

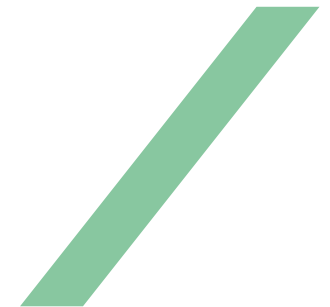


2023

# THE GOOD COUNCILLOR'S GUIDE TO EMPLOYMENT



The defining indicator of a good local (parish and town) council is how it looks after its people. Time and time again, we see councils that support their staff are better able to deliver their objectives and adapt to changing needs or priorities. Whether the council employs a single member of staff for a few hours a week, or a large and varied team of individuals, good employment practices are key to achieving the best outcomes for your communities.



## WELCOME

Being a good employer means making your employees feel more valued and more effective in their work, resulting in the improved delivery of council services for the residents in your communities. This guide is a comprehensive and straightforward guide to key employment areas. Each section contains easily digestible advice and information that will benefit the council and its employees, taking into account employment legislation as well as good practice.

Being a Good Employer has been written in six sections which cover the job cycle, from recruitment to leaving an organisation for whatever reason. It provides an overview of the critical legal issues you should be aware of as well as how to get more information and support. The guide also provides information and advice on how to get the best from your staff through good practices and training and development. And finally, the guide is aimed to provide your council the information and confidence to put in place good employment practices, allowing you to recruit and retain the best staff for your council and to support them in delivering the council services effectively.

NALC has been proud to work with the Society of Local Council Clerks (SLCC), County Associations and One Voice Wales (OVW) on the Civility and Respect Project. Throughout the sector, there are growing concerns about the impact bullying, harassment, and intimidation are having on local councils, councillors, clerks and council staff and the resulting effectiveness of local councils. Now is the time to put civility and respect at the top of the agenda and start a culture change for the local council sector. I encourage anyone reading this guide to also take a look at the range of resources and support delivered by this initiative.



**Councillor Keith Stevens**  
Chair of the National Association  
of Local Councils



Leon T / Unsplash

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## INTRODUCTION

**The guide has been written in six sections which run through the employment life cycle, from recruitment to leaving an organisation for whatever reason.**

Although the first tier of local government includes town and parish councils and some city, community, village and neighbourhood councils, the term 'council' is used throughout. When the guide uses the term 'employer' in the context of this guide, it means 'the council'.

When the term 'manager' is used this refers to the nominated committee or post holder/s that has been identified by a council to manage staff on behalf of the council.

NALC provides guidance on a variety of the areas covered in the guide, which is available to member councils and can also be obtained from county associations. SLCC advice notes are also available to member clerks.

Any explanation of law or policy is correct at the date of publication however the guide is not intended to be definitive legal guidance and appropriate advice should be obtained as and when required to ensure that the local situation and specific circumstances are considered.

Names of relevant government departments and bodies and links to their websites are also correct at the date of publication and may be subject to change.

It is important to note that employment legislation applies equally whether you employ 1, 10 or 100 employees.

You should also consider your council's policies and procedures when determining how to managing employment matters. The legal and statutory requirements will supersede any council contract or policy provisions unless these are more favourable than statutory requirements.

### EQUALITY, DIVERSITY AND INCLUSION

**Providing a supportive working environment allows employees to be more productive and drawing on a broader range of talent helps better represent the community that you serve. Equality, Diversity and Inclusion ensures fair opportunity for all and aims to remove prejudice and discrimination.**

Equality ensures that every individual has equal opportunities, regardless of their background, identity or experience. Diversity recognises that, though people have things in common with each other, they are also different many ways. Inclusion is where those differences are seen as a benefit, and where perspectives and differences are shared, leading to better decisions.

**The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. Employers must ensure that individuals, or groups of individuals, are not treated less favourably because of their protected characteristics. Employers must also ensure that those who may be disadvantaged can get the tools they need to access the same, fair opportunities as their peers.**

Creating a diverse and inclusive workplace brings many benefits for the employer over and above legal compliance including:

- improved employee engagement and retention
- increased representation, reflecting the wider community and their experiences and needs
- improved employee wellbeing
- better reputation for the council
- better decision making
- improved problem solving
- attraction of talent

It is unlawful to discriminate directly or indirectly in recruitment or employment because of 'protected characteristics' which are:

It is also desirable for employers to exercise practices in a way that is designed to reduce the inequalities resulting from socio-economic disadvantage.

Discrimination after employment may also be unlawful, e.g. refusing to give a reference for a reason related to one of the protected characteristics.

It is unlawful to discriminate against or harass a member of the public or service user in the provision of services or goods or fail to make reasonable adjustments.

## CIVILITY AND RESPECT

Throughout the sector, there have been growing concerns about the impact bullying, harassment, and intimidation are having on local (parish and town) councils, councillors, clerks and council staff and the resulting effectiveness of local councils.

Recognising that council employees will work with a wide range of different people – councillors, colleagues, contractors, the general public etc, councils are encouraged to adopt and embed practices, and set clear expectations for all parties to work together with civility and respect.

Councils should create a positive and supportive working environment for employees and ensure that their employees also understand and support the principles of civility and respect when engaging with other people they are in contact with in their role.

Councils are encouraged to sign up to the Civility and Respect pledge and promote working practices that live these principles. At the same time, they should ensure that behaviours that do not demonstrate civility and respect are addressed.

Further details about the Civility and Respect Project and supporting resources are available at [nalc.gov.uk/our-work/civility-and-respect-project](https://nalc.gov.uk/our-work/civility-and-respect-project)



## TYPES OF UNLAWFUL DISCRIMINATION

Type	description
<b>Direct discrimination</b>	Treating someone with a protected characteristic less favourably than others
<b>Indirect discrimination</b>	Putting rules or arrangements in place that apply to everyone, but that put someone with a protected characteristic at an unfair disadvantage
<b>Harassment</b>	Unwanted behaviour linked to a protected characteristic that violates someone's dignity or creates an offensive environment for them
<b>Associative discrimination</b>	Where an individual is directly discriminated against or harassed because of their association with another individual who has a protected characteristic (although it does not cover harassment because of marriage and civil partnership, and, according to guidance from the Government and ACAS, pregnancy and maternity).

Type	description
<b>Perceptive discrimination</b>	Where an individual is directly discriminated against or harassed based on a perception that they have a protected characteristic when they do not have that protected characteristic (other than marriage and civil partnership, and pregnancy and maternity).
<b>Third-party harassment</b>	Where an individual is harassed and the harassment is related to a protected characteristic (other than marriage and civil partnership, and pregnancy and maternity), by third parties such as service users.
<b>Victimisation</b>	Treating someone unfairly because they've complained about discrimination or harassment
<b>Failure to make reasonable adjustments</b>	Where a reasonable adjustment hasn't been made which puts a disabled person at a substantial disadvantage compared with someone who does not have that protected characteristic.



## GENERAL DATA PROTECTION

**As an employer, the council will handle and process a range of personal and sensitive data about their employees.**

Personal data, under the General Data Protection Regulations 2018, is *any information relating to an identified or identifiable natural person, who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, identification number, location data, online identifier or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.*

The regulations set out key principles for how personal data is managed including ensuring accuracy, confidentiality. In addition, the regulations give the employee rights regarding personal their data, including the right to be informed and of rectification and access.

It is important that the council, managers and anyone processing personal data relating to employees is aware of their responsibilities to protect personal data. Personal data could be shared in a recruitment campaign, managing employment matters, or providing a reference.

For security and confidentiality, councils are advised to use council domain email addresses for employees and councillors so that data is not shared to personal emails and systems the council is not able to control or access. It is also important that managers are mindful that employees can make a Data Subject Access Request to have sight or copies of data the employer holds on them. This can include informal notes, emails relating to the employee etc so councils should be aware that anything related to the employee could potentially be seen by them.

The Information Commissioner's Officer has guidance on GDPR, as well as checklists and resources. They are also the body you would need to report data breaches to.

[ico.org.uk/for-organisations/](https://ico.org.uk/for-organisations/)

## WHAT RECORDS SHOULD THE COUNCIL KEEP?

Councils must ensure they keep accurate and appropriate employee records. The council should agree on a data protection policy to include the safe and secure storage of that data/information, including who can have access to it. They should also agree and communicate retention periods for various documents. Records that should be kept by the council include:

- Personal employee details such as name and address/ emergency contacts / banking details / National Insurance information
- The employee's employment history with the council
- A copy of the employee's contract of employment and any subsequent variations
- Absence records, including sickness absence
- Details of any disciplinary action taken against the employee or grievances brought by the employee
- The original job application information with details of previous employment history, qualifications and references obtained as well as right to work evidence.

## PART-TIME WORKERS

**Many roles that a council appoint might be part-time due to the requirements of the roles and depending on the volume of work required.**

Part-time employees are protected from being disadvantaged due to not working full-time hours under The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000.

They should be provided with access to the occupational pension, to training and career development (including consideration for promotion), and to the same benefits offered to full time colleagues.

It is only justifiable to treat a part-time employee less favourably if it is shown as necessary to achieve a legitimate business objective. Part-time employees can request a written statement of reasons for the less favourable treatment and can make a tribunal claim if they are not satisfied there is a valid reason.

For part-time employees, you should be clear that entitlements such as salary, annual leave, sick pay are *pro rata* based on the proportion of time worked.

It is also important to be clear on arrangements such as overtime (if permitted). How is this agreed and paid? Councils should be aware of employees working extra hours without pay, as this can dilute the hourly rate they are paid for work, which could result in the employee receiving less than the National Minimum/National Living Wage.

For employees who work irregular hours, particular consideration is needed in relation to how the time worked, and annual leave and sick pay are calculated.

[gov.uk/government/publications/calculating-holiday-pay-for-workers-without-fixed-hours-or-pay/calculating-holiday-pay-for-workers-without-fixed-hours-or-pay--2](https://www.gov.uk/government/publications/calculating-holiday-pay-for-workers-without-fixed-hours-or-pay/calculating-holiday-pay-for-workers-without-fixed-hours-or-pay--2)

## HOME WORKERS

**It is increasingly common for employers to offer a blend of office and home working. Equally there will be some roles that are delivered a fully home-based roles.**

Whether in an office, or working at home, the council have a duty of care to the employee to ensure that working arrangements are safe and sustainable.

Councils should make sure that there are appropriate and agreed ways to maintain contact with employees working at home and manage and support them in the same way as office-based employees. Any home working agreements should be clear about any expected requirement to attend the office, or appropriate workplace, for example for meetings, training etc.

## HOW SHOULD A COUNCIL MANAGE HOMEWORKERS?

Some smaller councils have no office premises from which the employee can work, and some councils agree to employees being home based (or hybrid – mixing home and office working). Whilst this arrangement can often be mutually satisfactory and support attraction and retention of employees where the role allows, there are some issues which need to be considered and agreed upon at the outset.

For home workers, the contract of employment should specify the place of work as the employee's home address. It should also identify the times and days that the employee

works e.g. 'Monday to Thursday, 9 am to 1 pm' rather than '16 hours per week'.

For hybrid working, the contract might specify the main place of work as the office, with 1 day a week to be worked in the office for example. Agreement should be clear as to when expenses are paid. For example, if required to attend the office once a week, it may be agreed this travel is not claimable however expenses might be agreed if additional office visits are required by the employer.

If the employee works at home and it is therefore a designated workplace, the council should arrange for a risk assessment of the relevant work area to ensure that health and safety regulations are complied with. The council should be responsible for any reasonable cost to ensure the employee can work safely. There must be employers' liability insurance, and there should also be public liability insurance to cover employees working from home. Employees should be advised to ensure any tenancy agreement or home insurance does not prohibit home working.

The council should reimburse all reasonable expenses incurred by homeworkers (as for all other employees) in the course of their duties upon receipt of satisfactory claims.

The council should provide the equipment necessary to enable homeworking employees to do their job or agree with homeworkers a suitable sum to cover the use of their own equipment. The council can also pay the employee for the costs associated with heating, lighting, etc. HMRC rules allow for some of these expenses to be paid tax-free ([gov.uk/tax-relief-for-employees/working-at-home](https://www.gov.uk/tax-relief-for-employees/working-at-home)).

The council should provide or cover the cost of appropriate fireproof storage for documents. Councils should ensure that documents stored at home are secure and kept in accordance with the data protection regulations.

Clerks are normally contractually obliged to make themselves available to members of the public during agreed hours at premises designated by the council. Meetings with the public or councillors at clerks' homes are to be discouraged to ensure the safety of employees and councillors.





Noorulabdeen Ahmad/unsplash

## RECRUITMENT

Other than an awareness and understanding of the council as a member of the public, or an elector, the first steps in the employment cycle and having a relationship with the council as a potential employer, is during the recruitment process.

The council has obligations to ensure that their recruitment practices are inclusive and do not discriminate against particular individuals or groups of individuals due to protected characteristics. Discrimination claims can be made by individuals who perceive they have been discriminated during recruitment, and without being an employee.

Some useful questions and considerations for a council in planning a recruitment process include:

### WHEN SHOULD A COUNCIL RECRUIT?

A council's power to employ people is contained in section 112 Local Government Act 1972. Councils can appoint employees if it helps them to exercise their statutory functions. When a potential vacancy arises, the first question a council should ask is, 'what work will the employee undertake?'

A council could realistically employ people with a wide range of skills. These may include:

- Clerk / chief officers
- Deputy clerk
- Administrative assistants

- Responsible financial officer (RFO)
- Deputy RFO
- Financial assistants
- Caretakers
- Gardeners
- Grounds staff
- Markets managers
- Village hall and events managers

### IS RECRUITMENT NECESSARY FOR A VACANT POST?

Employers can often rush to recruit 'like for like' when they receive a resignation however when preparing for recruitment, it can be helpful to first consider if changes are needed. Should the existing job descriptions be reviewed? Can new or additional work be incorporated into existing posts? Does the role deliver what is needed in the coming months and years or should a new job be created? Would a new job fit into the existing employment structures? Who would manage the new employee? Would a new role mean changes or amendments to any other existing role/s?

The council should also consider whether the working arrangements for the role are appropriate and enable fair and effective delivery of the role. For example, if the previous postholder was regularly working additional hours, do the contractual hours need increasing, or the role responsibilities reducing? Roles are deemed more attractive if there is some flexibility so could the post be delivered with an element of hybrid or home working?

It is good practice to undertake exit interviews with staff when they leave, to understand any challenges they had in delivering the role or updates to the job description they recommend. This can help ensure more effective recruitment for a replacement.

A council may believe that new or additional work could be undertaken or incorporated into the job description of an existing employee. If the change to the job description would vary the existing contract of employment (e.g. if the job description is considered contractual, or the changes would change contractual terms such as working pattern, or pay), the proposed change will generally require consultation and the employee's consent. If changes to the job description do not vary the contract of employment, it is still preferable to obtain the employee's consent to the proposed changes. It is recommended that advice is sought regarding consultation, particularly where contractual changes are being proposed or there may be changes to a number of roles, or potential redundancies.

Councils should be cautious about imposing more responsibilities on existing employees without consulting them or obtaining their consent. If workloads are increased unreasonably, an employee may become overworked and stressed. The critical point is for the council to effectively manage any new work and decide how it will be undertaken.

Councils may decide not to recruit an employee but to engage agency workers or other non-employees instead. This can provide flexibility or specialist skills when needed. The council should consider whether such arrangements are appropriate for the role as a longer-term arrangement.

Councils are free to use employment agencies to conduct the recruitment process but should be aware of the potential costs involved. Your county association may also be able to offer recruitment assistance.

### WHAT SHOULD BE IN THE JOB DESCRIPTION AND PERSON SPECIFICATION?

#### A job description should contain:

- The primary purpose of the job (if possible, in one sentence)
- The primary responsibilities of the job (councils should use active verbs, like 'writing', 'calculating', instead of vaguer terms like 'dealing with', 'in charge of')
- The scope of the job (i.e. it should describe the main tasks and the importance of the job by giving information such as the number of people to be supervised).
- The role to whom the employee reports.

A council should create a person specification after it has written a job description. A person specification is different from a job description. It details the skills and experience a person should have, to be able to do the job. The various attributes in the person specification should be separated into those that are essential and those that are desirable.

The types of attributes to consider putting into a person specification include:

- Education and training (but only so far as is necessary for satisfactory job performance – e.g if you ask for a degree, consider why and whether the ability could equally be demonstrated through relevant experience.

- Qualifications – as with education consider what is essential for the role, and what might be gained through experience.
- Skills and knowledge
- Aptitude directly related to the job
- Type of experience necessary
- Necessary competencies

It is good practice to be clear on the person specification how these attributes will be measured, e.g. through the application form, at an interview or by test.

The council should consider what can be objectively measured or scored during a selection process. It is not recommended to base experience in terms of years, e.g. stating 'five years' experience is needed' may discriminate against younger candidates, and there may be candidates who have been exposed to more in three years than others with five years' experience. It is better to relate the skills and knowledge to the experience you need to see rather than a time period.

Also consider attributes that may be discriminatory. For example, stating someone needs to be energetic may exclude someone with a health condition when they are able to the role, however you could relate an attribute to the needs of the role such as 'ability to lift and carry heavy items such as tables and chairs'

### WHAT PAY SHOULD COUNCILS OFFER?

The final decision on pay rests with the council and the employee. However, NALC and SLCC recommend that clerks' (and other roles) starting salaries should be

consistent with salary scales set out in by NJC 'Green Book'. NALC and SLCC also advise councils either to adopt an incremental pay scale or a single pay point within the appropriate range, which may then be reviewed annually.

The National Joint Council (NJC) pay review each April, is a recommended indication for pay increases, allowing councils to reflect the pay increase that is agreed and applied across other areas of local government. The agreed increase is usually applied in April, however to note, that where negotiations delay an agreement, the increase can be confirmed later in the year and applied retrospectively or in line with the terms of the negotiated agreement.

The council are however able to determine their own pay and increases if they have not opted to mirror or adopt the NJC pay arrangements.

It can be difficult for a council to establish the 'going rate' for a job. It can help their decision-making:

- to find out what rates are offered for similar work at the principal authority
- Seek guidance from their county association as to appropriate levels of pay
- Consider what similar roles are paid in their local geographic area – e.g what is the rate for Administration roles in the local area, with similar responsibilities.

### WILL OTHER BENEFITS ATTRACT THE RIGHT CANDIDATE?

Attracting good candidates is often about getting paid fairly, however other factors such as flexibility, inclusion, career and personal development can be important too. For

potential applicants, other considerations such as pension benefits, sick pay and holiday entitlement will also be an attraction.

There is a national agreement of terms that covers benefits and entitlements (such as annual leave, sick pay, family benefits) for local authority employees. This is often referred to as the 'Green Book'. While councils are not obliged to mirror the terms set out in the Green Book, NALC encourages councils to reflect Green Book terms. The terms are usually enhanced above the statutory minimum entitlements so demonstrate best practice when determining terms to offer employees in our sector.

### PENSIONS

**All councils will be required to enrol eligible workers into a pension scheme. For more information, see the Pensions Regulator website ([thepensionsregulator.gov.uk](https://www.thepensionsregulator.gov.uk)).**

Deciding about pensions is a significant long-term commitment. The council may benefit from independent advice from a financial adviser authorised or registered by the Prudential Regulation Authority (PRA) and/or the Financial Conduct Authority (FCA). You can find out more on the FCA's register ([fca.org.uk/register](https://www.fca.org.uk/register)).

The Local Government Pension Scheme is offered to employees by many councils and enables employees to continue to contribute to the LGPS as they move between different local government employments. See also the following section regarding previous service.

## PREVIOUS SERVICE

Councils may want to attract candidates with valuable and relevant experience from other local government roles. It may help if the contract of employment considers the previous service elsewhere in local government when calculating benefits that can increase with services, such as holidays and sick pay. For these benefits, previous local government service would be subject to the rules on continuity of employment. The Modification Order – [legislation.gov.uk/uksi/1999/2277/made](https://legislation.gov.uk/uksi/1999/2277/made) The Green Book considers previous local government services for calculating these benefits. It is not an automatic right for council employees and needs to be agreed upon by the individual and employer in the contract of employment.

The continuous service under the modification order can contribute to service for redundancy purposes which could mean a redundancy payment can be due for employees with less than two years' service with your council.

If councils want further advice on pay and other benefits for any of their employees, they should contact their county associations.

## WHAT SHOULD BE PUT IN A JOB ADVERTISEMENT?

The advertisement should state:

- The position advertised
- The job location (and any flexibility available such as hybrid/home working)
- Working arrangements such as full/part-time and any defined working hours

- The intended pay
- The qualifications and experience required
- How to apply for the job and details of the person to contact if more information is required
- The closing date for receipt of the application

The advertisement must be non-discriminatory and should avoid any gender or a culturally specific language. E.g. you should refer to a Handy Person rather than Handy Man, or ensure that qualifications are referenced as 'GCSEs or equivalent' rather than just requiring 'GCSEs' which would discriminate against those not schooled under the English education system.

It is unlawful to advertise for a male or a female (or based on any other protected characteristics) except for limited jobs where the person's gender or characteristic may be recognised to be a genuine occupational requirement.

Advertisements and job descriptions cannot advertise unjustifiably for people of a particular age group. Words that convey a particular type of person should be avoided e.g. 'young', 'vibrant', and 'mature.'

The ACAS publication, [acas.org.uk/acas-guide-on-age-discrimination](https://acas.org.uk/acas-guide-on-age-discrimination) contains more detailed information on these issues.

Councils should include in their adverts a statement of commitment to equal opportunities, which will underline that they welcome applications from all sections of the community. You may also want to promote that you would particularly welcome applications from parts of the community that are under-represented in your workforce if you are trying to build a more diverse workforce.



This should not however exclude others from applying, and it is important to ensure that appointment decisions are based on who is best for the role.

### HOW SHOULD VACANCIES BE ADVERTISED?

The more widely a job is advertised, the more successful and fairer the recruitment process is likely to be because a broader range of people will be able to apply for the job. Advertisements are most likely to be successful in local newspapers, County Associations, NALC and SLCC communications, parish newsletters, parish noticeboards, and websites. These are likely to achieve the most significant coverage of potential applicants at a reasonable cost.

'Word of mouth' recruitment is not advisable, particularly as a sole way to source applicants, and may be discriminatory or reduce inclusion and diversity.

While councils can ask candidates to complete an application form prepared by the council, it is increasingly common to ask candidates for a CV and tailored cover letter. The council can ask candidates to set out how they meet the requirements of the role in their cover letter. CVs and cover letters can increase the pool of applicants as many people will not spend time completing a bespoke application form.

Councils should ensure the job description and person specification and any other application documents are sent with or downloadable for candidates when sharing job details.

The date by which applications must be submitted should be a reasonable time after the advertisement appears (e.g. four weeks). This will allow time for the advert to be seen, and for applications to be carefully submitted. If a date for

the interviews can be given in the advert, then it should be included. It is recommended that the interview panels availability is booked at the start of the recruitment planning. Dates should be selected so as not to restrict the number of applications (e.g. days of religious observance and holiday periods should be avoided), and councils should try to adopt as flexible an approach as possible.

### EMPLOYMENT CHECKS

**Under the Immigration, Asylum and Nationality Act 2006, it is a criminal offence to employ a person who does not have permission to work in the United Kingdom. Councils must check an applicant's entitlement to work in the UK as part of the selection process before appointing a successful candidate. As original documents need to be seen, it is common to check the documents during the interview process. Councils must retain copies of these documents for the successful candidate**

The council can enquire whether the applicant has been convicted of a criminal offence and, if so, give details. Under the Rehabilitation of Offenders Act 1974, a conviction can become spent. Spent convictions are those convictions that have reached a set period as defined by the Act and are removed from an individual's criminal record.

The applicant is not obliged to disclose spent convictions. The time required before the conviction is spent will depend on the nature and length of the sentence. Some convictions never become spent. See the Disclosure and Barring Service website ([gov.uk/disclosure-barring-service-check](https://www.gov.uk/disclosure-barring-service-check)).

### CONFLICTS OF INTEREST IN THE SELECTION PROCESS?

A councillor/clerk may know a job applicant. In these circumstances, they must consider whether involvement in the selection process is consistent with the council's code of conduct and its commitment to the seven general principles of conduct (known as the Nolan Principles).

It is recommended that the interviewer/interview panel is the same for all interviews for consistency however at the very least there should be one consistent person in all interviews.

### HOW DO COUNCILS SHORTLIST?

The selection process following the receipt of applications should be transparent, and the selection process should be focussed on the relevant job description and person specification.

Shortlisting involves assessing each application as either having or not having the necessary attributes listed in the essential and desirable skills and experience in the person specification.

It is recommended to score the applications against the essential and desirable criteria of the role. Scoring provides an objective outcome as to who is shortlisted and invited to interview. The scoring information can support the council in providing objective feedback, and responding to concerns that may relate to perceived discrimination.

Shortlisting is most productively done by a staffing committee or a sub-committee rather than a full council. For some roles it may be that the Clerk or another appropriate manager is responsible for shortlisting.

It would be sensible to include in the shortlisting process the person or body who will be the line manager of the new employee.

It is generally recommended that the final shortlist is limited to four or five applicants to invite to interview so that it is feasible to interview all interviewees on the same day.

### HOW SHOULD A COUNCIL CARRY OUT INTERVIEWS?

Interviewing should be delegated to a staffing committee, a sub-committee, or an employee if appropriate. Large interview panels are likely to be unwieldy and intimidating. It may also depend on the job. There would ideally be at least two people on an interview panel.

When inviting applicants to interview you should

- Confirm the time and location of the interview
- Who to ask for on arrival if relevant
- Advise the expected time required
- Confirm who will be on the interview panel
- Provide details of any preparation – such as a presentation or case study
- Ask whether the candidate requires any reasonable adjustments.

If there is to be a practical test this should be relevant to the role (e.g. typing test/in-tray exercise) and the council should inform the candidate in advance. Candidates should also be asked in advance of the interview whether they need any special facilities or arrangements to be available (e.g. wheelchair access) as a reasonable adjustment.

Further information can be obtained from the Equality and Human Rights Commission website ([equalityhumanrights.com](https://equalityhumanrights.com)).

Once in the interview, the candidate should be made to feel comfortable and at ease. Panel members should introduce themselves and give the candidate some explanation about the job and the council.

Candidates should be asked a standard set of questions, agreed upon in advance to ensure consistency across the interviews and to avoid potentially discriminatory questions. It is acceptable for interviewers to ask different supplementary questions of candidates that arise from the answers given.

Personal questions relating to the candidate's age, sex, sexual orientation, race, marital status, nationality, religion or belief, disability, civil partnership, gender re-assignment, pregnancy, maternity, membership, or non-membership of a trade union should also not be asked.

Interview panels should allow time for the candidate to ask questions about the council and the job.

Interviewers should take notes during the interview to refer to when making the selection decision. Notes should be specific to the answers given, and irrelevant subjective comments must be avoided. To bear in mind, anyone can make a Subject Access Request to see information held about them. The notes related to their interview would be disclosable if requested.

These notes will also be the basis of any feedback to the unsuccessful candidates if requested. Remember that any records relating to the recruitment process need to be kept for a reasonable period (e.g. not less than six months) in case a candidate brings an employment tribunal claim.

Retained documents of unsuccessful candidates should be stored securely – it is recommended that they are held together centrally and not with each panel member. At the end of the retention period the notes should be securely destroyed, e.g. shredded. Tribunal claimants do not have to be employees if they are claiming that discrimination has taken place.

All candidates should be notified as soon as possible after the decision is made. The successful candidate should be informed that any offer is subject to satisfactory references. It is good practice to seek a reference from the current or most recent employer. References are generally taken up once an offer of employment has been accepted, and with agreement from the candidate. For appointed people with limited work experience, you could request a reference from education or volunteer roles.

Councils should not be over-reliant on references. They should be prepared to decide based on their own perception of a candidate. Previous employers have no legal obligation to provide a reference, and its content is a matter for the provider. It could contain a detailed assessment of the candidate's qualities but most references nowadays are limited to confirmation of the job title and length of service.

[ico.org.uk/media/for-organisations/documents/1064/the\\_employment\\_practices\\_code.pdf](https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf)



Portra/istock

### WHAT SHOULD BE IN THE OFFER LETTER?

The offer letter should contain the following information:

- The job offer (and whether it is conditional if it is subject to references, and any other recruitment checks)
- The job title
- The terms of the offer (e.g. salary, hours, benefits, pension arrangements, holiday entitlement, place of employment)
- The (provisional) start date
- Probation period (length of this and what notice would apply during this period)
- What action the candidate needs to take (e.g. returning a signed acceptance of the offer and informing the employer whether the start date is affected by the notice period of the present job, provide details of referees, arrange for the right to work check to be completed...)

If the letter is to form part of the contract of employment, it should say so. Alternatively, it could form part of the written statement of particulars of employment, which must be issued to employees before or on their first day of employment.

### WHAT ELSE DO EMPLOYERS NEED TO CONSIDER?

For some jobs, such as those working with children or vulnerable adults, it may be required to undertake a Disclosure and Barring Service (DBS) check.

For some checks to work with children and/or vulnerable adults convictions will never become spent. Any criminal convictions can be subject to a criminal record check by the Disclosure and Barring Service (DBS). In these circumstances,

the council should inform the candidates that any offer will be subject to DBS checking.

Employers should also refer to the DBS when they have concerns that a person poses a risk to children or vulnerable adults. For more information, see the Disclosure and Barring Service website ([gov.uk/government/organisations/disclosure-and-barring-service](https://www.gov.uk/government/organisations/disclosure-and-barring-service)).

### STARTING WORK

**A good induction helps a new employee to fit in and be effective as quickly as possible. Investing time in an effective induction can help the employee feel committed to the council, increasing productivity, and promoting retention.**

### WHAT HAPPENS WHEN AN EMPLOYEE STARTS WORK – PROBATION AND INDUCTION?

It is standard practice for employees to have a probation period, the length of which will be confirmed in the contract, and for there to be systems in place to assess the employee's progress during this period. Once employees start work, they should be given induction training. This should include an introduction to the councillors and employees, an organisation chart, health and safety information about their workplace and equality, diversity and inclusion expectations. The induction will also include details about their role, responsibilities and support and guidance on how tasks are managed and should be delivered.

Induction for clerks should be coordinated by a council's staffing committee. The clerk, as the most senior officer of the council, (or other relevant managers) can carry out

inductions for other employees. New employees should be made aware of the council's various policies as part of their induction. A list of policies for councils can be found at the back of the guide. Councils can also contact county associations for further information and possibly assistance.

The manager/committee should have regular discussions with the employee in their probation period to check things are progressing as expected for both parties. Any concerns during the probation period should be addressed early and discussed with the employee with the aim of changing the performance to align with expectations.

Successful completion of the probation period should be confirmed in writing.



## EMPLOYEE RIGHTS AND OBLIGATIONS

### ARE ALL WORKERS EMPLOYEES?

Not all workers are employees. There are self-employed and other types of workers (such as agency workers) who are not employees of the organisations where they work.

Council workers will generally be employees. All clerks are office holders. As such, councils must always deduct tax and any National Insurance Contributions from their pay (see NALC and HMRC guidance).

### WHAT IS AN EMPLOYMENT CONTRACT?

The contract of employment forms the basis of the employment relationship and all employees have a contract of employment. In simple terms, an employee agrees to work for an employer in return for wages. A contract is formed when an offer of employment is accepted.

Several rights and duties arise when the contract is formed e.g. the right to notice of termination of employment. However, most contractual rights and duties apply only when the employee starts work.

### DOES AN EMPLOYMENT CONTRACT NEED TO BE IN WRITING?

Employment contracts must be in writing. Since April 2020, a contract must be issued on or before the first day of employment.

The following details must be included in the written statement:

- The employee's name and address
- The employer's name and registered address
- The job title
- The date employment will begin
- The place(s) of work and the address the employee will be based
- The amount of pay or the method for calculating pay
- The intervals between payments
- Hours of work
- Holiday entitlement
- Sickness arrangements (including sick pay)
- Benefits
- Any training requirements
- Pension arrangements
- Notice period
- Where the employment is not permanent, the period it is expected to continue for where the employment is for a fixed term, e.g. the date when it is to end
- Grievance and disciplinary arrangements (as a minimum, these should comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures)
- Any collective agreements which directly affect terms and conditions

### WHAT ARE IMPLIED TERMS?

Implied terms are terms that are not explicitly agreed by the employer and employee. For example, all employment contracts contain the following terms even though they will not generally be written down:

- To maintain trust and confidence: e.g. a term that the employer will not harass the employee
- To maintain confidentiality: e.g. the employee must not disclose confidential information
- To take reasonable care to ensure safety and health in the workplace: this will apply to both the employer and the employee
- For the employee to obey reasonable instructions/ rules.

Sometimes an employment contract will only be workable by implying a term in it; sometimes, the term is so obvious that it does not need to be written down; and sometimes, a term is in a contract of employment because of 'custom and practice' in an organisation or sector. However, where possible, contractual terms should be in writing to minimise the possibility of future disagreements.

### WHAT IS THE EFFECT OF COLLECTIVE BARGAINING?

Collective bargaining refers to negotiations between employers and employees which can include terms and conditions of employment and disciplinary matters.

What is agreed between employers' and employees' representatives in these negotiations can affect an individual employee's contract of employment.

### WHAT STATUTORY RIGHTS AND OBLIGATIONS AFFECT THE EMPLOYMENT RELATIONSHIP?

There is a wide range of statutory rights and obligations derived from Parliamentary Acts or Regulations which affect the employment relationship. In general, despite any express term to the contrary, statutory rights and obligations cannot be waived. They include the following:

- **Not to be discriminated against on grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation.** These are called 'protected characteristics' and are defined by the Equality Act 2010.
- **To equal pay with the opposite sex** if they are doing like work or work of equal value.
- **Not to be unfairly dismissed:** employees must generally have at least two years' of continuous employment to bring an unfair dismissal claim. However, some unfair dismissal claims, such as a claim that the dismissal was discrimination related, can be made whatever the length of employment (see [acas.org.uk](https://www.acas.org.uk))
- **Not to be dismissed for asserting a statutory right.** This could give grounds for automatic unfair dismissal claim. An employee would not need two years' continuous service to make such a claim. Examples such as making a flexible working request, whistleblowing, doing jury service (see [acas.org.uk/dismissals/unfair-dismissal](https://www.acas.org.uk/dismissals/unfair-dismissal) for further information on automatically unfair reasons)
- **To an itemised pay statement** that shows how net pay has been calculated (see [hmrc.gov.uk](https://www.hmrc.gov.uk)).

- **To maternity benefits:** all pregnant employees have the right to paid time off for ante-natal care, the right to take up to 52 weeks of maternity leave and the right not to be dismissed because of pregnancy or childbirth.

All employees who take maternity leave are entitled to Statutory Maternity Pay (SMP) if they have 26 weeks or more continuous employment by the end of the 15th week before the expected week of childbirth. Average earnings in the relevant period preceding the 15th week before the expected week of childbirth must not be less than the lower earnings limit for National Insurance contributions.

SMP, which is payable from the beginning of maternity leave, is paid for up to 39 weeks. The first six weeks are paid at 90% of gross average earnings. The remaining 33 weeks are paid at the lower of 90% of gross average earnings or a fixed rate, which is adjusted annually.

- **To paternity benefits:** employees who are the father, adopter, are in an established relationship with the mother or adopter of the child, or are intending to have a child by surrogacy, who have responsibility for the upbringing of the child and who have at least 26 weeks continuous employment by the 15th week before the baby is due or the end of the week when the employee is matched with the child to be adopted, have the right to either one week's paternity leave or two weeks' paternity leave, paid at a fixed rate, which is adjusted annually (Statutory Paternity Pay) or 90% of gross average earnings if that is less.

To qualify for Statutory Paternity Pay, employees must, on average, have weekly earnings which are equal to or above the lower earnings limit for National Insurance

Contributions and be employed by the employer up to the date of birth.

- **To shared parental benefits:** eligible employees are the mother, adopter or partner who share the main responsibility for the child's care. An employee who is entitled to statutory maternity pay or statutory paternity pay is likely to meet the service requirement for shared parental leave. They are entitled to up to 50 weeks shared parental leave (SPL) in the year following the child's birth/adoption. They may also be entitled to shared parental pay during SPL. SPL can be shared between two people.

SPL cannot begin unless the mother or primary adopter brings statutory maternity leave or statutory adoption leave to an end. This cannot be before the end of the second week following birth or adoption. The outstanding statutory maternity leave or statutory adoption leave (i.e. up to 50 weeks) can then be available as SPL. For more information (including information on eligibility and shared parental pay — see [acas.org.uk/shared-parental-leave-and-pay](https://www.acas.org.uk/shared-parental-leave-and-pay))

- **To adoption benefits:** rights are equivalent to the maternity leave/pay entitlements.
- **To parental leave:** employees who have at least one year's continuous employment with their employer are entitled to take unpaid time off work. The right applies to both mother and father and allows for up to 18 weeks of parental leave until the child's 18th birthday. Leave must be taken in blocks of one week unless the child is disabled, and no more than four weeks can be taken in any one year without agreement.



- **To time off for dependants:** all employees have the right to take a reasonable period of unpaid time off work to deal with an emergency involving a dependant, such as a husband, wife, partner, child, parent or someone who reasonably relies on the employee for help in an emergency.
- **To apply for flexible working:** employees who have at least 26 weeks' continuous service on the date of their request have the right to apply to their employer to work flexibly. The request can cover job share, hours of work, times of work and place of work.

The employer must consider the request seriously but may refuse it if there are clear business grounds for doing so.

- **To notice of termination of employment:** employees are entitled to receive from their employers at least one week's notice after one month's continuous employment, two weeks after two years and an additional week's notice for each complete year of employment up to 12 weeks for 12 years or more continuous employment. Employers must receive at least one week's notice from employees with continuous employment of one month or more.

Contractual provisions can provide for more extended notice.

- **Not to have unlawful deductions from pay:** employers must not deduct from an employee's pay unless the deduction is allowed by law or the employee's contract, or if the employee has previously given written agreement or consent to the deduction.

- **To redundancy pay:** employees with at least two years' continuous employment who are dismissed for redundancy are entitled to a redundancy payment. The payment depends on pay, age and the length of continuous employment of the employee (see the ready reckoner on [gov.uk/redundancy-pay](http://gov.uk/redundancy-pay)).
- **To statutory Parental Bereavement Leave and Pay:** parents with 26 weeks service are entitled to two weeks bereavement leave with statutory pay following the death of a child under 18
- **To statutory sick pay (SSP):** paid by the employer from the fourth day of continuous absence for up to 28 weeks, provided the employee meets the qualifying conditions and the employer does not pay occupational sick pay that is equal to or more than SSP (see [hmrc.gov.uk](http://hmrc.gov.uk)).
- **To a reasonable amount of time off:**
  - » for public duties (councillor, school governor, etc)
  - » for jury service
  - » to look for work if declared redundant with at least two years' service by the date of expiry of the notice period
  - » for trade union activities, duties, and training (see ACAS Code of Practice 3: time off for trade union duties and activities)
  - » for duties as an employee representative where there are redundancies or business transfers
  - » for carrying out functions as a safety representative
  - » to study

- **To be enrolled automatically into a 'qualifying' pension scheme, subject to eligibility criteria:** Staged implementation of 'auto-enrolment' started in 2012 and has, at the time of publication, reached smaller employers, including many local councils. For more information (see [thepensionsregulator.gov.uk/docs/pensions-reform-pension-schemes-v4.pdf](https://thepensionsregulator.gov.uk/docs/pensions-reform-pension-schemes-v4.pdf)).
  - **To trade union membership:** employees have the right to belong or not to belong to a trade union.
  - **To protect, if a business transfer is covered by the Transfer of Undertakings (Protection of Employment) Regulations 2006 ('TUPE'):** employees have the right to be transferred automatically, on the same terms and conditions of employment, without loss of employment rights.
  - **To written reasons for dismissal:** provided they have at least two years' service. There is no qualifying period of employment if an employee is dismissed while pregnant or on maternity or adoption leave.
  - **To a written statement of the main terms of the contract.**
  - **To minimum hourly rates:** The National Living Wage (NLW) applies for all workers aged 23 and over. The National Minimum Wage applies to workers under 23 and apprentices (see [gov.uk/government/publications/minimum-wage-rates-for-2023](https://gov.uk/government/publications/minimum-wage-rates-for-2023)).
- Increases in both rates apply annually in April.
- **To annual leave and working time limits:** under the Working Time Regulations 1998, workers are entitled to 5.6 weeks (28 days) of paid leave per year (pro-rated for workers on less than five days a week), including public holidays. The Regulations also limit the average working week to

48 hours. Employees can agree, in writing, to waive the 48-hour right. Special rules apply to young persons. The Regulations also provide for rest breaks.

- **To a safe system of work:** an employer is statutorily responsible for the health and safety of its workers. An employer may be required to send a worker home if there is a health risk in the workplace. The Health and Safety at Work etc Act 1974 requires all employers, for example, to have a written health and safety policy if they employ five or more employees, to report specific injuries, diseases, and dangerous occurrences, to provide information and training, and to provide first aid facilities. Additionally, all employers are required to carry out risk assessments in their workplace (see [hse.org.uk](https://hse.org.uk)).
- **To be accompanied at disciplinary and grievance hearings** by a colleague, an accredited trade union representative or trade union official of their choice.
- **For part-timers to be treated no less favourably than comparable full-timers:** see the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000.
- **For employees on fixed-term contracts to be treated no less favourably than comparable permanent employees:** see the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002. Employees become permanent if they have been continuously employed for more than four years on more than one contract unless the employer can show a good reason why this should not apply.
- **To protect when making disclosures of wrongdoing** (i.e. whistleblowing) if dismissed or treated less favourably by their employer.

- To access their personal data securely held by their employer under the Data Protection Act 1998. See [ico.org.uk](https://ico.org.uk)

For further information on individual employment rights, see [acas.org.uk](https://acas.org.uk)

### HOW CAN A CONTRACT BE ALTERED?

**A contract of employment cannot be changed unilaterally by either party. Most changes to an employment contract require the consent of the employer and employee. They can be agreed upon:**

- Either orally or in writing (although written consent can avoid later disagreements)
- When the employee works in accordance with the new terms without objecting to the changes
- Through a term which provides for a variation in the contract, e.g. a clause specifically allowing an employer to change an employee's duties (however it is recommended to discuss changes with the employee)
- Through collective bargaining arrangements

It is essential that contractual changes are discussed and agreed upon where possible because disagreement over the changes may lead to the ending of the contract and employers facing unfair/wrongful dismissal claims. Councils must ensure that they act reasonably in these circumstances. Councils may need to obtain legal advice about these matters.

## MANAGEMENT

Effective management of employees has benefits for both the council and the employee. It involves continuous dialogue, support, personal development, conflict management and team building. Good line management structures should be in place for all staff, supported by clear policies to enable fair and consistent management across the organisation.

### HOW SHOULD A COUNCIL MANAGE ITS EMPLOYEES?

**The council, as the corporate body, is the employer of all its employees. Decisions about employment matters cannot be delegated to individual councillors, including the chair. They can be delegated to employees such as the clerk. It is recommended that management matters are dealt with by a committee appointed for such a purpose, such as a staffing committee.**

When a council is dealing with disputes (e.g. grievance and disciplinary matters), it is highly recommended that they are dealt with by a committee or sub-committee with appropriate terms of reference. Using the nominated committee to manage matters also increases confidentiality and enables the council to have other councillors who are not involved in the concern who can then support as a panel for an appeal for example.

Councils should ensure that the minutes of any committee or council meeting contain only the decision that was made, and employees should not be referred to by name.

## EMPLOYMENT POLICIES

**Employment policies are an important management tool and contribute to the smooth, and consistent running of an organisation.**

Policies should be written in a clear and precise manner so that employees and managers understand them. Employees should be made aware of the existence and importance of a council's policies and their responsibilities within them. A list of recommended policies can be found at the back of the guide and NALC has a suite of template employment policies available on their website.

## WHAT IS THE CLERK/CHIEF OFFICER'S ROLE AS A MANAGER?

**The clerk/chief officer is the most senior employee of a council and is generally best placed to manage other employees. In larger councils there may be other roles that have management responsibility for other employees. It is important that employees are managed consistently regardless of the manager.**

Informal chats between the clerk/manager and employee can make sensitive or less serious complaints easier to handle and easier to resolve before they escalate. An example of where this is appropriate might be occasional lateness with unsatisfactory explanations.

If a council does not delegate all management of its employees to the clerk, the staffing committee should still take responsibility for the remaining duties (e.g. the powers to suspend or dismiss an employee).

## WHO SHOULD MANAGE THE CLERK?

**The management of the clerk differs from the management of other employees because the clerk is the council's most senior employee. As such, management of the clerk cannot be delegated to another employee.**

Management of the clerk by the full council is generally ineffective and cumbersome. It is highly recommended that it is delegated to a staffing committee to which the council should give clear terms of reference.

Staffing committees should adopt relevant standing orders for lawfully authorising clerks' sick leave, annual leave and the discussion of sensitive matters such as informal grievances and disciplinary matters. They would also be responsible for any decisions relating to recruitment or termination of clerks' employment contracts. Any appeals arising from disciplinary or grievance matters should be made in accordance with the council's disciplinary and grievance policy.

## PERFORMANCE MANAGEMENT

### WHAT IS AN APPRAISAL?

Performance management is a continuous process. A regular review of an employee's performance is an effective tool. It also allows an employee to give their views to the manager.

Performance reviews or appraisal discussions normally set and review objectives which align to the plans and priorities of the council.

Objectives should be 'SMART':

*Specific | Measurable | Achievable | Realistic | Time-bound*

For example 'answer the phone correctly' as a SMART objective might look like 'Each week, answer 95% of calls within five rings, offering 'Good morning/Good afternoon' and the name of the council'.

### WHO UNDERTAKES APPRAISALS?

Clerks and other employees with management responsibilities may conduct appraisals for other employees. A clerk's appraisal will be best undertaken by a staffing committee rather than a full council. It is recommended that relevant councillors and managers should receive training in performance management and appraisals.

A written record of the appraisal should be placed on the employee's personnel file so that the objectives form part of the next appraisal.

### HOW SHOULD APPRAISALS BE CONDUCTED?

The manager/committee can ask the employee to prepare ahead of the appraisal by reflecting on the objectives set, successes and challenges, learning and development needs. This can help the employee self-reflect and evaluate their own performance ahead of the discussions.

Discussions should be open, and two-way communication should be encouraged. Ensure that appropriate time is allocated to complete the appraisal and that you use a quiet and confidential place to have the discussion.

There should also be an opportunity to agree on training and development needs.

### WHEN SHOULD APPRAISALS BE HELD?

It is usual to hold annual appraisals. Half-yearly appraisals are also good practice. It may be appropriate to hold more frequent appraisal or performance management discussions as part of general supervision and management throughout the year but particularly during the early stages of employment or following disciplinary action or performance concerns.

### ARE APPRAISALS LINKED TO SALARIES?

If an employment contract allows for a salary increment to be paid 'subject to satisfactory performance', councils should have an annual appraisal system in place. It is important that the appraisal and performance process is consistent for all employees to ensure fair salary related decisions.

## ABSENCE MANAGEMENT

### HOW SHOULD SICKNESS ABSENCE BE MANAGED?

A council/ staffing committee should have policies and procedures in place to deal with matters such as:

- Delegating the power to deal with other employees' absence to the clerk/appropriate managers
- Reporting requirements for absence
- Notification of a clerk's sick leave. Sometimes there will not be sufficient time for a staffing committee to meet to consider an urgent request. The committee's standing

orders should specify the member, such as the chair of the committee, who can be notified of leave.

The standing orders must provide for reporting this back to the committee for ratification.

- Monitoring continued absence due to illness
- Deciding for clerks' work to be completed in their absence
- Investigating sensitively any long-term absence due to illness and the expected date of return, ascertaining if the employee is fit to return to work and that the employee's workload on the return to work is manageable and realistic. This can include supporting employees with reasonable adjustments to facilitate a return to work.

For absences lasting more than seven calendar days, employees should be asked to provide a Fit Note (provided by their GP or appropriate health care professional) confirming the reason and duration of their absence.

It is recommended that the manager/committee undertake a return to work conversation with an employee following sickness absence. This is a check-in to confirm the employee is well enough to be back at work; discuss any support needed; reflect on absence levels if there are high levels of absence to be addressed; catch the employee up on any updates or work cover etc.

The council policy should reference how longer term absence will be managed, and when a referral to Occupational Health may be considered.

#### HOW SHOULD OTHER LEAVE BE MANAGED?

Employees with management responsibilities of other employees should deal with their requests for leave.

Staffing committees should deal with the leave requests of the clerk. The council are recommended to have a policy to confirm the entitlement for various leave. Contracts of employment will usually confirm the annual leave and sick pay entitlement and policies will set out other entitlements such as family leave, dependency leave, compassionate and other discretionary leave. The council need to ensure they apply statutory leave (and pay where relevant) as a minimum.

#### STAFF DEVELOPMENT

This section is a guide to councils' responsibilities for the development of employees. It contains helpful links and ideas which will assist councils in their staff development policies.

#### WHAT MIGHT A STAFF DEVELOPMENT POLICY CONTAIN?

The employer should consider:

- A brief statement of the council's commitment to staff development and training
- A brief outline of who the policy will be for
- How development and training needs will be identified
- How training and development requests can be made
- How will the council support staff through their development and training
- What professional development schemes and structures might the council have in place



## WHAT IS TRAINING?

The Chartered Institute of Personnel and Development (CIPD) defines training as 'a planned process to develop the abilities of the individual and to satisfy the current and future needs of the organisation.'

Councils should see training and development as a planned process. The staffing committee should be given responsibility for monitoring and delivering employees' development and training needs. Councils with appropriately trained employees will be better equipped to provide services to the community.

Training can be divided into several different elements. Each element may be carried out at different levels and at different stages in the process of development. These elements are:

- Identifying training and development needs – in the light of council objectives and the requirements of employees
- Planning and organising training and development opportunities to meet those needs
- Designing and delivering training and development opportunities
- Evaluating the effectiveness of training and development opportunities

## HOW MIGHT A COUNCIL IDENTIFY DEVELOPMENT AND TRAINING NEEDS?

There are several ways that developmental needs can be identified:

- Staff appraisals

- Interviews
- Formal meetings or processes e.g. a one-to-one meeting with a manager, requests from employee
- Informal discussions
- Organisational goals, plans and strategies e.g. a council could have an objective to be accredited in the Local Council Awards Scheme or to become eligible for the General Power of Competence
- Questionnaires
- Performance concerns / complaints

Areas that might necessitate training needs include:

- New members of staff
- Changes to legislation
- Changes to systems
- New and revised qualifications launched
- Accidents
- Professional negligence/ mistake
- New equipment
- New processes/ working methods
- Council resolutions
- New services being delivered by the council
- A structured professional development programme

## HOW SHOULD TRAINING BE REQUESTED?

The committee responsible for staff management should agree on procedures for making training and development requests. It should inform employees of how procedures

work and where the appropriate documents for completion are located.

### WHO SHOULD PAY FOR TRAINING?

Councils should establish training budgets as part of their staff development policies. Councils should specify their training budgets and how requests for training should be made.

There might be a time frame for submitting requests so these can be considered together against the available training budget. The budget and training request procedures should be agreed upon by the relevant committees, e.g. the finance committee and staffing committee. These should be reviewed annually. There should be regular reports to the council on training expenditure.

### HOW IS TRAINING DELIVERED?

#### COUNTY ASSOCIATIONS

There is a wide range of training available to local councils. County associations all provide training specifically designed and delivered for councillors and staff of local councils. Most county associations will provide a range of training for clerks and other employees, such as induction days, CiLCA training, briefings on changes in legislation and conferences.

There may also be training offered by your principal authorities or other local partners, your county association can help you find and choose the training that is best for you.

#### SOCIETY OF LOCAL COUNCIL CLERKS

The Society of Local Council Clerks (SLCC) offers an extensive suite of national training programmes tailored to support clerks' professional development delivered through a network of providers and training officers. The full range of courses, events and how to access them can be found on the SLCC website ([slcc.co.uk](http://slcc.co.uk)).

### WHAT COURSES AND QUALIFICATIONS ARE AVAILABLE?

**Nationally recognised qualifications and courses include the Certificate in Local Council Administration (CiLCA), the accredited certificate for the sector designed to test competence for the role of council clerk.**

Attending training will help your staff in their work for CiLCA. There are 'recognised CiLCA trainers' in every county area that have specialist knowledge of this qualification. You can find your local CiLCA trainers by contacting your county association who will coordinate the local training. SLCC also offer CiLCA training as a CPD course and at some of their events and conferences.

'Introduction to Local Council Administration' (ILCA) is an online course in five sections based on the Occupational Standards established by the National Training Strategy in England. It can be completed by distance learning and is widely recognised as a useful induction tool and an excellent preparation for CiLCA. Further information is available on both the NALC and SLCC websites.

There may be a need for job specific courses, such as Manual Handling, or Food Hygiene and these should be reviewed based on the requirements and responsibilities of the job.



## HIGHER EDUCATION

The SLCC also provides a higher education qualification for clerks. This is a programme of advanced courses in Community Engagement and Governance, including single modules, a Certificate of Higher Education, and a Foundation Degree.

## WHAT IS CONTINUING PROFESSIONAL DEVELOPMENT?

Continuing Professional Development (CPD) is the process by which employees can track, record and plan development.

A structured CPD training programme has been developed by the SLCC, [slcc.co.uk/membership/your-continuous-professional-development-cpd](http://slcc.co.uk/membership/your-continuous-professional-development-cpd) providing in-depth training opportunities for practitioners working for or involved with local councils.

## WHAT ARE LEARNING AGREEMENTS?

Learning agreements are internal documents drawn up between employers and employees. They detail both parties' agreed responsibilities in terms of time and financial support from the employer and the commitment to complete the agreed training course or qualification from the employee.

They are not mandatory, but are examples of good employment practices and make sure both the employee and employer are clear on the arrangements being proposed to support learning. They are also a good way of ensuring that the council and its employees are aware of the commitment they are making.

The learning agreement could include some form of compensation or claw-back provision if the employee leaves within a set time after the investment in development or training has been made. If they have not completed the training paid for by the employer within the agreed timescale, reimbursement might also be requested from the employee. Specific details of what could be recouped from the employee will be clearly documented in any additional training agreement drafted and issued prior to any training commencing.

## LOCAL COUNCIL AWARD SCHEME

The Local Council Award Scheme (LCAS) has been in place since 2015. It is an accreditation scheme that helps councils confirm they have sound processes in place for good governance, community engagement and for the development of their council.

The Local Council Award Scheme has been designed to celebrate the successes of the very best local councils and to provide a framework to support all local councils to improve and develop to meet their full potential.

The Local Council Award Scheme has three award levels:

## FOUNDATION AWARD

Councils achieving the Foundation Award demonstrate that they have the documentation and information in place for operating lawfully, including in their duties as employers, and according to standard practice, building a foundation for improvement and development.

### QUALITY AWARD

To achieve the Quality Award, a council demonstrates that it meets all requirements for the foundation award and has additional documentation and information in place for good governance, effective community engagement and council improvement. This includes an ongoing commitment to staff and councillor development.

### QUALITY GOLD AWARD

Councils achieving the Quality Gold Award demonstrate that they meet all requirements of the foundation and quality awards and are at the forefront of best practice by achieving an excellent standard in community governance, community leadership and performance management.

More information about the Local Council Award Scheme can be obtained by contacting your county association or visiting the NALC website – [nalc.gov.uk/our-work/local-council-award-scheme](http://nalc.gov.uk/our-work/local-council-award-scheme).

### ARE THERE OTHER ALTERNATIVES TO FORMAL TRAINING?

**Formal training should not be seen as the only option once a need has been identified. It may be that formal training is not necessary or not appropriate for the subject identified.**

Employees may gain just as much by shadowing a more experienced colleague, having a focussed professional discussion on the topic with a qualified person or simply being signposted to relevant books, journals, or websites. The appropriate method of learning should be agreed upon between the employer and employee.

## EMPLOYMENT CHALLENGES

From time to time, disputes between a council and its employees can arise. They are likely to be either:

- Disciplinary matters following concerns by the employer about misconduct and/ or poor performance of an employee
- Grievance matters involve concerns, problems or complaints employees have about their employer or colleagues.

Some county associations offer employment support or will be able to signpost the council to professional help.

### WHAT ARE THE DIFFERENT TYPES OF DISPUTE RESOLUTION?

#### INFORMAL STAGE

The focus of all employment dispute processes should be on getting the employment relationship back on track. Many potential disputes can be resolved informally by managers having a 'quiet word' with employees or through regular dialogue and during one-to-ones, performance reviews/ appraisals.

#### THE FORMAL PROCESS

Disputes within the employment relationship can be time-consuming, stressful for all concerned and detrimental to the running of the council. The council should have an agreed written procedure to deal with disputes so that they can be handled promptly, consistently, and fairly. Any procedure

should comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures (see [acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures](https://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures)).

Councils' disciplinary and grievance arrangements should be established by the staffing committee in accordance with councils' standing orders. Staffing committees' terms of reference should be relevant and proportionate.

Councillors must consider whether involvement in hearing the matter is consistent with the council's code of conduct and, in particular, its commitment to the seven general principles of conduct (known as the Nolan Principles). If it is not, they should not take part.

Members of staffing committees, clerks and other employees with management responsibilities must fully understand the procedures and receive training on disciplinary/ grievance handling. County associations can provide such training or details of where it can be obtained.

## MEDIATION

**Mediation is voluntary and confidential. It involves an independent person helping two or more individuals or groups reach a solution that is acceptable to everyone.**

Mediators do not make judgments or determine outcomes – they ask questions that help to uncover underlying problems, assist the parties to understand the issues and clarify the options for resolving their difference or dispute. There is a range of organisations that can offer mediation services, including ACAS (see [acas.org.uk](https://www.acas.org.uk)).

## DISCIPLINARY

### HOW SHOULD THE DISCIPLINARY PROCESS BE CONDUCTED?

It is worth keeping in mind that the main purpose of a disciplinary procedure is normally to encourage improvement where an employee's conduct or performance is below acceptable standards. (Performance can be managed via the disciplinary process however many organisations have a separate Capability/Performance Improvement process alongside the disciplinary process).

### INVESTIGATE

In cases of misconduct, an investigation should be carried out as soon as possible. Different people should carry out the investigation from those who sit on any subsequent disciplinary hearing. It is often helpful for investigations to be undertaken by an independent, external person. It may be necessary to suspend the employee pending investigation where there is an allegation of gross misconduct. This should be done on full pay. Suspension of an employee should be kept to a minimum and other alternatives such as adjusted duties, or a temporary change of working arrangements should be considered before suspension.

### INFORM

If following an investigation, a council decides that there is no case to answer, it should inform the employee in writing. If the council decides there is a case to answer about the alleged misconduct, an employee should be invited to a meeting and the invite should include information about the

possible disciplinary outcomes. In cases of misconduct, the employee should receive the relevant investigation report with supporting witness statements and other evidence in advance of the meeting. The letter should include details of the venue, time, and the employee's right to be accompanied.

### PREPARING FOR THE MEETING

Employees who are subject to disciplinary investigation or action (or who have raised a grievance) should be given reasonable notice of the date of the meeting so that they have reasonable time to prepare their case.

### MEETING

Disciplinary hearings should be heard by a panel consisting of members of the staffing committee. The panel should reflect your council's policy. It is common for the panel to not be less than three members, and, in general, three members are to be recommended. A meeting should be held as soon as possible.

The employee should be given reasonable time to prepare. At the meeting, the complaint should be presented and supporting evidence discussed. The employee may wish to present their case, call witnesses, and ask questions. Proceedings should be minuted by a person appointed for the purpose. Additionally, it is helpful for a more detailed confidential record of the hearing to be made. This record must not be put into the public domain.

If the employee is persistently unable to attend a meeting, the council will need to decide whether the meeting can go ahead in the employee's absence. If the inability to attend

is because of ill health, the council may need to obtain a prognosis from the employee's GP, or Occupational Health, with the employee's consent. Even if the employee does not attend the meeting, they should be given the opportunity to be represented and to submit evidence.

### RIGHT TO BE ACCOMPANIED

Employees have a statutory right to be accompanied to a hearing where a disciplinary sanction could be imposed or where a grievance is raised.

The chosen companion may be a colleague, an accredited trade union representative or an official employed by a trade union. An employee's reasonable request for the companion to attend should be made in advance of the meeting.

If the companion cannot attend on the original meeting date, the hearing must be postponed if the employee proposes a reasonable alternative date which is within five working days.

The companion may address the meeting to put the employee's case, respond to any view expressed and confer with the employee. The companion does not have the right to answer questions on behalf of the employee or address the meeting if the employee does not wish it or it prevents the council from expressing its case.

### WHAT DISCIPLINARY ACTION CAN BE TAKEN?

After the meeting, the panel should inform the employee of the outcome in writing.



Common sanctions resulting from disciplinary action are as follows:

- First minor misconduct/poor performance: written warning with an action plan and review date
- Subsequent misconduct/continued poor performance: final written warning with action plan/review date
- Continued misconduct/poor performance whilst on a final written warning: dismissal with notice
- Gross misconduct: summary dismissal (i.e. without notice), dismissal with notice or final written warning

Gross misconduct includes matters so serious that they fundamentally breach the employment relationship e.g. theft, fraud, physical violence or bullying, gross negligence, or serious insubordination.

Councils will need to ensure that the person or body who makes the decision has the requisite authority to impose disciplinary sanctions. In some councils, a decision to dismiss will need to be ratified by the full council, but this can be delegated to an appropriate committee. Individual councillors cannot impose sanctions.

### IS THERE A RIGHT OF APPEAL?

Where an employee feels that the disciplinary sanction imposed was unjust or that a proper or fair process was not followed, the employee can appeal in writing within the period set by the procedure.

The appeal should be heard by a committee or panel consisting of members who did not sit on the committee or panel that made the original decision. The appeal committee or panel should not be less than three members, and, in

general, three members are to be recommended. Its decision will be final.

The appeal stage of disciplinary procedures may either take the form of a complete rehearing or a review of the original decision. There is a right to be accompanied to an appeal hearing, as detailed above. The outcome of the appeal should be communicated in writing and, provided to the employee as soon as possible after the appeal meeting.

## GRIEVANCE

### INFORM

Employees are encouraged to try to resolve concerns by raising them informally in the first instance so that matters can be understood and a resolution sought. If the concern is very serious or the informal approach has not resolved the matter the employee should submit a formal written grievance to their line manager. A clerk's grievance should be made to the staffing committee. Councillors with any interest declarable under their council's code of conduct should seek advice as to their ability to consider or participate in any decision-making.

Where an employee's grievance relates to the behaviour of councillors that may allege a breach of the councillors code of conduct, the matter will need referring to the Monitoring Officer to determine whether it should be investigated by them as a code of conduct matter.

### DISCUSS

There should be a meeting to allow the employee to discuss their concerns. This meeting may need to be adjourned for the employer to undertake further investigation.

Where the grievance relates to Councillor behaviour that may breach the Councillors Code of Conduct, this may need referring to the moderating officer for review and investigation. The council will still need to support the employee during this process, and conclude the grievance once appropriate information is available.

### RIGHT TO BE ACCOMPANIED

Employees have a right to be accompanied at grievance hearings.

### ACTION

After the (reconvened) meeting, the committee or panel should write to the employee to confirm whether it upholds the grievance and, if so, what action the council intends to take to resolve the employee's concerns.

### RIGHT OF APPEAL

If the employee is not satisfied with the grievance outcome or considers that a proper or fair process was not followed, then an appeal with written reasons should be submitted to the council within the period set by the procedure.

The appeal should be heard by a committee or panel of members who were not involved in the original hearing. The appeal committee or panel should not be less than three members, and, in general, three members are to be recommended. Its decision will be final. There is a right to

be accompanied by an appeal. The outcome should be communicated in writing and, if possible, handed to the employee as soon as possible after the appeal.

### SPECIAL CASES

When an employee raises a grievance during a disciplinary process, it may be appropriate to deal with the grievance first. If the two complaints are related, they can be handled concurrently.

### DISPUTE RESOLUTION – IS THERE EXTERNAL LEGAL REDRESS?

If employees are dissatisfied with the outcome of internal procedures, it is possible that they may seek legal redress in the courts or employment tribunals. In these circumstances, a council would need to seek professional legal advice.

## THE END OF THE CONTRACTUAL RELATIONSHIP

It is natural in the employment lifecycle that employment relationships end. More often this is due to the employee choosing to move on, but on occasions this may be as the employer has had to dismiss someone.

It is helpful to take these opportunities to reflect and understand whether there are changes or improvements that could ensure better employment relationships in future. It is also important to bear in mind that there are potential risks associated with the end of the employment relationship that the council should be aware of.

- Councils must use a fair dismissal procedure.
- Capability, conduct and redundancy can be fair reasons to dismiss.
- Councils and employees must generally give the notice to end employment in line with the contract.

### WHEN CAN AN EMPLOYEE BE FAIRLY DISMISSED?

There are several potentially lawful reasons for ending the employment:

- Capability
- Conduct
- Statutory illegality or breach of a statutory restriction
- Redundancy
- Some other substantial reason

### CAPABILITY

Capability relates to employees' ability to perform their job. If councils have concerns about their employees' capabilities, they need to adopt set procedures which are fair and consistent. Fairness will depend, for example, on whether the employer set reasonable performance standards or targets, informed the employee of their failure to meet standards, and gave the employee a reasonable opportunity to improve or provided appropriate support and training opportunities.

### CONDUCT

Conduct refers to employees' behaviour, generally in the workplace. If councils have concerns about their employees' conduct, the ACAS Code of Practice on Disciplinary and Grievance Procedures must be followed before a decision to dismiss on grounds of misconduct is made. Procedures should be fair and consistent. Dismissal should be the sanction of last resort.

### STATUTORY ILLEGALITY OR BREACH OF A STATUTORY RESTRICTION

If continued employment would contravene a law, dismissal, for this reason, can be fair. Examples may be an employee who loses their driving licence but needs to drive for their job, or if continued employment breaches immigration rules because there is no ongoing right to work in the UK. The question that councils should ask is 'does the particular law make it unlawful for the council to continue to employ the employee?' Consideration may also be needed as to any alternative options before a dismissal decision is made.

## REDUNDANCY

A redundancy can arise when an organisation has a reduced need for employees.

In some circumstances, a redundant employee's duties may continue. For example, if the duties of a redundant employee can be absorbed into the jobs of existing employees.

The ACAS Code of Practice on Disciplinary and Grievance Procedures does not apply to redundancy dismissals. However, when considering redundancy dismissals, councils should ensure that employees (and any representatives) are consulted, that there is a fair selection procedure in place and that they consider whether there are any suitable alternative jobs. An employer has an obligation to mitigate redundancies where possible.

Where an employer is contemplating 20 or more redundancies, there are statutory consultation requirements. Guidance on handling redundancies is contained in ACAS' guide managing staff redundancies – a step-by-step guide (see [acas.org.uk/manage-staff-redundancies](https://acas.org.uk/manage-staff-redundancies)).

## SOME OTHER SUBSTANTIAL REASON

A dismissal can be fair even if it is not for one of the above reasons if it is 'for some other substantial reason of a kind such as to justify the dismissal of the employee' (Section 98 of the Employment Rights Act 1996). 'Some other substantial reason' often arises when there are business reorganisations falling short of redundancy.

## WHEN CAN AN EMPLOYEE BRING AN UNFAIR DISMISSAL CLAIM?

The right not to be unfairly dismissed is a statutory right (Section 94 Employment Rights Act 1996). Employees can bring unfair dismissal claims to an employment tribunal if they have two years' continuous service.

No minimum service is required for certain types of dismissal e.g. if the reason is based on discrimination, health and safety, trade union membership or whistleblowing. Claims must generally be brought within three months of the dismissal.

Unfair dismissals generally require an actual dismissal. However, in certain circumstances, resignation may still count as a dismissal and entitle an employee to bring an unfair dismissal claim where they feel that the way they have been treated or managed mean that it untenable for them to continue working. This is known as constructive dismissal.

## WRONGFUL DISMISSAL

The right not to be wrongfully dismissed is a contractual right. It arises when an employer terminates the contract of employment in breach of its terms e.g. where no notice of termination is given.

An employee who has been wrongfully dismissed can recover damages for breach of contract. A claim can be brought in an employment tribunal (provided that the claim is for less than £25,000) within three months less one day of the dismissal or in the courts, usually the county court, within six years of the breach.



No minimum period of employment is required for an employee to bring a wrongful dismissal claim.

An employee can claim to have been wrongfully dismissed where unfair dismissal (including constructive dismissal) is alleged.

### HOW CAN THE EMPLOYEE TERMINATE THE EMPLOYMENT RELATIONSHIP?

#### RESIGNATION

Employees can terminate their contracts of employment by resigning. Both the council and the employee should follow the contractual notice provisions. An employee who fails to give the contractual notice will breach their contract unless a different notice period has been agreed with the employer.

Once the notice of resignation is given, it cannot be withdrawn unless the employer agrees that it wants the employment contract to continue. Once the employee has given the notice to end the contract, the employer's acceptance is not required however it is good practice to acknowledge the resignation and confirm arrangements such as last day of employment and balance of annual leave etc. You may also include details for arrangements such as exit interviews, or returning of property etc.

In planning the notice period, it is recommended of the manager/committee to agree any required handover and work priorities.

For more information on ending the contractual relationship (see [acas.org.uk](https://www.acas.org.uk)).

#### RETIREMENT

There is no legal retirement age. Where an employee wishes to 'retire' this will be treated as a resignation. Any worker can voluntarily retire at a time they choose. Employers cannot force employees to retire or set a retirement age unless it can be objectively justified as what the law terms 'a proportionate means of achieving a legitimate aim'. This could be in cases of ill health retirement.

Some employees may look to reduce their work or responsibilities as part of a 'phased retirement'. Any such request should be made as a Flexible Working Request.

Further information is available from ACAS (or see [gov.uk/retirement-age](https://www.gov.uk/retirement-age)).

## EMPLOYMENT POLICIES

This list contains suggested policies which may be of use to councils. Not all of them will be appropriate for every council. Examples of most of these policies can be found at [hse.gov.uk](https://www.hse.gov.uk) and [acas.org.uk](https://www.acas.org.uk). In addition, NALC have a selection of template policies, tailored to councils, available for members via their website.

- Discipline
- Grievance
- Equality, Diversity and Inclusion
- Health and Safety (such as fire policy, VDU use, eye care, alcohol & drugs, major incident policy, employee counselling)
- Bullying and Harassment/ dignity at work
- Computer use
- Email, internet, and telephone
- Absence (sickness, holiday, authorised/ unauthorised)
- Homeworking (if relevant)
- Expenses (travel, subsistence)
- Retirement
- Data Protection/ Freedom of Information
- Family Leave (e.g. maternity, paternity, adoption, shared parental, parental leave, special leave, flexible working)
- Conduct (e.g. use of council property, conflict of interest/ethics)
- Employee Lifecycle (e.g. recruitment, induction, appraisal, training, and development)

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