

# Joint Staff Advisory Committee

## 7 December 2020

**Time:** 2.30pm

**PLEASE NOTE:** This will be a 'virtual meeting', held remotely in accordance with section 78 of the Coronavirus Act 2020 and section 13 of the related regulations.

Members of the press and public can view the meeting by clicking on the link provided on the agenda page on the Council's website or calling the number provided.

Instructions for members of the committee, officers and other participants to join the meeting have been circulated separately.

### **Membership:**

**Councillors:** Chris Collier, Stephen Holt, Jane Lamb, Isabelle Linington, James MacCleary and Colin Swansborough

**Staff Representatives:** Chris Earp (Unison), Adediran Kujore (Unison), Linda Farley (Staff Group Representative) and Hilary Mitchell (Staff Group Representative)

**Quorum:** 3 (1 Councillor from each Council and 1 Staff Representative)

*Published: Thursday, 26 November 2020*

## Agenda

### **1 Election of Chair**

To elect a Chair of the Joint Staff Advisory Committee for the remainder of the 2020/2021 municipal year.

### **2 Election of Vice-Chair**

To elect a Vice-Chair of the Joint Staff Advisory Committee for the remainder of the 2020/2021 municipal year.

### **3 Introductions**

### **4 Apologies for absence/Declaration of substitute members**

### **5 Declarations of interest**

Disclosure by councillors of personal interests in matters on the agenda, the nature of any interest and whether the councillor regards the interest as prejudicial under the terms of the Code of Conduct.

## **6 Urgent items**

Items not on the agenda which the Chair of the meeting is of the opinion should be considered as a matter of urgency by reason of special circumstances as defined in Section 100B(4)(b) of the Local Government Act 1972.

## **7 2nd Quarter 2020/21 Accident Report (Pages 5 - 12)**

Presentation by the Specialist Advisor - Health and Safety

## **8 Capability Policy (Pages 13 - 38)**

Report of Head of Human Resources

## **9 Disciplinary Policy (Pages 39 - 72)**

Report of Head of Human Resources

## **10 Exclusion of the public and press**

To consider, under Section 100(A) of the Local Government Act 1972 (as amended), excluding the public and press from the meeting during the discussion of items 11, 12 and 13 on this agenda as there are likely to be disclosures of exempt information as defined in paragraphs 1, 2 and 4 of Part 1 of Schedule 12A of the Act.

## **11 Sickness Absence Quarter 4 2019/20 and Quarters 1 and 2 2020/21 (Pages 73 - 108)**

Report of Head of Human Resources

## **12 Consideration of matters raised by the employees' side**

To consider any matters raised by the employees' side in respect of the items on this agenda.

## **13 Consideration of health and safety matters raised by the employees' side**

To consider any matters raised by the employees' side in respect of health and safety.

## **14 Date of next meeting**

To note that the next meeting of the Joint Staff Advisory Committee which is scheduled to commence at 2:30pm on Wednesday, 3 March 2021, will take place in a virtual capacity, via Microsoft Teams, and in accordance with section 78 of the Coronavirus Act 2020 and section 13 of the related regulations.

## Information for Councillors

**Disclosure of interests:** Members should declare their interest in a matter at the beginning of the meeting.

In the case of a disclosable pecuniary interest (DPI), if the interest is not registered (nor the subject of a pending notification) details of the nature of the interest must be reported to the meeting by the member and subsequently notified in writing to the Monitoring Officer within 28 days.

If a member has a DPI or other prejudicial interest he/she must leave the room when the matter is being considered (unless he/she has obtained a dispensation).

## Democratic Services

For any further queries regarding this agenda or notification of apologies please contact Democratic Services.

**Email:** [committees@lewes-eastbourne.gov.uk](mailto:committees@lewes-eastbourne.gov.uk)

**Telephone:** 01323 410000

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# 2nd Quarter Accident Report

2020/21

1<sup>st</sup> July – 30<sup>th</sup> September

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Lewes District Council



Working in partnership with **Eastbourne Homes**

# Background to 2nd Quarter Coronavirus Pandemic

## **23<sup>rd</sup> March**

National Lockdown begins all but essential Council services suspended.  
Majority of staff working from home.

## **10<sup>th</sup> May**

Lockdown easing begins, Council moves into the restart phase where services slowly re-open with extra control measures in place.

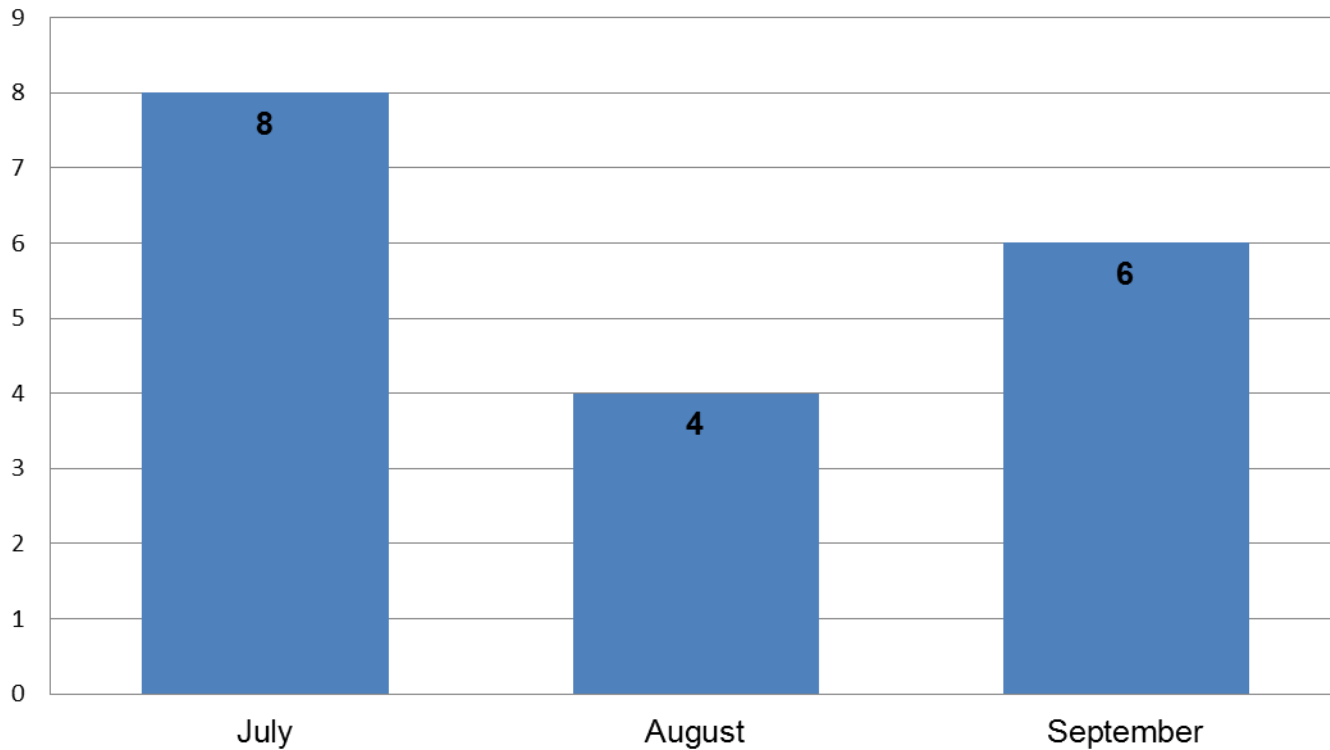
## **June – September**

Lockdown eases further though many restrictions remain in place. The Council has moved to the Recovery and Reset phase, with most services running as normal with the exception of Council Receptions, Theatres and other Tourism venues that see large numbers of the public.

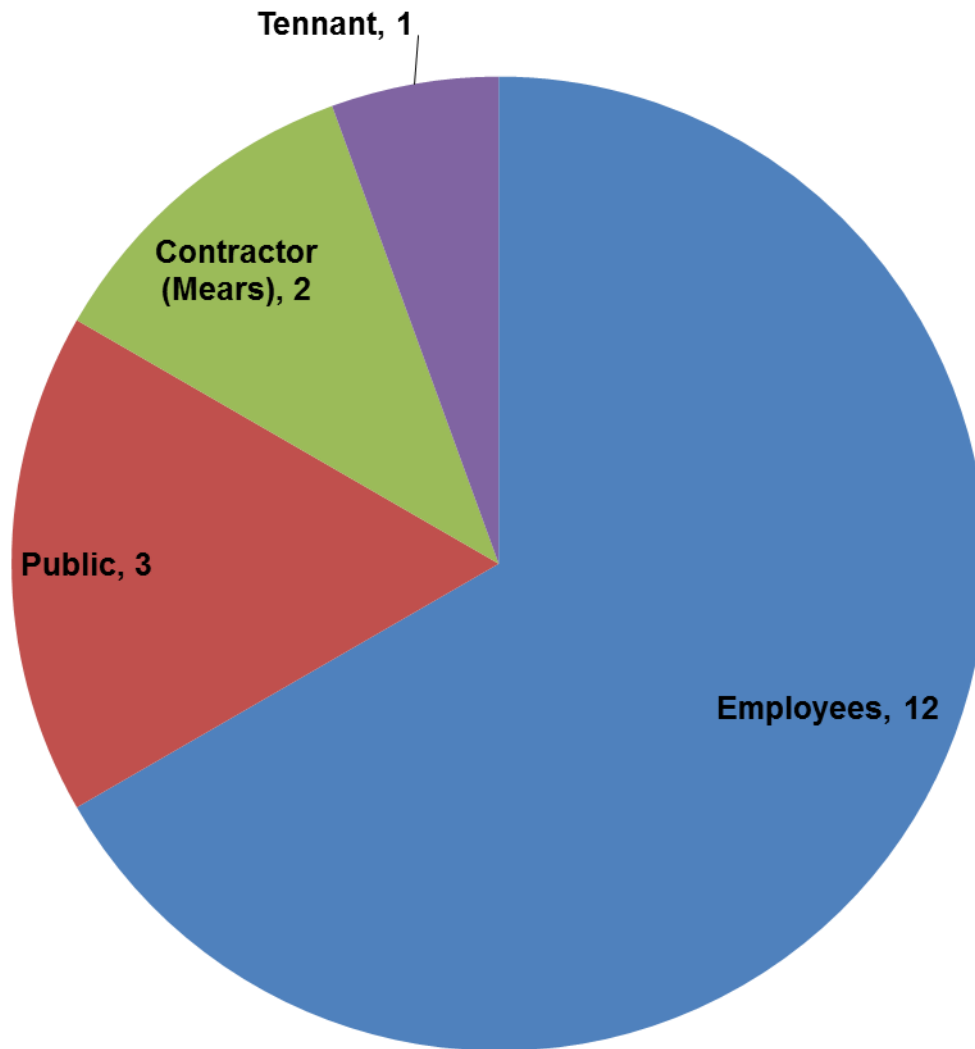
# 2nd Quarter – 1<sup>st</sup> July to 30<sup>th</sup> September 2020

TOTAL: 18

## Incidents by Month



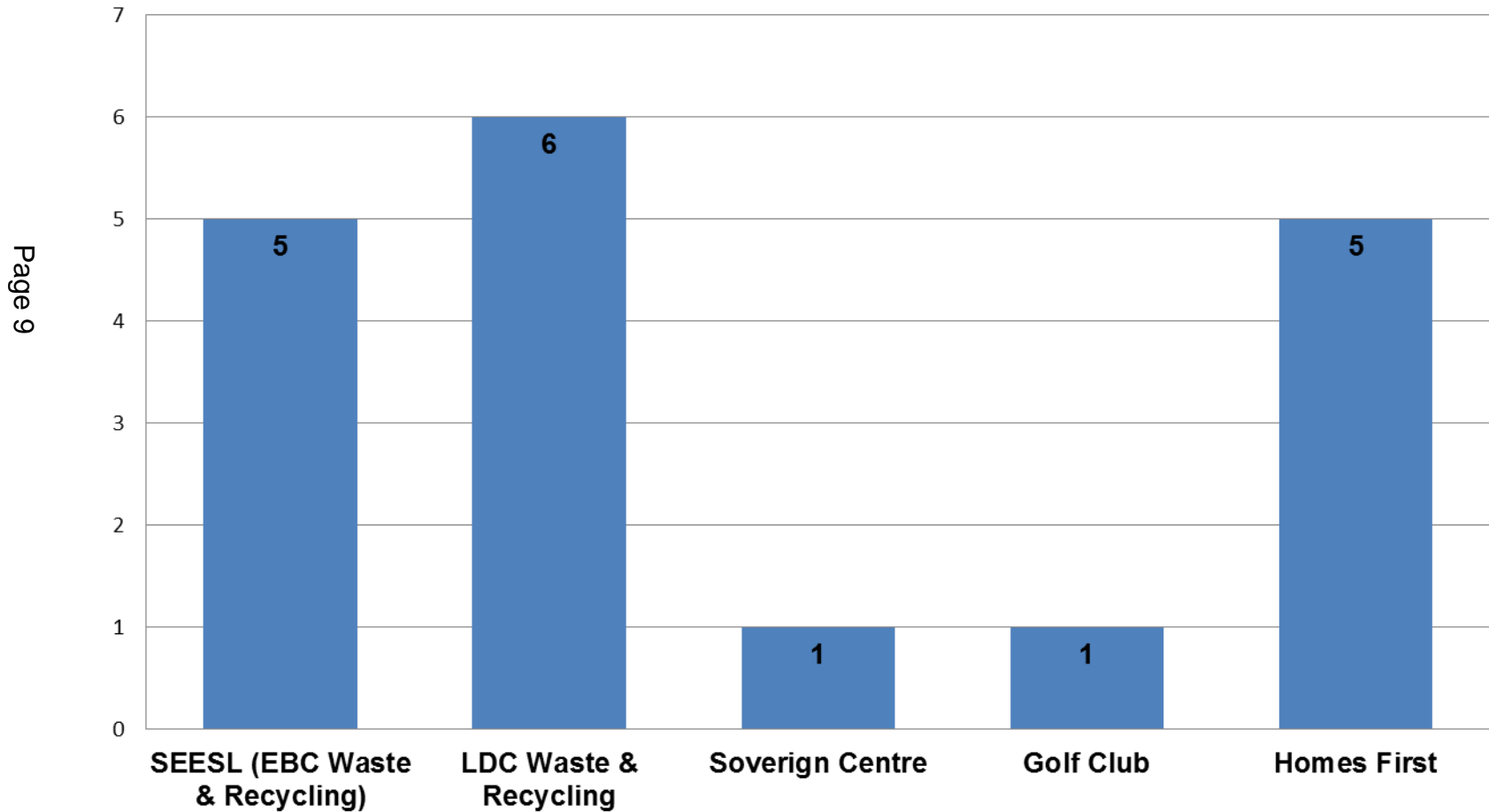
# Incident by person type





# Number of Incidents by Business Area

## Incidents by Business Area



# Reports by Cause

	EBC Waste	LDC Waste	Sovereign Centre	Golf Club	Homes First	TOTAL
Slips, trips & falls	1	2		1	4	8
Sports Injury			1			1
Manual Handling		2				2
Sharps	1					1
Anti-social behaviour	1					1
Dangerous Driving (Public)	1					1
Animal Attack	1					1
Vehicle Damage		1				1
Fire		1				1
Hit Static Object					1	1

Page 10

**RIDDOR** (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations)

**1 Specified injury in Waste and Recycling. Reportable to the HSE as it resulted in a fracture.**

# Notable Occurrences

## SEESL

### **Assault/Anti-social behaviour**

**Actions:** Reminder to teams to report any anti-social behaviour or verbal abuse. Reminder of procedure, which is to remove self from the situation where possible and report to supervisor. If an immediate threat is perceived the police should be called.

### **Dangerous driving by a Taxi that could have caused injury.**

**Actions:** Coms to remind public to take care. Incident reported to the licensing department.

## LDC Waste

**Bin overbalanced when wheel went off edge of a path. Operative suffered a fractured wrist.**

**Actions:** Piece of work to provide refresher training to all staff on correct handling techniques. To include what to do if a bin does start to overbalance and dynamic assessments of ground conditions.

## Homes First

### **Tenant tripped over loose paving slab**

**Action:** Reported to Mears who will action the repair

# Comparison to 2Q 2019/20

(For a fair comparison business areas that are closed/were not operational during quarter have been removed)

	2Q 2019/20	2Q 2020/21
<b>LDC Waste</b>	14	6
<b>EBC Waste</b>	3	5
<b>Golf Club</b>	0	1
<b>Sovereign Centre</b>	X	1
<b>Seafront Services</b>	1	0
<b>Playgrounds</b>	1	0
<b>Neighbourhood First</b>	1	0
<b>Parks and Open Spaces</b>	1	0
<b>Offices</b>	3	0
<b>Winter Garden (Frontage)</b>	1	0
<b>Homes First</b>	1	5
<b>Road Traffic Collision (Grey Fleet*)</b>	1	0
<b>TOTAL</b>	<b>27</b>	<b>18</b>

X The Sovereign Centre Accidents were managed by Serco in 2019

\*Grey Fleet is a term used to describe employees using their own vehicles for business purposes. The accident happened whilst the employee was on their way to a visit.

<b>Report to:</b>	<b>Joint Staff Advisory Committee</b>
<b>Date:</b>	<b>7 December 2020</b>
<b>Title:</b>	<b>Capability Policy</b>
<b>Report of:</b>	<b>Helen Knight, Head of HR</b>
<b>Ward(s):</b>	<b>All</b>
<b>Purpose of report:</b>	<b>To align the policies of Lewes District and Eastbourne Borough Councils regarding the Councils' disciplinary process and procedure.</b>
<b>Officer recommendation(s):</b>	<b>(1) To note the new policy.</b>
<b>Reasons for recommendations:</b>	<b>To ensure that the Councils have an aligned capability procedure.</b>
<b>Contact Officer(s):</b>	<b>Name: Helen Knight Post title: Head of HR E-mail: <a href="mailto:helen.knight@lewes-eastbourne.gov.uk">helen.knight@lewes-eastbourne.gov.uk</a> Telephone number: 07966 645102</b>
	<b>Name: Becky Cooke Post title: Assistant Director for HR and Transformation E-mail: <a href="mailto:becky.cooke@lewes-eastbourne.gov.uk">becky.cooke@lewes-eastbourne.gov.uk</a> Telephone number: 01323 415106 or internally on extension 5106.</b>

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## 1 Introduction

- 1.1 Lewes District and Eastbourne Borough Councils have jointly committed to bringing policies and procedures together as part of the Joint Transformation Programme (JTP) which is an important step towards aligning our people and business practices.
- 1.2 There are no significant changes to the policies previously held by both councils although previously Lewes District had capability referenced within the disciplinary policy whereas Eastbourne Borough had separate disciplinary and capability procedures.
- 1.3 A review of the existing policies regarding flexible working across Lewes and Eastbourne has been undertaken and a new policy developed.

## **2 Information**

2.1 This revised policy will be implemented by publication on the Councils' intranet known as 'The Hub' following approval with communication to all staff and training and guidance issued to managers.

2.2 Unison has been consulted on the new policy and did not have any comments.

## **3 Resource Implications**

3.1 The implementation of this revised policy should have no financial impact.

## **4 Conclusion**

4.1 The members of Joint Staff Advisory Committee are asked to note this report.

## **5 Financial Appraisal**

5.1 There are no financial implications as a result of this report.

## **6 Legal implications**

6.1 There are no legal implications arising from this report.

## **7 Appendices**

7.1 Appendix 1 - Eastbourne Borough Council and Lewes District Council Capability Policy

7.2 Appendix 2 - Equality and Fairness Analysis on aligned Capability Policy

## **8 Background Papers**

8.1 There are none.

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<b>Document name:</b>	<b>Capability</b>
<b>Document type:</b>	Policy

<b>Authority(ies) covered:</b>	Aligned
<b>Responsible (Executive Lead):</b>	Name Job Title
<b>Accountable (Operational Lead):</b>	Name Job Title
<b>Version (e.g. first draft, final report):</b>	e.g. first draft, final report
<b>Approved by:</b>	e.g. Council, Cabinet, Cabinet Member, CMT, Director
<b>Date of publication:</b>	Date
<b>Revision due:</b>	Date
<b>Final Equality and Fairness Analysis (EaFA) report approved by:</b>	e.g. Director/Assistant Director
<b>Date final EaFA report approved:</b>	Date

# Contents

1. Introduction.....	1
2. Equality and Diversity .....	1
3. Summary of the Capability Procedure .....	2
4. Performance improvement plan .....	3
5. Stage 1 .....	4
6. Stage 2 – Capability Meeting.....	6
7. Capability Hearing .....	8
8. Appeal .....	9
9. Related Policies and Procedures .....	11



## 1. Introduction

- 1.1. It is the aim of this policy that all staff are enabled to work and perform to the best of their ability to meet the needs of the councils. The effective management of performance of staff needs to be an integrated and ongoing part of day to day activity so that all members of staff meet their requirement to achieve or surpass an acceptable level of performance. All members of staff need to be clear about the standards expected in their roles, to be set challenging yet realistic objectives and to receive appropriate feedback, development and training.
- 1.2. It is recognised that from time to time an individual's performance/capability may fall below the standards expected of a role. It is, therefore, important that the council has a procedure in place which sets out how it will consider and deal with unsatisfactory performance due to lack of capability so that staff are given appropriate support to help them improve their performance. The council expects this to be carried out fairly and consistently across the organisation.
- 1.3. This procedure is to be followed where an employee consistently fails to reach or maintain the required standards of job performance through a lack of knowledge, skill or ability. It should also be used to provide structured support and encouragement.
- 1.4. In exceptional cases where a single significant performance error has serious consequences (i.e. serious health and safety issue) the principles/procedure for serious misconduct as outlined in the Disciplinary Procedure should be followed, which will include a full investigation.
- 1.5. This procedure is not contractual and the council reserves the right to enter the process at any stage and amend the procedure where relevant to individual circumstances

## 2. Equality and Diversity

- 2.1. Where a staff member requires reasonable adjustments to attend and/or participate in a formal capability meeting, they may be accompanied by an appropriate person to provide support, in addition to their right to be accompanied by a colleague or trade union official.
- 2.2. The manager responsible for the meetings at each stage will ensure reasonable adjustments and special arrangements are made where possible. This includes ensuring information is in an accessible format, that meeting arrangements/venues are accessible to all parties and that

reasonable adjustments are made to enable fair and complete participation by all parties.

- 2.3. Staff members are invited to advise their line manager and subsequent managers of their needs and requirements to ensure they are fulfilled throughout the process wherever possible. This right is also extended to the appeal hearing.

### 3. Summary of the Capability Procedure

- 3.1. A written record of all meetings conducted under this procedure should be made.
- 3.2. Managers should hold regular 121's with employees to discuss performance, current work and any work issues. It is expected that the majority of performance related concerns will be resolved promptly at this level.
- 3.3. The manager should raise performance concerns with the employee as soon as possible. If the individual continues to perform below expectations, the manager will arrange an informal meeting with the employee. A constructive and problem solving approach will be taken with the aim of resolving matters by identifying the reasons and possible solutions.
- 3.4. Before the meeting the manager will prepare by collating any necessary information, where appropriate, to demonstrate to the employee where they are not meeting the required standards of performance, e.g. job description/person specification, competencies, supervision notes, case files, etc.
- 3.5. During the meeting the manager will discuss the shortfalls in performance, explore with the individual the possible reasons for the performance shortfall, discuss solutions to assist the employee in meeting the standards and confirm what is expected in terms of duties, outputs and targets.
- 3.6. Taking the employee's feedback into account, the manager should draw up a Performance Improvement Plan (PIP) confirming what is expected and set a realistic timeframe for improvement to be demonstrated, detailing clear, specific, measurable and realistic objectives and the support available for the employee.
- 3.7. The timescale for monitoring is to be reasonable and each case will need to be considered on its own merits. Advice should be sought from a HR Business Partner.
- 3.8. The manager will advise the staff member that the formal stages of the capability procedure will be implemented if they fail to improve sufficiently and maintain a satisfactory standard of performance

- 3.9. The line manager will schedule a follow-up meeting to review the employee's performance.
- 3.10. If any underlying medical issues are suggested, it may be appropriate to refer the employee to Occupational Health. If referral is necessary then the meeting should be adjourned whilst medical advice is sought.
- 3.11. After the meeting the manager will summarise the discussion in writing and send this to the employee along with a copy of the performance improvement plan.
- 3.12. The manager will monitor performance during the review period and if appropriate hold informal interim review meeting/s with the employee to provide feedback on progress and to encourage improved performance.
- 3.13. At the end of the monitoring period the manager will meet with the member of staff to discuss the progress and inform them of the outcome of the review period. The manager should then confirm the outcome to the employee in writing.
- 3.14. If the employee's performance improves, the manager will give the individual positive feedback and remind them of the need to sustain the improved level of performance.
- 3.15. Should significant improvements be evident, but the employee has not yet achieved the required standards of performance, the manager may choose to extend the length of the review period.
- 3.16. Where informal action does not achieve satisfactory results or if informal action is not appropriate, the formal procedure will be implemented.

## 4. Performance improvement plan

- 4.1. A performance improvement plan (PIP) is a series of measures designed to help improve the employee's performance.
- 4.2. Each measure will ideally be agreed with the employee, although the council reserves the right to insist on any aspect of the performance improvement plan in the absence of such agreement.
- 4.3. Each plan will be tailored to the particular situation, but will contain the following elements:
  - Timescale. The overall timescale in which the necessary improvement must be achieved.
  - Targets. The PIP will specify the particular areas in which improved performance is needed and set out how and on what criteria the performance will be assessed.

- Measures. The PIP will specify what measures will be taken by the council to support the staff member. Such measures may include: training; additional supervision; the reallocation of other duties; or the provision of additional support from colleagues.
- Feedback. The employee will be given regular feedback from their line manager indicating the extent to which the staff member is on track to deliver the improvements set out in the PIP.

## 5. Stage 1

- 5.1. Where an informal approach does not lead to a satisfactory improvement in the employee's performance, the staff member will be invited to a performance review meeting.
- 5.2. The purpose of the meeting will be to discuss the staff members performance and decide what measures should be taken with the aim of securing the required improvements.
- 5.3. The meeting will normally be conducted by the employee's manager and a member of HR.
- 5.4. The staff member may be accompanied to the meeting by either a work colleague or a union representative.
- 5.5. The employee will be given an opportunity to respond to any criticisms of their performance and to put forward any explanations they may have.
- 5.6. During the meeting, depending on the circumstances, the manager will:
  - Review the monitoring period and the support put in place.
  - Give the employee the opportunity to challenge and/or put forward any facts and evidence for consideration
  - Consider any extenuating circumstances which may be affecting the employee's performance
  - Agree with the employee how the performance issue can be addressed including any learning, development or support and the timescale involved.
  - If appropriate, establish a further monitoring period and confirm the arrangements for review
  - Consider redeployment – when appropriate and where the employee wishes this to be considered

- 5.7. If the decision can be made at the end of the meeting it will be communicated to the employee. However, if more time is required the decision will be communicated within 5 working days of the meeting.
- 5.8. The manager will confirm one of the following outcomes:
- No further action is appropriate at this time;
  - The employee will continue to be managed under the informal stage of the policy.
  - The employee will be managed under Stage 1 of the capability procedure and a First Improvement Note will be issued for failure to achieve and maintain the required standards of performance.
- 5.9. The improvement note will remain live for a twelve month period.
- 5.10. A Performance Improvement Plan will be updated or initiated and a period of review will be set. During the monitoring period, interim review meetings will be held and a formal review will be arranged
- 5.11. It must be made clear that a failure to achieve and maintain satisfactory performance by the end of the review period may result in progression to Stage 2 of the Capability Procedure and could lead to dismissal.
- 5.12. The manager will confirm the employee's right to appeal and that the appeal should be addressed to the relevant senior manager in writing, clearly stating the reasons for appeal, within 10 working days of the written confirmation of the decision.
- 5.13. At the end of the review period the manager will hold a formal review meeting and discuss the employee's progress since the improvement plan was set.
- 5.14. If the required improvement has been made, this will be confirmed. The manager will also confirm that the improved level of performance needs to be sustained and any subsequent lapse may lead to action under the Capability Procedure being resumed. The record up to this point will be regarded as spent after 12 months have elapsed from the issue of the First Improvement Note.
- 5.15. If some improvement has been made, but the standards have not yet been met, the manager may extend the review period. A final review meeting will be held at the end of the extended period to review progress.
- 5.16. If the conclusion of the Stage 1 review period is that the employee's performance has not sufficiently improved, the manager will confirm that it is necessary to move to Stage 2 of the Capability Procedure.

## 6. Stage 2 – Capability Meeting

- 6.1. If the problem is more serious, or if there has been a failure to meet the performance targets set at Stage 1, a Stage 2 formal meeting will be held.
- 6.2. The manager will give at least two full working days' notice of the meeting and the employee will have the opportunity to be accompanied by a union representative or work colleague.
- 6.3. The letter inviting the employee to the meeting will set out the issues to be considered and will include:
  - a copy of the monitoring/progress to date:
  - copy of all correspondence from the informal stage and stage 1 capability meeting
  - Performance Improvement Plan
  - notes of review meetings
  - advice from Occupational Health if applicable.
- 6.4. The meeting will be conducted by the manager, who will be accompanied by a member of the HR team.
- 6.5. During the meeting the manager will cover:
  - the outcomes of the Stage 1 monitoring process
  - the performance issues continuing to cause concern, giving specific examples of where performance remains or has fallen below the required standard
  - invite the employee to put forward their explanation for the lack of capability, listen carefully to any representations made and consider the points raised by the employee
  - the improvement/s required in performance
  - details of support already provided
  - the timescale during which performance will continue to be monitored
  - details of how progress will continue to be assessed
  - any support/guidance to be provided
  - arrangements for regular review discussions during the monitoring period
  - redeployment – when appropriate and where the employee wishes this to be considered
- 6.6. If the decision can be made at the end of the meeting it will be communicated to the employee. However, if more time is required the decision will be communicated within 5 working days of the meeting.
- 6.7. The manager will confirm one of the following outcomes:

- The employee has now reached, or is shortly expected to reach, the specified levels of performance, and that no further formal action is necessary. However, the First Improvement Note will remain 'live' for 12 months from the date of issue and therefore if satisfactory improvement proves only to be of a temporary nature then the manager has the option of returning immediately to this point in the procedure.
  - The employee has made substantial improvements, but their performance is still below acceptable standards. A further review period will therefore be required
  - The employee has made little or no improvement in meeting the required standards of performance. They will be managed under Stage 2 of the capability procedure and a Final Improvement Note will be issued for failure to achieve and maintain the required standards of performance. The Final Improvement Note will remain live for a twelve month period.
  - If the outcome is that the employee will be managed under Stage 2, the employee will be formally reviewed in 4 to 12 weeks, depending on the action plan. The manager will confirm the employee's right to appeal.
- 6.8. Within five working days of the meeting the manager will write a letter which confirms the Stage 2 Final Improvement Note and set out the continued concerns, the expected improvement, the timescale for achieving it and any further support that may be given..
- 6.9. The letter will set out the right of appeal and that the appeal should be addressed to the relevant senior manager in writing, clearly stating the reasons for appeal, within 10 working days of the written confirmation that the employee is being placed on Stage 2 of the Capability Procedure and issued a Final Improvement Note. It will confirm that if the employee fails to improve and sustain satisfactory performance it may be necessary to move to a Capability Hearing and that a failure to achieve and maintain satisfactory performance could ultimately lead to dismissal.
- 6.10. The manager will update the Performance Improvement Plan and include the timescale for review. The review period should normally be set for no longer than twelve weeks and may include interim review points.
- 6.11. At the final review meeting, the line manager will discuss the employee's overall progress since the performance improvement plan was set and the outcome of the review period.
- 6.12. If at the end of the review period the required improvement has been made, this will be confirmed to the employee. The manager will also confirm that the improved level of performance must be maintained and any subsequent lapse in performance during this timescale may lead to action under the Capability Procedure being resumed.



- 6.13. By exception, if some improvement has been made but the standard(s) have not yet been met, the manager may elect to extend the review period for a maximum period of 4 working weeks. The employee should be reminded of the potential consequences of failure to achieve a significant and sustained improvement.
- 6.14. If the conclusion of the Stage 2 review period is that the employee's performance has not sufficiently improved and there is still evidence of incapability, the manager will advise the employee that they will be invited to a Capability Hearing. The employee will be warned that a possible outcome of the meeting could be to dismiss on the grounds of capability.

## 7. Capability Hearing

- 7.1. Before the meeting the manager will prepare a detailed report, identifying the continuing under performance against the time frames, and outlining the learning, development and support put in place against the performance improvement plan.
- 7.2. The report will be sent to the employee, with an invitation to a meeting to discuss the performance concerns. They will be given at least 10 working days' notice of the meeting and the opportunity to be accompanied by either a union representative or work colleague.
- 7.3. Where possible a Capability Hearing will be conducted by a manager more senior to the manager presenting the case. They will be referred to as the Deciding Officer.
- 7.4. A HR Business Partner will attend.
- 7.5. The employee's manager will be required to demonstrate what action, support, training and discussions have taken place throughout the informal and formal stages of the procedure.
- 7.6. The employee will be required to give an explanation as to why they have not met the required standards of performance.
- 7.7. The Deciding Officer will consider the employee's performance history, all related evidence and any relevant policies, procedures and practices. They will make the final decision on the outcome and will consider both the manager and the employee's viewpoints, will review the employee's performance record and will decide appropriate action, which may include dismissal.
- 7.8. The manager will present their case and then the employee will be given the chance to respond by presenting their case.



- 7.9. The Deciding Officer will listen to both viewpoints and will ask questions of the manager and the employee.
- 7.10. In an adjournment after both cases have been heard: The Deciding Officer will make a decision based on the evidence provided and tell both the manager and the employee of their decision.
- 7.11. The outcome will either be:
- Dismissal with paid notice on the grounds of capability
  - Extension of the previous monitoring period and a final improvement note
- 7.12. Should the employee not have made satisfactory progress at the end of an extended monitoring period, the Capability Hearing will be reconvened with the same Deciding Officer following the same procedure.
- 7.13. The Final Improvement Note remains live for 12 months from issue and if improvement remains temporary the manager has the option of returning to a further Capability Hearing and dismissal may be a consideration.
- 7.14. The outcome of the Capability Hearing should be confirmed to the employee in writing within 5 days of the hearing. Where an employee is dismissed on the grounds of capability the letter should include their right of appeal.

## 8. Appeal

- 8.1. An appeal against an Improvement Note will be heard where possible by a manager more senior than the Deciding Officer at the Capability Hearing. Where the Capability process has been handled by a member of the Corporate Management Team, the appeal will be heard and determined by another member of the Corporate Management Team.
- 8.2. Where possible within 10 working days of receipt of an appeal, the officer hearing the appeal shall hold a meeting with the employee. The employee may be accompanied by a trade union representative or nominated colleague.
- 8.3. Where possible, the Manager hearing the appeal will give his or her decision at the conclusion of the meeting following an adjournment to consider the decision. He or she may uphold or reject the appeal.
- 8.4. The decision will be confirmed in writing within 5 working days of the meeting. There is no further right of appeal against an Improvement Note.

- 8.5. If the appeal is upheld an improvement note will be disregarded for capability purposes.

### **Appeals against dismissal on the grounds of capability**

- 8.6. An employee who is dismissed has the right of appeal against the decision. The appeal is to be made in writing, setting out the grounds for appeal and submitted to the relevant manager within five working days of the employee receiving the letter confirming the ending of employment.
- 8.7. The Assistant Director of HR and Transformation or Head of HR shall invite two elected members of the councils joint staff committee to be part of the Appeal panel, the third member will be a manager more senior than the Deciding Officer at the Capability hearing where possible and who has not been involved previously in the Capability procedure.
- 8.8. If the dismissal has been issued by a member of Corporate Management Team, the third member of the appeal panel will be another member of Corporate Management Team.
- 8.9. Within 10 working days of receipt of an appeal, the manager hearing the appeal shall arrange an appeal hearing with the employee. The panel will also hear from the Deciding Officer at the Capability hearing who made the original decision.
- 8.10. Employees can be accompanied by a colleague or trade union representative at the hearing and will be asked to confirm, no later than 5 working days before the hearing, if they intend to call any witnesses. Representatives may address the hearing to put forward and conclude the case, they do not have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish them to or prevent the managers from explaining their case.
- 8.11. Both the staff side and the management side (normally the Deciding Officer from the Capability Hearing) may submit new evidence at the appeal panel; this should be provided at least 5 working days before the date of the appeal hearing.
- 8.12. Each appeal hearing may differ depending on the individual circumstances but normally the procedure will be:
- The parties and their representatives are introduced to the panel
  - The panel introduce themselves
  - Employee or representative explains why they are appealing
  - Employee or representative presents the case calling any witnesses
  - Management question employee, representative and any witnesses
  - Panel question employee, representative and any witnesses
  - Management present their case calling any witnesses

- Employee or representative question management and any witnesses
- Panel question management and any witnesses
- Management sum up, at this stage no new material can be introduced or points made to which reference has not already been made during the proceedings
- Employee, or representative, sum up. At this stage no new material can be introduced or points made to which reference has not already been made.
- Both parties leave the room while the panel considers the information presented.
- The panel may recall both parties to ask further questions of either, after which the parties will retire again
- The panel recalls the parties and advise if they have been able to make a decision and, if so, what that decision is. If it has not been possible to make a decision the panel will explain why and confirm next steps – whether the hearing is to be reconvened or decision will follow in writing after further deliberation.

8.13. The panel will either uphold or reject the appeal; they can do so either in whole or in part. It is for them to decide if the dismissal is upheld, or if it is to be changed, which can include withdrawing the notice of dismissal and reinstating the employee.

8.14. Where possible, a decision will be made at the conclusion of the meeting following an adjournment to consider the decision; this will be confirmed normally within 5 working days. Where further time is necessary to consider the appeal and/or make a decision this will be communicated in writing within 5 working days.

8.15. If an appeal regarding a dismissal is upheld the employee will be reinstated in his or her employment on the original terms and conditions and the employee will receive any salary that would have been paid from the date of dismissal to the reinstatement date. In addition, an improvement note or action short of dismissal and an additional sanction may be issued.

8.16. The decision of the appeals panel is final and there is no further right of appeal.

## 9. Related Policies and Procedures

- 9.1. Code of Conduct
- 9.2. Disciplinary Procedure
- 9.3. Attendance Management



**STRONGER together**



## Equality and Fairness Analysis Report assessing the impact of proposed changes and decisions

<b>Report title (same as Cabinet / Board report title)</b>	Capability Policy
<b>Report author (same as Cabinet / Board report author)</b>	
<b>Report author's email address – for comments</b>	
<b>Responsible Head of Service</b>	Helen Knight
<b>Responsible Director/Assistant Director</b>	Becky Cooke
<b>Who will be making the decisions? – e.g. LDC or EBC - Full Council / Cabinet / Committee / name of Board / Cabinet Member / Service Head</b>	
<b>Date draft EaFA and report sent to Equalities Email and Cabinet / Board Officer</b>	

This form is to be used to give decision makers an understanding of the likely impact of decisions they are being asked to make on groups protected under the Equality Act, and on other groups who may be affected. It should be used to assess the impact of new projects, services, initiatives and changes in the way we deliver services that will affect staff, residents and service users.

Where this report relates to Council, Cabinet, Scrutiny or Board Reports, Part 1 of this form must be completed and submitted to [EqualitiesEmail@lewes-eastbourne.gov.uk](mailto:EqualitiesEmail@lewes-eastbourne.gov.uk) before or, at the latest, on the date for submission of draft reports to the Cabinet Officer. It should have been approved by the Director/Assistant Director and Lead Cabinet Member along with the draft report and signed off – at the end of Part 1 – at that point.

Part 2 should be completed and submitted to the Cabinet Officer and to [EqualitiesEmail@lewes-eastbourne.gov.uk](mailto:EqualitiesEmail@lewes-eastbourne.gov.uk) with the final Cabinet Report, and must incorporate any comments from the Equality and Fairness Planning Group and Stakeholder Group and amendments / responses / actions arising from these.

In some cases, there may not be an immediate impact on residents or customers. In these cases, an Equality and Fairness 'Relevance' Form **must** be completed and submitted to the [EqualitiesEmail@lewes-eastbourne.gov.uk](mailto:EqualitiesEmail@lewes-eastbourne.gov.uk) for our files.

## **The Public Sector Equality Duty**

The Council and its companies must, in the exercise of our functions and in our decision making, have due regard to the need to:

1. Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
2. Advance equality of opportunity between people who share a characteristic and those who do not share it;
3. Foster good relations between people who share a characteristic and those who do not share it.

The second aim (advancing equality of opportunity) involves, in particular, having due regard to the need to:

- Remove or minimise disadvantages experienced by people because of their protected characteristics.
- Take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people.
- Encourage people with certain protected characteristics to participate in public life or in other activities where their participation is disproportionately low.

It describes the third aim (fostering good relations) as tackling prejudice and promoting understanding between people who share protected characteristics and those who do not.

It explains that compliance with the general equality duty may involve treating some people more favourably than others, as long as this is within the law.

By thoroughly assessing what we do against the general duty we are able to make better decisions about what we do, leading to better outcomes for people who work for us and for people who access our services and facilities.

An Equality and Fairness Analysis should be carried out when

- developing or reviewing strategies, plans, policies and procedures;
- proposing changes to the services delivered or the way these are delivered
- proposing new services, functions, projects or initiatives.

All reports to Council, Cabinet, and Cabinet Members seeking decisions which will have an impact on residents and customers should include either:

- a full Equality and Fairness Analysis, using this form
- a completed Equality and Fairness 'Relevance' Form setting out why a full EaFA is not needed.

## **Assessing the impact of the options you are considering**

In your answers to the questions on the next pages, please spell out any positive or negative impacts relating to the three general duties to:

1. Eliminate discrimination, harassment and victimisation
2. Advance equality of opportunity between people who share a characteristic and those who do not share it;
3. Foster good relations between people who share a characteristic and those who do not share it.

You need to think about the protected characteristics below – some potential issues have been suggested, but this is not intended as a comprehensive list:

**Age** - are there any reasons for thinking young people or older people may be affected differently by the proposals? School times? Digital access / confidence?

**Disability** – could your proposals impact differently on people with particular impairments or long-term limiting illnesses? Consider, for example, physical access, format or information / communication, design of service / buildings, interpreting / equipment / assistance that can be used, impact of proposals on people with long-term health conditions, including mental health, children and adults with special needs, drug and alcohol addictions

**Gender reassignment** - are there any specific issues to consider, e.g. around confidentiality, stage of transition?

**Marriage and civil partnership** - are there any issues to consider – e.g. confidentiality, equal access?

**Pregnancy and maternity** – you may need to consider how best to ensure equal access to opportunities or services, facilities for breastfeeding for example

**Race and ethnicity** – you need to consider different levels of knowledge about the services available and how these are accessed; the provision of translation and interpreters – e.g. in consultation, and avoidance of jargon / colloquialisms

**Religion, belief and culture** – prayer facilities; dietary requirements; religious observances (days and times) and festivals

**Sex / gender** – promoting equality of opportunity, childcare arrangements, provision of single sex facilities

**Sexual orientation** – equality of opportunity, confidentiality

**Part 1 - for completion, approval and submission with draft Report**

<p><b>Section A – What is your proposal and what will change as a result?</b></p>
<p>Please give an overview of the changes you are considering and decisions you are requesting and say why are they needed. What are the options you are considering?</p>
<p>To implement an aligned Capability Policy that will be used across both councils.</p> <p>The revision is required to support joint working across Eastbourne Borough Council (EBC) and Lewes District Council (LDC).</p> <p>The current Lewes Disciplinary policy covers both conduct and capability issues whereas Eastbourne has separate policies. Going forward we will have two policies one for Disciplinary and one for Capability. The Disciplinary policy has been looked at separately.</p> <p>Capability and Disciplinary are two different things however in some circumstances they may overlap. By having two separate policies it will clarify the different processes.</p> <p>The Capability policy is primarily to help and encourage employees to achieve and maintain required standards of performance.</p> <p>It is recognised that from time to time an individual’s performance/capability may fall below the standards expected of a role. It is, therefore, important that the Council has a procedure in place which sets out how it will consider and deal with unsatisfactory performance so that staff are given the appropriate support to help them improve.</p> <p>The Capability Policy will be promoted to staff through The Hub (the council’s intranet).</p>
<p>Who will be affected by the changes and how?</p> <p>Thinking about groups protected under the Equality Act, will any of them benefit positively from the changes you are considering more than other people? In what way?</p> <p>Will there be any negative impacts on these groups which may arise? What are these?</p> <p>The Council’s Equality and Fairness Policy states that ‘we also recognise that socio-economic status can be a significant barrier to equality of opportunity’. What might the financial impact of any changes on people on low incomes or with limited savings? Are there any actions the council could take to mitigate the impact – e.g. support, advice, access to loans, transitional arrangements?</p> <p>Are there any other groups of people who might be affected negatively by the changes you are considering? For example, homeless people; people with mental health conditions; people who use assistance dogs or rely on helpers to guide and support them or translate for them; people with caring responsibilities; people living in rural areas; people with limited access to the internet.</p>
<p>The joint Capability policy provides clarity for everyone on the process surrounding performance management within the workplace and the possible consequences.</p> <p>Where possible, informal action is recommended before the formal capability procedure is applied.</p> <p>The policy is designed to operate within internal formal HR processes and will apply to all staff.</p> <p>Where individuals require clarification they are able to raise this with their manager or Human Resources.</p>



The new policy would be posted on to our intranet and those who do not have access to a PC would be advised by their manager of changes to the policy.

Age - No impact

Disability – Reasonable adjustments will be made, where possible, to assist employees with a disability at all stages of the capability procedure.

Gender reassignment –No impact

Marriage and civil partnership – No impact

Pregnancy and maternity – The policy will apply to those who are pregnant and/or on maternity leave. If needed, reasonable adjustments will be made, where possible.

Race and ethnicity- No impact

Religion, belief and culture- No impact

Sex / gender- No impact

Sexual orientation- No impact

The detail for reasonable adjustments is as follows;

## 1. Equality and Diversity

- 1.1. Where a staff member requires reasonable adjustments to attend and/or participate in a formal capability meeting, they may be accompanied by an appropriate person to provide support, in addition to their right to be accompanied by a colleague or trade union official.
- 1.2. The manager responsible for the meetings at each stage will ensure reasonable adjustments and special arrangements are made. This includes ensuring information is in an accessible format, that meeting arrangements/venues are accessible to all parties and that reasonable adjustments are made to enable fair and complete participation by all parties.
- 1.3. Staff members are invited to advise their line manager and subsequent managers of their needs and requirements to ensure they are fulfilled throughout the process wherever possible. This right is also extended to the appeal hearing.

### **Section B – Bearing in mind the potential impact on these groups, what information have you used to consider the different options?**

How have you consulted so far with the people likely to be affected by any changes? What were the key points that came out of this consultation and how have you amended your proposals in response? If you have not yet consulted, at what stage are you proposing to carry out consultation and who / how are you proposing to consult?

We have looked at existing policies and practices across both councils, as well as referring to current legislation and best practice in this subject area to formulate the policy.

Groups to be consulted include Joint Staff (including Unison) and Employment Committee, Consultative forum and Managers forum.

What information, research findings and data have you used to assess the potential impact of any changes on people protected under the Equality Act and those who may face financial hardship as a result, and what did that information tell you about the potential impact?

There will be no impact as stated above. There is no data to suggest that the Capability Policy has previously impacted anyone protected under the Equality Act. No employees will suffer financial hardship as part of this joint procedure.

Is there any information that you needed to understand the impact on these groups but are not able to find? What are the gaps and what can your service / the Council do to collect the information needed? Are there any actions you will take to address this?

No

### **Section C: Actions taken and planned**

What actions or options are you considering to deal with any negative impacts This may not always be possible (e.g. some changes might have a disproportionate impact on the Council's finances). If you are not proposing any actions or amendments to your proposals, please explain why not.

The procedure will be subject to consultation and regular reviews.

We will ensure that capability cases are handled in a fair and consistent way and that staff have access to all of the information and support available to them.

We do not anticipate any negative impacts to the introduction of the joint capability policy.

### **Part 1 sign off**

Part 1 should now be reviewed and approved by your Director/Assistant Director, and submitted with your Cabinet / Board report as a separate document to the Cabinet Officer / Company Secretary and to [EqualitiesEmail@lewes-eastbourne.gov.uk](mailto:EqualitiesEmail@lewes-eastbourne.gov.uk).

**Name of Director/Assistant Director:**

**Signed:**

**Dated:**

**Next steps:**

It will then be forwarded to members of the Equality and Fairness Planning Group and Stakeholder Group for their comments and they will be asked to give any feedback or suggest amendments directly to you as the report author within 5 working days.

Confidential reports will be sent to the internal Planning Group only.

If you receive any comments or suggestions from a member of the Stakeholder Group, please reply by email saying:

*'Thank you for your comments. We will take these into consideration and you will receive feedback at the next meeting of the Equality and Fairness Stakeholder Group'.*

Please add any comments you receive from members of these groups in Part 2 below and any actions or amendments to your report arising from their feedback.

Unless specifically asked to attach the EaFA as an appendix to a Cabinet or Board Report, the completed EaFA form must be sent as a separate document with the Cabinet or Board report and listed as a background paper 'available from the report author'. In some cases it will need to be published with the report; in others you will be advised to reference this as a Background Paper.

**Part 2 - for completion, approval and submission with final Report**

**Please note:** both parts of this Equality and Fairness Analysis will be made available on publication of the Cabinet / Board report they relate to. You may also be asked to present your final report and EaFA to the Equality and Fairness Steering group.

<p><b>Please describe in more detail the proposals you are making to Cabinet / Board in more detail. Please spell out your reasons for making these proposals / choosing the option(s) you are recommending.</b></p>
<p><b>Please give any additional information on the impact of your recommended options on groups protected under the Equality Act and any other groups.</b></p>
<p><b>Please set out below any comments from members of the Equality and Fairness Planning Group and the Equality and Fairness Stakeholder Group. Please include any comments and suggestions for amendment / action below.</b></p>
<p><b>Response to feedback.</b> Please describe any changes you have made to your policy / proposals as a result of the feedback. If you are not proposing changes in response to any of the feedback, please explain why. Please ensure you give a full explanation.</p>

Please list any additional actions you are proposing to take in response to the feedback.

**Executive Summary** – to be completed when you finalise your report. This is for you to paste into your Council / Cabinet / Committee / Member Board report. Keep this to 2–3 paragraphs only and incorporate any points raised by members of the Equality and Fairness Planning Group and Stakeholder Group and actions.

Please then include this summary in your report under the heading **Implications for Equality and Fairness**.

**Please now include any actions you have referred to in Parts 1 and 2 in the Action Plan on the next page.**

**Action Planning**

Issue identified	Action to be completed	Lead Officer	Required Resources	Target Date	Measure of Success

Page 38

<b>Approval</b>	
I confirm I have approved this Analysis and will review the action plan to ensure it is completed within the dates identified	<i>To be signed and dated by Head of Service</i>
I confirm that I have received this Analysis and approved it	<i>To be signed and dated by Director/Assistant Director</i>

Please now send this report to [EqualitiesEmail@lewes-eastbourne.gov.uk](mailto:EqualitiesEmail@lewes-eastbourne.gov.uk) and to the Cabinet Officer / Company Secretary with your final report.

<b>Date final report submitted to Equalities and Cabinet Officer</b>	
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<b>Report to:</b>	<b>Joint Staff Advisory Committee</b>
<b>Date:</b>	<b>7 December 2020</b>
<b>Title:</b>	<b>Disciplinary Policy</b>
<b>Report of:</b>	<b>Helen Knight, Head of HR</b>
<b>Ward(s):</b>	<b>All</b>
<b>Purpose of report:</b>	<b>To align the policies of Lewes District and Eastbourne Borough Councils regarding the Councils' disciplinary process and procedure.</b>
<b>Officer recommendation(s):</b>	<b>(1) To note new policy.</b>
<b>Reasons for recommendations:</b>	<b>To ensure that the Councils have an aligned disciplinary procedure.</b>
<b>Contact Officer(s):</b>	<b>Name: Helen Knight Post title: Head of HR E-mail: <a href="mailto:helen.knight@lewes-eastbourne.gov.uk">helen.knight@lewes-eastbourne.gov.uk</a> Telephone number: 07966 645102</b>
	<b>Name: Becky Cooke Post title: Assistant Director for HR and Transformation E-mail: <a href="mailto:becky.cooke@lewes-eastbourne.gov.uk">becky.cooke@lewes-eastbourne.gov.uk</a> Telephone number: 01323 415106 or internally on extension 5106.</b>

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## 1 Introduction

- 1.1 Lewes District and Eastbourne Borough Councils have jointly committed to bringing policies and procedures together as part of the Joint Transformation Programme (JTP) which is an important step towards aligning our people and business practices.
- 1.2 There are no significant changes to the policies previously held by both councils, aside from the panel membership for appeals against dismissal which has been discussed and agreed at previous Joint Staff (Eastbourne) and Employment Committee (Lewes) meetings.
- 1.3 A review of the existing policies regarding flexible working across Lewes and Eastbourne has been undertaken and a new policy developed.

- 2 Information**
- 2.1 This revised policy will be implemented by publication on the Councils' intranet known as 'The Hub' following approval with communication to all staff and training and guidance issued to managers.
- 2.2 Unison has been consulted on the new policy and did not have any comments.
- 3 Resource Implications**
- 3.1 The implementation of this revised policy should have no financial impact.
- 4 Conclusion**
- 4.1 The members of Joint Staff Advisory Committee are asked to note this report.
- 5 Financial Appraisal**
- 5.1 There are no financial implications as a result of this report.
- 6 Legal implications**
- 6.1 There are no legal implications arising from this report.
- 7 Appendices**
- 7.1 Appendix 1 - Eastbourne Borough Council and Lewes District Council Disciplinary Policy
- 7.2 Appendix 2 - Equality and Fairness Analysis on aligned Disciplinary Policy
- 8 Background papers**
- 8.1 There are none.



# STRONGER together



Lewes District Council



Working in partnership with **Eastbourne Homes**

<b>Document name:</b>	<b>Disciplinary Policy</b>
<b>Document type:</b>	Policy

<b>Authority(ies) covered:</b>	Aligned
<b>Responsible (Executive Lead):</b>	Name Job Title
<b>Accountable (Operational Lead):</b>	Name Job Title
<b>Version (e.g. first draft, final report):</b>	First Draft
<b>Approved by:</b>	e.g. Council, Cabinet, Cabinet Member, CMT, Director
<b>Date of publication:</b>	Date
<b>Revision due:</b>	Date
<b>Final Equality and Fairness Analysis (EaFA) report approved by:</b>	e.g. Director/Assistant Director
<b>Date final EaFA report approved:</b>	Date

## Contents

1. Introduction.....	1
2. Equality and Diversity .....	2
3. Principles.....	3
4. Definitions.....	4
5. Summary of disciplinary procedure .....	6
6. Informal Action .....	7
7. Formal Action .....	8
8. Suspension.....	9
9. Disciplinary Hearing.....	10
10 Sanctions.....	13
11. Appeal .....	15
12. Special Cases .....	18
13. Related Policies and Procedures .....	19

# 1. Introduction

- 1.1. The councils are committed to ensuring all employees meet the required standards of conduct. Employees who do not meet the standards will have an impact on the service we provide. If employees fall below the required standards or their conduct is a cause for concern, managers will deal with the issue(s) promptly and consistently.
- 1.2. The procedure provides a framework for managers to work with employees to achieve and maintain acceptable standards of conduct. The aim is to ensure consistent and fair treatment for all employees.
- 1.3. Minor cases of misconduct by an employee may be best dealt with informally. A quiet word is often all that is required to improve an employee's conduct, by advising the employee that there is an issue, and that a repetition could lead to formal disciplinary proceedings.
- 1.4. An informal discussion is also an opportunity to identify if there are any training or development needs that could be addressed to solve the problem
- 1.5. Agile working/working from home can be withdrawn at any time during this process to ensure improved performance, or as a consequence of misconduct.
- 1.6. If informal action does not bring about an improvement, or the misconduct or unsatisfactory performance is considered to be too serious to be classed as minor, managers should inform the employee of their concerns and invoke the Disciplinary Procedure.
- 1.7. This procedure does not apply to:
  - Matters of capability, please refer to the capability procedure
  - Employees, who have not yet completed their probationary service, please refer to the probationary review procedure.
- 1.8. This procedure is not contractual and the councils reserve the right to enter the process at any stage and adjust the procedure where relevant to individual circumstances.

## 2. Equality and Diversity

- 2.1. Where a staff member requires reasonable adjustments to attend and/or participate in a disciplinary meeting, they may be accompanied by an appropriate person to provide support, in addition to their right to be accompanied by a colleague or trade union official.
- 2.2. The manager responsible for the meetings at each stage will ensure reasonable adjustments and special arrangements are made. This includes ensuring information is in an accessible format, that meeting arrangements/venues are accessible to all parties and that reasonable adjustments are made to enable fair and complete participation by all parties.
- 2.3. Staff members are invited to advise their line manager and subsequent managers of their needs and requirements to ensure they are fulfilled throughout the process wherever possible. This right is also extended to the appeal hearing.

### 3. Principles

- 3.1. Employees and managers are expected to be familiar with the standards of conduct that apply in the workplace including those detailed in the councils Code of Conduct and the behaviours outlined in the council's Core Competencies.
- 3.2. The councils are committed to ensuring that there is no unlawful discrimination and bias in the application of this procedure. Action taken under this procedure will therefore be monitored to ensure fairness.
- 3.3. To ensure fair treatment and, where appropriate, provision of support by the councils in the application of this procedure, employees are invited to provide information about any equality or diversity matters which may be relevant.
- 3.4. There may be circumstances where conduct outside work may make an employee's continued employment untenable.
- 3.5. The councils will not take disciplinary action until the circumstances of a case have been investigated. Investigatory meetings will usually be held by a Manager or Team Leader supported by a HR Business Partner. An investigatory meeting does not automatically mean that a formal disciplinary hearing is inevitable.
- 3.6. This policy applies in the normal way to trade union representatives. Where an alleged act of misconduct is believed to have been committed by an employee who is an accredited official of a recognised trade union, reasonable steps will be taken to discuss the circumstances of the case with either the Branch Secretary or with the Regional Officer prior to any formal disciplinary sanctions being applied.
- 3.7. Employees will be notified in advance of any formal disciplinary meeting and have the opportunity to be accompanied by a trade union representative or nominated colleague from within the councils. At any formal hearing a HR Business Partner will be present accompanying the manager, asking questions as appropriate and providing advice on procedural matters. A HR Assistant may also be present taking notes.
- 3.8. If disciplinary action is not recommended there may still be recommendations for invoking performance management, retraining or the withdrawal of agile or flexible working.
- 3.9. The councils will not dismiss employees who breach standards of conduct for the first time, except in cases of gross misconduct.
- 3.10. The time limits referred to in this procedure may be varied by agreement.

## 4. Definitions

4.1. Misconduct refers to a breach of the standards of conduct expected of all employees. The following list provides examples of misconduct. Other offences/behaviours not included in this list may be deemed to be misconduct, according to the circumstances in which they occur, and this list is not exclusive or exhaustive:

- Failure to follow reasonable instructions, policies, practices and procedures
- Unreasonable language or behaviour
- Lateness or unauthorised absence
- Misuse of council property, equipment or vehicles

4.2. Gross misconduct is regarded as misconduct of such a nature that it represents an irrevocable breakdown of the relationship between the employee and the council and justifies the council in no longer accepting the continued presence of the employee at the workplace. The council will be entitled to terminate summarily the employee's contract of employment without notice or pay in lieu of notice. The following list provides examples of offences which are normally regarded as gross misconduct and therefore could justify summary dismissal. This list is neither exclusive nor exhaustive, other offences not included in this list may be deemed to be gross misconduct, according to the circumstances in which they occur:

- Dishonesty or abuse of position: receipt of money, goods, or pecuniary advantage in respect of any services rendered, accepting bribes or tips, either to gain business or for personal gain, unauthorised use of Council materials, equipment, facilities or other resources for private purposes;
- Theft of council property, stealing from members of staff or the public;
- Defrauding the council; any deliberate attempt to defraud the council or a member of staff or member of the public. This includes falsification of records including financial claims (time sheets, sickness claims, expenses etc.), and failure to declare inaccurate information at the time;
- Deliberate damage – causing damage to the property or the reputation of the council, clients, other employees or members of the public, including breaches of confidentiality and trust and unauthorised disclosure of information classified as confidential by the council;
- Assault/violence: a physical or verbal assault on a fellow employee/worker or member of the public
- Discrimination, bullying or harassment of another employee (s), or customer on the basis of either any characteristic protected by the Equalities Act or any personal reference
- Acts prejudicial to the council (inside or outside of work)
- Criminal offenses committed outside working hours which render the employee unsuitable for continued employment with the council or bring the councils into disrepute

- Persistent or serious unauthorised or unreasonable absence
- Public criticism of the Council which brings it into disrepute including on social media
- Serious breaches of confidential or any other acts prejudicial to the council interests, inside or outside of work
- Engaging in politically restricted activities, as defined by the Local Government and Housing Act 1989, when holding a politically restricted post
- Negligent behaviour – any action or failure to act which seriously threatens the Health and Safety of an employee or member of the public or causes unacceptable loss, damage or injury.
- Incapability through alcohol or being under the influence of illegal drugs at any time when at work or when representing the council
- Refusal to carry out a reasonable management instruction

## 5. Summary of disciplinary procedure

5.1. The disciplinary procedure contains the following stages:

<b>TYPE OF MISCONDUCT</b>	<b>SANCTION</b>	<b>VALID</b>
Minor Matter	Informal action  Meeting with the employee	Discussions confirmed in writing
Misconduct	First written warning	12 months
Serious or repeated misconduct	Final written warning	12 months
Serious or repeated misconduct	Dismissal with notice	
Gross misconduct	Dismissal without notice	



## 6. Informal Action

- 6.1. Minor conduct issues should be raised with the employee as soon as possible. The manager should be very clear with the individual about the shortfall in conduct, explaining the standard required. Taking the employee's feedback into account, clear standards for improvement will be agreed. The manager will summarise the discussion in writing and send to the employee.
- 6.2. There will be situations where matters are more serious or where an informal approach has been tried and not worked. If informal action does not bring about improvement, or the misconduct is considered to be too serious to be classed as minor, the formal procedure should be implemented.

## 7. Formal Action

- 7.1. Where a disciplinary investigation is required, all allegations should be thoroughly investigated by the employee's immediate line manager. There may be occasions when it is not appropriate for the line manager to undertake the investigation because they are involved in some way in the matter to be considered. In this event, another appropriate manager will undertake the investigation. This person will be known as the Investigating Officer and will be advised by a HR Business Partner. Where possible, the employee will be informed in writing of the situation, the broad nature of the allegations and the procedure to be followed.
- 7.2. The Investigating Officer will undertake a thorough investigation into the matter. The employee's explanation of events will be obtained and witnesses interviewed and asked to provide statements where this is appropriate. The employee and witnesses will be advised that information gained by questioning him/her can be presented at any subsequent disciplinary hearing.
- 7.3. The Investigating Officer may call on other council employees to supply information which will assist in the investigation. Where other employees are questioned, it will be explained to them that they may be asked to provide a statement and/or attend a disciplinary hearing and act as a witness. Their statement will be provided to the employee under investigation as part of the process.
- 7.4. The Investigating process will be concluded as quickly as possible and where practical, within 10 days of the manager becoming aware of the matter or the Investigating Officer being asked to conduct an investigation.
- 7.5. Once the Investigating Officer has completed the investigation they should complete an investigation report that will be passed on to a senior manager who will decide if there is a need to pursue disciplinary action.
- 7.6. If after the investigation the decision is taken that there is no need for formal proceedings, the employee will be informed of this.
- 7.7. If management advice, counselling or training is required, this will be confirmed in writing to the employee. The manager will monitor and review the employee's conduct to ensure that required standards are met.

## 8. Suspension

- 8.1. In some circumstances suspension may be considered necessary. The employee may be suspended from work while the investigation proceeds or moved to other duties if appropriate. This may be before the investigation takes place which means the employee will be notified when to attend the investigatory meeting(s).
- 8.2. Any suspension will be on full basic pay and will be as short as possible. It is not, by itself, considered a disciplinary action or an assumption of guilt. Suspension will normally last until an investigation has been concluded or any disciplinary hearing has been held.
- 8.3. During suspension employees will be kept informed of the progress of the procedure either via a HR Business Partner, the Investigating Officer, a nominated person or their Trade union representative.
- 8.4. The provisions to suspend from work should only be used in exceptional circumstances and only then on the specific instruction of a Senior Manager and in conjunction with either the Head of HR or Assistant Director for HR and Organisational Development.
- 8.5. Employees who are signed unfit to work during a period of suspension will be subject to the Attendance Management Policy and may be required to attend an appointment with the council's Occupational Health advisor. Their sickness will not necessarily lead to a deferment of the disciplinary investigation.
- 8.6. Employees on suspension must not enter council offices or discuss the circumstances relating to their suspension with colleagues or third parties unless they have prior permission to do so from the suspending officer. If an employee wishes to collect personal belongings they must contact Human Resources to arrange to be accompanied. In addition, the suspended staff member is expected to be available within normal working hours to assist with the investigation or return to work if required.

## 9. Disciplinary Hearing

- 9.1. Where it is decided to refer the case to a disciplinary hearing the employee will be given at least five working days' notice of the date of the hearing.
- 9.2. The invitation to the disciplinary hearing will clearly state the allegations against the employee, the right to representation, copies of the management case, the sanctions that could be given to them and any supporting information which may be referred to at the hearing, including any witness statements.
- 9.3. The employee will be invited to submit a response in writing to the allegations along with any supporting statement or documentation by a specific date and time prior to the hearing.
- 9.4. The employee is entitled to be accompanied by either an accredited trade union representative or a workplace colleague. It is not normally appropriate for an employee to be accompanied by a member of their management team.
- 9.5. The employee will be allowed to ask questions, present evidence and be given an opportunity to raise points about any information provided by management and witnesses.
- 9.6. Representatives or colleagues will be allowed to address the hearing, put questions forward and sum up the employee's case and respond on their behalf. They will also be able to confer with the employee during the hearing. However they do not have the right to answer questions on the employee's behalf or address the panel if the employee does not wish them to and they will not be able to prevent the manager from presenting their case.
- 9.7. The person hearing the disciplinary (Deciding Officer) will be of the same grade or more senior than the Investigating Officer. The Deciding Officer will be supported by a member of the HR Team. The person hearing the disciplinary will decide what action, if any, is necessary.
- 9.8. The Investigating Officer will not take part in deciding any disciplinary action but will be asked to present the case at the hearing.
- 9.9. In circumstances where a possible outcome could be dismissal, the Deciding Officer, will be the Head of Service or a Chief Officer, or exceptionally another Senior Manager. This will be in consultation with the Head of HR or Assistant Director for HR and Organisational Development although they may not be present at the hearing.
- 9.10. At the hearing the Investigating Officer will be asked to present the management statement of case, calling any witnesses as required. The employee and the deciding officer will have the opportunity to ask questions of the Investigating Officer and witnesses.

- 9.11. The employee will then be asked to present their case calling any witnesses as required. Both the investigating officer and deciding manager will have the opportunity to ask questions of the employee and any witnesses.
- 9.12. Once both parties have presented their case and the Deciding Officer has had an opportunity to fully explore the issues, the hearing will be adjourned so they can decide on appropriate action.
- 9.13. The Deciding Officer will consider whether on the balance of probability the allegation(s) have been substantiated and determine any disciplinary action. It is sufficient that the employer genuinely believes on reasonable grounds that the employee is guilty of misconduct. The Deciding Officer will take into account the employee's current disciplinary and general record, length of service, actions taken in any previous similar case, the explanations given by the employee and any mitigating circumstances. The Deciding Officer should also consider whether the disciplinary action is reasonable under the circumstances.
- 9.14. If, at the end of the hearing, the Deciding Officer decides that the circumstances justify a formal warning, consideration should be given to the level of warning.
- 9.15. If the deciding officer can make a decision at the end of the adjournment then it will be communicated to the employee. If more time is required the decision will be communicated within 5 working days of the meeting.
- 9.16. The outcome will be one of the following:
- A First written warning
  - A Final written warning
  - Dismissal
  - No further disciplinary action/management advice
- 9.17. Other additional sanctions which may be considered include removal or withholding of increments, withdrawal of flexible or agile working and other measures such as an individual action plan.
- 9.18. If the employee is unable to attend the hearing for exceptional reasons or due to the unavailability of their representative they can request a postponement. An alternative date will be arranged, where practical within 5 working days of the first date. If they are unable to attend that meeting then it may be held in their absence and they will be given the opportunity to nominate a representative to present the case on their behalf.
- 9.19. If the employee is unable to attend owing to long term sickness absence and no alternative date can be mutually agreed, the meeting may proceed in their absence after taking advice from the council's Occupational Health

advisor. The employee's representative can attend to speak on the employee's behalf.

- 9.20. In the event that an employee raises a grievance or a dignity at work complaint in the course of the disciplinary process, the council may suspend consideration of the grievance or complaint until the outcome of the disciplinary process is known. Each case will, however, be considered on its merits to ensure that the council is acting reasonably. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently or if they are related they may be dealt with together.

## 10. Sanctions

### First Written Warning

- 10.1. This will be issued where misconduct is confirmed and will set out the nature of the misconduct and the change in behaviour, attitude or performance required. This should also include targets for improvement and timescales by when to achieve them.
- 10.2. The employee should be informed of the consequence of failing to improve their behaviour or conduct which will be a final written warning and/or ultimately dismissal.
- 10.3. The first written warning will remain live for disciplinary purposes for a period of twelve months.

### Final Written Warning

- 10.4. If the employee's misconduct is either sufficiently serious or is a previous or related matter that has not been resolved they will be advised accordingly and issued with a final written warning. This might also occur when the employee's actions have had, or are liable to have, a serious or harmful impact on the organisation.
- 10.5. This stage may apply either where there is further misconduct within twelve months of a first written warning being issued or where the misconduct is sufficiently serious to be dealt with in the first instance at this stage.
- 10.6. The final written warning should set out the nature of the misconduct and the change in behaviour required. It should inform the employee that further misconduct or failure to modify behaviour within the set period following a final warning may result in dismissal or some other sanction such as demotion to a lesser graded post without salary protection or transfer to another identified post within the Service Area.
- 10.7. The final written warning will remain live for disciplinary purposes for a period of 12 months.

### Dismissal

- 10.8. The final stage in the disciplinary process will be dismissal. This stage may only apply in either of the following circumstances:
  - Further misconduct within twelve months of a warning being issued or in the event a warning has been extended within the extension period of the warning;
  - Gross misconduct which will be dealt with in the first instance at this stage

- 10.9. Where conduct is so serious as to warrant summary dismissal, the employee may be dismissed without notice.
- 10.10. For an act of gross misconduct, dismissal will be without notice or payment in lieu of notice (summary dismissal).
- 10.11. For an act of further misconduct which in itself is not gross misconduct after a written warning has been given and remains on file, dismissal will be with notice.
- 10.12. The employee should be informed of the reasons for the dismissal, the date on which the employment contract will terminate, the appropriate period of notice and their right of appeal.
- 10.13. There may occasionally be exceptional circumstances where the Deciding Officer takes the view that whilst dismissal may be warranted, organisation and employee circumstance may best be served by action short of dismissal itself. In these circumstances, the following sanction may be considered as an alternative to dismissal only:
- 10.14. The issue of a final written warning, accompanied by one or more of the following sanctions:
- Transfer to another job
  - Demotion
  - Withhold annual pay increment
  - Mandatory training
- 10.15. If the employee does not accept the alternative sanction then an appeal hearing will be arranged with another member of the Corporate Management Team to consider the appropriate sanction.



## 11. Appeal

- 11.1. An employee has a right to appeal against the outcome of the disciplinary hearing. The appeal is to be made in writing to the Head of HR giving the reasons and submitted within 5 working days of the employee receiving the disciplinary warning or confirmation of dismissal.

### Appeals against dismissal

- 11.2. The Assistant Director or Head of HR shall invite two elected members of the councils joint staff committee to be part of the Appeal panel, the third member will be a manager more senior than the Deciding Officer at the disciplinary hearing where possible and who has not been involved previously in the disciplinary procedure.
- 11.3. If the dismissal has been issued by a member of Corporate Management Team, the third member of the appeal panel will be another member of Corporate Management Team.
- 11.4. Within 10 working days of receipt of an appeal, the manager hearing the appeal shall arrange an appeal hearing with the employee. The panel will also hear from the Deciding Manager at the disciplinary hearing who made the original decision.
- 11.5. Employees can be accompanied by a colleague or trade union representative at the hearing and will be asked to confirm, no later than 5 working days before the hearing, if they intend to call any witnesses. Representatives may address the hearing to put forward and conclude the case, they do not have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish them to or prevent the managers from explaining their case.
- 11.6. Both the staff side and the management side (normally the Deciding Manager from the Disciplinary Hearing) may submit new evidence at the appeal panel; this should be provided at least 5 working days before the date of the appeal hearing.
- 11.7. Each appeal hearing may differ depending on the individual circumstances but normally the procedure will be:
- The parties and their representatives are introduced to the panel
  - The panel introduce themselves
  - Employee or representative explains why they are appealing
  - Employee or representative presents the case calling any witnesses
  - Management question employee, representative and any witnesses
  - Panel question employee, representative and any witnesses
  - Management present their case calling any witnesses

- Employee or representative question management and any witnesses
- Panel question management and any witnesses
- Management sum up, at this stage no new material can be introduced or points made to which reference has not already been made during the proceedings
- Employee, or representative, sum up. At this stage no new material can be introduced or points made to which reference has not already been made.
- Both parties leave the room while the panel considers the information presented.
- The panel may recall both parties to ask further questions of either, after which the parties will retire again
- The panel recalls the parties and advise if they have been able to make a decision and, if so, what that decision is. If it has not been possible to make a decision the panel will explain why and confirm next steps – whether hearing is to be reconvened or decision will follow in writing after further deliberation.

11.8. The panel will either uphold or reject the appeal; they can do so either in whole or in part. It is for them to decide if the disciplinary action and or dismissal is upheld, or if it is to be changed, which can include reducing or the level of the warning or withdrawing the notice of dismissal.

11.9. Where possible, a decision will be made at the conclusion of the meeting following an adjournment to consider the decision; this will be confirmed normally within 5 working days. Where further time is necessary to consider the appeal and/or make a decision this will be communicated in writing within 5 working days.

11.10. If an appeal regarding a warning is upheld that warning will be disregarded for disciplinary purposes.

11.11. If an appeal regarding a dismissal is upheld the employee will be reinstated in his or her employment on the original terms and conditions and the employee will receive any salary that would have been paid from the date of dismissal to the reinstatement date. In addition, a written warning or action short of dismissal and an additional sanction may be issued.

11.12. The decision of the appeals panel is final and there is no further right of appeal.

### **Appeals against action short of dismissal and an additional sanction**

11.13. Appeals against any sanction short of dismissal will be heard where possible by a manager equivalent or more senior to the Deciding Manager at the disciplinary and who has not been involved previously in the disciplinary procedure.

- 11.14. If the appeal against the warning or additional sanction is rejected and the employee then accepts the additional sanction, there is no further right of appeal.
- 11.15. If the appeal against the additional sanction is rejected and the employee does not agree to the sanction being applied, then the outcome will be dismissal.
- 11.16. If the employee's appeal is upheld regarding the additional sanction then it will be removed and the level of warning will be considered. If the appeal against a final written warning is upheld then the warning may be reduced to a first written warning or removed.

## 12. Special Cases

### Safeguarding

- 12.1. In cases where the misconduct is of a safeguarding nature the Safeguarding Policy will be used alongside this disciplinary procedure.
- 12.2. Safeguarding allegations against staff and volunteers will be retained on employment records for 10 years or until after retirement which is longer.

### Criminal Offences

- 12.3. If an employee is charged or convicted with a criminal offence it may not normally in itself be a reason for disciplinary action. However, if the actual charge or conviction has an impact on their suitability or ability to do their job and their relationship with colleagues and customers or if it brings the Council into disrepute then the disciplinary procedure may be appropriate.
- 12.4. A decision on disciplinary action would be taken on the basis of the information available to the panel and this could result in dismissal.

## 13. Related Policies and Procedures

- 13.1. Grievance Procedure
- 13.2. Code of Conduct
- 13.3. **Capability Procedure**
- 13.4. Attendance Management
- 13.5. Whistleblowing

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**STRONGER together**



## Equality and Fairness Analysis Report assessing the impact of proposed changes and decisions

<b>Report title (same as Cabinet / Board report title)</b>	Disciplinary Policy
<b>Report author (same as Cabinet / Board report author)</b>	
<b>Report author's email address – for comments</b>	
<b>Responsible Head of Service</b>	Helen Knight
<b>Responsible Director/Assistant Director</b>	Becky Cooke
<b>Who will be making the decisions? – e.g. LDC or EBC - Full Council / Cabinet / Committee / name of Board / Cabinet Member / Service Head</b>	
<b>Date draft EaFA and report sent to Equalities Email and Cabinet / Board Officer</b>	

This form is to be used to give decision makers an understanding of the likely impact of decisions they are being asked to make on groups protected under the Equality Act, and on other groups who may be affected. It should be used to assess the impact of new projects, services, initiatives and changes in the way we deliver services that will affect staff, residents and service users.

Where this report relates to Council, Cabinet, Scrutiny or Board Reports, Part 1 of this form must be completed and submitted to [EqualitiesEmail@lewes-eastbourne.gov.uk](mailto:EqualitiesEmail@lewes-eastbourne.gov.uk) before or, at the latest, on the date for submission of draft reports to the Cabinet Officer. It should have been approved by the Director/Assistant Director and Lead Cabinet Member along with the draft report and signed off – at the end of Part 1 – at that point.

Part 2 should be completed and submitted to the Cabinet Officer and to [EqualitiesEmail@lewes-eastbourne.gov.uk](mailto:EqualitiesEmail@lewes-eastbourne.gov.uk) with the final Cabinet Report, and must incorporate any comments from the Equality and Fairness Planning Group and Stakeholder Group and amendments / responses / actions arising from these.

In some cases, there may not be an immediate impact on residents or customers. In these cases, an Equality and Fairness 'Relevance' Form **must** be completed and submitted to the [EqualitiesEmail@lewes-eastbourne.gov.uk](mailto:EqualitiesEmail@lewes-eastbourne.gov.uk) for our files.

## **The Public Sector Equality Duty**

The Council and its companies must, in the exercise of our functions and in our decision making, have due regard to the need to:

1. Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
2. Advance equality of opportunity between people who share a characteristic and those who do not share it;
3. Foster good relations between people who share a characteristic and those who do not share it.

The second aim (advancing equality of opportunity) involves, in particular, having due regard to the need to:

- Remove or minimise disadvantages experienced by people because of their protected characteristics.
- Take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people.
- Encourage people with certain protected characteristics to participate in public life or in other activities where their participation is disproportionately low.

It describes the third aim (fostering good relations) as tackling prejudice and promoting understanding between people who share protected characteristics and those who do not.

It explains that compliance with the general equality duty may involve treating some people more favourably than others, as long as this is within the law.

By thoroughly assessing what we do against the general duty we are able to make better decisions about what we do, leading to better outcomes for people who work for us and for people who access our services and facilities.

An Equality and Fairness Analysis should be carried out when

- developing or reviewing strategies, plans, policies and procedures;
- proposing changes to the services delivered or the way these are delivered
- proposing new services, functions, projects or initiatives.

All reports to Council, Cabinet, and Cabinet Members seeking decisions which will have an impact on residents and customers should include either:

- a full Equality and Fairness Analysis, using this form
- a completed Equality and Fairness 'Relevance' Form setting out why a full EaFA is not needed.



## **Assessing the impact of the options you are considering**

In your answers to the questions on the next pages, please spell out any positive or negative impacts relating to the three general duties to:

1. Eliminate discrimination, harassment and victimisation
2. Advance equality of opportunity between people who share a characteristic and those who do not share it;
3. Foster good relations between people who share a characteristic and those who do not share it.

You need to think about the protected characteristics below – some potential issues have been suggested, but this is not intended as a comprehensive list:

**Age** - are there any reasons for thinking young people or older people may be affected differently by the proposals? School times? Digital access / confidence?

**Disability** – could your proposals impact differently on people with particular impairments or long-term limiting illnesses? Consider, for example, physical access, format or information / communication, design of service / buildings, interpreting / equipment / assistance that can be used, impact of proposals on people with long-term health conditions, including mental health, children and adults with special needs, drug and alcohol addictions

**Gender reassignment** - are there any specific issues to consider, e.g. around confidentiality, stage of transition?

**Marriage and civil partnership** - are there any issues to consider – e.g. confidentiality, equal access?

**Pregnancy and maternity** – you may need to consider how best to ensure equal access to opportunities or services, facilities for breastfeeding for example

**Race and ethnicity** – you need to consider different levels of knowledge about the services available and how these are accessed; the provision of translation and interpreters – e.g. in consultation, and avoidance of jargon / colloquialisms

**Religion, belief and culture** – prayer facilities; dietary requirements; religious observances (days and times) and festivals

**Sex / gender** – promoting equality of opportunity, childcare arrangements, provision of single sex facilities

**Sexual orientation** – equality of opportunity, confidentiality

## Part 1 - for completion, approval and submission with draft Report

### Section A – What is your proposal and what will change as a result?

Please give an overview of the changes you are considering and decisions you are requesting and say why are they needed. What are the options you are considering?

To implement an aligned Disciplinary Policy that will be used across both councils.

The revision is required to support joint working across Eastbourne Borough Council (EBC) and Lewes District Council (LDC). There are currently two policies which can be confusing for staff and management.

The current Lewes policy covers both conduct and capability issues whereas Eastbourne has separate policies. Going forward we will have two policies and capability will be looked at separately.

The Disciplinary Policy sets out how issues of misconduct, including gross misconduct will be dealt with. It is intended to ensure that all staff are treated fairly and systematically if action needs to be taken.

The proposed changes that have arisen from the joining of the EBC and LDC disciplinary policies are minimal. Both policies were similar in both content and process.

In the current policies an appeal hearing against staff dismissal consists of three elected members. Due to member availability at reasonably short notice it is not always possible to find a date that three members can attend due to pre booked diary commitments.

In the new policy we are looking to reduce the number of elected members who sit on a panel to two and ask a manager more senior than the Deciding Officer at the disciplinary hearing to be the third member. This should make the process quicker and easier to get a panel together and we are more likely to find two elected members who can attend.

The Disciplinary Policy will be promoted to staff through The Hub (the council's intranet), and is referenced in the employee's contract of employment.

Who will be affected by the changes and how?

Thinking about groups protected under the Equality Act, will any of them benefit positively from the changes you are considering more than other people? In what way?

Will there be any negative impacts on these groups which may arise? What are these?

The Council's Equality and Fairness Policy states that 'we also recognise that socio-economic status can be a significant barrier to equality of opportunity'. What might the financial impact of any changes on people on low incomes or with limited savings? Are there any actions the council could take to mitigate the impact – e.g. support, advice, access to loans, transitional arrangements?

Are there any other groups of people who might be affected negatively by the changes you are considering? For example, homeless people; people with mental health conditions; people who use assistance dogs or rely on helpers to guide and support them or translate for them; people with caring responsibilities; people living in rural areas; people with limited access to the internet.

The joint disciplinary policy provides clarity for everyone on the process surrounding conduct within the workplace and the possible consequences.

Where possible, informal action is recommended before the disciplinary procedure is applied.

The policy is designed to operate within internal formal HR processes and will apply to all staff.

Where individuals require clarification they are able to raise this with their manager or Human Resources.

The policies for both LDC and EBC were very similar and there were no negative equality impacts from this.

The new policy would be posted on to our intranet and those who do not have access to a PC would be advised by their manager of changes to the policy.

Age - No impact

Disability – Reasonable adjustments will be made, where possible, to assist employees with a disability at all stages of disciplinary procedure

Gender reassignment –No impact

Marriage and civil partnership – No impact

Pregnancy and maternity – The policy will apply to those who are pregnant and/or on maternity leave. If needed, reasonable adjustments will be made, where possible.

Race and ethnicity- No impact

Religion, belief and culture- No impact

Sex / gender- No impact

Sexual orientation- No impact

The detail for reasonable adjustments is as follows;

## **1. Equality and Diversity**

- 1.1. Where a staff member requires reasonable adjustments to attend and/or participate in a disciplinary meeting, they may be accompanied by an appropriate person to provide support, in addition to their right to be accompanied by a colleague or trade union official.
- 1.2. The manager responsible for the meetings at each stage will ensure reasonable adjustments and special arrangements are made. This includes ensuring information is in an accessible format, that meeting arrangements/venues are accessible to all parties and that reasonable adjustments are made to enable fair and complete participation by all parties.
- 1.3. Staff members are invited to advise their line manager and subsequent managers of their needs and requirements to ensure they are fulfilled throughout the process wherever possible. This right is also extended to the appeal hearing.

**Section B – Bearing in mind the potential impact on these groups, what information have you used to consider the different options?**

How have you consulted so far with the people likely to be affected by any changes? What were the key points that came out of this consultation and how have you amended your proposals in response? If you have not yet consulted, at what stage are you proposing to carry out consultation and who / how are you proposing to consult?

We have looked at existing policies and practices across both councils, as well as referring to current legislation and best practice in this subject area to formulate the policy.

Groups to be consulted include Joint Staff (including Unison) and Employment Committee, Consultative forum and Managers forum.

What information, research findings and data have you used to assess the potential impact of any changes on people protected under the Equality Act and those who may face financial hardship as a result, and what did that information tell you about the potential impact?

There will be no impact as stated above. There is no data to suggest that the Disciplinary Policy has previously impacted anyone protected under the Equality Act. No employees will suffer financial hardship as part of this joint procedure.

Is there any information that you needed to understand the impact on these groups but are not able to find? What are the gaps and what can your service / the Council do to collect the information needed? Are there any actions you will take to address this?

No

**Section C: Actions taken and planned**

What actions or options are you considering to deal with any negative impacts This may not always be possible (e.g. some changes might have a disproportionate impact on the Council's finances). If you are not proposing any actions or amendments to your proposals, please explain why not.

The procedure will be subject to consultation and regular reviews.

We will ensure that disciplinary cases are handled in a fair and consistent way and that staff have access to all of the information and support available to them.

We do not anticipate any negative impacts to the introduction of the joint disciplinary policy.

### **Part 1 sign off**

Part 1 should now be reviewed and approved by your Director/Assistant Director, and submitted with your Cabinet / Board report as a separate document to the Cabinet Officer / Company Secretary and to [EqualitiesEmail@lewes-eastbourne.gov.uk](mailto:EqualitiesEmail@lewes-eastbourne.gov.uk).

**Name of Director/Assistant Director:**

**Signed:**

**Dated:**

### **Next steps:**

It will then be forwarded to members of the Equality and Fairness Planning Group and Stakeholder Group for their comments and they will be asked to give any feedback or suggest amendments directly to you as the report author within 5 working days.

Confidential reports will be sent to the internal Planning Group only.

If you receive any comments or suggestions from a member of the Stakeholder Group, please reply by email saying:

*'Thank you for your comments. We will take these into consideration and you will receive feedback at the next meeting of the Equality and Fairness Stakeholder Group'*.

Please add any comments you receive from members of these groups in Part 2 below and any actions or amendments to your report arising from their feedback.

Unless specifically asked to attach the EaFA as an appendix to a Cabinet or Board Report, the completed EaFA form must be sent as a separate document with the Cabinet or Board report and listed as a background paper 'available from the report author'. In some cases it will need to be published with the report; in others you will be advised to reference this as a Background Paper.

**Part 2 - for completion, approval and submission with final Report**

**Please note:** both parts of this Equality and Fairness Analysis will be made available on publication of the Cabinet / Board report they relate to. You may also be asked to present your final report and EaFA to the Equality and Fairness Steering group.

<p><b>Please describe in more detail the proposals you are making to Cabinet / Board in more detail. Please spell out your reasons for making these proposals / choosing the option(s) you are recommending.</b></p>
<p><b>Please give any additional information on the impact of your recommended options on groups protected under the Equality Act and any other groups.</b></p>
<p><b>Please set out below any comments from members of the Equality and Fairness Planning Group and the Equality and Fairness Stakeholder Group. Please include any comments and suggestions for amendment / action below.</b></p>
<p><b>Response to feedback.</b> Please describe any changes you have made to your policy / proposals as a result of the feedback. If you are not proposing changes in response to any of the feedback, please explain why. Please ensure you give a full explanation.</p>

Please list any additional actions you are proposing to take in response to the feedback.

**Executive Summary** – to be completed when you finalise your report. This is for you to paste into your Council / Cabinet / Committee / Member Board report. Keep this to 2–3 paragraphs only and incorporate any points raised by members of the Equality and Fairness Planning Group and Stakeholder Group and actions.

Please then include this summary in your report under the heading **Implications for Equality and Fairness**.

**Please now include any actions you have referred to in Parts 1 and 2 in the Action Plan on the next page.**

## Action Planning

Issue identified	Action to be completed	Lead Officer	Required Resources	Target Date	Measure of Success

<b>Approval</b>	
I confirm I have approved this Analysis and will review the action plan to ensure it is completed within the dates identified	<i>To be signed and dated by Head of Service</i>
I confirm that I have received this Analysis and approved it	<i>To be signed and dated by Director/Assistant Director</i>

Please now send this report to [EqualitiesEmail@lewes-eastbourne.gov.uk](mailto:EqualitiesEmail@lewes-eastbourne.gov.uk) and to the Cabinet Officer / Company Secretary with your final report.

Date final report submitted to Equalities and Cabinet Officer	
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