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2 June 2009

S U M M O N S

MEETING: Personnel Sub Board
DATE: 10 June 2009
TIME: 6.00pm
PLACE: Committee Room 1, Town Hall, Gosport
Democratic Services contact: Catherine McDonald

LINDA EDWARDS
BOROUGH SOLICITOR

MEMBERS OF THE BOARD

Councillor Burgess
Councillor Carter
Councillor Forder

Councillor Gill
Councillor Hook
Councillor Wright

The Mayor (Councillor Mrs Searle) (ex officio)

FIRE PRECAUTIONS

(To be read from the Chair if members of the public are present)

In the event of the fire alarm (continuous ringing sound) sounding, please leave the room immediately.

Proceed downstairs by way of the main stairs or as directed by GBC staff, following any of the emergency exit signs. People with disability or mobility issues please identify yourself to GBC staff who will assist in your evacuation of the building.

IMPORTANT NOTICE:

- If you are in a wheelchair or have difficulty in walking and require access to the Committee Room on the First Floor of the Town Hall for this meeting, assistance can be provided by Town Hall staff on request

If you require any of the services detailed above please ring the Direct Line for the Democratic Services Officer listed on the Summons (first page).

NOTE:

- i. Members are requested to note that if any member wishes to speak at the Sub Board meeting then the Borough Solicitor is required to receive not less than 24 hours prior notice in writing or electronically and such notice shall indicate the agenda item or items on which the member wishes to speak.
- ii. Please note that mobile phones should be switched off for the duration of the meeting.

AGENDA

PART A ITEMS

1. ELECTION OF CHAIRMAN FOR THE MUNICIPAL YEAR 2009-2010
2. ELECTION OF VICE CHAIRMAN FOR THE MUNICIPAL YEAR 2009-2010
3. APOLOGIES FOR NON-ATTENDANCE
4. DECLARATIONS OF INTEREST
All Members present are required to declare, at this point in the meeting or as soon as possible thereafter, any personal or personal and prejudicial interest in any item(s) being considered at this meeting.
5. MINUTES
To confirm the Minutes of the Sub Board meeting held on 5 February 2009 (copy attached)
6. DEPUTATIONS – STANDING ORDER 3.5

(NOTE: The Sub Board is required to receive a deputation(s) on a matter which is before the meeting of the Sub Board provided that notice of the intended deputation and its object shall have been received by the Borough Solicitor by 12 noon on Monday, 8 June 2009. The total time for deputations in favour and against a proposal shall not exceed 10 minutes).
7. PUBLIC QUESTIONS – STANDING ORDER 3.6

(NOTE: The Sub Board is required to allow a total of 15 minutes for questions from Members of the public on matters within the terms of reference of the Sub Board provided that notice of such Question(s) shall have been submitted to the Borough Solicitor by 12 noon on Monday 8 June 2009).
8. DISCIPLINARY, GRIEVANCE AND DISMISSAL PROCEDURES

To seek the Committee's approval for an update to the Council's Disciplinary, Grievance and Dismissal Procedures, consequent on a change in the law.

PART II
Contact Officer:
Kathy Inch
Ext 5224

Continued

Personnel Sub Board
10 June 2009

9. REMOVAL AND DISTURBANCE ALLOWANCE SCHEME

PART II
Contact Officer:
Kathy Inch
Ext 5224

To seek the Sub-Board's approval for an update to the Council's Removal and Disturbance Scheme, so that it more adequately reflects the time needed for a move to take place, and the cost of temporary accommodation, whilst maintaining the overall limit on expenditure.

10. PAY REVIEW – 2008/9 AND 2009/10

PART II
Contact Officer:
Kathy Inch
Ext 5224

To advise the Sub-Board of the result of arbitration in respect of the pay negotiations for 2008/9, and of developments relating to the claim for 2009/10.

11. ANY OTHER ITEMS

-which the Chairman determines should be considered, by reason of special circumstances, as a matter of urgency.

12. EXCLUSION OF PUBLIC

To consider the following motion:

That in relation to the following item the public be excluded from the meeting, as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the item there would be disclosure to them of exempt information within Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972, and further that in all circumstances of the cases, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons set out in the report.

PART B ITEM
FOLLOWING THE EXCLUSION OF THE PRESS AND PUBLIC

Item No.	Item	Paragraph no. of Part I of Schedule 12A of the Act	
13.	APPLICATION FOR FLEXIBLE RETIREMENT	Paragraph 1 Reason: The report contains personal information which is not considered appropriate to be released to the public.	PART II Contact Officer: Kathy Inch Ext 5224

AGENDA ITEM NO. 8

Board/Committee:	Personnel Sub-Board
Date of Meeting:	10 th June 2009
Title:	Disciplinary, Grievance and Dismissal Procedures
Author:	Head of Personnel
Status:	FOR DECISION

Purpose

To seek the Committee's approval for an update to the Council's Disciplinary, Grievance and Dismissal Procedures, consequent on a change in the law.

Recommendation

That the Committee agree the adoption of the revised Disciplinary, Grievance and Dismissal Procedures attached as Appendix A, to be effective immediately.

1 Background

- 1.1 The Council's procedures were last reviewed and updated to ensure compliance with the Employment Act 2002 (Dispute Resolution) Regulations 2004.
- 1.2 Section 1 of the Employment Act 2008 repeals the statutory dispute resolution procedures with effect from 6th April 2009, requiring a further review and update.

2 Report

- 2.1 A revised ACAS Code of Practice was approved by Parliament in March 2009. Employers are required to ensure that disciplinary and grievance procedures are in compliance with this Code, in place of the former statutory procedures, with effect from 6th April 2009. Tribunals will have the discretion to increase or reduce awards by up to 25% if an employer or employee unreasonably fails to comply with the new Code.
- 2.2 The new Code does not apply to dismissals due to redundancy or the non-renewal of fixed term contracts, but it is advisable for employers to have a dismissal procedure to deal with such situations.
- 2.3 The repeal of the Dispute Resolution Regulations and substitution of the Code does not require major changes to the Council's procedures. The general principles are to deal with issues promptly, act consistently

and fairly, conduct necessary investigations, give employees the chance to put forward their case, allow employees the option of being accompanied, inform them of the basis of the problem, and allow a right of appeal. These principles were already at the basis of our procedures.

- 2.4 The main changes involve a greater accent on resolving issues informally, including the use of mediation where appropriate, and the use of an independent third party/manager with no previous involvement wherever possible. These have been incorporated in the revised procedure attached, as have a number of other minor changes – reference to requests for accompaniment at hearings, the situation where an employee persistently and unreasonably fails to attend, the need for notice in calling witnesses, the definition of a grievance, and reference to collective grievances.
- 2.5 The new Code suggests that only three formal stages are necessary in disciplinary issues – two written warnings and dismissal. The Council's procedure includes two further stages – an initial oral warning, and the possibility of alternative employment.
- 2.6 UNISON have been fully consulted, and would not welcome a reduction in the stages within the procedure. It is considered advisable to leave the Council's procedure with the current five stages, which have proved useful in practice, and ensure that we maintain a reasonable approach to disciplinary matters.
- 2.7 The procedure for dismissals not related to conduct or capability has been updated, with the addition of reference to termination of employment in circumstances where it would be unlawful for it to continue.
- 2.8 The revised procedures are to be considered by Local Joint Staff Committee at their meeting on 8th June 2009, and their recommendations will be reported to the Sub-Board.

3 Risk Assessment

- 3.1 The use of a formal procedure, in compliance with the ACAS Code of Conduct, ensures that disciplinary and grievance matters are dealt with appropriate and fairly, thus minimising the risk of a successful complaint to an Employment Tribunal.

4 Legal Implications

- 4.1 The Employment Act 2008, Section 1, repealed the statutory dispute resolution procedures.

- 4.2 Parliament approved the new ACAS Code of Practice on Discipline and Grievance effective from 6th April 2009. This Code has statutory effect.
- 4.3 The revised procedures have been drawn up in compliance with that Code.

5 Financial Implications

- 5.1 There are no direct financial implications.

6 Conclusion

- 6.1 The Council's Disciplinary, Grievance and Dismissal Procedures have been updated to take account of a change in the law effective from 6th April 2009.
- 6.2 The draft revised Procedures, which have been the subject of full consultation with UNISON, are attached at Appendix A for approval for immediate adoption.

Financial Services comments:	None
Legal Services comments:	The Council must review and amend accordingly its Disciplinary, Grievance, and Dismissal Procedures in order to be compliant with Section 1 Employment Act 2008. The procedure, as amended, must be followed in situations where a disciplinary or a grievance or a dismissal may arise. Failure to do so may leave the Council exposed to the risk of a successful challenge in the Employment Tribunal.
Service Improvement Plan implications:	
Corporate Plan:	Pursuit of Excellence – motivated staff delivering quality services
Risk Assessment:	Paragraph 3
Background papers:	
Appendices/Enclosures:	Appendix A – Draft Disciplinary, Grievance and Dismissal Procedures
Report author/Lead Officer:	Kathy Inch

GOSPORT BOROUGH COUNCIL

**DISCIPLINARY, GRIEVANCE AND
DISMISSAL PROCEDURES**

Disciplinary Procedure

**Procedure for Dismissals not related to conduct and
capability**

**Procedure for Probationary Employees not covered by
Disciplinary Procedure**

Grievance Procedure

GOSPORT BOROUGH COUNCIL

DISCIPLINARY PROCEDURE

The procedures set out herein have been drawn up in compliance with relevant Regulations (the Employment Act 2008) and the ACAS Code of Practice and Guidance, and apply to all employees of the Council.

The Disciplinary Procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance. The aim is to ensure consistent and fair treatment for all, without unreasonable delays.

The employee will be advised of problems identified and given a chance to respond before any decision is made on implementation of the formal Disciplinary Procedure. The Manager will gather all necessary information before determining whether disciplinary action is appropriate; such action will be taken against an employee only when the case has been fully investigated, and consideration has been given to informal means of resolving the issue and the possibility of using an independent third party where appropriate. Where a Disciplinary Hearing is arranged, the employee will be given reasonable notice in writing of the date and time, together with written notice of the alleged conduct or characteristics, or other circumstances, which have led to contemplation of disciplinary action.

At every stage in the Procedure, the employee will be advised of the nature of the complaint and will be given the opportunity to state his/her case before any decision is made.

At all stages, the employee will have the right to be accompanied by a Trade Union representative, or other adviser of his/her choice, and the right to appeal against any disciplinary penalty imposed.

Whilst there is no right to accompaniment at investigatory meetings prior to disciplinary hearings, employees can request accompaniment at this stage; any such request will not be unreasonably denied.

Where an employee is persistently unable or unwilling to attend a disciplinary hearing without good cause, a decision will be made on the evidence available in their absence.

Where, following a Disciplinary Hearing, it is determined that a sanction be imposed, this can be at any of the levels detailed in the Procedure (1, 2, 3, 4 or 5) if the employee's alleged misconduct warrants such action.

In all instances, Personnel Services must be consulted regarding the appropriateness of applying this Procedure, and a Personnel representative must be present at the Disciplinary Hearing. In any case of alleged Gross Misconduct, it is imperative that advice is sought from Personnel Services.

A Disciplinary Hearing will normally be conducted by a Service Unit Manager who has not had prior involvement in the case (but see "Delegation of Authority" in the notes included within the Procedure).

Where the Manager or employee intend to call witnesses, advance notice should be provided to the other side.

DISCIPLINARY PROCEDURE

LEVEL 1 – ORAL WARNING

Where an employee's work, conduct or omission generally or in a particular case are such as to warrant disciplinary action, the Manager will arrange a Disciplinary Hearing, giving reasonable notice in writing including the reasons for contemplating disciplinary action, and may issue a formal oral warning stating what is wrong and so far as possible how it is to be put right. Where the employee's lack of capability is in question, the Manager will ensure that:

- (i) appropriate training is provided (if this has not already been done), and
- (ii) place the employee under the direct supervision of someone competent and experienced in the work.

The employee will be told that the oral warning is issued under the disciplinary procedure, and advised of the right of appeal. The action taken will be recorded by the Manager on a prescribed form (Appendix A). One copy of this form will be kept on the personal file and two further copies given to the employee, so that one is available to the Union Representative or adviser.

LEVEL 2 – FIRST WRITTEN WARNING

If an oral warning given under Stage 1 is unheeded by the employee, or where the offence is a serious one, the Manager will arrange a Disciplinary Hearing, giving reasonable notice in writing including the reasons for contemplating disciplinary action, and a First Written Warning may be issued stating that failure to improve to the required standard could lead to dismissal.

The warning letter will be issued by the Manager stating:

- (i) that it is a serious offence, or that an oral warning has been given (the warnings could be for different offences)
- (ii) what is wrong and what remedies are required
- (iii) that the letter is to be recorded as the First Written Warning
- (iv) the employee has the right of appeal
- (v) an additional copy of the First Written Warning will be provided so that the employee can pass a copy to the Union Representative or other adviser.

LEVEL 3 – ALTERNATIVE EMPLOYMENT

If, after a reasonable time, there is still no improvement, written notification will be given to the employee with reasons for considering further action, a Disciplinary hearing will be arranged, and consideration can be given, where appropriate, to seeking suitable alternative employment, with full consultation with the Trade Union. This does not necessarily have to be equivalent employment. In the case of an unsatisfactory promoted employee, a post at the previous level could be considered. Where alternative employment at a lower level is identified, the rate of pay applicable to that post will be applied with no protection being afforded at the higher rate.

LEVEL 4 – FINAL WRITTEN WARNING

If the misconduct is sufficiently serious to warrant only one written warning, or if the warnings given under Level 2 remain unheeded and no action is possible or appropriate under Level 3, the Manager will arrange a Disciplinary Hearing, giving reasonable notice including the reasons for contemplating disciplinary action, and may issue a Final Written Warning.

A Final Written Warning must state:

- (i) that the misconduct is of a serious nature or that previous warnings have been unheeded or not satisfactorily complied with
- (ii) what is wrong and what remedies are required
- (iii) that this letter is to be regarded as a Final Written Warning and that non-compliance (within a specified time if appropriate) will result in dismissal, and
- (iv) the employee is to be reminded of their right of appeal.

An additional copy of the Final Warning letter will be sent to the employee who may pass the copy letter to the Trade Union or other representative. The letter will indicate the purpose of this copy letter.

LEVEL 5 – DISMISSAL

Where a warning at Level 4 has not been satisfactorily complied with (or in a case of gross misconduct, but see below) the Manager will inform the employee in writing that the next stage of the Disciplinary procedure will be commenced, that is dismissal, stating the grounds on which the proposed action is based and the employee's right of appeal.

Before the Manager initiates dismissal procedures, arrangements will be made to interview the employee, in order to determine whether any satisfactory alternative to dismissal might be found, and the Manager will consult with the Chief Executive (or one of the Directors in the absence of the Chief Executive). If, following such consultation, the Manager fails to be satisfied that such an alternative exists, the employee will be dismissed.

The date of dismissal will be the last date of notice as prescribed by Regulations, having regard to the length of service or any greater period of notice covered by the Contract of Employment (other than in the case of gross misconduct).

Upon receipt of such a communication the employee concerned may appeal within 14 days either personally or through the Trade Union or any other agent to the Chief Executive, and/or to an Appeals Panel of the Council. Notice of such appeal should be given in writing and addressed to the Head of Personnel at the Town Hall, Gosport.

GROSS MISCONDUCT

Gross misconduct is misconduct serious enough to destroy the employment contract and therefore will normally result in dismissal without notice or previous warning, that is at Level 5 of the Procedure, although any mitigating circumstances will be taken

into account. The following are examples of offences which are regarded as gross misconduct - the list is not exhaustive.

Theft or attempted theft, or the unauthorised removal of property, from the Council, its employees, on the Council's premises or from premises being visited during the course of employment.

Fraud, dishonesty or falsification of documents, e.g. failure to disclose relevant convictions, knowingly making a false statement or omission to gain employment, transfer or promotion, falsification of time sheets, expense claims, car allowance claims etc.

Fighting or assault on another person.

Deliberate damage to or misuse of the Council's property.

Bringing the Council into serious disrepute.

Serious incapability through consumption of alcohol or drugs.*

Serious negligence resulting in unacceptable loss, damage or injury, including neglect of safety rules and regulations.

Deliberate serious harassment of another employee, elected member or member of the public.

Serious infringement of health and safety rules.

A serious act of insubordination, e.g. adamant refusal to obey reasonable instructions and/or wilful disregard of instructions/regulations.

A serious breach of the Council's policies including Code of Conduct, Equality Policies, Bullying and Harassment Policy, Internet and E-mail Use Policies, Child or Vulnerable Adult Protection Policies, Communications Policy.

In cases of alleged gross misconduct, the following procedure will be adopted:

- (i) The employee should be interviewed by the Manager, an explanation being given as to why this procedure is being used
- (ii) The employee should be given adequate opportunity to offer an explanation or defence of the circumstances and should be accompanied, if so desired, by a Trade Union representative or other adviser during the interview. The rights of appeal will be explained to the employee.

After the interview, the Manager may decide:

- (i) To take no further action
- (ii) To issue an Oral or Written Warning
- (iii) To suspend the employee:
 - (a) to enable investigations to be made where there is a possibility of dismissal
 - (b) where there are grounds for doubt as to the suitability of the employee to continue at work, pending action under (iv) below, or

(c) where proceedings may have to be taken because of criminal activities which have a relevance to the employee's work

During suspension, the employee will be paid at full rate of pay or as prescribed by the appropriate Conditions of Service.

Following a period of suspension, if it is proposed to take further action, the Manager will give written notice of the intention to hold a Disciplinary Hearing, giving reasons for this, and confirming the employee's right to be accompanied.

- (iv) To dismiss the employee under delegated powers. The procedure under Level 5 would then operate, other than the requirement to provide notice in writing.

*(*Where there is serious incapability arising through habitual consumption of alcohol or drugs, consideration will be given to the appropriateness of using the Council's Alcohol and Drug Abuse Policy.)*

NOTES

Procedure for Hearings

A copy of the Procedure for a Disciplinary Hearing is attached as Appendix B, and of the Procedure for a Disciplinary Appeal Hearing as Appendix C.

Delegation of Authority

The Manager may, after consultation with Personnel Services, nominate an appropriate Officer to act on his/her behalf in respect of Levels 1, 2, 3 and 4, and in the Manager's absence or where it would be inappropriate or impracticable for the Manager to undertake the procedure, the Chief Executive may nominate another Manager to act over the full range of disciplinary responsibilities.

Authority to act at Level 5 of the Procedure rests with the Manager or, in the Manager's absence, the Chief Executive may nominate another Manager or Director to act.

Any action under this Code required to be taken by the Chief Executive may be taken by a Director in the Chief Executive's absence.

Offences Committed Outside Work

Offences committed outside work and in an officer's own time are not automatically gross misconduct. The appropriate action depends on all the circumstances of the case. Such cases should be the subject of consultation with Personnel Services.

Disciplinary Action against Union Representatives

Normally no disciplinary action will be taken against a duly elected Union representative until the circumstances of the case have been discussed with a full-time Official of the Union concerned.

Right of Appeal

If an employee is dissatisfied with any disciplinary decision relating to him/her, there is a right:

- (i) to apply for a personal interview with a Manager not previously involved with the case (if the action has been taken by a subordinate officer), and, if the employee remains dissatisfied,
- (ii) to apply for an interview with the Chief Executive, or a Director in the Chief Executive's absence, and, if the employee remains dissatisfied,
- (iii) to request an Appeals Panel of the Council to consider the case (an Appeals Panel will consist of 3 members, not all of whom will be of the same political group).

Any appeal should be lodged within 14 days of receipt of the letter confirming the disciplinary action appealed against and the grounds for appeal, and should be addressed to the Head of Personnel at the Town Hall, Gosport.

Expunging

Should any disciplinary action be reconsidered and effectively withdrawn on appeal, any written reference will be expunged from the employee's file and the employee notified accordingly.

At any time after six months from the imposition of a formal warning, an employee may request that the warning should be expunged and such requests will be considered on their merits. After eighteen months, the warning will be expunged in any case unless there is an adequate reason to maintain it. In all of these cases, the employee may pursue a request for expunging through the Grievance Procedure.

Expunging means removing from the Council's files all records of the warning and correspondence leading to it.

Complaint of Unfair Dismissal

An employee who considers that he/she has been unfairly dismissed may have a right to complain to an Employment Tribunal. The dismissal letter will advise of this right and recommend consultation with the Trade Union.

Application forms and leaflets giving further information about Tribunals and their procedures may be obtained from the local branch of the Department of Employment.

GOSPORT BOROUGH COUNCIL

DISCIPLINARY PROCEDURES - ORAL WARNING

(Form to be used following a disciplinary hearing (prior written notification having been given of the date, reason and right to be represented) where it is considered that an oral warning is the appropriate sanction.)

Employee's Name _____

Post Held _____ Unit/Section _____

Date of Appointment _____ Date Oral Warning given _____

Duration of Warning _____

Was Union representative or other adviser present? _____ If so, give name of representative, Union and Office held _____

If not, was employee advised of his/her right to be accompanied? _____
(N.B. It is essential that employee is advised of this right before the hearing commences.)

Was employee advised of the right of appeal? _____
(N.B. The employee must be advised of the right of appeal in accordance with the Disciplinary Code of Practice.)

Name and Job Title of person administering warning _____

STATEMENT OF CIRCUMSTANCES

1. Details (including clear indication whether complaint is in regard to conduct or capability) *(continue on separate sheet if necessary)*

2. Action Required (give clear indication of what action is required of the employee for the future, and where capability is concerned, the arrangements made for additional training and/or supervision) *(continue on separate sheet if necessary)*

Signed _____ Date _____
(Officer administering Warning)

This form should be retained on the employee's personal file for the period determined, and a copy given to the employee. Providing conduct/capability are satisfactory, the form should be destroyed once the relevant period has expired.

PROCEDURE FOR A DISCIPLINARY HEARING

The employee will be given reasonable notice of the timing of the hearing, in writing, together with an indication of the alleged conduct or characteristics or other circumstances leading to the decision to take disciplinary action, and will be advised of the right to be accompanied by a Trade Union representative or other adviser of his/her choice. The Manager will normally be accompanied by a representative of Personnel Services, who will make a note of the proceedings.

Where possible, the Business Unit Manager will conduct the hearing, but this may be delegated to the Section Head. Where the Manager conducts the hearing, the issues may be presented by the Section Head, in which case the Section Head will have the opportunity to question the employee and his/her witnesses.

The Manager will explain to the employee the reason for the hearing, and may call witnesses.

The employee (and/or his/her representative) will have an opportunity to question the Manager (and/or Section Head, where appropriate) and any witnesses called.

The employee (and/or his/her representative) will have an opportunity to present his/her case and may call witnesses.

The Manager (and Section Head, where appropriate) will have an opportunity to question the employee and witnesses called.

The Manager (or Section Head) will sum up the case, and the employee (and/or his/her representative) will be given the opportunity to sum up his/her case.

The employee (and/or his/her representative), and the Section Head (if present) will be invited to withdraw and the Manager (accompanied by a Personnel representative, where appropriate) will consider his/her decision. If it is necessary to clear any points of uncertainty, the employee (and his/her representative) together with the Section Head (where appropriate) will be invited to return.

The Manager will invite the employee, their representative and the Section Head (where appropriate) to return as soon as a decision has been made, and announce the decision, and advise the employee of the right of appeal in accordance with the Procedure.

PROCEDURE FOR A DISCIPLINARY APPEAL HEARING

The employee will have received written notification of the time and location of the appeal hearing.

The Chief Executive (or Appeal Panel, consisting of 3 Members of the Council (not all of the same political group) who will appoint a Chairman) will explain the procedure to be followed at the hearing, and reaffirm the employee's right to be accompanied by a Trade Union representative or other adviser of his/her choice.

Any Member who has had any direct prior involvement with the matters relating to the disciplinary issue shall not take part in any appeal hearing.

A professional Adviser to the Panel will be appointed by the Chief Executive (normally a representative of Personnel Services), who shall be impartial.

1. The Chief Executive (or other Officer so nominated) shall present the case against the appellant and may call witnesses.
2. The Appellant (and/or his/her representative) shall have the opportunity to question the presenting Officer and any witnesses called.
3. The Appellant (and/or his/her representative) shall have an opportunity to present his/her case and may call witnesses.
4. The presenting Officer shall have the opportunity to question the Appellant and any witnesses called.
5. The Chief Executive, or Chairman and Panel Members, may ask questions of either side and of any witnesses called. If, as a consequence of this questioning, any new evidence is disclosed, both sides shall have an opportunity to comment thereon.
6. The presenting Officer shall be invited to sum up the Authority's case.
7. The Appellant (and/or his/her representative) shall have the opportunity to sum up his/her case.
8. The two sides shall withdraw from the Hearing and the Chief Executive, or Panel, shall consider their decision. The professional Adviser will remain with the Chief Executive or Panel. If, during the course of the deliberations, it seems necessary to clear points of uncertainty on the evidence already given, both sides shall be invited to return notwithstanding that only one side may be concerned with the points giving rise to doubt.
9. The Chief Executive or Panel having come to a determination of the matter before them, both sides shall return to the Hearing and the decision shall be announced. Such decision will subsequently be confirmed in writing.
10. The Appellant shall be advised of the right to lay the matter before an Appeals Panel of the Council, or Employment Tribunal, as appropriate.

N.B. At no time should the Chief Executive, or Panel, permit any contact between themselves and any of the parties to the Appeal unless the other party is also present. Particular care should be taken during any refreshment periods since any approach to Officers even on matters unrelated to the Hearing can be misconstrued and the Hearing thereby invalidated.

PROCEDURE FOR DISMISSALS NOT RELATED TO CONDUCT OR CAPABILITY

Where employment is terminated by reason of **expiry of a fixed term contract**, the employee will be advised of the termination of employment proposed and the reasons for it by the relevant Section Head or Business Unit Manager, and this will be confirmed in writing within the appropriate notice period.

If the employee considers that the decision is unfair, there is a right of appeal to the Chief Executive (or, in the absence of the Chief Executive, a Director). Any such appeal must be lodged in writing within 14 days of receipt of the decision, addressed to the Head of Personnel at the Town Hall, Gosport.

A hearing will be arranged within 14 days of receipt of notice of appeal. The employee will be advised of his/her right to be represented at the hearing. A representative of Personnel Services will normally be present.

At the hearing, the employing Manager will be invited to present the case and may call witnesses, and the employee (and/or his/her representative) will have the opportunity to ask questions.

The employee (and/or his/her representative) will have the opportunity to present his/her case and may call witnesses, and the Manager will have the opportunity to ask questions.

The Chief Executive (or Director) may question the Manager or employee or any of the witnesses called.

The Manager will be asked to sum up the case, and the employee will be invited to sum up his/her case.

The Manager and employee (and his/her representative) will withdraw from the hearing, and the Chief Executive will consider the matter and come to a determination. The Manager and employee will then be recalled and advised of the decision, which will be confirmed in writing.

The employee will be advised of the right to lay the matter before an Employment Tribunal where appropriate.

Where employment is to be terminated by reason of **redundancy**, the Council's Redundancy and Redeployment Policy will apply. Full consultation will take place, and, if there is no suitable alternative available, notice of termination of employment by reason of redundancy will be issued within the appropriate notice period.

Where employment is to be terminated by reason of **retirement**, the Council's Retirement Procedure will apply. The Council will ensure that the employee has been given adequate opportunity to apply to remain in employment in accordance with that procedure, including the opportunity to appeal against a decision to confirm the retirement at the normal retirement age.

Where employment is to be terminated because it would be unlawful for it to continue (e.g. expiry of work permit, employee banned from working with children or vulnerable adults where there is no alternative), the employment will be terminated summarily in accordance with Level 5 of the procedure.

INTERVIEW PROCEDURE

PROBATIONARY EMPLOYEE WHERE FORMAL DISCIPLINARY PROCEDURE IS NOT APPLICABLE

Where problems arise during a probationary period which are of a serious nature and/or are continuing despite previous advice, an investigation will be undertaken and the employee invited to attend an interview. The employee will be given, in writing, reasonable notice of the timing of the hearing, the reasons for calling it, and of the possibility that it could result in termination of employment by reason of unsuitability during probationary period, and will also be advised of the right to be accompanied by a Trade Union representative or other adviser of his/her choice. The Manager will normally be accompanied by a representative of Personnel Services, for advisory purposes.

In opening the proceedings, the Manager will explain that they will be conducted as far as possible in accordance with the same rules and procedures as all disciplinary hearings under the Council's Disciplinary Procedure, but this fact should not be taken as implying that the Council acknowledges that the employee has any rights other than as a probationary member of staff.

The Manager will explain to the employee the reason for the interview, and may call witnesses. If the presenting Officer is not the Manager, the presenting Officer will present the case.

The employee (and/or his/her adviser) will have an opportunity to question the Manager, the presenting Officer and any witnesses called.

The employee (and/or his/her adviser) will have an opportunity to present his/her case and may call witnesses.

The Manager (and/or the Presenting Officer) will have an opportunity to question the employee and any witnesses.

The presenting Officer will be invited to sum up the case.

The employee (and/or his/her adviser) will have the opportunity to sum up his/her case.

The employee (and/or his/her adviser) and the presenting Officer will be invited to withdraw and the Manager will consider his/her decision. If it is necessary to clear any points of uncertainty, the employee (and/or his/her adviser) and the presenting Officer will be invited to return.

The Manager will invite the employee (and/or his/her adviser) and the presenting Officer to return as soon as a decision has been made, and announce the decision, and advise the employee of the right to appeal against the decision to the Unit Manager and ultimately to the Chief Executive (or one of the Directors).

GRIEVANCE PROCEDURE

Members of staff are encouraged to talk to their line managers and attempt to resolve any matters of dispute. Where this is not possible, the formal procedure may be used. Consideration should be given to the use of an independent third party, such as a mediator, where appropriate.

Grievances are concerns, problems or complaints that employees raise with their employer. A complaint under this Procedure can also be made by a third party (e.g. another employee or employees). Collective grievances will be dealt with in accordance with this procedure; it will normally be expected that employees participating in collective grievances nominate one or two of their number to represent them at meetings.

Employees are entitled to be represented at all stages of the Procedure by a Trade Union representative or other adviser of their choice.

Managers should ensure that formal grievances are notified to the Personnel Section so that appropriate records can be maintained and the process monitored.

The Procedure applies to all employees, and can in appropriate circumstances be used by employees within a reasonable period after employment has ended.

1. The employee should advise their first line manager of the grievance – this must be done in writing using the form attached. The line manager should meet with the employee within seven days, and give a written reply within two working days of the date of that meeting. If for some reason it is not possible to give an answer within this period, the reason must be explained to the aggrieved employee. The reply should be made available as soon as possible.
2. If the employee remains aggrieved, he/she should confirm this in writing to the line manager, including reasons for the appeal, who should within two working days forward details of the grievance to the Service Unit Manager (or other nominated Officer) in writing, using the form attached. A copy of the form should be given to the employee, with an additional copy for his/her representative.
3. The Manager (or other nominated Officer, who may be an independent Service Unit Manager where appropriate to ensure fairness and impartiality) should arrange a meeting with the employee (and/or his/her representative) and the line manager, if the grievance is not capable of resolution without such a meeting. Where possible, the meeting should take place within 7 days of receipt of the form. At that meeting, the employee (and/or his/her representative) will be invited to explain the grievance, and call any witnesses. The line manager and the Manager will have the opportunity to ask questions. The line manager will have the opportunity to present his/her case and call any witnesses, and the employee (and/or his/her representative) can ask questions. The employee (and/or his/her representative) will be invited to sum up, as will the line manager.
4. As soon as possible after that meeting, and in any case within 5 working days, the Manager (or other nominated Officer) will confirm the decision in

writing, or he/she may refer the matter back with appropriate comments, or reject the grievance.

5. If the employee continues to be aggrieved, the grievance may be taken to the Chief Executive (or a Director). Any such appeal should be lodged within 14 days of receipt of the decision, in writing, with the Head of Personnel at the Town Hall, Gosport.
6. If the employee continues to be aggrieved, the grievance may be taken to an Appeals Panel of the Council (consisting of 3 Members, not all of the same political group). Any such appeal should be lodged within 14 days of receipt of the decision with the Head of Personnel at the Town Hall, Gosport.

NOTES

Grievances should be dealt with as expeditiously as possible. There will be occasions where more time will be required but this should be made known as soon as possible and the periods extended by agreement between the parties.

Unless the line manager is the subject of the grievance, it is important that he/she is involved in the first stages of the procedure. Departures from this procedure should not be encouraged or allowed other than in exceptional circumstances.

Should the Service Unit Manager be the subject of the grievance, the matter should be referred to the Chief Executive or a Director.

NOTIFICATION OF GRIEVANCE

Post Held _____

(or other appropriate Manager) c.c. Head of Personnel

Full Details of Grievance (continue on separate sheet if necessary, or attach written communication(s))

[illegible]

Signed _____ Date _____

UNRESOLVED GRIEVANCE

NOTIFICATION TO SENIOR MANAGER

I have investigated the grievance, details of which are attached, and found as follows:

The employee remains aggrieved and wishes to refer the matter to the next stage.

Signed _____ Date _____

c.c. Head of Personnel

AGENDA ITEM NO. 9

Board/Committee:	Personnel Sub-Board
Date of Meeting:	10 th June 2009
Title:	Removal and Disturbance Allowance Scheme
Author:	Head of Personnel
Status:	FOR DECISION

Purpose

To seek the Sub-Board's approval for an update to the Council's Removal and Disturbance Scheme, so that it more adequately reflects the time needed for a move to take place, and the cost of temporary accommodation, whilst maintaining the overall limit on expenditure.

Recommendation

That the Sub-Board approve an increase in the lodging allowance, and an extension of the time allowed for a move as detailed in the revised Removal and Disturbance Scheme attached as Appendix A, to be effective immediately.

1 Background

- 1.1 The purpose of the Scheme, and the allowances within it, is to aid recruitment and retention, ensuring that applicants from outside the area are not discouraged from applying for or accepting a post with the Council because of the cost of re-locating.
- 1.2 The individual amounts incorporated within the Council's Removal and Disturbance Scheme are reviewed annually and increased in line with inflation, but changes in the housing market over recent years mean that the allowance for weekly rental is now further short of the amount which needs to be expended.
- 1.3 An overall limit of £8,000 is imposed, regardless of the time taken for a move to be completed.

2 Report

- 2.1 The amounts contained within the current Scheme are as follows:
Incidental expenditure - £653
Separation expenses – up to £79 per week
Overall limit - £8,000

- 2.2 Research into local rent and lodgings reveals that the local housing allowance for weekly rental of a one or two bed property in Gosport is currently £115.38 and £144.23 respectively. Lodgings (bed and breakfast) cost between £35 and £50 per night.
- 2.3 It is recommended that the overall maximum of £8,000 be retained, and that the allowance for incidental expenditure remain as it is.
- 2.4 It is, however, suggested that an increase in the maximum weekly separation allowance be considered. It is recommended that £100 per week would be more appropriate taking into account the cost of renting or lodging; this would then continue to be reviewed for inflation year by year, as is currently the case.
- 2.5 The other issue on which a review is sought is the length of time for which allowances may be claimed under the Scheme. The provision currently is six months, with the ability to seek an extension from Personnel Sub-Board in exceptional circumstances where it is considered necessary.
- 2.6 This element has never been reviewed, and was introduced many years ago when the housing market was very different. It is now very rare for a property to be sold and another purchased within a six month period, and it is not uncommon for it to take over a year for a move to be completed. In consequence, the Sub-Board have approved an extension of the provisions of the Scheme on a number of occasions to allow new staff sufficient time to complete their move.
- 2.7 It is therefore suggested that the period during which the Scheme applies be extended to twelve months, with the ability to seek a further extension in exceptional circumstances with the approval of the Sub-Board. If the move is completed before the twelve month period, then the allowances cease in any case.
- 2.8 The changes would affect only one member of staff currently, and any new staff appointed from now.
- 2.9 The suggested revisions to the Scheme are to be considered by the Council's Local Joint Staff Committee at their meeting on 8th June. Their recommendations will be reported orally to the Sub-Board.

3 Risk Assessment

- 3.1 The Removal and Disturbance Scheme is an important element in the recruitment and retention of staff.
- 3.2 Provisions are incorporated to ensure that employees repay expenses if they leave before two years have elapsed.

4 Financial Implications

- 4.1 The recommendations retain the overall maximum of £8,000, and can be managed within current budgets.
- 4.2 This budget is, however, entirely dependent on the number of staff recruited in any year who join the Council from outside the area, and is therefore very difficult to predict.

5 Conclusion

- 5.1 The Council's Removal and Disturbance Scheme exists to recompense new employees, from outside the area, for the majority of the costs of a move necessitated by their joining the Council.
- 5.2 A review has been undertaken to take account of the change in housing costs and in the housing market.
- 5.3 It is recommended, in consequence, that the separation allowance be increased to maximum £100 per week (in place of the current £79), that the provisions of the Scheme apply for up to twelve months (in place of the current six months), but that the overall maximum of £8,000 be retained.

Financial Services comments:	See Section 4
Legal Services comments:	None
Service Improvement Plan implications:	
Corporate Plan:	Pursuit of Excellence – motivated staff delivering quality services
Risk Assessment:	Paragraph 3
Background papers:	
Appendices/Enclosures:	Appendix A – Draft Removal and Disturbance Scheme
Report author/Lead Officer:	Kathy Inch

SCHEME OF ALLOWANCES FOR NEWLY APPOINTED STAFF

Part A - Removal & Separation

1. Eligibility

Officers within the purview of the Joint Negotiating Committee for Chief Executives/Chief Officers of local authorities and officers within the purview of National Joint Council for Local Government Services taking up an appointment with the Council who have not during the previous two years held a post with Gosport Borough Council, and who at the time of the appointment are living outside the greater of 15 miles radius or 25 road miles from the Town Hall, who have, in consequence of their appointment moved inside this boundary, will be eligible for these allowances.

Managers shall, in other exceptional circumstances, have discretion to apply allowances following approval by the Council's Management Team.

2. Entitlement

A contribution will be made towards the expenses associated with removing provided the removal takes place within twelve months of taking up the appointment. In exceptional circumstances, an extension may be approved by the Personnel Sub-Board.

Reimbursement will be made toward the following expenditure :-

- (i) Full reimbursement of costs, excluding stamp duty, associated with selling the existing property and purchasing the new property;
- (ii) The cost of moving furniture and belongings (including insurance and storage charges) from the existing property to the new property (at least two quotations to be submitted).
- (iii) A grant of up to £653 to reimburse incidental expenditure associated with moving house;
- (iv) Separation expenses - Up to £100 per week for temporary accommodation or lodgings and one return fare per month for a maximum period of twelve months from taking up the appointment provided that the former residence is outside the appropriate boundary;
- (v) New recruits who intend to move in accordance with the Scheme, who live outside the boundary referred to in our scheme but are within commuting distance may, as an alternative to a lodging allowance, claim a daily travelling allowance for a maximum period of twelve months, the allowance to be actual expenditure up to £100 (or whatever the current lodging allowance is at the time) based on the appropriate mileage rate.

ENTITLEMENT IS LIMITED TO A MAXIMUM OVERALL OF £8,000.

Note : Allowances are reviewed annually from 1 April.

3. Method of Claiming

Reimbursement of expenditure under 2(i), (ii) and (iii) above will be made on production of proof of expenditure.

Reimbursement of expenditure under 2(iv) and (v) above will be made against a monthly claim form submitted by the employee concerned. Travelling expenses will be based on second class railway fare or bus fare, unless the appropriate mileage rate, as in (v) above is claimed.

4. Tied Accommodation

Employees required to live in Council accommodation who would not otherwise fall within the provisions of the Scheme are entitled to the allowances under 2(ii) and (iii) above.

5. Repayment

All employees wishing to obtain the above benefit of Part A of this Scheme will be required to sign a form of undertaking that any payments made within the Scheme will be repaid to the Council as follows :-

- (i) 100% of the sum paid in the event of leaving the Council's service within one year of commencing the appointment;
- (ii) The sum to be reduced by $\frac{1}{24}$ th for each completed calendar month of service thereafter, i.e. 1 year 2 months service completed, reduction on full sum would be $\frac{14}{24}$ th.

6. ADVICE & INFORMATION

Employees seeking advice or information on the application or interpretation of this Scheme should refer to Personnel Services.

PART B - MORTGAGE SUBSIDY

1. The Council will assist those officers incurring a substantially increased mortgage through taking up employment with Gosport Borough Council, subject to the following terms :-

- (i) While there is no restriction on what type of house is purchased, the Scheme is not intended to provide assistance to officers in order to improve their style of accommodation, only to maintain the standard that had been achieved before appointment to Gosport. (Where officers do improve their standard of accommodation in taking up an appointment at Gosport, any calculation under the Scheme shall relate to the cost of purchasing a similar property at Gosport to that which had been sold. In the case of the officer moving down market the actual sale and purchase prices will be used, subject to the criteria that follow.)
- (ii) The subsidy will apply over a three year period from the date that the higher mortgage is paid reducing each year as the officer becomes better able to fund the whole of his/her mortgage debt. The subsidy will be based upon the difference between the capital cost of the old and new properties, subject to a maximum of £30,000 in the increased capital cost, and the following scale :-

Year 1	75%)	of the nett interest upon a
Year 2	50%)	mortgage advance of up to
Year 3	25%)	£30,000 (see 2(i)-(v) below)

2.
 - (i) The sales particulars of the property sold must be produced by the employee and passed to Personnel Services. If an estate agents was not used to sell the property, then the employee should provide a report from an independent surveyor indicating the value of the property.
 - (ii) The employee must also supply written evidence from his/her Solicitor to demonstrate the price actually obtained for the property when sold.
 - (iii) Personnel Services will arrange for the notional value of the sold property to be assessed had it been located in Gosport or its immediate vicinity (the aforementioned 15 mile radius).
 - (iv) By deducting the sum obtained by the employee on sale of the former property from this notional value, the difference in property prices will be obtained and it will be this sum that will be used for the purposes of mortgage subsidy assistance - subject to the maximum property price differential prevailing at the time (as referred to in paragraph 1(ii) above).
 - (v) However, if the employee purchases a new property at a price in excess of the old property but at a price less than the notional value of the former property in the Gosport area, then the difference in price on which assistance can be given will be the difference between the price obtained by the sale and actual purchase price in this area, subject to the limits in paragraph 1(ii) above.

3. The maximum price differential will be reviewed, as necessary, by reference to the House Prices and Property Indices produced by building societies and estate agents and upon the approval of the Chief Executive or Directors.
4. Officers who accept payments under this Part of the Scheme will be expected to remain in the Council's employ for a period of at least three years. Any officer leaving prior to that time will be required to repay 100% of the total sum advanced, in the event of leaving within two years of commencing employment, and 50% of the total sum advanced, in the event of leaving after two years but within, and including, three years.

Figures updated 6.07

AGENDA ITEM NO. 10

Board/Committee:	Personnel Sub-Board
Date of Meeting:	10 th June 2009
Title:	Pay Review – 2008/9 and 2009/10
Author:	Head of Personnel
Status:	FOR NOTING

Purpose

To advise the Sub-Board of the result of arbitration in respect of the pay negotiations for 2008/9, and of developments relating to the claim for 2009/10.

Recommendation

That the Sub-Board note the information.

1 Background

- 1.1 A report was made to the last meeting of the Sub-Board, advising Members of the payment of 2.45% to staff, backdated to 1st April 2008, with the results of arbitration pending.
- 1.2 As a result of the arbitration process, a total award of 2.75% was made. The balance was therefore paid to staff backdated to April 2008.
- 1.3 The pay claim for 2009/10 submitted by the Trade Unions is as follows:

“To improve real pay levels, the Trade Union Side seeks a one-year, across the board pay increase of at least the level of retail price inflation, with additional increases for the lower paid.

The Trade Union Side's 2009/10 pay claim is for one year only and distinct from any other negotiations over the Green Book. We would like negotiations to take place in an expedient manner and for settlement to be reached by 01 April 2009.”

2 Report

- 2.1 The employers' response to the claim was an offer of an increase of 0.5%, which offer was made taking into account the recession and its effects, and the increased costs to Councils of the award made through arbitration.
- 2.2 This offer was rejected by the Trade Unions.

- 2.3 The national employers and trade unions are meeting to negotiate. An oral update will be given at the meeting.

3 Legal Implications

- 3.1 We incorporate national agreements into the contracts of employment of our staff, and are consulted by the national employers in their response to claims. Once the 2009/10 claim is settled, this will be applied, which is expected to be effective from 1st April 2009.

4 Financial Implications

- 4.1 The Council's budget provided for an estimated settlement increase of 2.5% for 2009/10.

5 Conclusion

- 5.1 The pay claim for 2009/10 has now been submitted, the claim being for at least RPI with additional increases for the lower paid. The Employers have made an offer of 0.5%, which has been rejected. Negotiations are on-going.

Financial Services comments:	1% equates to approx. £100,000 p.a.
Legal Services comments:	None
Service Improvement Plan implications:	
Corporate Plan:	
Risk Assessment:	Not applicable
Background papers:	
Appendices/Enclosures:	
Report author/Lead Officer:	Kathy Inch