

# Portland Town Council Staff Handbook

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## Introduction

This handbook contains information relating to staff employment with Portland Town Council.

It does not go into extreme detail about all elements of staff employment but does aim to provide an overview of the Council's principles, protocol, standards, rules and regulations.

Portland Town Council needs its employees to be enthusiastic and competent in their various roles and seeks to ensure that all staff play their part in the organisation to the best of their ability, through development, training, competence and mentoring. As a result employees can fully contribute to the delivery and management of services in the town of Portland.

All staff will undertake a short induction programme at the commencement of their employment which will cover key points contained within this document, along with other information relevant to the role and the operation of the Council.

The induction and this handbook seek to ensure that new staff be given the opportunity to understand their duties and responsibilities enabling them to settle into their jobs quickly and comfortably.

For existing staff, this handbook should also be kept handy as a point of reference and for further information purposes.

This handbook should also be read in conjunction with an individual's Contract of Employment and the other associated Council policies and procedures as detailed.



# 1. General Employment

## 1.1 Probationary Period

All permanent staff will join the Council on an initial probationary period of 6 months. This does not prejudice the Council's right to dismiss, in accordance with any relevant clauses contained in the Contract of Employment, or matters arising from issues of discipline.

During the probationary period, work performance and general suitability is assessed and, if satisfactory, employment with the Council will continue.

If work performance is not up to the required standard, the position is reviewed to seek a solution, a possible extension of the probationary period with a further review, or to terminate the employment.

At the end of the probationary period, if satisfactory, employees will become a member of permanent staff.

## 1.2 General Employment Policy

The Council seeks to act as a responsible employer, using as far as is possible for a Local Council, all reasonable and contemporary personnel practices and compliance in all respects with employment law and other legislation applying at the time.

Terms and conditions will be kept under review and National Agreements honoured.

Portland Town Council's Employment Policy is geared to encourage and reward dedicated staff who take a professional attitude to work. The Council seeks to offer a stable and constructive working environment for staff who are prepared to work in partnership to meet the Council's aim of giving high quality service to the people of Portland.

This handbook provides details of the Council's personnel policies and procedures and how they will be implemented. It is for use by all staff and the Council and its Committees in making decisions with respect to staff and employment matters.

All day to day staff management decisions are delegated to the Town Clerk unless otherwise stated in this document. There may be specific circumstances where the Council feel that a management decision should be considered by someone other than those stated in this document. If so, this delegation and reasons for it should be agreed at the Staffing and Training Committee and recommended to the Full Town Council meeting for ratification before any action is taken.

*For ease of understanding and interpretation this document often refers to the Town Clerk making decisions regarding staff, and it should be read (although not explicitly written) that decisions on the work, actions and requests personal to the work or position of Town Clerk should be made by the Chairman or referred to the Staffing and Training Committee for consideration.*

Procedures in law also exist for the review of problem cases for all staff by the Council. These procedures are detailed within this handbook.

The Handbook is supplementary to the Contract of Employment. The Contract, in conjunction with the job description, indicates the specific provisions relating to each post.

### 1.3 Sole Employment / Declaration of Other Employment

Whilst the Council would prefer that employees are exclusively employed by the Council, it does realise that such an exclusive contract may not be possible.

In circumstances where staff have other employment, it is a condition of the Contract of Employment that the Council is informed of the essential details of such alternative employment in order to ensure that no tax or insurance liabilities will accrue to the Council.

The Council does however, reserve the right to require that any other employment that is undertaken does not conflict with the role or standards required to be undertaken or met in the role as an Officer of the Council.

Employees must not accept any other work or conduct any other business which is similar to or in competition with the business of the Council or could give rise to a conflict of interest, unless you have been given prior written consent by the Council.

### 1.4 Types of worker

There are 2 different types of worker that Town Council may decide to provide contracts for, Employees and Contractors (including self-employed professionals).

#### 1.4.1 Employees

You are an Employee (whether on a Permanent (open-ended) contract or on a Fixed-Term contract) if:

- Your Employer provides the work, any tools and equipment for it, and they decide how and when you do the work
- You will have a written contract with Terms and Conditions of work
- You are expected to do the work yourself that you are employed to do, and may be moved to a different task
- You are paid a regular amount according to the hours you work (through the Pay as You Earn system – so Tax and National Insurance is deducted), and you usually have to work a set amount of hours.
- The legal definition of this is the provision of a personal service, mutuality of obligation and control.

#### 1.4.2 Self Employed or Contractors

You are self-employed or an external contractor if:

- You determine how and when you do the work within reason (known as Master/Servant Relationship)
- You can hire helpers or replacements for you if you are unable to do the work (also known as Substitution)
- You pay your own tax and national insurance contributions on a self-employed basis (you complete a Self-Assessment tax return)
- You are contracted to provide services to the Client/Employer over a certain period of time for an agreed fee and are not integrated into the employment of the Council.
- You run your own business and take financial responsibility if it is successful or not, and provide the main items of equipment. You may work on your own premises. You may have several customers (employers) at one time.

## 1.5 Fixed term contractors

There is now a provision in law where someone employed on a Fixed-Term contract can receive a permanent (open-ended) contract as an employee if:

- You have been continuously employed (i.e. no significant breaks) by the same employer on a fixed-term contract for four years or more that started after 10th July 2002 (unless your Employer has changed this time limit by a 'workforce' or 'collective' agreement)
- If this is the case you can ask your employer for a statement confirming that you are now permanent and no longer employed on a Fixed Term contract
- Your employer can only keep you on a Fixed Term contract after 4 years if they could objectively justify this at the point your Fixed Term contract was last renewed

If your employer fails to give you this statement (when you have requested it) or gives you a statement of reasons why you must remain on a Fixed Term contract that you do not agree with, you can make a claim to an Employment Tribunal.

## **2. Salary and Remuneration**

### **2.1 National Agreement on Pay and Conditions of Service**

The Council accepts the provisions of the National Agreement on Terms and Conditions agreed annually between the National Association of Local Councils (NALC) and the Society of Local Council Clerks (SLCC).

A National Agreement on Pay and Conditions of Service (The Green Book) is negotiated between Principal Local Authority Employers and Unions and this forms the basis of Pay and Conditions for the Council. The Green Book sets the framework by which Local Authorities establish terms and conditions. Local councils may negotiate terms and conditions, but it is the strong advice of NALC and SLCC jointly that the national terms and conditions are adhered to and in so doing must honour all the relevant provisions of employment legislation and any other legislation applying at the time.

Wherever the National Agreement makes provision for changes in the structure of 'Local Government Pay and Conditions' the Council will implement them.

### **2.2 Salary Scales**

These are based on the externally evaluated and benchmarked agreement for Local Authorities, the National Joint Council (NJC). The NJC sets the pay scales and allowances and this is published to all councils annually. It is jointly agreed with the National Association of Local Councils (NALC) and the Society of Local Council Clerks (SLCC) who subsequently make recommendations on scale point ranges.

### **2.3 Salary Settlements**

The Council undertakes to implement the national agreements for 'Local Government Pay and Conditions'. Any changes agreed are usually, although not exclusively, implemented from the 1st April of each year.

Salary is paid in on the 30<sup>th</sup> of each month or on the nearest working day to that date, with pay being paid up to and including the end of the month.

Under the Employment Rights Act 1996 all staff will receive a pay slip showing how the total amount of salary/wages has been calculated. It must show all the deductions made and the reasons for them e.g. Income Tax, National Insurance Contributions etc. Any queries on this matter should be raised initially with the Responsible Financial Officer or Town Clerk.

### **2.4 Incremental Progression**

Employees should progress automatically up the salary scale to the top of their designated grade provided their performance is satisfactory and Continuous Professional Development (CPD) targets have been met.

They will normally be entitled to an increment, payable from the 1st April of each year along with the salary settlement figure until they reach the top of their pay grade.

Once the top of the grade is reached any additional increments or grade promotion are at the sole discretion of the Council and should be as a result of exceptional performance, additional relevant qualification or additional duties agreed by both employer and employee. Accelerated increments within the grade of the post may be given on the grounds of exceptional merit or ability.

## **2.5 Overtime and Time Off In Lieu**

Overtime is not generally paid unless specified in the Contract of Employment.

Occasional un-contracted 'paid' overtime maybe required, and a one-off agreement made for this by the Staffing and Training Committee. This agreement would specify the total amount of hours expected and the total cost. This may occur when assistance of the Council administration team is required for a special project which is not part of their ordinary workload such as 'relocation'. Overtime will not be paid unless the extra salary costs have been agreed in advance.

Staff on fixed hours contracts will be expected to take time off in lieu (TOIL) if occasional extra hours are worked in the line or their ordinary duties. The number of hours worked over and above those contracted for each member of staff should be recorded and agreed with the Clerk. . If the number of hours worked is regularly more that contracted a review should be undertaken by the Staffing and Training Committee to establish what has changed since the post was created.

On the rare occasion that a member of staff is required to work on a public holiday, they will be offered a day off in lieu, to be taken within six weeks of the occurrence.

## **2.6 Reimbursable Expenses**

Where an employee is required to travel as a requirement of their job, the Council will reimburse actual expense and reasonable subsistence incurred in accordance with the NJC Car Allowances.

It should be noted that the practice of claiming subsistence is regarded as being the exception rather than the rule. Payments for subsistence will be paid at the discretion of the Council subject to validity, recommended allowances and a receipt being produced and with prior agreement to the expense being incurred, e.g. an agreed training course outside the local area.

## 3. Flexible Working

### 3.1 Qualification

To make a flexible working request, you must:

- be an employee; and
- not have made two formal flexible working requests during the past 12 months.

### 3.2 Scope of a Request

If you qualify, you may request:

- a change to hours worked;
- a change to the times you are required to work;
- a change in duties;
- a change to any other terms of your employment.

Any agreed change to your terms and conditions will be permanent, unless agreed otherwise.

### 3.3 Your Application

Before making a flexible working request you should consider:

- what working pattern you are seeking;
- the financial implications a change might have on you;
- what effects, if any, the change will have on the Council's business and on your colleagues and how these might be accommodated.

Your application must be in writing, signed and dated and:

- state that it is an application under the right to apply for flexible working arrangements;
- specify the change applied for;
- specify the date on which you would like the change to be effective;

You can only make two applications in any 12-month period. If you have made a previous application, your new application must state this and give the date on which the previous application was made.

### 3.4 Our Response

Unless we jointly agree otherwise, we will deal with your application, from start to finish, within a maximum of two months, unless a longer period is agreed.

We may agree to your request without discussing it with you. If so, we will notify you of this, in writing.

Otherwise, we will invite you to a meeting within 14 days of receiving your application. You have the right to be accompanied to the meeting by a work colleague or trade union representative. No application for flexible working will be rejected without first consulting with you.

### **3.5 The Meeting**

At the meeting, we will discuss your requested work pattern in detail and consider and how it might be accommodated. We may also discuss alternative working patterns.

### **3.6 After the Meeting**

We will write to you within 7 days of the meeting with our decision. We will either agree a new working pattern and a start date or, we will refuse your request and give the reasons for refusal.

The grounds on which we can reject your request are:

- burden of additional costs;
- detrimental effect on the ability to meet customer demand;
- inability to reorganise work amongst existing staff;
- inability to recruit additional staff;
- detrimental effect on quality;
- detrimental impact on performance;
- insufficiency of work during the periods the employee proposes to work;
- planned structural changes;
- any other ground allowed by regulations.

### **3.7 The Appeal Procedure**

You may appeal our decision in writing within 7 days of receiving it, setting out your grounds of the appeal.

We will either invite you to an appeal meeting within 7 days of receiving your appeal or allow your appeal without a meeting.

We will give you a written appeal outcome within 7 days of the hearing. If we allow the appeal, we will specify the variation agreed and the date from which it is to take effect. Where we reject your appeal, we will explain why. This decision will be final.

## 4. Benefits

### 4.1 Pension and Gratuity Arrangements

Staff are automatically admitted to the “final salary” Local Government Pension Scheme operated by Dorset Council which provides an attractive range of guaranteed benefits. All employees will be given the option to ‘opt-out’ at the point where they accept their employment contract and terms and conditions.

To receive a refund of any contributions made staff must opt out within 3 months of the date of first joining the Council.

Scheme members contribute a percentage of salary (depending on grade and joining date) and the Council also contributes at the rate determined by the scheme management.

Members receive a lump sum (tax free under current legislation) and a standard pension on retirement. Both of these are based on the employee's length of service in the pension scheme and their pensionable earnings. Scheme members may be able to top up their benefits, subject to Inland Revenue Regulations, by purchasing added years or making Additional Voluntary Contributions.

Comprehensive information on all pension benefits can be obtained from:

Dorset County Pension Fund  
County Hall  
Dorchester  
Dorset  
DT1 1XJ

E-mail: [pensionshelpline@dorsetcc.gov.uk](mailto:pensionshelpline@dorsetcc.gov.uk)

Information can also be found at [www.dorsetpensionfund.org/](http://www.dorsetpensionfund.org/)

### 4.2 Death in Service Grant

Dorset Council should be notified of the name of a nominated next-of-kin as part of the pension application. In the event of death whilst still in service at Portland Town Council any salary, pension or gratuities due to a member of staff will be paid to the person nominated.

### 4.3 Annual Leave

The Council takes a positive view on work/life balance issues and believes that employees should take responsibility for regularly taking annual leave to ensure their own health, safety, and wellbeing in accordance with the Working Time Directive.

Annual leave must only be taken with the approval of the Town Clerk or your line manager/supervisor.

Employees must give as much notice as possible when requesting annual leave. Such notice should be at least twice the number of days' leave that the employee wishes to take as annual leave e.g. 5 days leave requires 10 days' notice.

The annual leave year runs from 1 April to 31 March.

The minimum paid annual leave entitlement (April 2023) is 23 days, rising to 26 days after five years' continuous local government service.

Those employed part-time will be entitled to leave on a pro-rata basis.

Employees who join and/or leave the Council during the annual leave year will receive a holiday entitlement proportionate to their completed service during the leave year.



In the event of the employee leaving the Council, payment for any leave which has been taken in excess of their accrued part year entitlement will be deducted from the final wage payment. It is the responsibility of the employee to ensure that all unused leave to which they are entitled is taken before they cease employment.

In exceptional circumstances it is possible that outstanding leave entitlement can be paid to the employee in their final salary, however this needs to be approved as soon as possible after the start of the notice period by the Staffing and Training Committee. Before this is authorised it must be proven that all reasonable steps have been taken by the employee to use their leave entitlement throughout their employment. Any requests for a large amount of outstanding leave to be paid where it is clear that the employee has not made sufficient attempts to take time off will be refused.

#### **4.3.1 Bank/Public Holidays**

All employees are entitled to paid bank/public holiday leave. Portland Town Council recognises eight bank holidays during the year, although the dates of these may vary from year to year. At Christmas the Offices normally shut down and staff take annual leave for the non-statutory days holiday.

Part-time employees have a pro rata entitlement to bank/public holiday leave. This is calculated with reference to the annual entitlement of a full-time employee.

#### **4.3.2 Carry Over of Annual Leave**

All annual leave should be taken in the leave year during which it is accrued. In exceptional circumstances, a maximum of five days' leave can be carried over into the next leave year with the written permission of the Town Clerk; this should be reported to the next available meeting of the Staffing and Training Committee. Any additional agreed leave carried forward should be used during April, unless written permission is given for an extended period.

#### **4.3.3 Compassionate Leave with Pay**

Up to 3 days' compassionate leave with pay can be granted in order to help the employee to cope with the death or serious illness of a member of their immediate family. This includes:

- Husband, wife, or partner;
- Mother or father;
- Child, including any adopted children
- Sister or brother

A further day may be granted for attending the funeral.

Where a family relative dies that is not covered by the list above, a grant of 1 day compassionate leave with pay can be given to attend the funeral. Additional days can be taken from the employees leave entitlement with reasonable notice appropriate to the circumstance; this requires approval by the Town Clerk.

All applications for Compassionate Leave must be made to the Town Clerk for determination.

In exceptional circumstances, the Town Clerk will consider granting a maximum of a further seven days' compassionate leave in any one year.

#### **4.3.4 Parental Bereavement Leave**

Employees are entitled to statutory parental bereavement leave (SPBL) if a child for whom they have or were due to have parental responsibility has died or been stillborn after 24 weeks of pregnancy.

Leave can be taken as one week, two consecutive weeks, or two separate weeks, at any time within the first 56 weeks after the child's death.

### **Notification**

During the first eight weeks after a child has died, you, or someone on your behalf as necessary, need only give notice to the Council to take SPBL before you are due to start work on the first day of leave. If you have already started work, then officially your SPBL period will start on the following day. If you want to cancel it at any time during the first seven weeks you can do so as long as it has not started.

After eight weeks, you need to give at least a week's notice to the Council to take SPBL.

You can cancel it with a week's notice, or re-book it by giving a week's notice.

When giving notice to take SPBL, you must tell the Council: the date of the child's death; when you want your leave to begin; and whether you want to take 1 or 2 weeks leave). You can give notice by telephone or by email or by letter.

### **Parental Bereavement Pay**

To qualify for statutory parental bereavement pay (SPBP) during such leave you must have at least six months' continuous employment and normal weekly earnings of at least the lower earnings limit. It is paid at the same rate as other statutory family leave pay, which is subject to change every year. You can check the most up-to-date figure with your line manager.

To claim SPBP, you must confirm the following information in writing within 28 days of starting any period of SPBL: your name; your entitlement to SPBP; the dates of SPBL you want to claim the pay for; the date of the child's death; and your relationship to the child.

You can provide this information at the same time as giving notice to take SPBL, as set out above, so long as it is in writing.

### **Other leave entitlements**

In addition to parental bereavement leave, if you qualified for:

- maternity or paternity leave and pay and your child has died or been stillborn, you are still entitled to such leave and pay.
- adoption leave and pay, then the adoption leave entitlement runs for another eight weeks from the end of the week in which the child died (unless it would already have ended sooner).

If your planned period of SPBL coincides with another statutory family leave right, your SPBL will end at the start of that other leave. If you wish to take SPBL at the end of the other statutory family leave period, then a fresh notice to take the leave will be required, as per the above notice requirements.

Compassionate or Dependants leave may be available under our Compassionate or Dependants Leave Policy at our discretion. Please speak to your manager if you require time off in addition to parental bereavement leave.

### **4.3.5 Public Duties**

Up to 5 days' leave with pay per year may be given with the permission of the Town Clerk for serving on public bodies or undertaking public duties, e.g. magistrate's service, school governing bodies, and political appointments for those employees whose posts are not politically restricted. Evidence of this service must be shown to the Town Clerk and kept on the employees file for future reference.

Where an allowance is claimable for loss of earnings from this service, employees should claim that allowance and forward it to the Town Council to offset the cost of the paid leave they have taken to undertake the role.

#### **4.3.6 Jury Service**

Paid leave of absence will be granted for employees undertaking jury service. Evidence of the summons will be placed on the employees file for future reference.

Where an allowance is claimable for loss of earnings from this service, employees should claim that allowance and forward it to the Town Council to offset the cost of the paid leave they have taken to undertake the role.

#### **4.3.7 Additional Unpaid Leave**

Additional leave without pay may be granted in special circumstances at the discretion of the Town Clerk. This may be due to the emergency and unexpected requirements of:

- A spouse;
- A civil partner;
- A child;
- A parent;
- A person who lives with the employee other than as his or her employee, tenant, lodger, or boarder;
- Any other person who would reasonably rely on the employee for assistance if he or she fell ill or was injured or assaulted, or who would rely on the employee to make arrangements for the provision of care in the event of illness or injury

It would also be acceptable:

- In relation to the disruption or termination of care for a dependant or any other person who reasonably relies on the employee to make arrangements for the provision of care.

Under this provision, an employee can request to take immediate time off from work:

- Where a dependant falls ill, gives birth, or is injured or assaulted;
- To provide assistance following the death of a dependant;
- Where there has been an unexpected disruption to, or termination of, the arrangements for the care of a dependant; and
- To deal with an emergency relating to a child of the employee that occurs unexpectedly at the child's school.

The right to time off only covers emergencies. If you know in advance that you are going to need time off, you will not qualify for this type of leave and you therefore should arrange this with the Company by taking another form of leave, such as annual leave, parental leave etc.

Although there is no requirement to give notice the employee must, as soon as possible, tell the Town Clerk or line Manager/supervisor the reason for their absence and how long they expect to be away from work. The employee must keep regular contact with the Town Clerk or line Manager/supervisor regarding their return to work date.

#### 4.3.8 Implications of Unpaid Leave for Local Government Pensionable Service

If employees are granted unpaid leave of absence or leave on reduced pay (including parental leave):

***For the first 30 days:***

Full LGPS membership continues to build up during this period but the employee must pay the pension contributions that would have been paid had she/he been at work.

***After 30 days:***

This period will not count as pension scheme membership unless the employee opts to pay for it to do so. This must be done in writing and with the agreement of the employer.

For the period to count as pensionable service he/she must pay the full pension contributions that would have been paid if they had been at work based on their average monthly salary. If the employee wishes to do this, they must notify the employer in writing within 30 days of their intention to return to work (or within 30 days of leaving work if they do not return.)

#### 4.4 Maternity Leave

Portland Town Council recognises and abides by the current legislation regarding Maternity, Paternity, Adoption and Parental leave (Work and Families Act 2006). In the event that an eligible employee is seeking to take any of the aforementioned leave they should, at the earliest opportunity, discuss their plans with the Council/Town Clerk who can further advise on leave entitlements, pay rates and the legislation which is current at the time.

##### 4.4.1 Definitions

The following definitions are used in this policy:

- "Expected week of childbirth" (EWC) means the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth; and
- "Qualifying week" means the fifteenth week before the expected week of childbirth

##### 4.4.2 To Whom This Policy Applies

The occupational maternity scheme shall apply to all pregnant employees regardless of the number of hours worked per week.

##### 4.4.3 Notification Requirements

An employee shall notify the Town Clerk in writing at least 28 days before her absence begins or as soon as is reasonably practical:

- That she is pregnant;
- Of the EWC, providing a copy of form MATB1 as supplied by a registered medical practitioner; and
- The date on which she intends to start her maternity leave.

An employee can change her notified maternity leave start date as long as she gives 28 days' notice or as soon as is reasonably practical.

##### 4.4.4 Health and Safety

On receipt of written notification from an employee that she is pregnant, the Town Clerk or line Manager/supervisor should carry out a risk assessment. The employee should be fully informed of any risks identified.

The Town Clerk or line Manager/supervisor and employee have an on-going responsibility to monitor any potential risks that may be present and adapt working practices if required as much as is possible to accommodate the employee.

#### 4.4.5 Ante-Natal Care

Any pregnant employee has the right to paid time off to attend ante-natal appointments and must produce evidence of appointments if requested to do so. Wherever possible these should be arranged outside of the Town Council opening hours.

If your partner is pregnant, you are entitled to unpaid time off for up to two antenatal appointments. If you wish to exercise this right, you should notify your manager of the date and time of the appointment.

#### 4.4.6 Ordinary and Additional Maternity Leave

All women, regardless of their length of service, are entitled to 26 weeks' ordinary maternity leave (OML) and 26 weeks' additional maternity leave (AML) providing a right to one year's maternity leave in total.

Maternity leave shall commence no earlier than 11 weeks before the EWC or from the time of childbirth if that is earlier. From the beginning of the fourth week before the EWC, a woman's maternity leave is triggered if she is absent because of her pregnancy, e.g. due to a pregnancy-related illness or fatigue.

#### 4.4.7 Maternity Pay

Employees who have less than 1 year's continuous local government service at the beginning of the eleventh week before the EWC, shall only be entitled to Statutory Maternity Pay (SMP) or Maternity Allowance (MA).

In order to qualify for SMP, an employee must have at least 26 weeks' service with the Council by the end of the fifteenth week before the EWC. The payment of SMP is for 39 weeks.

Details of the current rates of Statutory Maternity Pay and Maternity Allowance may be found on the government's website at: <https://www.gov.uk/maternity-pay-leave/overview>

#### 4.4.8 More Than One Year's Continuous Service

Payments for employees who have completed 1 year's continuous local government service at the 11th week before the EWC shall be as follows:

***First six weeks (Week 1-6) of absence:***

The employee will be entitled to 90% of their weekly pay or the current SMP amount whichever is the greater.

***Next 12 weeks (Week 7-18) of absence:***

**An employee who declares in writing that she intends to return to work** will received 50% of their weekly earnings plus SMP providing that the combined amount does not exceed their usual weekly income. If so it will be capped at that point.

***Next 15 weeks (Week 19-33) of absence:***

Only SMP will be paid

***Final 19 weeks (Week 34-52) of absence:***

This will be authorised unpaid leave. Additional pension's contributions may be required.

#### **4.4.9 Amendments to payments**

If an employee wishes to amend the rate of pay for weeks (7-18) they may make such a request in writing for consideration by the payroll team.

This request may include reducing the payment each week but extending the period over which it is paid, for example 25% over 24 weeks.

There is no 'right' to do this and such a request does not have to be granted.

Any such request should not alter the benefits of the payments and payment caps will still be considered as if the payments were being paid over 12 weeks regardless of the actual arrangement agreed.

#### **4.4.10 Employees not returning to work after pregnancy**

The twelve weeks' half pay (or equivalent payment) made by the authority during maternity leave is made on the understanding that the employee will return to local authority employment for a period of at least three months. In the event that she does not do so, she will be required to refund the monies which have been paid excluding SMP.

This may be varied at the discretion of the Council if there is good reason to do so.

An employee not intending to return to work after maternity leave will only receive SMP from week (6-33) providing they qualify for the entitlement.

#### **4.4.11 Pension**

Local Government Pension Scheme rules dictate that the employer pays pension contributions throughout Ordinary Maternity Leave (OML), whether or not the employee actually receives any pay.

The employer's contributions will be based on what the employee would have been earning had she been working normally. The employee will also pay contributions, but these will be based on the pay that she actually receives. If she receives no pay during this period, for example because she does not qualify for SMP, she will not have to pay any contributions, but the period will still count as service under the scheme.

During Additional Maternity Leave (AML), pension contributions will continue to be made during the period when the employee is receiving SMP but not during any period of unpaid additional maternity leave.

The employee can, however, choose to pay contributions for this unpaid period, in which case this period of service will count as pensionable service. The employee's contributions will be based on the pay they received immediately before unpaid leave began. The Council's contributions will be based on notional full pay. If the employee decides to pay their contributions, they must inform the Council within 30 days of their return from maternity leave or, if the employee does not return, the last day of their employment.

#### **4.4.12 Continuous Service**

The period of Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML) will count as continuous service for statutory and contractual purposes.

#### **4.4.13 Leave during Maternity Leave**

##### ***Annual Leave***

Paragraph 11.8(b) of Part Two of the Green Book provides that annual leave continues to accrue during both ordinary and additional maternity leave.

##### ***Bank/Public Holidays***

Bank/public holidays accrue during ordinary maternity leave and additional maternity leave.

##### ***Carry Forward of Annual Leave***

Where a woman's maternity leave spans one leave year to the next, with the permission of the Town Clerk, she can carry over more than 5 days annual leave, but this must be taken by 31 May of the following leave year.

##### ***Treatment of Leave Where a Woman Changes Her Hours after Maternity Leave***

If a woman changes her hours after taking maternity leave, all leave accrued up to the agreed date when her hours change is calculated based on her original hours and any leave accrued subsequently is calculated on her new hours.

#### **4.4.14 Returning To Work**

##### ***Notification requirements***

Town Clerks must assume that an employee will return after 52 weeks.

An employee need only notify her employer that she is returning to work if she is going to do so before the end of her maternity leave. However, it is requested that they let the Town Clerk know when they intend to return to work so that the relevant salary amendments can be made.

Please note that an employee can change their mind up to the point when they actually give notice and resign.

##### ***Early return***

If an employee wishes to return early or on a different date than they had previously notified, they must give 21 days' notice in writing to the Town Clerk.

##### ***Keeping In Touch***

A woman can do 10 days' work during her maternity leave, in agreement with her Town Clerk, without bringing her maternity leave to an end. Working for part of a day will count as one day. A woman will not lose any SMP (Statutory Maternity Pay) for working up to 10 days.

Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace.

Town Clerks need to ensure that they keep in touch with their employees whilst they are on maternity leave. If an employee does not wish to be contacted they should notify your Town Clerk at the start of their maternity leave.

#### **4.5 Paternity Leave**

In the event that an eligible employee is seeking to take any of the aforementioned leave they should, at the earliest opportunity, discuss their plans with the Council/Town Clerk who can further advise on leave entitlements, pay rates and the legislation which is current at the time.



#### **4.5.1 To Whom This Policy Applies**

An employee has a statutory entitlement to take paternity leave for the purpose of caring for a child or supporting the child's mother in the first year following the birth.

#### **4.5.2 Ordinary Paternity Leave (OPL) and Maternity Support Leave (MSL)**

##### ***Eligibility Criteria***

To qualify for paternity, leave the employee must satisfy the following. They must:

- Be the father of the child, or married to or the partner of the child's mother;
- Have or expect to have responsibility for the upbringing of the child; and
- Have 26 weeks' continuous service with the Council by the end of the fifteenth week before the expected week of childbirth (EWC).

Paternity leave is also available to adoptive parents where a child is matched or newly placed with them for adoption. Either adoptive parent may take paternity leave where the other adoptive parent has qualified and elected to take adoption leave.

##### ***Ordinary Paternity Leave (OPL)***

Employees entitled to take paternity leave are entitled to two weeks of leave, which can be taken as two consecutive weeks, or two non-consecutive blocks of one week.

Paternity leave cannot start before a child is born or placed and must be taken at some stage within the first year following birth or adoption (except when the child is born prematurely in which case the leave must be taken within the 52 weeks following the expected week of childbirth).

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

##### ***Maternity Support Leave (MSL)***

Paragraph 7.6 of Part Two of the Green Book provides a right to Maternity Support Leave (MSL) of one week. This is provided for the child's father or the partner or nominated carer of an expectant mother at or around the time of birth. There is no qualifying service requirement for this right.

Maternity Support Leave replaces one week of Statutory Paternity Leave; during this time any SPP is topped up to full pay. Therefore, an employee who would otherwise have been entitled to two weeks' Statutory Paternity Leave will be entitled to one week's Maternity Support Leave (during which Statutory Paternity Pay will be topped up to full pay) and one week's Statutory Paternity Leave (during which they will receive Statutory Paternity Pay).

Employees should inform the Town Clerk that it is their intention to take some of their paternity leave as maternity support leave.

#### **4.5.3 Notification Requirements**

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

If requested, the employee must also give the employer a signed declaration confirming they are:



- The baby's biological father, married to or in a civil partnership with the mother, or living with the mother in an enduring family relationship, but are not an immediate relative; and
- Will be responsible for the child's upbringing and will take time off work to support the mother or care for the child.

After the birth the employee must also inform the employer of the date the child was born, as soon as is reasonably practical after the child's birth.

#### **4.6 Shared Parental Leave and Statutory Shared Parental Pay**

In 2015 a new scheme was introduced to allow both parents to take extended leave with their small children. This can be taken in a block or in small chunks over a period of time. It entitles an employee to take further periods of Shared Parental Leave (SPL) or Statutory Shared Parental Pay in addition to the Maternity/Paternity or Adoption leave for which they are entitled. This can apply to either parent. For further details about this scheme in relation to the type of additional leave you intend to take please refer to: <https://www.gov.uk/shared-parental-leave-and-pay>

#### **4.7 Adoption Leave**

##### **4.7.1 To Whom This Policy Applies**

This policy applies to all Council employees seeking to adopt a child from approved Adoption Agencies, as an overseas adoption, individuals fostering a child under the "Fostering for Adoption" scheme or parents of a child born to a surrogate mother.

The right to adoption leave is available to men and women (whether married or single) who adopt a child. Where a couple jointly adopts a child, only one of them will be entitled to take adoption leave (the couple can choose which). The other adoptive parent will normally be entitled to take paternity leave, provided that he or she meets the relevant statutory criteria.

##### **4.7.2 Eligibility Criteria**

To qualify for adoption, leave and pay an employee must:

- Be the child's adopter, i.e. have been matched with the child for adoption. A person is matched with a child when an adoption agency decides that they would be a suitable adoptive parent for the child.

If an employee meets the eligibility criteria, then they are entitled to both Ordinary and Additional Adoption Leave.

The notification week is the week in which the employee is informed by the adoption agency that they have been matched with a child.

The employee needs to have agreed with the adoption agency that the child should be placed with them and the date the placement should occur and provide the Council with the appropriate notice and evidence of entitlement.

##### **4.7.3 Notification Requirements**

Within 7 days, or as soon as possible after the day the employee receives notification from the adoption agency that they have been matched with a child, an employee must inform the Town Clerk in writing of the following: -

- the date the child is expected to be placed with them for adoption;
- the date the employee has chosen to start their leave and pay.

#### 4.7.4 Evidence

In order to receive adoption pay and leave, the employee must provide the Town Clerk with either a matching certificate and/or a letter from the adoption agency which shows the following: -

- the name and address of the adoption agency;
- the employee's name and address;
- the date the child is expected to be placed for adoption, or where the child has already been placed, the date of placement, and;
- the date the employee was informed that the child would be placed with them.

Where an employee is entitled to Statutory Adoption Pay (SAP) they must provide a signed declaration that they have elected to receive SAP and not statutory paternity pay (SPP).

#### 4.7.5 Adoption Leave

##### **Time off to attend Adoption Appointments**

Employees who are proposing to adopt may take time off work to attend up to 5 adoption appointments in certain circumstances. Where there are joint adopters, only one adopter is entitled to take paid time off work for these purposes. If an employee exercises their right to take paid time off to attend an adoption appointment, they may not then go on to take paternity leave in respect of the same child.

##### **Adoption Leave**

All employees who meet the eligibility criteria are entitled to take up to 52 weeks Statutory Adoption Leave. The first 26 weeks is known as 'Ordinary Adoption Leave', the last 26 weeks as 'Additional Adoption Leave'.

Leave can start:

- up to 14 days before the child starts living with the employee (UK adoptions)
- when the child arrives in the UK or within 28 days of this date (overseas adoptions)
- An employee can change their mind about when they start their leave, provided they give sufficient notice.

They must inform their Town Clerk of the new date 28 days before the date they now wish their leave to start, or as soon as is reasonably practical.

#### 4.7.6 Adoption Pay

Payments for employees shall be the employee's entitlement to Statutory Adoption Pay (SAP), where eligible.

The payment of SAP is for 39 weeks.

#### 4.7.7 Leave during Adoption Leave

##### **Annual Leave**

Annual leave continues to accrue during ordinary adoption leave and additional adoption leave.

##### **Bank/Public Holidays**

Bank/public holidays accrue during ordinary adoption leave (OAL) and additional adoption leave (AAL).

#### 4.7.8 Pension

Any period of Ordinary Adoption Leave will count as service for the purposes of the Local Government Pension Scheme. During this time the employee will pay pension contributions

on any Statutory Adoption Pay (SAP) and/or occupational adoption pay that they are entitled to. The employer will pay contributions based on the employee's notional full pay.

During Additional Adoption Leave pension contributions will continue to be made during the period when the employee is receiving SAP but not during any period of unpaid additional adoption leave. The employee, however, can choose to pay contributions for this unpaid period, in which case this period will count as pensionable service. The employee's contributions will be based on the pay they received immediately before unpaid leave began.

The Council's contributions will be based on notional full pay. If the employee decides to pay their contributions they must inform the Council within 30 days of their return from adoption leave or, if the employee does not return, the last day of their employment.

#### **4.7.9 Returning to Work**

##### ***Notification Requirements***

Town Clerks must assume that an employee will return after 52 weeks. An employee need only notify their employer that they are returning to work if they are going to do so before the end of the adoption leave. Otherwise, the employee simply returns at the end of the adoption leave. Please note that an employee can change their mind up to the point when they actually give notice and resign, although it is helpful to keep the Town Clerk informed of their intentions.

##### ***Early Return***

If an employee wishes to return early or on a different date than they had previously notified, they must give 8 weeks' notice.

##### ***Keeping in Touch***

An employee can do 10 days' work during their adoption leave, in agreement with their Town Clerk, without bringing their adoption leave to an end. Working for part of a day will count as one day. An employee will not lose any SAP (Statutory Adoption Pay) for working up to 10 days.

Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace.

The Town Clerk needs to ensure that they keep in touch with their employee whilst they are on adoption leave. If you do not wish to be contacted please notify your Town Clerk before the start of the leave.

#### **4.8 Carer's Leave**

All employees are entitled to one week's unpaid leave in any 12-month period to provide or arrange care for a dependant with a long term care need. A "week" for these purposes will be equal in duration to the period you are normally expected to work in a week at the time of making the request. How that is calculated will depend on whether you have non-variable or variable hours of work.

A dependant is:

- your spouse, civil partner, child or parent;
- someone who lives in the same household as you, otherwise than by reason of being your boarder, employee, lodger or tenant, or;
- anybody else who reasonably relies on you to provide or arrange their care.

A dependant has a long-term care need if:

- they have an illness or injury (whether physical or mental) that requires, or is likely to require, care for more than three months,
- they have a disability for the purposes of the Equality Act 2010, or
- they require care for a reason connected with their old age.

The minimum period of carer's leave that can be taken at one time is half a working day, with the maximum period being one continuous week. Leave need not be taken on continuous days.

You must give notice of your request to take a period of carer's leave. This can relate to all or part of the leave to which you are entitled. The notice must:

- Specify that you are entitled to take carer's leave;
- Specify the days on which you would like to take carer's leave and if you will take a full or a half day; and
- Be given with the following minimum notice periods depending on how many days of leave you want to take: Half a day to 1 day - 3 days' notice; 1.5 to 2 days - 4 days' notice; 2.5 to 3 days - 6 days' notice; 3.5 to 4 days - 8 days' notice; 4.5 to 5 days - 10 days' notice; or 6 days (if you work 6 days a week) - 12 days' notice.

The notice does not need to be in writing, but it would be helpful if it was in order to maintain an accurate record of what is being requested.

The Council may, in our absolute discretion, waive the notice length requirement above, and as long as the other requirements are met, the request will be treated as one for carer's leave.

If the Council reasonably considers that the operation of the business would be unduly disrupted if your request was granted, we may postpone the start of the carer's leave after consulting with you to agree an alternative date(s) which is/are no later than one month after the earliest day or half day of the request. In these circumstances, the Council will give written notice to you of the postponement, setting out the reason for the postponement and the agreed dates you can take the leave. This notice will be given no later than the earlier of: (a) seven days after your notice was given to the Council, or (b) before the earliest day or half day requested in your notice.

## 5. Absence Management Policy

The Council is committed to providing effective, high quality service to all its customers and to optimising the contribution of all employees. As part of this aim, it is essential that all employees are committed to maximising attendance.

The Council is concerned for the wellbeing of its employees and seeks to protect their health and safety by creating a safe working environment. In return, the Council expects all employees to take reasonable care of their own health, seek medical help whenever appropriate, and to attend work when fit to do so.

The Council recognises that genuine medical grounds will occasionally result in employee absence. It is the Council's policy to treat all such sickness absence in a fair, sensitive, and consistent manner across all areas of the workforce.

The Council must balance the sensitive management of genuine individual sickness against its need to be publicly accountable for its resource allocation and, as such, cannot sustain high levels of sickness absence. Action will therefore be taken to address recurrent short-term sickness or extended periods of absence as appropriate.

### 5.1 Aims

In order for the Council to meet its responsibilities, it will ensure that:

- It provides a supportive environment for those employees affected by ill-health;
- The Town Clerk and employees adhere to this policy and procedure
- Levels of sickness absence are the subject of routine monitoring.

### 5.2 Responsibilities

The onus for attending work on a regular basis and for reporting absence in accordance with the Council's agreed procedures rests with the employee. It is also an employee's responsibility to appropriately detail any periods of absence on their record of hours worked.

The responsibility for recording, monitoring, and managing absence on a day-to-day basis lies with the Town Clerk. It is therefore essential that they ensure that all employees are aware of the Council's Absence Management Policy and Procedures as details below.

### 5.3 Reporting

Employees who are unable to work due to illness/injury must contact the office of the Town Clerk as soon as possible or in extreme circumstances (hospitalisation etc) arrange for someone else to do this on their behalf.

This should be no later than 09.30 on the first day of absence or the nearest working day. Please note that text messages, e-mail or social media messaging is not sufficient as a form of notification. If there is no answer a message should be left on the answer machine and stating the date and time of the message. A follow up call should then be made later in the day to confirm the details.

The employee (or person notifying) should provide some indication of:

- The nature of the absence;
- The date the injury/illness began (including weekends and holidays);
- The expected duration of the absence
- Whether there are any immediate work commitments that need completing/reassigning during the absence.

The employee must maintain contact with the Town Clerk or line Manager/supervisor during any period of sickness absence lasting longer than one day, so that they are aware of any progress and the expected date of return to work. If the employee is unable to do so, they must arrange for someone else to do this on their behalf.

Failure to follow the sickness reporting process might lead to the absence from work being considered as unauthorised, resulting in loss of pay and possible disciplinary action.

#### **5.4 Certification**

Where the absence is for a period of up to seven days (inclusive of weekends) and not covered by a doctor's certificate, the employee will be asked to complete a self-certification form on their return to work.

If the absence exceeds seven days – and the employee has not already done so – the employee should provide a Fit Note for the remainder of the absence. The employee will need to ensure that there is always a current Fit Note. The Fit Note will include whether or not the employee needs to see a doctor again before returning to work.

If the Fit Note states that the employee "may be fit for work", the employee should inform the Town Clerk immediately. They will discuss with the employee whether there are any additional measures that may be needed to facilitate the return to work, taking into account the doctor's advice. If appropriate measures cannot be taken, the employee will remain on paid sick leave and the Town Clerk will set a date to review the situation.

#### **5.5 Return to Work Meetings**

When the employee returns to work after any period of absence, the Town Clerk will arrange to meet with them. This meeting will occur on the first day back or as soon practically possible – no later than 3 days after the employees return. If the Town Clerk is on leave at the time, then the Deputy Town Clerk should arrange and hold the meeting.

The purpose of this meeting is:

- To provide an opportunity for the Town Clerk to check that the employee is fit enough to return to work;
- To give the employee an opportunity to voice any concerns that they may have and/or to identify any domestic, welfare, or work-related problems in an appropriate forum;
- To ensure that the employee is aware of work-related matters that have occurred during their absence; and
- Fill out the Sickness Declaration Form.

#### **5.6 Miscellaneous**

It is important that the employee complies with these procedures so that:

- The Council can be aware of any potential problems and provide assistance to the employee where necessary
- Any sick pay to which the employee would otherwise be entitled is not withheld or refused.

Records retained in respect of sickness absence will be treated with sensitivity and confidentiality at all times and must be kept appropriately with restricted access, in accordance with the provisions of prevailing Data Protection legislation. The employee is entitled to access their records and notes of any return to work meetings on request.

#### **5.7 Frequent Intermittent Absences**

In addition to the Return to Work interviews after all periods of absence, the Council will institute a more formal review of attendance records and reasons for absence with an employee if there has been either:

- four episodes of absence
- a total of 10 days' short-term sickness absence within any period of 12 months.

The Town Clerk will arrange a sickness review meeting to meet with any employee whose absence record matches or exceeds the above criteria.

Employees have the right to be accompanied to this meeting by a trade union representative or a work colleague.

During the meeting, the Town Clerk should draw the employee's attention to their poor attendance record and the problems that their absences are causing for the Council and other employees.

Where no underlying medical condition is disclosed, the employee will be advised that their attendance record will be monitored (over a period of not less than 3 months) and that significant improvement will be required. In addition, employees will be warned that if no such improvement is forthcoming, serious consideration will be given to reviewing their employment situation. This will be confirmed in writing.

Return to Work interviews will continue to be carried out following any absences that occur during this monitoring period in the same way as before. These interviews afford the Town Clerk the opportunity to remind the employee of the Council's concerns.

If no significant improvement in attendance is demonstrated after the period of monitoring has elapsed, a further Sickness Review Meeting will be arranged. At this meeting, the employee will once again be reminded of the problems caused by the absences and asked if they wish to disclose any underlying medical condition or problem of which the Town Clerk is unaware.

If such a condition is disclosed, a medical referral should be arranged.

Where no underlying medical condition exists (or is declared), the employee should be told that their attendance record will be subject to a further period of monitoring (of not less than 3 months) and that their employment may be terminated if the required improvement is not affected.

Employees have the right to be accompanied to this meeting by a trade union representative or a work colleague.

Employees whose levels of attendance improve satisfactorily during periods of informal or formal monitoring will be reminded that they will be expected to maintain these levels of attendance. Failure to do so will result in further monitoring or the initiation of formal action.

Where an employee's attendance has not improved to the required level, an Attendance Hearing will be arranged to consider whether or not the employee should be dismissed.

Employees have the right to be accompanied to this meeting by a trade union representative or a work colleague.

## **5.8 Long-Term Absence**

All cases of long-term absence will be treated sympathetically, and every assistance will be given to the employee to return to work. The Council will maintain contact with the employee and advise them that they should keep the Council informed of developments relating to their medical condition.

The Council will hold Sickness Review Meetings with the employee during their long-term absence, as appropriate, to:

- keep up to date,



- review the on-going absence,
- offer support to the employee where appropriate

In order to ensure that the Council has access to guidance and advice in respect of the best course of action to follow in relation to such cases of absence, employees who have been absent for a continuous period of four weeks might, depending on the nature of the absence in question, be referred to an Occupational Health Physician.

Where the Occupational Health Physician makes a recommendation that might affect the employee's continued employment, the relevant Town Clerk will hold a Sickness Review Meeting with the employee to discuss the alternative options. Employees may wish to have the support of a trade union representative or a work colleague present during such a meeting, and this should be positively encouraged.

Where a return to work following a period of prolonged absence might be facilitated by temporary redeployment or phased re-introduction (e.g. job sharing or part-time working) an employee can discuss these options with their Town Clerk and, if such measures are appropriate, the Council will ensure that the support mechanisms necessary for this to occur are provided. Such arrangements will be for a defined period and will be subject to regular review meetings.

In certain cases, the Occupational Health Physician might find that an employee is unfit to perform a particular job but fit enough to undertake other types of work. In such cases, full consideration will be given to the possibility of redeployment into alternative positions.

Consideration will also be given to redeployment in cases where work in a particular place poses problem with attendance. Although this may not always be possible due to the small number of posts and work locations within Portland Town Council.

Where an employee remains absent and a return to work is not foreseeable within a reasonable timescale, the Town Clerk will arrange a Final Sickness Review meeting which may lead to an Attendance Hearing to consider dismissal.

### **5.9 Final Sickness Review Meeting**

Prior to dismissal being considered for either frequent intermittent absence or long-term absence, the Town Clerk will meet with the individual to explore whether there are any reasonable adjustments that could be made to enable an employee to remain employed.

Termination of employment may take place where:

- An employee is declared permanently unfit for work;
- An employee is declared medically unfit for their work and alternative employment cannot be found;
- A decision has been taken that the service can no longer tolerate a high level of absence; or
- A decision is taken, within the Council's disciplinary process, that an employee has wilfully abused the sickness absence/payments provisions or absented themselves without permission.

### **5.10 Attendance Hearing**

To reach a decision about whether dismissal is appropriate, an Attendance Hearing will be arranged. The employee will be invited in writing to attend the hearing and notified of their right to be accompanied by a Trade Union Representative or colleague.



The Hearing Panel will comprise of three members of the Staffing and Training Committee, who will make the decision. The Town Clerk or Chairman will attend to outline the history of absence and any relevant steps taken and advice received.

All paperwork relating to the hearing will be circulated 5 days in advance of the hearing to all parties attending including the employee.

Once the Panel has considered the Council's and employee's cases, and all other relevant information, it will adjourn to make a decision.

The decision of the Panel will be confirmed to the employee in writing within 5 working days.

The letter should clearly set out:

1) The Panel's decision:

- a) If a warning has been issued the timescale for this and the level of improvement required.
- b) If the decision is not to take action at this point and to review again in a certain time period, the applicable timescale for this.
- c) If the decision is to dismiss the employee, inform them of their relevant notice period and provide them with any relevant pension information.

2) The employee's right of appeal.

### **5.11 Appeals**

Employees have the right to appeal against any decision to issue a formal warning or dismissal under this procedure.

If an employee wishes to appeal, they should write to the Town Clerk setting out the grounds of their appeal. This must be done within 10 days of the date of the letter informing them of the outcome of the Attendance Hearing.

Appeals will be heard by a separate panel of councillors different to those who made the initial ruling. An appeal hearing will be held where the employee can present their appeal. The Chair of the original panel will also attend to explain the original decision. Witnesses may be called.

Once the Appeal Panel has considered both the employee's appeal and the Hearing Chair's case, and considered all other relevant information, it will adjourn to make a decision.

The decision of the Appeal Panel is final and will be confirmed to the employee in writing within 5 working days. There is no further right of Appeal.

### **5.12 Personal, Domestic, or Work-Related Problems**

Where an employee reveals that their absence has been a consequence of personal, domestic, or work-related problems, the Town Clerk should endeavour to discuss with them any relevant details that they wish to disclose.

Although an employee may have genuine concerns about revealing sensitive or personal information, they should be reminded that such matters will be treated confidentially, and that the Council cannot assist them if it is not made aware of the problem.

If an employee wishes to discuss matters with someone other than the Town Clerk, the Deputy Clerk or Chairman can be contacted for a confidential interview.

Once the problem has been clearly identified, appropriate assistance can be offered to the employee. In some circumstances, special leave (paid or unpaid), temporary adjustments in working arrangements, or referral to specialist agencies may be granted. All assistance

should be documented and agreed by both sides in case there are further employment issues in the future and to show a proven duty of care by the employer.

### **5.13 Alcohol/Drug Dependency**

Where an employee discloses that their absences are a consequence of alcohol and/or drug-related problems, they will be encouraged to seek help and treatment voluntarily through the appropriate agencies.

Employees may be granted, if necessary, leave to undergo treatment or therapy sessions to combat the dependency. Any leave related to these sessions will be regarded as (discretionary) sick leave within the terms of the Council's sick pay scheme providing regular confidential update reports are issued to the employer regarding the employee's attendance and progress. If disclosure of progress is not permitted by the employee, the Council could refuse the discretionary leave.

Should an employee refuse or discontinue any programme of assistance designed for them, then unacceptable behaviour or inadequate standards of work will be dealt with on its merits through the Council's Disciplinary Procedure, with no allowances made for known dependencies.

### **5.14 Welfare**

If, as a consequence of medically related absence, the relevant Town Clerk has any concerns about an employee's ability to undertake the full range of duties and responsibilities associated with their post, consideration should be given to suspending them with pay, or finding alternative duties whilst medical advice is sought from the Occupational Health Unit.

### **5.15 Monitoring**

Monitoring is an important part of sickness absence. In order for reports to be issued to the Town Clerk, it is important that all absence from the workplace is reported. All signed absence forms should be returned as soon as possible after the employee's Return to Work Interview has been conducted.

The Town Clerk will ensure that an absence history is maintained for each employee. These records will provide the base data for the compilation, at regular intervals, of statistics showing the level of sickness absence across the Council.

The sickness monitoring system will also enable the Town Clerk to identify Individual cases where frequent or lengthy absences have occurred, or where patterns of absence have been identified. However, the Town Clerk should view such notifications as a secondary means of identifying problems or potential problems.

The Town Clerk should ensure that they maintain comprehensive records at all times for each employee in relation to contact during and immediately following periods of sickness absence. These details should be maintained on the employee's personal file and should be treated with sensitivity and confidentiality at all times. Employees will be entitled to access these records on request.

### **5.16 Patterns of Absence**

The trigger for identifying a frequent absence (without the disclosure of any ongoing medical reason) over a 12-month rolling period is as follows:

- a) the employee has 3 occasions of certified absence
- b) 3 occasions of self-certified absence
- c) A combination of the above on at least 3 occasions or

Other unacceptable patterns of absence such as;

- a) regular Monday or Friday absence
- b) sickness before and/or after annual leave / bank holidays.

If any of the above are identified the Town Clerk should meet employee to discuss concerns, set targets for improvement.

#### **5.16.1 Further Action – absence with no medical reason**

Discuss other possible reasons for absences i.e. work related, personal issues etc.

If targets for improvement are not met, then commencement of the caution letter process should begin.

If improvement does not occur after caution letters have been issued, then the Council will consider termination of employment on the grounds of capability to carry out the frequency of work required. This should be done through the disciplinary process.

If there are mitigating circumstances, other than illness, the Town Clerk should discuss with the employee possible ways to reduce these, which may include authorisation of a period of special/unpaid leave, in order to deal with personal issues. Any agreement made should be documented as evidence of the Town Councils actions, on the staff file of that employee.

#### **5.16.2 Further Action – absence with medical reason**

If a medical reason for frequent absences is revealed the employee should be referred to an Occupational Health Doctor and a medical report sent to the Town Clerk regarding the prognosis and continuing ability for that employee to carry out the duties of their employment.

Once the report is received it should be discussed with the employee in person. Dependent on the prognosis and the employee's age it may be prudent to discuss ill-health retirement. This should be done in conjunction with the Pension's team at Dorset Council.

If recovery is likely the Council should endeavour to find alternative suitable work for the employee until they are fit. A partial return to work plan should then be set up to give the employee the best chance of returning to their previous work position and hours. This should be over a reasonable time period and negotiated by the Town Clerk in conjunction with the employee the occupational health professional and union representative (if applicable).

## 6. Conditions of Employment

### 6.1 The Contract of Employment will include the following:

- The names of the employer and employee;
- The place of employment;
- The date on which employment began;
- The date on which the employee's period of continuous employment began (for pension purposes) which may differ from the date which employment began with the Town Council – taking into account any employment with a previous (local government) employer that counts towards that period;
- The title of the job that the employee is employed to do or brief description of the work which the employee has been employed to do;
- The scale or rate of remuneration (wages, salary, etc.) expressed as an hourly, weekly, monthly or annual figure;
- The intervals at which wages or salary are to be paid (e.g. weekly or monthly);
- Any terms and conditions relating to hours of work

The following should be noted in the contract with referral (where applicable) to this Staff Handbook or other related policies for details.

- Terms and conditions relating to the employee's entitlement to holidays including public holidays, special holidays and holiday pay (the particulars given being sufficient to enable the employee's entitlement, including any entitlement to accrued holiday pay on the termination of employment to be precisely calculated);
- Terms and conditions relating to incapacity for work due to sickness or injury, including any provision for sick pay;
- Terms and conditions relating to pensions and pension schemes;
- Details of any training that may be offered or required in the job role, including details of who funds the training (the employee or the Council);
- Details of any additional benefits provided in the job role;
- Details of any other paid leave;
- The length of notice that an employee is to give and receive to terminate his/her contract of employment;
- Where the employment is not intended to be permanent, the period for which it is expected to continue (e.g. 6 months). If it is for a fixed term, the actual date when it is to end.
- Particulars of any specific other agreement that directly affects the terms and conditions of this particular instance of employment – e.g. agreed annual leave for

religious festivals other than those already given (such as Ede or Diwali). Note: This would not be in addition to the annual leave requirement given but can be guaranteed as authorised annual leave for the employee through their contract, if requested, regardless of work demands.

The Contract must be provided to the employee along with the Staff Handbook and all employment policies and procedures. The contract must be signed, and a declaration made to say they have read and understood the handbook, policies and procedures before employment begins.

## **6.2 Working Hours**

The full-time standard working week is one of 37 hours excluding meal breaks.

Individual employee's specific hours will be dependent on contractual arrangements and will be detailed in their Terms and Conditions of Employment on their contract.

Employees on part-time contracts working less than 37 hours will have such benefits as pay and leave calculated pro rata to the full-time standard working week. Their part-time contracts will detail the hours and days they are required to work.

Each employee is required to complete and sign a monthly timesheet of hours worked.

## **6.3 Annualised Hours**

Annualised hours contracts are appropriate where the requirements of the job are seasonal in nature or where a term-time only contract is agreed.

Working hours are agreed for the whole year rather than for the week. Therefore, a wage is still paid each month regardless of whether the paid hours are worked that month or not.

Example: If an employee works 10 hours a week for 40 weeks of the year but has 12 weeks off when the schools are not open, they will work 400 hours over the year. This would mean that they would be paid for 33.3 hours each month / every month.

## **6.4 Fixed Hours**

Due to the nature of some roles some employees will have contracts which specify fixed hours. While these hours will be those normally worked there may on some occasions be a requirement for some flexibility due to a requirement for additional working. Except where covered by overtime provisions outlined above any additional hours worked will be compensated by time off in lieu (TOIL).

## **6.5 Time Off**

Time off may be required for medical or dental appointments. Where possible, appointments to visit hospital, doctor or dentist should be made outside of normal working hours. However, if this is not practical, an employee will be given reasonable unpaid time off to attend such appointments. The employee should give their Town Clerk or line Manager/supervisor adequate prior notice of the appointment and provide evidence of each appointment, if requested. If agreed with the Town Clerk or line Manager/supervisor, it may be possible for the employee to 'make the time up' over the next month to ensure no loss of pay.

## **6.6 Time Off for Dependants**

Under the Employment Rights Act 1996 s.57A, all employees are entitled to be granted reasonable unpaid time off during working hours in order to take necessary or emergency action in circumstances such as the following:

- sudden illness of a dependant, injury or assault;
- birth of a dependant's baby;
- to make arrangements for the provision of care for a dependant;
- in consequence of the death of a dependant;

- because of an unexpected disruption or termination of arrangements for the care of a dependant;
- to deal with an incident that involves an employee's child which occurs unexpectedly during school/college hours

A 'dependant' could be your husband, wife, partner, child, parent, or anyone living in the employee's household as a member of the family. A dependant may also be anyone who reasonably relies on the employee for help in an emergency, for example an elderly neighbour living alone.

Time can be taken regardless of length of service. If time off is required, the Town Clerk should be made aware as soon as possible however it does not need to be in writing nor does supporting evidence have to be provided.

There's no limit to the number of times time off for dependants can be taken, provided it's for real emergencies, however if the Council feels more time off is being taken than they can reasonably cope with, the employee will be warned of this.

### **6.7 Notice of Termination of Employment**

The minimum periods of notice to which a member of staff must give to terminate their employment will be detailed in the individual's Contract of Employment. The notice periods required will vary from one month to three months depending on length of service and seniority of post, to allow for an adequate handover to take place.

### **6.8 Redundancy Arrangements**

If circumstances arise where redundancy may be a possibility, the first steps will be to consult with all employees with a view to seeking an agreed solution such as reducing overtime to a workable minimum, restricting recruitment or reducing the working hours.

If redundancies are unavoidable, consideration will be given to any applications for voluntary redundancy, where acceptable.

If selecting employees for redundancy is necessary, the criteria for selection will be discussed in detail at the time. A fair procedure will be applied in line with current legislation and at all times the overriding consideration will be the future operation of Portland Town Council.

### **6.9 Termination of Employment by Employee without Giving Notice**

If you terminate your employment without giving or working the required period of notice, as indicated in your contract of employment, you will have an amount equal to any additional cost of covering your duties during the notice period not worked deducted from any termination pay due to you.

### **6.10 Changes in Personal Details**

Any changes in personal details e.g. change of address, next-of-kin, bank details etc. should be notified to the Council as soon as possible so the Council can maintain accurate information on its records and also make contact in an emergency. All changes should be advised to the Town Clerk in writing.

### **6.11 Performance**

A satisfactory performance is a basic contractual requirement. It is important both for the staff member and the Council to know that they are fulfilling their potential and achieving job satisfaction. By continually developing and learning new skills, performance will be enhanced, and it will help to maintain the overall quality and cost effectiveness of the services offered and ultimately contribute to the success of the Council.

Employees have a duty to monitor their own performance and to take advantage of appropriate training opportunities as they arise. They should also seek opportunities to

improve the way things are done either on their own initiative, if appropriate or in conjunction with colleagues and management.

The Council aims to achieve this by:

- Having an open two-way communication process between employees and the Town Clerk or line Manager/supervisor to discuss and agree job performance and development needs.
- Reviewing and evaluating performance against agreed objectives.
- Setting objectives for the year ahead in line with job descriptions and the Council's Strategic Plan.

#### 6.11.1 Performance and Development Review (Appraisal)

A Performance and Development Review will be carried out for each member of staff at least annually, with interim reviews being carried out at the six-month point. The Performance and Development Review meeting, sometimes called an Appraisal, is an opportunity to discuss every aspect of the role in confidence. It's a two-way communication process and the staff member's opinion will be sought and valued on performance, strengths and development needs. The interim review meeting is to evaluate the progress on any agreed improvements or changes made in the annual appraisal.

In order to give an accurate and complete picture the conversation will include discussing not only successes but also any areas that require improvement. These areas should not be avoided but be openly talked about with the Town Clerk or line Manager/supervisor. One of the purposes of the Review meeting is to discuss how any concerns can be overcome and should include suggestions on how performance might be improved.

At the end of the meeting, a set of objectives will be agreed for the next period with accompanying timescales for completion. This will provide the framework for future progress and a benchmark against which the employee's performance can be reviewed. Objectives are set to enable staff to better meet the performance requirements as defined in the job descriptions. They are performance goals which are to be achieved within a defined time frame and monitored at the half year point.

An objective should not be confused with a performance standard. A job description defines the functional and professional responsibilities and performance standards are the criteria against which the ability to fulfil these requirements is measured. An objective on the other hand could be a specific task or series of tasks that contribute towards the delivery of the Strategic Plan, also with the aim for the member of staff to become increasingly effective and good at their job.

There are a number of important reasons for setting objectives, namely:

- To achieve results
- To help reach the best performance levels
- To develop skills, abilities and responsibilities
- To provide a challenge and subsequently a sense of achievement

Objectives will:

- Be related to the aims and objectives of the Strategic Plan
- Be aimed at improving job satisfaction and performance
- Maximise potential by increasing employee's skill base and knowledge
- Be **SMART**: -

**SPECIFIC**                      focused on a particular task or behaviour and directed at achieving a required result

**MEASURABLE**                maybe in terms of cost, quality or quantity



|                  |                                                                                                |
|------------------|------------------------------------------------------------------------------------------------|
| <b>AGREED</b>    | only be set with both staff member and Town Clerk's agreement                                  |
| <b>REALISTIC</b> | they should be challenging however achievable given level of experience and personal situation |
| <b>TIMELY</b>    | within a reasonable agreed timescale                                                           |

It is recommended that the employee takes time to prepare in advance for the Performance and Development Review and they will be given a prescribed amount of time at work to do this. During and after the Review meeting the discussions and objectives will be formally documented and agreed, then both parties will sign the paperwork and a copy will be kept on the employee's staff file.

Portland Town Council is committed to ensuring that staff have the right job description and are receiving all the necessary support and guidance required to develop their skills further, enhance their performance and address any issues arising. In this respect the Reviews should be seen as a positive process, which are beneficial to both the employee and the Council.

## **6.12 Training**

Portland Town Council is committed to the ongoing training and development of all Councillors and employees. It is to enable them to make the most effective contribution to the Council's aims and objectives in providing the highest quality representation and services for the people of the town. Details of what training may be required or requested are given in the Training policy. This includes what time in lieu or reimbursement of expenses can be considered for courses which are funding by the employee rather than Portland Town Council.

## **6.13 Ways of Working**

### **6.13.1 Town Clerk Roles and Responsibilities:**

The Town Clerk:

- Has a responsibility to set a good example for employees through their own behaviour and attitudes, especially in relation to upholding the ethical principles, obligations and standards as set in this Code of Conduct.
- The Town Clerk should ensure that employees understand performance standards expected from them and objectively assess their performance against these standards. They should also ensure that all employees in their reporting line are familiar with the requirements and objectives of their job, and have access to the information, training, supervision, feedback and work conditions needed to achieve them.
- The Town Clerk must be honest and objective in reporting the skills and qualities of employees in testimonials; references and performance reports, ensuring decisions can be substantiated against objective standards and indicators.
- The Town Clerk is required to act promptly, thoroughly and fairly when responding to, or investigating grievances and reports of breaches of the Code of Conduct noted above.

### **6.13.2 Undertaking instructions**

All members of staff are expected to follow all reasonable and lawful instructions related to work given by a person with the authority to issue such instructions, even when you may not personally agree with all the decisions.



The Town Clerk must be able to justify their instructions and decisions in line with their delegations, authority, Council policies and procedures, and be open and respond promptly to constructive questions.

Employees can refuse to comply with an instruction that appears to be unlawful or unethical and report the matter Chairman of the Council. This may apply in cases where there is a danger to a person's health and safety or a conflict of interest may exist, or it does not comply with Council policy and practice. This matter will then be duly discussed in more depth with the associated parties.

## **6.14 Employee Code of Conduct**

The public is entitled to expect the highest standard of conduct from all local government employees, so they have complete confidence in the Council. Portland Town Council adopts the following guidelines regarding conduct which aim to make sure that employees understand the standards of behaviour and conduct expected. The list is not exhaustive and certain types of conduct may depend on particular circumstances, it is important that all staff read the guidelines and ask about anything that isn't clear, as ignorance will not be accepted as a defence if the Council decided to take disciplinary action against an employee for not complying with these standards. Any questions regarding this should be addressed to the Town Clerk.

### **6.14.1 The Role as a Public Servant**

The Council provides services that the public pay for; they are the Council's main customers and the employee's role is to serve the public in the best way possible.

### **6.14.2 Principles of Conduct**

Below sets out principles of conduct on how the Council expects staff to behave when doing their job, some subjects are discussed in more detail in the following paragraphs.

- Leading by example - promote this principle by behaving in a way that gives people complete confidence in the Council.
- Uphold the law – everyone has a responsibility to uphold the law and to act in line with the trust that the Council, and the public it serves, expect.
- Constituency – everyone has a responsibility to help the Council to act in the interests of the whole community that it serves as far as possible.
- Public interest – staff must never use the position to make gains personally or for family, friends and others. This includes financial benefits, preferential treatment or any other advantage.
- Honesty, integrity and propriety – as well as avoiding actual impropriety, staff must be seen to avoid it so that their honesty and integrity is beyond question.
- Gifts and hospitality – gifts or hospitality should not be accepted even with the best of intentions, as to do so might influence, or be intended to influence judgement.
- Objective decisions – decisions made in the job must be made solely on merit, including appointing someone, awarding contracts or recommending people for rewards or benefits.
- Accountability – staff are accountable for their actions and their part played in decision making.
- Openness – staff must be as open as possible about their actions and decision making and seen to be open so that people are confident there is nothing underhand about them.
- Confidentiality – everything must be handled confidentially, and in accordance with the law, not used for private purposes.
- Council resources - resources must be used prudently and in accordance with the law.

- Declarations – there is a legal duty to declare any private interests relating to employment and to resolve any conflicts that may arise. Relations with colleagues and councillors - respect councillors and other employees, treating them with mutual respect at all times. Uphold the Council's objectives - understand and act in accordance with the Council's vision and values, policy and procedures.

In return the Council has a responsibility to ensure that all employees are clear on what is expected of them, also that there is a safe and healthy working environment that is free from discrimination, harassment or bullying. Staff will be offered relevant training and development opportunities and also employees have the opportunity to choose to be represented by a Trade Union in appropriate circumstances as determined by Council policy

#### **6.14.3 Customer Care and Courtesy**

Employees are expected to be welcoming, helpful, informative and courteous as well as being professional to the public and to the Council's internal and external clients. Staff must be presentable and suitably dressed for their particular job, including wearing safety clothing and equipment if appropriate under the Health and Safety regulations. If a uniform has been issued, it is expected that this will be worn when on duty.

#### **6.14.4 Conduct towards Colleagues**

Staff must always act in a polite and friendly manner to colleagues, making sure that any behaviour does not cause offence. The Council will not tolerate any form of bullying, oppression, sexual harassment, violence or aggression and will use its disciplinary policy to support this.

#### **6.14.5 Time-Keeping and Attendance**

Employees should be ready and able to carry out their duties at agreed times within reason and time at work must be accurately recorded - falsifying records is a disciplinary offence.

#### **6.14.6 Complying with Written Guidelines, Laws and Regulations**

All employees should ensure they comply with the laws and regulations relevant to their job. Members of staff are responsible for understanding the conditions of service under which they are employed and should ask the Town Clerk for clarification if unclear about anything. This also includes compliance with corporate guidance, such as the Council's Standing Orders and Financial Regulations, as well as any specific departmental guidelines.

Where an individual has membership of a professional institute or association, they are also obliged to comply with the professional code and standards of practice relating to that organisation.

#### **6.14.7 Conduct and Disciplinary Action**

The Council will use its disciplinary process to deal with any conduct that falls below that expected, if serious. Full details of misconduct and gross misconduct are found in the disciplinary section.

#### **6.14.8 Outside Interests**

Life away from work is the employee's own concern however staff must not put themselves in a position where the job and personal interests conflict. This includes behaviour which, because of the nature of the employment, would undermine the Council's confidence or trust.

An example would be a member of staff facing criminal charges regardless of whether these were incurred on or off duty. It is important that the Town Clerk is informed immediately if the charges are in any way relevant to their employment, such as drug offences, crimes of violence, dishonesty or driving offences (if the nature of the job involves the use of a car or Council vehicle).

#### **6.14.9 Additional Employment**

The Council will not stop anyone from taking additional employment as long as it does not affect duties and responsibilities, or conflict with the interests of, or weaken, public confidence in the Council.

Staff considering taking on additional work should get permission from the Town Clerk and a record of approval will be maintained. This conduct rule applies to any employment, paid or unpaid, for example taking up office in an outside organisation e.g. charities such as local community associations.

Assets and information belonging to the Council cannot be used for personal work without gaining prior permission from the Council and customers realise the private nature of the work is in no way connected to the business of Council. Additional income received must be declared to HMRC and an assurance that no tax or insurance liabilities will accrue to the Council.

#### **6.14.10 Declaring Interests – Financial, Personal or Business**

An example of an interest might be where a contract has been awarded by the Council - a direct interest would be if an employee or their partner was directly involved with the contract possible on a personal, financial or other level. An indirect interest can relate to close family members or friends being involved in the contract or interest.

If a conflict of interest, or even a potential conflict, arises during the course of business, it must be declared immediately. Management will then consider whether it is appropriate for the member of staff to take any further part in the matter. The responsibility to declare an interest lies with the employee and the interests will be recorded in the register of interests held at the Council.

All declarations of interest should be made in writing to the Town Clerk. If given verbally outside of a public meeting they should be written down and signed by the person making the declaration and the Town Clerk (at the earliest opportunity). If a declaration is made verbally in a public meeting this should be noted in the minutes and any action taken as a result of that declaration – e.g. the member/employee subsequently left the meeting room which the discussion and decision was made.

#### **6.14.11 Political Considerations**

Employees whose salaries are at spinal column point (SCP) 44 or above, as well as people paid less than SCP 44 but whose posts are determined by the Council as 'politically sensitive' may not stand for a political post or engage in certain political activities - such as canvassing or speaking publicly. Other employees are not eligible to stand for office as a member of parliament or of the City Council, but may participate in county, borough or parish council activities, provided they declare any resultant conflict of interest.

Employees serve the Council as a whole and must serve all Councillors equally; therefore, employees cannot be accountable to political groups and must not compromise neutrality. The Council's protocol for relationships between Members/Councillors and staff must be followed when considering participation in political activity.

#### **6.14.12 Confidentiality and Disclosure of Information**

It is generally accepted that open government is best. Legislation requires that certain types of information must be available to members, auditors, government departments, services users and the public. However, the regulations under the General Data Protection Regulations and the Freedom of Information Act 2000 must be borne in mind when dealing with information. As part of the job, staff will come across confidential information. This must remain private and confidential at all times, unless authorisation have be granted to divulge it or the Council is required to do so by law. Staff should exercise reasonable care to keep safe documents and material containing confidential information.

Information about another employee's private affairs must not be given to anyone outside the Council without the consent of the employee, or to anyone within the Council unless that person has authority or responsibility for such information.

Council contracts or purchasing arrangements cannot be used for personal benefit or to benefit any external function or organisation, unless prior approval has been granted.

Similarly, business information and documents should not be divulged to any third party or use it other than for the purpose of furthering the interests of the Council.

#### **6.14.13 ICT (Information Communications Technology)**

ICT is an umbrella term that includes all technologies for the manipulation and communication of information; this therefore includes hardware, computers, servers, telephones, printers, copiers, software, networks, applications etc.

The information stored and processed on the Council's ICT systems is of paramount importance to its day to day activities. Consequently, it is essential that Council's systems and data are secure, reliable and resilient. In this respect the Council will undertake any necessary actions to ensure this is the case including that hardware is properly maintained, appropriate licences are in place, anti-virus and filter measures are installed, electronic back-ups of data regularly occur, power failure back up is installed and so on.

All employees should be aware that all ICT equipment and associated packages are the property of the Council and provide for business purposes. Therefore, the Council reserves the right to monitor email, phone and internet use or restrict the up/downloading of non-business-related software. Employees must only use the Council's systems in an appropriate professional, legal and responsible manner. Good practices such as password protection, locking screens when unattended, not using unauthorised software and correctly shutting down/turning off individual PCs when out of the office should be adopted.

Whilst the ICT equipment is supplied for business use, the Council will allow personal use outside of normal working hours. However, the Council reserves the right to withdraw this concession at any time. Personal mobiles should not be used during working hours except for in an emergency situation.

Surplus ICT equipment will be disposed of both securely and in an environmentally friendly manner. For further information please refer to the ICT Management Policy, which covers all aspects of ICT upgrade, monitoring, usage and disposal.

**Email-** all email correspondence should be dealt with in the same professional and diligent manner as any other form of correspondence.

If you have a Council email account you should be mindful of the fact that any email that you send will be identifiable as coming from the Council. You should therefore take care not to send anything via email that may reflect badly on the Council. In particular, you must not send content of a sexual, racist or discriminatory nature, junk mail, chain letters, cartoons or jokes from any email address associated with work.

Using a Council/work email address to send inappropriate material, including content of a sexual, racist, discriminatory or harassing nature, is strictly prohibited and may amount to gross misconduct resulting in summary dismissal. Should you receive any offensive or inappropriate content via email you should inform a member of management of this as soon as possible so that they can ensure that it is removed from the system. You should also report such breaches in accordance with our Bullying and Harassment Complaints Procedure or Grievance policies.

You should also take care that emails will be seen only by the person intended. Particular care should be taken when sending confidential information that the email has been correctly addressed, marked 'private'/'confidential' and not copied in to those not authorised to see

the information. Sending confidential information via email without proper authorisation or without taking sufficient care to ensure that it is properly protected will be treated as misconduct.

**Social Media** - an employee's behaviour on any social networking or other internet site must be consistent with the behaviour required of employees generally. Where it is possible for users of a social media site to ascertain who you work for, then you should take particular care not to behave in a way which reflects badly on the Council.

You must avoid making any social media communications that could damage our business interests or reputation, even indirectly. You must not use social media to:

- defame or disparage us, our staff or any client or other third party;
- harass (including sexually harass), bully or unlawfully discriminate against staff, clients or other third parties;
- make false or misleading statements; or
- impersonate colleagues or third parties.

Because social media interactions can be copied and widely disseminated in a way that you may not be able to control, the Council will take a particularly serious view of any misconduct that occurs through the use of social media.

You should make it clear in social media postings, or on your personal profile, that you are speaking on your own behalf. Write in the first person and use a personal email address. Be respectful to others when making any statement on social media and be aware that you are personally responsible for all communications which will be published on the internet for anyone to see.

You must not operate a social media account or profile or express an opinion that purports to be operated/made on behalf of the Council without express permission to do so from your manager. You must not comment on social media about sensitive business-related topics, such as our performance, or do anything to jeopardise our trade secrets, confidential information and intellectual property. You must not include our logos or other trade marks in any social media posting or in your profile on any social media.

You should not attempt to access social networking sites, such as Facebook/X (formerly known as Twitter) or similar on Council computers. This includes during break times.

Any misuse of social media that you see should be reported to your manager.

Breach of this policy may result in disciplinary action up to and including dismissal. You may be required to remove any social media content that we consider constitutes a breach of this policy. Failure to comply with such a request may in itself result in disciplinary action.

#### **6.14.14 Patent and Copyright**

**Patents** - any issue, item or idea capable of being patented under the Patents Act that is developed or discovered in the course of duties should be brought to the attention of the Town Clerk. Subject to the provision of the Act, anything like this belongs to the Council. It is then the Council's responsibility to decide whether to apply for patent or other protection in law for any such invention.

**Copyright** - All records, documents and other papers compiled or acquired relating to the Council's finance and administration are the Council's property together with the copyright. However, the copyright of any academic work such as projects done as part of a course to further a professional career including books, contributions to books, articles and conference papers will belong to the individual.

#### **6.14.15 Using the Council's Resources**

Council resources whether tangible assets such as materials, equipment and cash or business information such as trade secrets cannot be used for anything other than Council business.

#### **6.14.16 Gifts and Hospitality**

Care must be taken when accepting any offer of a gift or hospitality. Items of low intrinsic value, such as diaries and calendars, can be accepted if used at work. Hospitality, such as a working lunch or a function that is part of the life of the community or where the Council should be represented, can reasonably be accepted, but must be recorded by the Town Clerk.

Anything of greater value or significance must be declined, politely but firmly, taking care not to give offence by explaining why, as a local government employee, you may not accept. In a similar vein, offers from companies of promotional sales must be declined. Improved discounts are the only form of promotion that the Council would normally find acceptable, these should be recorded and provided to the auditor at the end of year.

#### **6.14.17 Foreign Travel**

Approval must be sought in advance from Committee for all foreign travel on Council business.

#### **6.14.18 Smoking, Alcohol and Drugs (including prescribed)**

Employees are not permitted to smoke (which includes the use of e-cigarettes and personal vaporisers) in Council premises or vehicles.

Alcohol is not permitted on Council premises, unless specifically approved by the Town Clerk. The Council also prohibits the use, possession, distribution or sale of illicit or illegal drugs at work or when doing Council business and will report any such activity to the Police.

The Council may use the disciplinary procedures to deal with any unsatisfactory performance, attendance or behaviour caused by excess alcohol consumption or by drugs, depending on circumstances. If the alcohol or drug dependency problem is a medical case, then the Council will provide help, whenever possible. Support and counselling is available through the Council to all employees on this.

Employees taking legally prescribed or over-the-counter drugs must ensure that their use does not adversely affect work performance and the safety of other members of staff. If the employee is required to drive for their job and is advised not to, as a result taking medication, they must not be penalised and alternative (non-driving) work should be found for them during this period.

### **6.15 Whistleblowing Policy - Reporting Criminal Offences and Poor Conduct**

Employees are often the first to realise that there may be something wrong within their organisation. However, they may not feel able to express their concerns because they feel that speaking up would be disloyal to their colleagues or to their employer. They may also be apprehensive about the consequences and they may mistakenly feel that it may be easier, therefore, to ignore the concern rather than report what may be no more than a suspicion of malpractice.

Portland Town Council is committed to the highest standards of openness, probity, and accountability. It expects employees, and others that it deals with, who have serious concerns about any aspect of the Council's work, to come forward and voice those concerns. The word 'whistleblowing' in this handbook refers to the disclosure, internally or externally, by employees of malpractice, as well as illegal acts or omissions at work.



The Whistleblowing policy makes it clear that all employees can report, in a confidential manner, their concerns without fear of victimisation, subsequent discrimination or disadvantage, and is intended to encourage and enable serious concerns to be raised with the Council, rather than overlooking a problem or 'blowing the whistle' outside. It is stressed that under the Public Interest Disclosure Act 1998, employees of the Council who speak out against corruption or malpractice at work have statutory protection against victimisation, dismissal or another disadvantage.

The Whistleblowing policy applies to employees of Portland Town Council. Agency workers, casual workers and other individuals performing functions for the Council, such as contractors, are also encouraged to use the procedure.

This policy aims to:

- Encourage employees to feel confident in raising serious concerns in those cases where they do not wish to use the normal reporting routes within their departments;
- Provide alternative avenues for raising concerns;
- Ensure that responses to concerns are made; and
- Reassure employees that they will be protected from possible reprisals or victimisation if they have made a qualifying disclosure to address their concerns.

The law provides protection for employees who raise legitimate concerns about specified matters. These are called 'qualifying disclosures'. A qualifying disclosure is one made in the public interest by an employee who has a reasonable belief that one of the following is being, has been, or is likely to be committed:

- A criminal offence;
- A miscarriage of justice;
- An act creating a risk to health and safety;
- An act causing damage to the physical environment;
- A breach of any other legal obligation; or
- Concealment of any of the above

An employee who makes such a protected disclosure has the right not to be dismissed, subjected to any other detriment (e.g. disciplinary action), or victimised because he/she has made a disclosure. The employee has no responsibility for investigating the matter; it is Portland Town Council's responsibility to ensure that an investigation takes place.

The Council fully understands that employees who are members of a Trade Union may, in the first instance; wish to seek advice and guidance from their Union on the application of this Procedure.

This procedure is for disclosures about matters other than a breach of an employee's own contract of employment. If an employee is concerned that his/her own contract has been, or is likely to be, broken, he/she should use the Council's Grievance Procedure.

Please refer to the Council's Whistleblowing Policy for further information

### **6.15.1 Safeguards**

#### ***Harassment or Victimisation***

Portland Town Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from the person(s) who is/are the subject of the complaint. However, if employees state the truth when making a disclosure they should have nothing to fear because they will be doing their duty to their employer and those for whom they are providing a service.

Portland Town Council will not tolerate any form of harassment or victimisation by any worker and will take appropriate action to protect individuals when they make a qualifying disclosure.

### ***Confidentiality***

All concerns will be treated in confidence and every effort will be made to protect an employee's identity if that is their wish. At the appropriate time, however, they may need to be called as a witness, following a full factual investigation of the concerns raised.

### ***Anonymous Allegations***

In order to ensure that employees receive the protection of the Public Interest Disclosure Act 1998, employees should put their name to their concern. Concerns expressed anonymously are much less convincing. Anonymous concerns and allegations will therefore be investigated at the discretion of the Council.

In exercising the discretion, the factors to be taken into account would include:

- The seriousness of the issues raised;
- The credibility of the concern; and
- The likelihood of confirming the allegation from factual evidence.

### ***Unsubstantiated Allegations***

If an employee makes an allegation which they reasonably believe to be true but it is not confirmed by the investigation, no action will be taken against them. However, if they make an allegation frivolously, maliciously, or for personal gain, disciplinary action may be taken against them.

## **6.15.2 Procedure for Making a Disclosure**

### ***Step One – Raising a Concern***

Whenever possible you should raise your concern with the Town Clerk. If this is not appropriate, you should approach the Chairman. If the complaint is about the Town Clerk, then your concern should be raised with the Chairman of the Staffing and Training Committee.

### ***Step Two – How the Council will respond***

The action taken will depend on the nature of the concern. The matters raised may:

- be investigated internally by management, or through the disciplinary or other internal process
- be referred to the Police
- be referred to the External Auditor
- form the subject of an independent inquiry.

In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.

Concerns or allegations which fall within the scope of specific procedures of Portland Town Council will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.

You will be written to within ten working days:

- acknowledging that the concern has been received
- indicating how the Council proposes to deal with the matter
- giving an estimate of how long it will take to provide a final response



- informing you if any initial enquiries have been made
- whether further investigations will take place and, if not, why not

### **6.15.3 Contact**

The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, further information will be sought.

### **6.15.4 Attending Meetings**

When any meeting is arranged you have the right to be accompanied by a trade union representative or a workplace colleague who is not involved in the area of work to which the concern relates.

### **6.15.5 Support**

Portland Town Council will take steps to minimise any difficulties you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, Portland Town Council will advise or arrange for you to have advice about the procedure.

Portland Town Council will not tolerate harassment or victimisation (including informal pressures) and will take action to protect individuals who raise a concern in good faith.

Portland Town Council accepts that you need to be assured that concerns will be properly addressed and, subject to legal constraints, will provide information about the outcomes of any investigations.

### **6.15.6 How the Matter Can Be Taken Further**

This procedure is intended to provide individuals with an avenue to raise concerns within Portland Town Council. If you are not satisfied, and feel it is right to take the matter further, the following are possible contacts:

- The Internal or External Auditors
- The Police
- Health and Safety Executive
- Her Majesty's Revenue and Customs
- Local Government Ombudsman

If a matter is taken outside Portland Town Council, you must take all reasonable steps to ensure that confidential or privileged information is not disclosed. If in doubt, check with the Town Clerk.

### **6.15.7 Dealing with the Media**

Employees may only talk to the media as a representative of the Council if specifically authorised to do so. The Town Clerk normally deals with media enquiries as well as preparing and issuing public statements or press releases. All media enquiries should in the first instance be directed to the Town Clerk. If any staff are asked for comments these should be considered, sensible, well informed, in good faith, in the public interest, without malice and that they enhance the Council's reputation and status.

For further information on this subject, please refer to the Press and Media Protocol.

### **6.15.8 Equality Issues**

All Council employees should ensure that their behaviour is in accordance with the spirit and the detail of the Council's equality and diversity policies as well as the letter of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity. The Council will not tolerate racist, sexist, homophobic and other

discriminatory remarks and behaviour. Deliberate discrimination will result in disciplinary action.

Please refer to the Council's Equality Policy for further information.

#### **6.15.9 Health, Safety and Wellbeing**

All employees have a personal and legal responsibility under the Health and Safety at Work Act 1974 for themselves, colleagues and visitors to the Council's buildings and premises.

Any potential breaches in Health and Safety which are identified should be reported immediately to the administrative office and a written report should be logged within 24 hours. All reports made should be fully investigated and the outcomes reported to the next available Staffing and Training Committee.

Please refer to the Council's Health and Safety Policy for further information, reporting procedure and template.

## 7. Harassment, Abuse, Bullying and Intimidation

### 7.1 Policy Statement

Employees are Portland Town Council's most valuable and important resource, and the Council has a legal, moral, and ethical duty to ensure that the environment in which they work enables them to contribute to their fullest potential and that they feel confident and comfortable about that working environment.

As well as considering the welfare of its employees, there is a strong business case for ensuring the elimination and prevention of harassment and bullying such as; the financial impact (e.g. cost of reduced performance), health and safety (e.g. physical and emotional effects on employees), and recruitment and retention (e.g. people will not wish to join us or to remain with us).

Portland Town Council believes that all its employees have the right to be treated with dignity and respect, and that harassment and bullying is totally unacceptable. The Council will deal effectively with any form of harassment or bullying and take any steps it sees fit to either stop or prevent it. This may include taking disciplinary action, up to and including dismissal.

### 7.2 Scope of the Policy

The Harassment, Abuse, Bullying and Intimidation Policy should be read in conjunction with other Council policies and procedures such as: The Equality Policy, Disciplinary Procedure and Grievance Procedure.

The policy covers harassment and bullying by Officers and Members of the Council. It does not cover harassment and bullying from the public or contractors. However, the Council has a duty of care towards its employees and, in these cases, employees should report any such behaviour to the Town Clerk who will decide upon the appropriate action.

### 7.3 Aims of the Policy

The information given below shows how harassment and bullying can affect both individuals and the Council and demonstrates the need for a policy. The Council has a harassment and bullying policy to:

- Ensure that all of the Council's employees are treated with dignity and respect;
- Ensure that harassment and bullying is prevented and, if it does occur, that action is taken to stop it;
- Ensure that the working environment is such that each employee feels confident and comfortable about the way they will be treated whilst at work;
- Ensure that all of the Council's employees know what harassment and bullying is and what the Council's policy is;
- Explain the responsibilities of Members, management, and employees; and
- Explain the procedures for dealing with harassment and bullying.

### 7.4 Harassment

There are various definitions of harassment, but there are two key questions which help to define 'Harassment'. They are: 'Is the behaviour unwanted?' 'Does it undermine the dignity of the individual?' and 'Is it related to a protected characteristic?'

Harassment is defined by ACAS as *'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'*.

The protected characteristics are age; disability; sex or gender; gender reassignment; marriage/civil partnership; pregnancy or maternity; race (including ethnic origin, skin colour, nationality and national origin); religion or belief; and sexual orientation.

It is also unacceptable to harass any individual:

- Based on their association with another individual with a protected characteristic (e.g. an employee married to someone of a different ethnic origin)  
OR
- Based on a perception that they have a protected characteristic (e.g. a heterosexual employee who is made fun of because his colleagues believe he is homosexual).

Harassment can occur whether or not it is intended to be offensive, as it is the effect on the victim which is important, not whether or not the perpetrator intended to harass them.

Harassment or bullying is unacceptable even if it is unintentional.

A definition of bullying is given in the next section of this policy, but harassment and bullying are closely linked.

### ***Examples of harassment include:***

#### ***Sexual harassment:***

- Ridiculing someone because of their sex or sexual orientation by looks, remarks, sexual innuendo or jokes of a sexually explicit nature
- Unnecessary touching or unwanted physical conduct

#### ***Sexual orientation harassment:***

- Homophobic remarks, innuendo, jokes
- Offensive actions and physical attack

#### ***Racial harassment:***

- Embarrassing or derogatory remarks such as racist jokes, name-calling or nicknames
- Deliberate isolation or different treatment

#### ***Harassment on the grounds of disability:***

- Name calling
- Uninvited, patronising or unnecessary assistance

#### ***Harassment on the grounds of religion or belief:***

- Ridicule and religious jokes
- Scorning of belief

#### ***Age harassment:***

- Negative comments generalising about the age group of the individual
- Exclusion from informal groups such as social events

### ***Third-party harassment***

Third-party harassment occurs where a person is harassed/sexually harassed by someone who does not work for, and who is not an agent of, the same employer, but with whom they have come into contact during the course of their employment. Third-party harassment could include, for example, derogatory comments about a person's age, disability, pregnancy, colour, religion or belief, sex or sexual orientation, or unwelcome sexual advances, from a client, customer or supplier visiting the employer's premises, or where a person is visiting a client, customer or supplier's premises or other location in the course of their employment.

While an individual cannot bring a claim for third-party harassment alone, it can still result in legal liability when raised in other types of claim and will not be tolerated. The law requires

employers to take reasonable steps to prevent sexual harassment by third parties. All staff are encouraged to report any third-party harassment they are a victim of, or witness, in accordance with this policy. Any harassment by a member of staff against a third-party may lead to disciplinary action up to and including dismissal.

We will take active steps to try to prevent third-party harassment of staff. Action may include: warning notices to customers; information in terms and conditions; providing regular training for managers and staff to raise awareness of rights related to sexual harassment and of this policy; take steps to minimise occasions where staff work alone; where possible ensure that lone workers have additional support.

If any third-party harassment of staff occurs, we will take steps to remedy any complaints and to prevent it happening again. Action may include warning the harasser about their behaviour, banning them from our premises, and reporting any criminal acts to the police.

## 7.5 Bullying

ACAS states that bullying can be characterised as 'offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient'.

It must be clearly understood that it is a Town Clerk's or line Manager/supervisor responsibility to set targets and review work performance. It is also the Town Clerk's or line Manager/supervisor role when individuals do not reach targets to ensure that corrective processes are put in place. These discussions are sometimes difficult for both parties but need to take place to ensure employees work competently. In this context bullying will only occur when a Town Clerk or line Manager/supervisor abuses his or her authority.

It should be noted that bullying does not just occur in Town Clerk or line Manager/supervisor /subordinate relationships, it can occur when there is unacceptable peer pressure or pressure by others in a position of 'authority', e.g. Members.

*Examples of bullying behaviour can include:*

- Spreading malicious rumours;
- Making the employee the butt of jokes;
- Aggressive, insulting and unco-operative attitude;
- Destructive innuendo and sarcasm;
- Constant unjustified criticism;
- Unjustifiably removing responsibilities and replacing them with trivial tasks to do instead;
- Shouting at employees;
- Unreasonable use of disciplinary/competence procedures;
- Unreasonable refusal of requests (e.g. leave or training) ;
- Deliberately ignoring or excluding individuals from activities;
- Imposing unreasonable workloads and/or unjustifiably reducing deadlines;
- Constantly undermining an employee in terms of their professional or personal standing;
- Undervaluing an employee's efforts;
- Seeking to make an employee appear incompetent or intentionally creating an unacceptable working environment, with the object of either achieving a dismissal or of making them resign.

Portland Town Council recognises the fact that employees may initially submit to a particular instance of harassment or bullying, but this does not mean that they find the rest of the behaviour acceptable. For example, an employee who is the butt of jokes may not wish to object initially, but this should not prevent them from addressing the issue once they feel able to do so.

## 7.6 Victimisation

Any employee who makes a complaint or supports another employee who has done so must not be subjected to any victimisation or less favourable treatment as a result. Portland Town Council will not tolerate any such behaviour and will take appropriate action to stop/prevent this, which may include disciplinary action.

Harassment/sexual harassment and victimisation are unlawful and will not be tolerated. The law requires employers to take reasonable steps to prevent sexual harassment of workers in the course of their employment. Harassment/sexual harassment or victimisation may lead to disciplinary action up to and including dismissal without notice if they are committed:

- a. In a work situation.
- b. During any situation related to work, such as at a social event with colleagues.
- c. Against a colleague or other person connected to us outside of a work situation, including on social media.
- d. Against anyone outside of a work situation where the incident is relevant to your suitability to carry out your role.

We will take into account any aggravating factors, such as abuse of power over a more junior colleague, when deciding the appropriate disciplinary action to take.

If any harassment/sexual harassment or victimisation of staff occurs, we will take steps to remedy any complaints and to prevent it happening again. Action may include updating relevant policies, providing further staff training and taking disciplinary action against the perpetrator.

## 7.7 Responsibilities of the Town Clerk, Employees, and Members

### *Town Clerk*

The Town Clerk has the following responsibilities:

- Compliance with the Policy;
- Creating/ensuring that there is a supportive working environment;
- Making sure that their employees know the details of this policy and ensuring compliance with it;
- Making sure that their employees know what standards of behaviour are expected of them;
- Taking allegations of harassment and/or bullying seriously and dealing with them as quickly as possible;
- Ensuring that victims of harassment and/or bullying receive appropriate support which might include counselling. (Note: consideration should be given as to whether the harasser/bully should also be given access to counselling, as the employee who has been accused of bullying/harassment can find this a stressful situation);
- Dealing with complaints under the Bullying and Harassment Complaints Procedure (see below);
- Ensuring that matters are dealt with confidentially and impartially;
- Ensuring that their employees attend any training requirement
- Liaising with the Chairman on how to deal with cases that arise.

### *Employees*

Employees will have the following responsibilities:

- Compliance with the policy;
- Treating their colleagues with dignity and respect;
- Having an awareness of their own standards of behaviour;
- Making it clear that they find harassment and bullying unacceptable;
- Reporting harassment and supporting management with the investigation of complaints; and
- Intervening to stop harassment and/or bullying and give support to victims.

## **Members**

Members will have the following responsibilities:

- Compliance with the Policy; and
- Treating employees with dignity and respect.

## **7.8 Bullying and Harassment Complaints Procedure**

No employee need put up with bullying or harassment. Portland Town Council recognises that making a complaint may be a distressing experience, but all complaints will be taken seriously and dealt with in a sympathetic and sensitive manner.

If you feel that you are being bullied/harassed, the decision about how to pursue this will, in the first instance, rest solely with you. You have the right to redress through either the informal or formal procedure.

Only if the matter is brought to the attention of the alleged harasser/bully or the Town Clerk can action be taken to stop the behaviour.

In the interests of natural justice, a complaint should be made as close as possible to the date when the incident occurred. In a situation where, in your view, an accumulation of incidents merits a bullying/harassment complaint, this should be done as close as possible to the date when the 'final straw' incident took place.

### **7.8.1 Stage One**

If it is possible and appropriate to do so, you should ask the person who you feel is harassing or bullying you to stop such behaviour, making it clear that you find it offensive and it is unwelcome. This can be done face-to-face or in writing.

If you feel that you cannot approach the alleged harasser/bully alone then you may wish to ask a work colleague or trade union representative to accompany you.

It is possible that some people may not have realised that their behaviour was offensive and alerting them to it will alter their behaviour.

### **7.8.2 Stage Two**

If you feel unable to use the approach set out in Stage 1, or you feel that this is not appropriate, or if Stage 1 action fails to resolve your complaint then you can raise this formally if you wish.

In this case you will need to put your complaint in writing to the Town Clerk, giving details of the specific actions/incidents about which, you are complaining. Once you have done this the matter will be investigated under the Council's Grievance Procedure.

The Town Clerk will discuss your complaint with you. In line with the informal resolution stage set out in the Grievance Procedure, the Town Clerk will, if appropriate, explore with



you whether there are any informal measures that you feel able to pursue in order to attempt to resolve the situation before requesting that formal action is taken. These could include meetings with the alleged harasser/bully facilitated by the Town Clerk the Chairman, or a more structured mediation.

The formal process must, however, be followed if the particular 'offence' brought to the Council's attention is so serious that criminal prosecution may result.

If informal measures are not appropriate/successful or you wish to go straight to the formal process, the Town Clerk, or his/her representative, will thoroughly investigate the complaint in accordance with the Grievance Procedure.

The usual representation will apply to the alleged bully/harasser and you can be supported throughout the process by a work colleague or trade union representative.

In accordance with Portland Town Council's Grievance Procedure you will be invited to attend a hearing. You will be given written notification of the outcome of this hearing and will have the right of appeal.

Decisions will be made at/after the hearing about the appropriate actions to be taken. These could include taking disciplinary action against the bully/harasser; issuing management instructions; arranging mediation if both parties are willing to participate; making changes to working arrangements; or taking no further action.

It should be noted that if disciplinary action is taken against the alleged bully/harasser, you will be informed that disciplinary action is being taken but will not be informed of the outcome of this or have a right of appeal against the decision of the disciplinary panel. Nor do you have the right to raise a grievance about any decision affecting the harasser/bully following a disciplinary hearing or investigation.

## **7.9 Confidentiality**

Any complaint received, either formally or informally, will be treated with as much confidentiality as possible. However, in order to enable your complaint to be investigated and/or resolved the individuals concerned will have to be made aware of your complaint, and it may not be possible to do this without identifying you.

The knowledge that a complaint has been made will be restricted to the minimum number of people necessary to investigate what happened. All those involved in any complaint must respect this and ensure that they are sensitive to the needs of both the complainant and the alleged harasser/bully.

All involved in investigating a complaint will do so impartially and make no inferences that either party is at fault until the investigation is complete. Breaches in confidentiality may result in disciplinary action.

If the matter involves a complaint against the Town Clerk, you should inform the Chairman of the Staffing and Training Committee who will determine the most appropriate means of dealing properly with the complaint. Any complaint upheld should also then be reported to the Full Council as a confidential matter.

## **7.10 Complaints about Other Parties**

If the matter involves a complaint against a Councillor or member of the public regarding their behaviour or actions towards you whilst working for Portland Town Council, you should inform the Town Clerk in the first instance. Following investigation, a report will be submitted



to Staffing and Training Committee and if the complaint is upheld this will be forwarded to the Full Council for consideration of sanctions.

### **7.11 Malicious/Unfounded Complaints**

This procedure is designed to protect individuals who raise their concerns. It is accepted that some allegations may arise from genuine misunderstandings. However making a malicious and unfounded complaint may itself constitute harassment and be dealt with under the disciplinary procedure.

### **7.12 Protection and support for all those involved**

Staff who make complaints, report that they have witnessed wrongdoing, or who participate in good faith in any investigation must not suffer any form of retaliation or victimisation as a result. Anyone found to have retaliated against or victimised someone in this way will be subject to disciplinary action under our Disciplinary Procedure.

We will review this policy regularly and monitor its effectiveness. This will include monitoring the treatment and outcomes of any complaints of harassment, sexual harassment or victimisation we receive to ensure that they are properly investigated and resolved, those who report or act as witnesses are not victimised, repeat offenders are dealt with appropriately, cultural clashes are identified and resolved and workforce training is targeted where needed.

We offer access to confidential employee support/counselling, which is available on request for anyone affected by, or accused of, harassment/sexual harassment or bullying. The helpline number is 0800 028 0199.

Support and guidance can also be obtained from the following external services:

- a. The Equality Advisory and Support Service ([www.equalityadvisoryservice.com](http://www.equalityadvisoryservice.com)).
- b. Protect ([www.protect-advice.org.uk](http://www.protect-advice.org.uk)).
- c. Victim support ([www.victimsupport.org.uk](http://www.victimsupport.org.uk)).
- d. Rights of women (England and Wales) ([www.rightsofwomen.org.uk](http://www.rightsofwomen.org.uk)).

## **8. Grievances**

### **8.1 Introduction**

Portland Town Council recognises that from time to time individual employees may have a grievance relating to their employment.

Any written complaint or grievance raised which alleges that a member or co-opted member of the authority has failed to comply with the authority's Code of Conduct will be dealt with under the Code of Conduct Procedure.

The Council's policy is to ensure that employees who feel aggrieved about the way they have been treated, either by their colleagues or by management, are given every opportunity to express their views and have the issue they have raised resolved in a fair, timely and just manner.

Solutions to some issues will involve compromise and for that reason it may not be possible to resolve every issue to the total satisfaction of those concerned. Employees cannot raise a grievance in regard to disciplinary action being taken, refer to the section on disciplinary.

### **8.2 General Principles**

An employee has the right, at any stage of this grievance procedure, to be accompanied by a work colleague or union representative of his or her choice.

The normal starting point for anyone with a grievance will be at an informal level as detailed below. However, the individual may take their grievance to a superior nominated in the next stage of the process if they feel that their grievance has not been addressed sufficiently.

Time limits are provided to ensure prompt decisions. However, time limits may be modified by mutual agreement. Where a complainant fails to comply with a time limit the procedure will cease and the grievance will be considered settled or withdrawn. If a grievance is not dealt with by the Town Clerk or appropriate committee within the specified time limit, unless it is agreed that it was not reasonably practicable to do so, the complainant shall have the right to proceed to the next stage of the procedure.

At all stages, the employee, legal representatives and /or union representatives may be consulted by any of the parties concerned, for advice.

All cases dealt with under this procedure, whether formal or informal, will be conducted in strictest confidence, unless otherwise agreed by all parties.

Records will be kept detailing the nature of the grievance raised, the employer's response, any action taken and the reasons for it. Records will be kept confidential and retained in accordance with the General Data Protection Regulations, which require the release of certain data to individuals on their request. Copies of any meeting records will be made available to the individuals concerned although in certain circumstances some information may be withheld, for example to protect a witness.

In any case concerning the Town Clerk, the matter must be referred to the Chairman and overseen by the Chairman of the Staffing and Training Committee who is responsible for overseeing that the procedure is carried out appropriately.

## **8.3 Procedures**

### **8.3.1 Stage 1 - Informal Discussion**

An employee who has a grievance, should raise the matter with the Town Clerk immediately either verbally or in writing. The Town Clerk will investigate and will seek to resolve the matter within 5 working days, unless an extended period of time is agreed upon by both parties.

It is expected that the majority of concerns will be resolved at this stage, however, if the matter is not resolved to the satisfaction of the individual then a formal written grievance should be submitted to the Town Clerk.

### **8.3.2 Stage 2 – Formal Discussion**

The written grievance must be submitted to the Town Clerk within 10 working days of the original response to the employee's grievance. The Town Clerk will investigate the matter fully and meet with appropriate individuals. A written response to the grievance will be provided within 10 working days.

If the employee who raised the grievance does not consider that this written response constitutes a satisfactory resolution to their grievance, they may appeal to Staffing and Training Committee within 10 working days.

### **8.3.3 Stage 3 - Appeal**

The appeal must be made in writing to Chairman of the Staffing and Training Committee who will convene a Grievance Panel to review the case in consultation with, if appropriate and practicable, the employee, other relevant employees and Town Clerk.

The Chairman of the Staffing and Training Committee will respond in writing within 20 working days. This decision is final and there is no further right of appeal. However, where all parties agree that there would be some merit in referring the matter to a third party for advice, conciliation or arbitration, arrangements will then be made to find a mutually acceptable third party. All appeal outcomes will be reported to the Full Council as a confidential item.

## **8.4 Conduct of Grievance Meetings**

This procedure will be followed at all times

- The Chair for the meeting will detail the status of the hearing and explain the procedure to be followed.
- The grievance will be fully discussed, and if appropriate additional employees may be called forward to present supporting accounts.
- All parties will be given the opportunity to present their case, question the statements made and the witnesses.
- Both sides shall have the opportunity to sum up their position.
- One or both parties may be recalled after the meeting has closed if clarification on any point is required.
- At all stages the Chair of the meeting will consider whether the grievance is valid or invalid. If valid the Chair of the meeting will take the necessary action to resolve the grievance. This may include disciplinary action and in severe cases of harassment or bullying could result in dismissal.
- The person chairing the meeting will make their decision and notify the parties concerned, in writing, of the decision and the reasons for it within 10 working days.
- If the procedure is in Stages 1 or 2 the individual who raised the grievance will be informed of the right to appeal against the decision.

Notes will be taken at formal meetings held under Stages 1 to 3 of this procedure. A report of the full case will be made which will be kept on the member of staff's personnel file. All parties to the grievance may request a copy of the report. Requests to amend or make additions to the report will be noted.

### **8.5 Disputes**

A dispute is a collective grievance raised by more than one member of staff. It is in the interest of both the Council and its employees that disputes should be resolved fairly and quickly. If the dispute cannot initially be resolved in an informal manner, the same process as mentioned above will be followed, however consideration should be given as to whether the problem might be better raised and handled by the union on behalf of all the employees.

## **9. Disciplinary, Capability and Poor Performance**

This procedure is designed to help and encourage all employees to achieve and maintain acceptable standards of conduct and job performance. The aim is to ensure consistent and fair treatment for the individual. This procedure sets out the framework for resolving issues relating to misconduct and unsatisfactory performance in accordance with the Employment Rights Act 1996, Human Rights Act 1998, and the ACAS Code of Practice on Disciplinary Procedures.

This procedure applies to all employees except where it conflicts with a contractual or statutory requirement, which takes precedence.

### **9.1 General Principles**

The procedure is not a substitute for good management practices and should only be invoked when initial attempts to improve conduct have been made following discussions between the employee and the Town Clerk. However, where there has been gross misconduct or a serious breach of disciplinary rules, the formal procedure should be actioned immediately. No disciplinary action will be taken against an employee until the circumstances have been fully investigated.

The employee will be advised of the nature of the complaint against him or her and will be given the opportunity to state his or her case at the appropriate stage.

The employee has the right to be represented at disciplinary hearings and appeals.

In all instances of alleged misconduct, the employee will be given at least 5 working days' notice of the requirement to attend a hearing or appeal. Should the employee fail to attend without an acceptable reason, then the Chair of the hearing or appeal may proceed in the employee's absence.

Any disciplinary action taken will depend on the nature of the offence, the past recorded behaviour of the employee concerned, the consequence to the Council of the offence, and any explanation presented by the employee.

Employees have the right to appeal against any disciplinary warnings and dismissal.

### **9.2 Roles and Responsibilities**

Normally, the Town Clerk will consider minor disciplinary issues and resolve them, if they can, without recourse to the formal procedure.

Allegations of more serious misconduct or where a previous warning has been given but the required improvement has not been made should immediately be referred by the Town Clerk to the Chairman of the Staffing and Training Committee who will then be responsible for nominating an Investigating Officer. If the misconduct relates to the Town Clerk, this should be referred to the Chairman of the Staffing and Training Committee immediately, who will put together an internal investigation working group.

The Investigating Officer who carries out an investigation should not participate in any subsequent decision to take action under the procedure. Likewise, the Investigating Officer hearing the case should not be involved in the investigation beforehand. It is important that respective roles are identified at an early stage so that those roles are not compromised.

The Investigating Officer need not be the employee's supervisor or Town Clerk, although this would normally be the case.

Only the Town Clerk / Chairman has the right to suspend an employee and provide verbal or written warnings for minor misconduct.

### 9.3 Representation

Employees have the right to representation, either by a trade union representative or a work colleague, at the hearing and appeal stages of the formal procedure.

Representatives have the right to address the hearing or appeal. They may also ask questions and present the employee's case. However, they have no right to answer questions on the employee's behalf.

### 9.4 Informal Procedure

There is not always a need to follow the formal disciplinary procedure and where possible the matter should be resolved informally.

#### 9.4.1 Informal Advice and Guidance

Where a minor breach of acceptable/established standards of conduct occurs, which does not justify formal disciplinary action, the Town Clerk will advise the employee concerned of the conduct and the standard expected in the future. In many cases, this will provide sufficient encouragement for the employee not to commit further acts of misconduct.

The employee will be offered guidance, support, and additional training, where appropriate, to achieve the necessary standards. Representation will not normally be appropriate. The Town Clerk should make a note of such informal advice and guidance and should set out in writing the required improvements and standards of conduct that are expected in the future.

Records of informal advice/counselling should be kept on employee's personal files.

The formal procedure will apply when:

- Previous informal advice or warnings have proved ineffective;
- The allegation is of a serious nature; or
- A number of minor allegations are made which taken together constitute a serious breach of discipline.

### 9.5 The Formal Procedure

#### 9.5.1 Suspension

In some circumstances, the Town Clerk may consider suspension with pay, pending further investigation or until the disciplinary hearing takes place. Suspension may be appropriate where:

- Cases potentially involve gross misconduct;
- Relationships have broken down; or
- There is a risk to the employer's property or to other people.

An employee should be advised that suspension in itself does not constitute disciplinary action.

An employee should be advised in writing of the reasons for suspension. The period of suspension should not normally last for more than 20 working days. However, this period can be extended where necessary.

The decision regarding whether or not suspension is necessary can be reviewed at any time during the disciplinary process.

## 9.6 Investigation

Before any decision can be made about whether or not a disciplinary hearing is necessary, an investigation must take place. The Town Clerk should inform the Chairman of the Staffing and Training Committee of the suspension of an employee. The Chairman of the Staffing and Training Committee will then appoint an appropriate Investigating Officer (this could be an external adviser depending on the type of investigation and staff involved) who will report back with their findings and make recommendations as to whether a disciplinary hearing should be convened.

The responsibilities of the Investigating Officer are to collect evidence by interviewing any relevant witnesses and gathering all documentation. An Investigatory Interview will normally be held with the employee concerned. The purpose of the interview is to gather the employee's initial response to the allegations and to identify whether any further investigation is needed.

For the benefit of the employee and the Council, any investigation must be concluded within a reasonable timescale. If there is a delay in completing the investigation, it is the responsibility of the Investigating Officer to regularly update the employee or their representatives on the progress of the investigation.

Once the Investigating Officer has gathered all the relevant facts and reviewed the evidence, a report should be drafted to the Staffing and Training Committee recommending one of the following:

- Take no further action and inform the employee accordingly;
- Advise the arrangement of counselling, training, extra supervision, or written advice (as appropriate); or
- Arrange a disciplinary hearing.

## 9.7 Arranging a Hearing

If, following the recommendations of the Investigating Officer, the Chairman of the Staffing and Training committee concludes that a hearing is required then the necessary arrangements should be made by the Town Clerk. The employee will be given at least 5 working days' notice in writing. The letter should include a clear written statement of the allegation and should enclose any documentary evidence being relied upon and a reminder of the employee's right to be represented.

The Investigating Officer is responsible for presenting the case and making arrangements for any witnesses that he or she relies upon to attend the meeting.

The employee is responsible for arranging any representation they choose to have and any witnesses that they may wish to call. Details of any witnesses the employee intends to call and a copy of all documents that the employee may wish to refer to at the hearing must be submitted to the Investigating Officer at least 3 working days prior to the hearing.

## 9.8 Conducting a hearing

The Panel for a hearing will normally comprise of three members of Staffing and Training Committee and an independent HR representative to advise, if appropriate.

The objective is:

- To hear the evidence in respect of the allegation, the employee's response, and to decide whether or not the allegation is substantiated; and
- If the allegation is substantiated, to determine the disciplinary sanction to be applied in light of the seriousness of the offence and having regard to previous relevant disciplinary history.

The procedure to be followed is:

- Introduction of the Panel members and outline of their roles;
- Statement of the purpose of the hearing and the allegation;
- Presentation of the case by the Investigating Officer with witnesses called as necessary;
- Questions by employee or their representative;
- Questions by the Panel;
- Presentation of the case by the employee or their representative with witnesses called as necessary;
- Questions from Investigating Officer;
- Questions from Panel;
- Concluding statement by Investigating Officer;
- Concluding statement by employee or their representative;
- Adjournment of the Panel to make their decision;

The Panel reconvenes, and the employee/representative is informed of the decision and, if necessary, their rights of appeal.

Requests for an adjournment can be made at any stage and it is up to the Chair to decide whether or not a request should be granted.

The decision of the Panel will be confirmed to the employee in writing within 5 working days. The letter should clearly set out:

- The Panel's decision;
- The length of time that any warning will be active for;
- The expected improvement in conduct;
- Any assistance that will be provided to achieve this; and
- The employee's right to appeal.

## **9.9 Levels of Disciplinary Action**

In determining the appropriate disciplinary action, regard should be given to the employee's previous record, the gravity of the offence, and any explanation given.

Although the procedure implies a sequential approach, there may be certain circumstances where the matter needs to be considered immediately under Stages 2, 3, or 4.

Please see page 62 for a table layout of the Stages, Outcomes and Descriptions.



### 9.9.1 Disciplinary Action Table.

| Stage   | Outcome                  | Description                                                                                                                                                                                                   |
|---------|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Stage 1 | First Written Warning    | For a more serious offence or where a previous warning to the employee has not resulted in the required improvement to their conduct.                                                                         |
| Stage 2 | Final Written Warning    | For a sufficiently serious offence, which might warrant only one written warning, but is insufficiently serious to justify dismissal, or where previous warnings have been ineffective.                       |
| Stage 3 | Dismissal with notice    | For an act or acts of misconduct, other than gross misconduct, by an employee who is under a written or final written warning. The employee will be liable to dismissal with notice or pay in lieu of notice. |
| Stage 4 | Dismissal without notice | In cases where gross misconduct is established, the employee will be liable to summary dismissal, i.e. without notice or pay in lieu of notice.                                                               |

### 9.10 Types of Gross Misconduct

Unacceptable conduct, which may be regarded as gross misconduct, is likely to lead to an immediate Stage 4 disciplinary process and an employee's summary dismissal.

This means dismissal without notice and occurs when the employment relationship between the Council and employee, and the trust which is inherent in that, is irrevocably broken.

The list below gives examples of actions likely to be regarded as gross misconduct and is not exhaustive.

- Refusing to follow reasonable management instructions;
- Theft from the Council, its Members, employees, or the public;
- Physical assault or verbal abuse;
- Fraud or deliberate falsification of records;
- Falsification of qualifications;
- Serious negligence which causes unacceptable loss, injury, or damage;
- Serious acts of insubordination;
- Serious breach of confidence;
- Use of privileged information for personal gain;
- Malicious damage to the Council's property;
- Sexual misconduct at work;

- Unlawful discrimination, victimisation, including sexual harassment, or victimisation;
- Serious breaches of safety rules;
- Serious incapability through alcohol or drugs;
- Accessing or distributing pornography on the Council's IT facilities.

### **9.11 Training**

Appropriate training will be given to the Town Clerk or any Members who might be involved in disciplinary or appeals meetings to ensure that they fulfil their responsibilities under this procedure.

### **9.12 Scope**

Where there are issues of misconduct or of negligence, these will be dealt with under the Disciplinary Procedure. For matters of sickness, disability, or ill health, the Absence Management Policy will be used.

### **9.13 General Principles**

The disciplinary procedure is not a substitute for good management practices. It should only be invoked when initial attempts to improve performance have been unsuccessful following discussions between the employee and the Town Clerk.

The employee must be given at least 5 working days' notice of the requirement to attend a formal review meeting or an appeal.

The employee has the right to be represented at formal review meetings or appeals. In the event of a formal warning or a dismissal, the employee has the right of appeal.

### **9.14 Related Procedures**

When using the disciplinary procedure, it may be necessary to refer to the contents of other agreed documents such as:

- The Equalities Policy
- The Grievance Procedure
- The Absence Management Policy
- Other conditions set out in the Staff Handbook

### **9.15 Representation**

Employees have the right to representation at hearings and appeals relating to any stage of the formal procedure. This can be a trade union representative, non-union employee representative, or a work colleague.

Representatives can take an active part in review meetings.

### **9.16 Action against a Trade Union Official**

In normal circumstances no action will be taken against an officer of a recognised Trade Union until the matter has been discussed with a full-time officer of that union.

### **9.17 The Capability Procedure**

The Town Clerk should deal with minor issues of poor performance, through the Capability procedure in the first instance before, any disciplinary process is considered. An Informal procedure should be undertaken initially with progression to a formal procedure if improvements are not recorded.

#### **9.17.1 Informal Procedure**

A meeting with the employee to discuss poor performance should be arranged and any problems or areas for concern should be raised by the Town Clerk.

Appropriate support and training should be discussed and offered to assist the individual towards meeting the required standards in the future. Realistic targets should be agreed with the individual and future expectations made clear by the Town Clerk.

The Town Clerk will record the points discussed in the meeting and confirm this in writing to the employee along with the agreed plan to achieve acceptable levels of performance.

A review meeting should be arranged within 2 months to assess whether the targets have been met and whether the performance is satisfactory.

In most cases, these meetings should provide sufficient guidance, support, and clarification of standards to rectify the situation.

However, the formal procedure will apply when:

- Previous informal advice or guidance has proved ineffective; or
- The performance is so poor that informal discussions are unlikely to help.

### **9.17.2 The Formal Review**

If informal discussions have proved unsuccessful in raising performance levels to the standards set by the Town Clerk, then the formal procedure will be invoked. There are three stages to the formal procedure. The employee has the right of representation at each stage. During each stage, the employee's performance will be monitored closely. The method of doing this will be made clear to them at the conclusion of each review meeting.

The review is undertaken over 3 Stages and this mirrors those of the Disciplinary Process. If the review proceeds to a Stage 3 level then this is the equivalent to a written warning and any subsequent failures to improve their performance may result in dismissal.

#### **Stage 1: The Capability Review**

The Capability Review should build on the informal discussions. It should be sufficiently specific so that the employee knows exactly what it is about their performance that is unsatisfactory and how they can improve to the required standard.

The Town Clerk will carry out the first 2 stages of the Review. The review has four main purposes:

- To allow the Town Clerk to discuss with the employee:
  - the standards of work required;
  - what improvement is necessary;
  - how the employee can be helped to achieve them; and (iv) how improvement will be assessed and the timescale which must be reasonable.
- To allow the employee to:
  - obtain a clear understanding of what is expected of them;
  - give an explanation or comment on their work; and
  - give their views on how the problem can best be tackled.
- To allow the Town Clerk and the employee to explore other options, such as:
  - additional instruction, training, or personal development activity; or referral to occupational health, which may involve alternative action under the Council's Absence Management Policy.
- To make clear to the employee:
  - the timescale for improvement;
  - how and by whom their work will be monitored during the review period; and

the consequences if their work does not improve or if improvement is not maintained.

Ideally, standards of performance should be agreed between the Town Clerk and employee. However, in the absence of such an agreement, the Town Clerk must satisfy himself or herself that any targets set are reasonable and non-discriminatory. If training has already been given, then its effectiveness should be reviewed and any further training and support agreed.

If the Town Clerk is satisfied at the conclusion of the review that there is a shortfall in performance, the employee will be issued with a formal warning and an action plan, including timescales, to achieve.

It will also be made clear that failure to achieve the action plan will lead to Stage 2 of the formal procedure. The length of time given to improve will depend on the nature of the job and the performance gap but in normal circumstances it should not be more than 3 months. The Town Clerk should confirm the outcome of the meeting in writing to the individual within 5 working days.

### **Stage 2 – The Capability Review**

If the employee fails to achieve the standards or the timescales set out in the action plan then Stage 2 of the procedure is invoked. This involves a further review based on the same structure as Stage 1.

Stage 2 of the Capability Review will be conducted by the Town Clerk. If it is concluded that there is still a performance issue to be addressed, a further formal warning should be issued along with an action plan giving details of the standards of performance required and the timescales within which these must be achieved.

The employee should be reminded that if the action plan is not achieved, then Stage 3 will be invoked. Again, the length of time given to improve will depend on the nature of the job and the performance gap but in normal circumstances should not be more than 3 months. A letter to confirm the outcome of the meeting should be sent to the employee within 5 working days, it should also explain the employee's right to appeal against any warning issued.

### **Stage 3 – The Final Capability Review**

The Final Capability Review will be heard by three members from the Staffing and Training Committee and is the equivalent to a written warning. Failure to act on the outcome of this Stage 3 review could result in dismissal.

The Town Clerk who conducted Stages 1 and 2 should also be present to provide details of the previous review meetings and of the steps taken to encourage improvement in the employee's performance. The employee will have the opportunity to respond and put forward any points they wish to be considered.

If progress is unsatisfactory then consideration should be given to any alternatives to dismissal such as redeployment or options of downgrading. However, this may not always be possible and will depend on each individual situation and the circumstances of Portland Town Council at the time. A further period of 30 days will be given to the employee during which time they will have very clear and defined targets to meet, these will be issued to them in writing and a date set for a Capability decision meeting.

### **Stage 4 – Capability decision**

The panel from Stage 3 will re-convene and if they consider that the employee's performance still remains unsatisfactory and that the targets set at Stage 3 have not been met, they must inform the employee that their employment is terminated on the grounds of capability.

The employee's dismissal will be with notice or, if serving their notice period is not in the interests of the Council, they will receive pay in lieu of notice. The dismissal must be confirmed in writing within 5 working days, stating the reasons for it, and informing the employee of their right of appeal.

## **10 Complaints**

### **10.1 Informal Complaints**

Complaints may be given orally or in writing to any Officer or Councillor. Where the complaint is about the Town Clerk, the complaint should be notified to the Chairman of the Council.

The complainant should be offered a copy of the Council's Code of Practice for Handling Complaints at this stage.

It is hoped that the complaint can be dealt with at an informal local level in consultation with the employee to whom it refers. The response should be given to the complainant within 3 working days.

If after receiving the response, the complainant remains unhappy, they can escalate the matter to a Formal Complaint.

In the event of a seemingly serial facetious, vexatious or malicious complaint from a member of the public, the Council should consider taking legal advice before writing any letters to the complainant.

### **10.2 Formal Complaints**

If the complainant feels very strongly about a matter, they may lodge a Formal Complaint with the Council and this should be submitted in writing to the Town Clerk. Where the complaint is about the Town Clerk, the complaint should be notified to the Chairman of the Council.

The letter must state that a Formal Complaint is being made and include the following information:

- Name, address, and telephone number of the complainant
- Who is the complaint about or the full nature of what the complaint is about
- How the issue has affected the complainant
- Copies of any relevant documents
- Details of third parties and their involvement
- What action the complainant believes might resolve the complaint

Receipt of the letter will be acknowledged within 2 working days and the complainant advised that the Town Clerk will investigate the complaint and respond within 10 working days. The complainant should be offered a copy of the Council's Code of Practice for Handling Complaints and a meeting with the complainant may be considered appropriate at this stage.

Any complaint about a Council employee will normally be dealt with as an employment matter in accordance with the employee's Contract of Employment and the Council's disciplinary and capability procedures.

### **10.3 Complaints Committee**

If the complainant feels that the matter has not been resolved fully after lodging a Formal Complaint to the Town Clerk, then they may request in writing that a Complaints Committee is convened to consider the complaint. A Complaints Committee will consist of three members of the Staffing and Training Committee and the Town Clerk (if the complaint relates to the Town Clerk then the Chairman will sit in their place).

On receipt of the written complaint, the Town Clerk will acknowledge the letter and advise that the Complaints Committee will call a meeting to discuss the complaint within 21 days of receipt of the letter. On receipt of the written complaint, the Town Clerk will acknowledge the letter and advise that the Complaints Committee will call a meeting to discuss the complaint within 21 days of receipt of the letter.

The complainant will be notified of the date of the meeting and asked for their comments, evidence and documentation in writing prior to the meeting. They or their representative will be able to address the Committee however must leave the room whilst the Committee considers the complaint and its decision and response. The Committee must establish at its meeting whether there is a factual basis to the complaint and, if so, what action should then be taken.

Once a decision has been made the complainant will be advised verbally and within 7 days, the recommendations of the Committee will be sent in writing to the complainant. The Council may defer dealing with any complaint if it is of the opinion that issues arise on which further advice is necessary. The complainant will be advised in writing of this delay. The advice will be considered, and the complaint dealt with at the next appropriate meeting.

#### **10.4 Appeals**

The Council will appoint a separate Appeal Panel to whom a complainant may appeal against the decision of the Complaints Committee. The membership of the Appeal Panel will not include any member of the Complaints Committee, nor any Councillor involved in the original complaint.

Requests to refer the decision of the Complaints Committee to the Appeal Panel must be made in writing to either the Town Clerk or Chairman of the Council within 10 working days of receipt of the decision letter.

An appeal hearing will be arranged within 20 working days of receipt of the appeal letter. A meeting of the appeal Panel will convene to investigate the whole complaint again. The Appeal Panel must follow the same procedure as the Complaints panel which is outlined in the Code of Practice for Handling Complaints.

The Chairman of the Appeals Committee will respond in writing within 20 working days. This decision is final and there is no further right of appeal. However, where all parties agree that there would be some merit in referring the matter to a third party for advice, conciliation or arbitration, arrangements will then be made to find a mutually acceptable third party.

#### **10.5 Recording of Complaints**

For future reference and in the interest of continually improving the Council's service, also for the sake of transparency of the Council), when complaints have been dealt with under the Complaints Procedure, it will be recorded by the Town Clerk. The name of the complainant will be reported only if they have given their consent to be mentioned. The record should note the nature of the complaint, the reasons for the decisions made and what actions might need to be taken in the future (if any).

## **11. Equality and Diversity**

Portland Town Council is an Equal Opportunities employer.

### **11.1 The Policy**

Portland Town Council is committed to be an effective Equal Opportunities organisation. This means that the Council will do everything in its power to ensure that everyone is treated fairly and with respect at all times.

This applies to all areas of the Council's activities; including recruitment, employment, and provision of Council services.

### **11.2 As an Employer**

We will provide equality and fairness for all in our employment and will not discriminate on grounds of:

- Age;
- Disability;
- Sex or gender;
- Gender reassignment;
- Marriage and civil partnership;
- Pregnancy and maternity;
- Race (including ethnic origin, skin colour, nationality, and national origin);
- Religion or belief; or
- Sexual orientation

All employees will be treated fairly and with respect regardless of position, part-time/full-time working, or length of contract. Selection for employment, promotion, training, or any other benefit will be on the basis of aptitude and ability.

All employees are required to treat one another with mutual respect. Actions, behaviour, and attitudes should consistently demonstrate respect for the dignity and worth of an individual. Harassment and discrimination in any form is unacceptable behaviour and offenders will be subject to disciplinary action.

### **11.3 As a Service Provider**

The Council will strive to ensure that all services provided by, or on behalf of, the Council are made accessible to all individuals and groups equally and without discrimination.

All service users will be treated with respect. Actions, behaviour, and attitudes will consistently demonstrate respect for the dignity and worth of an individual.

The Council will, wherever appropriate, work in partnership with other agencies in the area; including the relevant unitary, county, district, and borough councils, voluntary groups, and community organisations to promote equal opportunities.

The Council will ensure that all contractors directly supplying goods and services or executing works for, or on behalf of, the Council comply with this Council's stated policy on equal opportunities.



## **11.4 Menopause Policy**

We are committed to supporting staff affected by the menopause. We recognise that many members of staff will experience the menopause and that, for some, menopause will have an adverse impact on their working lives.

All women will experience menopause at some point during their life. Menopause can also impact trans and non-binary people who may not identify as female. Most of those who experience menopause will do so between the ages of 45 and 55. However, some start experiencing symptoms much earlier. Often, symptoms last between four to eight years, but they can continue for longer.

The majority of those going through menopause will experience some symptoms, although everyone is different and symptoms can fluctuate. Symptoms can include, but are not limited to, sleeplessness, hot flushes, memory loss or poor concentration, headaches, muscle and joint pains, depression and anxiety.

Menopause is preceded by perimenopause, during which the body prepares itself for menopause. Perimenopause can also last several years and can involve similar symptoms to menopause itself. For the purpose of this policy, any reference to menopause includes perimenopause.

### **Open Conversations**

Menopause is not just an issue for women. All staff should be aware of menopause so that they can support those experiencing it or otherwise affected by it.

We encourage an environment in which colleagues can have open conversations about menopause. We expect all staff to be supportive of colleagues who may be affected by menopause in the workplace.

Anyone affected by menopause should feel confident to talk to their line manager or the Town Clerk about their symptoms and the support they may need to reduce the difficulties menopause can cause them at work.

Line managers and the Town Clerk should be ready to have open conversations with staff about menopause and what support is available. These conversations should be treated sensitively and any information provided should be handled confidentially and in accordance with our Data Protection Policy.

### **Risk Assessments**

We are committed to ensuring the health and safety of all our staff and will consider any aspects of the working environment that may worsen menopausal symptoms. This may include identifying and addressing specific risks to the health and well-being of those experiencing menopause.

### **Support and Adjustments**

While many who experience menopause are able to carry on their working lives as normal, we recognise that others may benefit from adjustments to their working conditions to mitigate the impact of menopause symptoms on their work. If you believe that you would benefit from adjustments or other support, you should speak to your line manager or the Town Clerk. Physical adjustments could include temperature control, provision of electric fans or access to rest facilities. Depending on individual and business needs, adjustments such as flexible working, we may also consider more frequent rest breaks or changes to work allocation. These are examples only and not an exhaustive list.

We may refer you to a doctor nominated by us or seek medical advice from your GP to better understand any adjustments and other support that may help alleviate symptoms affecting you at work.

If you need additional support, you also have access to our confidential employee support helpline: 0800 028 0199.

## **11.5 The Policy in Action**

### **11.5.1 As an Employer**

The Council aims to achieve the policy by:

- Ensuring that its employees are made aware of their rights and responsibilities to each other, the customer, and the organisation regarding equal opportunities issues;
- Providing a way in which individuals can communicate any concerns via competent named personnel;
- Treating any unacceptable behaviour seriously; and
- Ensuring that the Town Clerk realises they have a key role in implementing this policy and are expected to take personal responsibility for ensuring its success.

### **11.5.2 As a Service Provider**

The Council aims to achieve its policy by:

- Ensuring that employees are made aware of the Council's standards of service and customer care, including equal treatment in service delivery;
- Ensuring that no member of the public is disadvantaged or treated less favourably than others in terms of access to Council services. Where the Council's practices, policies, or procedures are found to make access impossible or unreasonably difficult, we will take such steps as are reasonable in the circumstances to change these practices, policies or procedures;
- Ensuring that, wherever practical, all public buildings and premises owned, managed or used by the Council to undertake their business are accessible to all. Where this is impractical, we will arrange for public meetings to be held in accessible venues and (where specifically requested) hold any private pre-arranged meetings with Council staff or Members in an alternative venue to maximise accessibility of those attending.
- Recognising the importance of communication in attaining equality and providing quality services, which are responsive to the needs of all local people, for example through the provision of information in large print and on audio tape on request; and
- Complying with all relevant legislation relating to discrimination and equality.

## **11.6 Role of Councillors and Employees**

All Councillors and employees are responsible for implementing the Council's Equality Policy. It is important that all individuals who are employed by the Council appreciate that they have a responsibility and a role to play in the provision of equal opportunities.

## **11.7 Monitoring of Equal Opportunities**

The Council's Staffing and Training Committee will have responsibility for the implementation and monitoring of the policy as it applies to the Council as an employer and service provider. Local Community and Voluntary groups along with all stakeholders who work with the Council on a project should ensure that they comply with the Policy at all times.

Any Contractors employed by the Council should agree to comply with the Policy before beginning work. A record should be kept by the Town Clerk of this agreement to comply.

Complaints from staff about discrimination or unfair treatment will be dealt with as laid down in the Council's Grievance Procedure.

Complaints from members of the public about discrimination or unfair treatment will be dealt with through the Council's Complaints Procedure.

## **12. Trade Union Recognition**

Portland Town Council recognises the right for employees to join a Trade Union, and that it is to mutual benefit of the Council and its employees that employees are represented by Trade Unions.

This Council is committed, locally and nationally, to the principle of collective bargaining, and the important role of Trade Unions in promoting good employee relations and health and safety practices.

This Council recognises the right of employees to be represented by their Trade Union official for Grievance, Disciplinary, Capability and Poor Performance hearings.

## **13. General Information**

### **13.1 Freedom of Information and Data Protection**

The Freedom of Information Act 2000 gives people the right to obtain information held by public authorities unless there are good reasons to keep it confidential. As a result of the Publication Scheme Development and Maintenance Initiative, the Information Commissioner's Office (ICO) introduced a model publication scheme that all public-sector organisations must have adopted from 1 January 2009. Portland Town Council has adopted the model publication scheme.

Councils must produce a guide to the specific information they hold and ensure that the information can be easily identified and accessed by the general public. Some exemptions do apply.

The Council is also bound by the General Data Protection Regulations in all its dealings. This Act requires anyone who handles personal information to comply with a number of important principles. It also gives individuals rights over their personal information.

The Council will process personal data and sensitive personal data (also known as 'special categories of personal data') relating to you in accordance with its Data Protection Policy and Data Protection Privacy Notice (provided to you separately), as well as in accordance with the relevant data protection legislation.

The Council may monitor staff in accordance with its policies relating to email, internet and communications systems and monitoring at work and in accordance with the relevant data protection legislation.

You will comply with your obligations under our data protection policy and other relevant policies as directed.

The ICO has legal powers to ensure that organisations comply with the requirements of the Freedom of Information Act and the General Data Protection Regulations. Further details on these matters can be found in the separate Council Information and Records Management Policy.

### **13.2 Council Property**

Use of Council property for a purpose other than normal duties is not permitted. No property is to be taken away from Council premises without prior explicit permission. Any damage to the property, equipment or premises must be notified to the Town Clerk immediately.

### **13.3 Health, Safety and Welfare**

Portland Town Council recognises and accepts its responsibility as an employer for providing a safe and healthy working and operating environment and for taking all due care to protect the safety of its employees and members of public who use its facilities.

All employees and Councillors are reminded of their duty to take reasonable care of themselves and others who may be affected by their acts or omissions, and to ensure compliance with the statutory duties placed on them.

Anyone suspecting that the Health and Safety Policy is being breached should contact the Town Clerk or Chairman as a matter of urgency.

For further information, refer to the comprehensive Council's Health and Safety Policy.

### **13.4 Business Continuity Planning**

Business Continuity Planning (BCP) is sometimes also known as Disaster Recovery Planning. BCP is the creation and validation of a practiced logistical plan for how the Council will remain operational during and after a disaster, emergency or extended disruption. Disaster incidents include local incidents like building fires, criminal activity, or serious ICT system failure, regional incidents include floods, earthquakes and national incidents such as pandemic illnesses.

The Council takes its obligations and services very seriously, and in this respect had identified its key risks, undertaken risk analysis and planned steps to minimise the potential impact of a disaster, and ideally prevent it happening in the first place.

For more information refer to the Business Continuity Policy and Portland Emergency Plan.