements over the past (e.g. twelve) months and identify reasons for good performance
- Discuss instances over the past (e.g. twelve) months where targets have not been met, identifying the factors preventing the achievements of agreed goals
- Discuss developmental requirements. The chief executive will have strengths and weaknesses and the parties should identify the professional development necessary to equip the chief executive with the requisite skills to meet the council's objectives. The parties should be proactive and anticipate future developmental needs in the context of the council's changing priorities. This discussion could lead to the design of a formal programme of continuous professional development

(CPD). Equally this discussion may lead to agreement on changes to the working relationship between leading members and the chief executive. It should not be assumed that it is only the chief executive who may need to adjust his / her approach to the working relationship

Appraisal should be set in the context of the council's objectives, priorities and targets, generally expressed in corporate plans. Appraisal targets when taken as a whole should be related to agreed targets for the council as a whole.

4. THE APPRAISAL CYCLE

Appraisal should take place on a predetermined date, at least annually, backed up by regular monitoring meetings at which targets can be reviewed or continuing relevance. A formal system of appraisal should not prevent the continuous review of progress and performance.

5. KEY ELEMENTS OF THE APPRAISAL PROCESS

- Continuous two-way monitoring of performance against objectives
- Preparation for an appraisal interview
- An appraisal interview where recent and current performance, future objectives and development needs are discussed
- Agreement on action required from either party to ensure required performance is achievable
- A continuing process of informal discussion regarding performance

6. THE APPRAISAL INTERVIEW AND FRAMEWORK

- Both parties should be well informed and prepared for the interview
- The process should be two-way
- The interview should be free from interruptions, and notes should be taken when necessary
- The parties should concentrate as far as possible on established facts rather than unsubstantiated opinions
- Targets which are realistic and capable of being monitored should be agreed
- Any agreed personal development plans should be implemented within the agreed timescale
- The chief executive should be given a reasonable opportunity to correct any shortfalls in performance
- A date for the next review should be agreed

7. EXTERNAL ASSISTANCE

External assistance in facilitating the appraisal process can be helpful in providing an independent perspective.

Within the local government 'family', it may be sought from the Local Government Association or by contacting the Employers' Secretary or from the appropriate Regional Employers' Organisation or ALACE or SOLACE. Alternatively, such assistance may be available from commercial sources, such as consultancy firms.

Such assistance from the aforementioned organisations may take the form of them either directly participating in the process for which a fee may be requested to cover staff time or the recommendation of, for example, a suitably experienced recently retired senior officer or other independent individual.

Note: If external assistance is sought, it must have the agreement of both sides.

8. OTHER MATTERS

The detailed content of appraisal interviews should normally be treated as confidential to the participants, unless both parties agree that it would be helpful for the targets agreed for the ensuing period to be shared more widely. However, it may be useful to report to an appropriate committee meeting that an appraisal interview has taken place.

This may be useful in acting as a reminder that the chief executive and members need to ensure that chief officers are in their turn appraised.

It should, however, not be assumed that the process for appraising the chief executive should be followed in precise detail for other staff. There is a fundamental difference between elected members appraising the chief executive and managers appraising subordinates. The principles, nevertheless, are the same.