

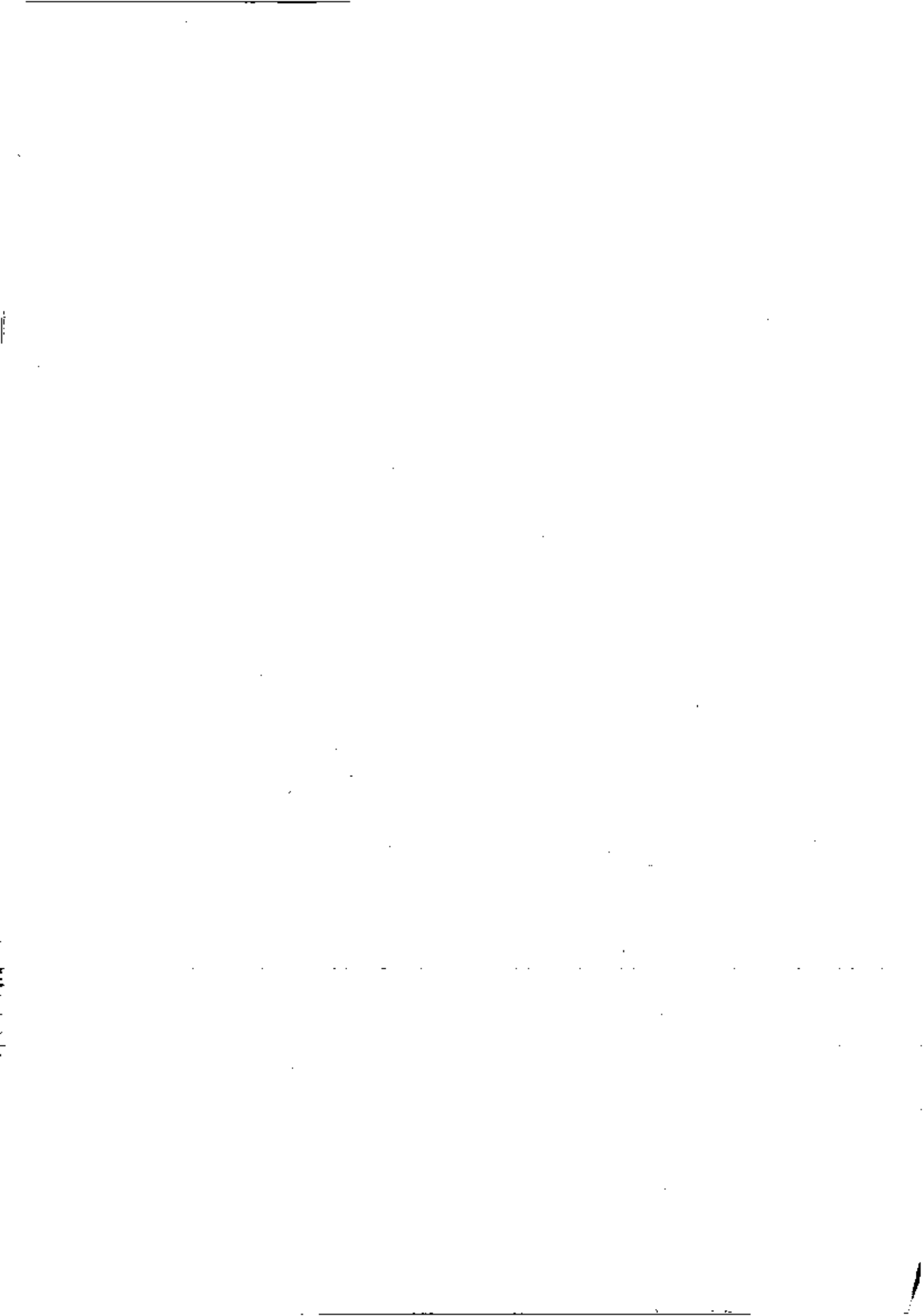


CORPORATE MANAGEMENT COMMITTEE

8 APRIL 2010

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**NATIONAL NON-DOMESTIC RATE
DISCRETIONARY RELIEF FOR CHARITIES AND OTHER NON-PROFIT MAKING BODIES**

POLICY GUIDELINES ON THE DETERMINATION OF RELIEF

Background

1. Under the provisions of the Local Government Finance Act 1988 Act there are three ways in which charities and other non-profit making bodies can be protected from the effects of the National Non-Domestic Rate (NNDR):
 - (i) Exemption: Although these organisations are not exempt in their own right, the premises they occupy may be exempt because of the purpose for which they are used. Examples of properties that may be exempt include places of religious worship and premises used wholly for the provision of training, welfare or sheltered employment services for the disabled. Since 1 April 1990 such properties have not been included in the local Rating List, compiled by the District Valuer and Valuation Officer of the Inland Revenue, and therefore no liability arises.
 - (ii) Mandatory Relief: Section 43(5) of the 1988 Act provides that if a property is occupied by a charity, or the trustees of a charity, and it is used wholly or mainly for charitable purposes, then its liability to the rate is restricted to 20% of the rate that would be payable if the premises were occupied by someone other than a charity. Similar provisions exist in S45(5) for empty premises that will be used wholly or mainly for charitable purposes when next occupied.
 - (iii) Discretionary Relief: Under Section 47 of the 1988 Act, the local authority may exercise its discretion to grant relief from the rate. It is this category of relief at which these guidelines are directed.
2. The decision to grant discretionary relief is left to the billing authority in which the premises are located. The authority may grant relief for all or part of the rate.

In cases of charitable occupation, the authority may grant additional top-up relief from all or part of the balance of the rate for which the charity would otherwise be liable (ie up to 20% of the full rate).

There are limitations over the backdating of relief. Paragraph 23 of Schedule 3 to the Local Government and Rating Act 1997 amended Section 47(7) of the 1988 Act to provide that, from 1 April 1997, local authorities may reach a decision to grant discretionary rate relief for a financial year for up to six months after the end of that year. This is a change from the previous provisions under which authorities had to decide within the financial year concerned. Backdating is therefore limited to a maximum of 18 months.

3. The cost of relief under these provisions is borne as follows:

	<u>NNDR Pool</u>	<u>Local Council Taxpayers</u>
Mandatory only	100%	Nil
Discretionary top-up	25%	75% *
Discretionary only	75%	25%

* ie if the discretionary top-up is for the full remainder of the rate then the NNDR pool will pay for all of the mandatory element (80%) plus one quarter of the balance (5%). The local council taxpayers will fund the rest (15%).

4. Each case must be considered on its own merits. The Office of the Deputy Prime Minister considers that blanket decisions by the authority may be *ultra vires* and advises authorities to draw up readily understood policies for granting rate relief.

5. Guidelines

- 1) Organisations eligible for mandatory rate relief (80%) will not normally be considered for any discretionary relief with the following exceptions:
 - (a) Official Scout and Guide Organisations shall be granted discretionary rate relief from the remaining rate liability (20%); provided they can demonstrate that their premises are used solely or mainly by them, or by them and other non-profit making services, for the benefit of the Community. This would be subject to certification at each renewal of the relief or upon request by the Council's authorised officers, whichever shall be the sooner.
 - (b) Community Associations;
 - (c) Village Halls; and
 - (d) Day Centres for the elderly and other groups (together with their administrative offices where remote from the operational centre).

Organisations in (b), (c) or (d) shall be granted discretionary rate relief from the remaining rate liability (20%).

In all instances the cost of granting this relief is borne 25% nationally and 75% by local Council Taxpayers.

Relief so allowed is to be taken into account in any revenue grant aid made by the Council.

- 2) Non-profit making leisure and sporting organisations that have registered with the Inland Revenue as Community Amateur Sports Clubs (CASCs) are entitled to receive mandatory rate relief of 80% and will not normally be considered for any discretionary rate relief. Non-profit making leisure and sporting organisations that are not eligible as CASCs whose activities:
 - (i) Enhance or supplement the Council's own services; and
 - (ii) Mainly serve the local area

will be considered, on their own merits, for discretionary relief of up to 50%.

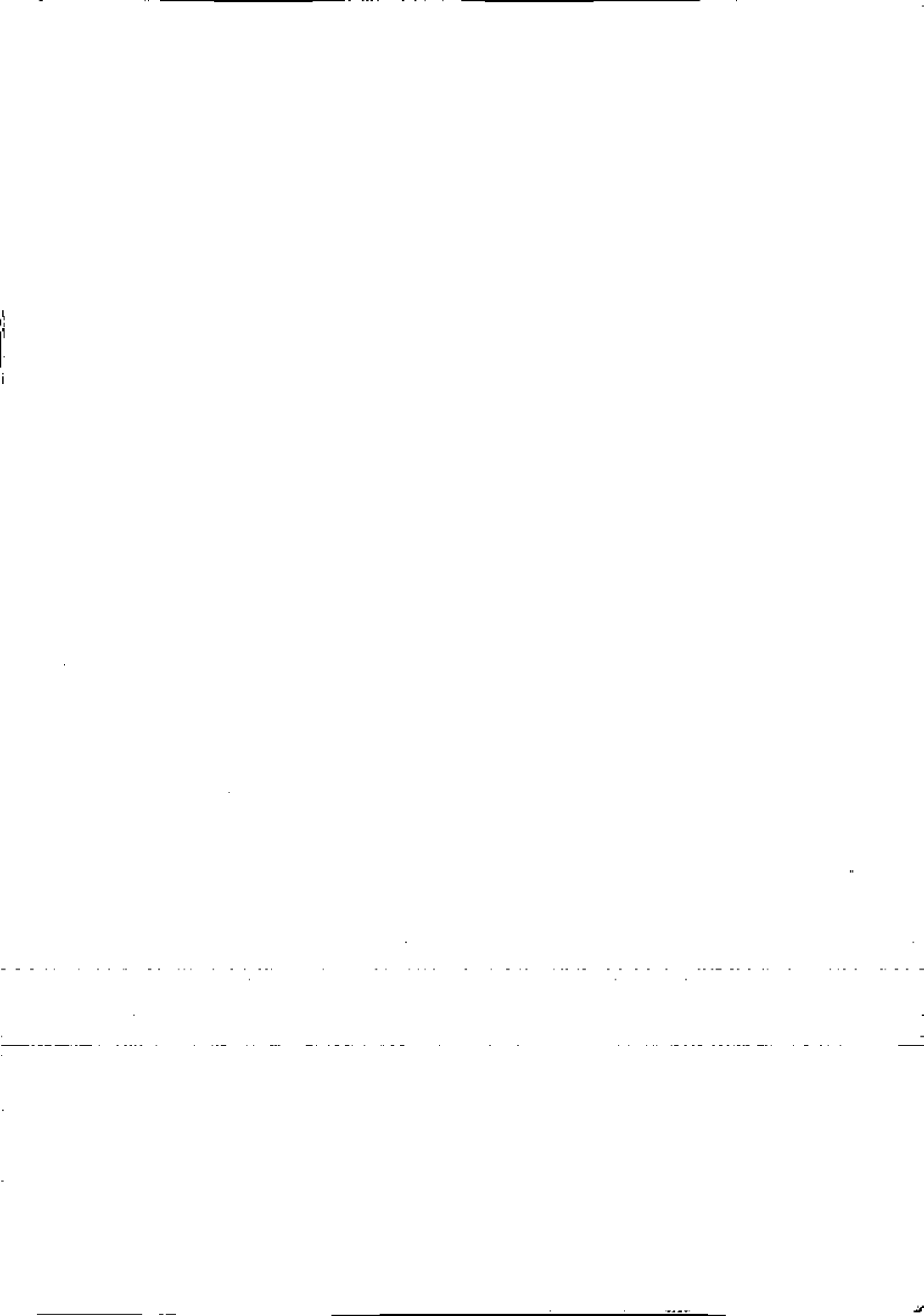
Relief so allowed is to be taken into account in any revenue grant aid made by the Council.

6. Authority to determine relief

- Determinations for the granting of relief in cases that fall within the scope of Guideline 1 (topping-up) shall be made by the Director of Finance.
- Determinations for the granting of relief in cases that fall within the scope of Guideline 2, and other applications not specified, shall be brought before the Corporate Management Committee for consideration and determination on each occasion.
- The Director of Finance may, at his discretion, make a determination to revoke the relief in accordance with Section 47(6) of the 1988 Act if, during a period for which an organisation is in receipt of relief:
 - (i) there is a material change in an organisation's circumstances; or
 - (ii) there is a material change in the use of the premises; or
 - (iii) the organisation fails to provide relevant information regarding its current status.

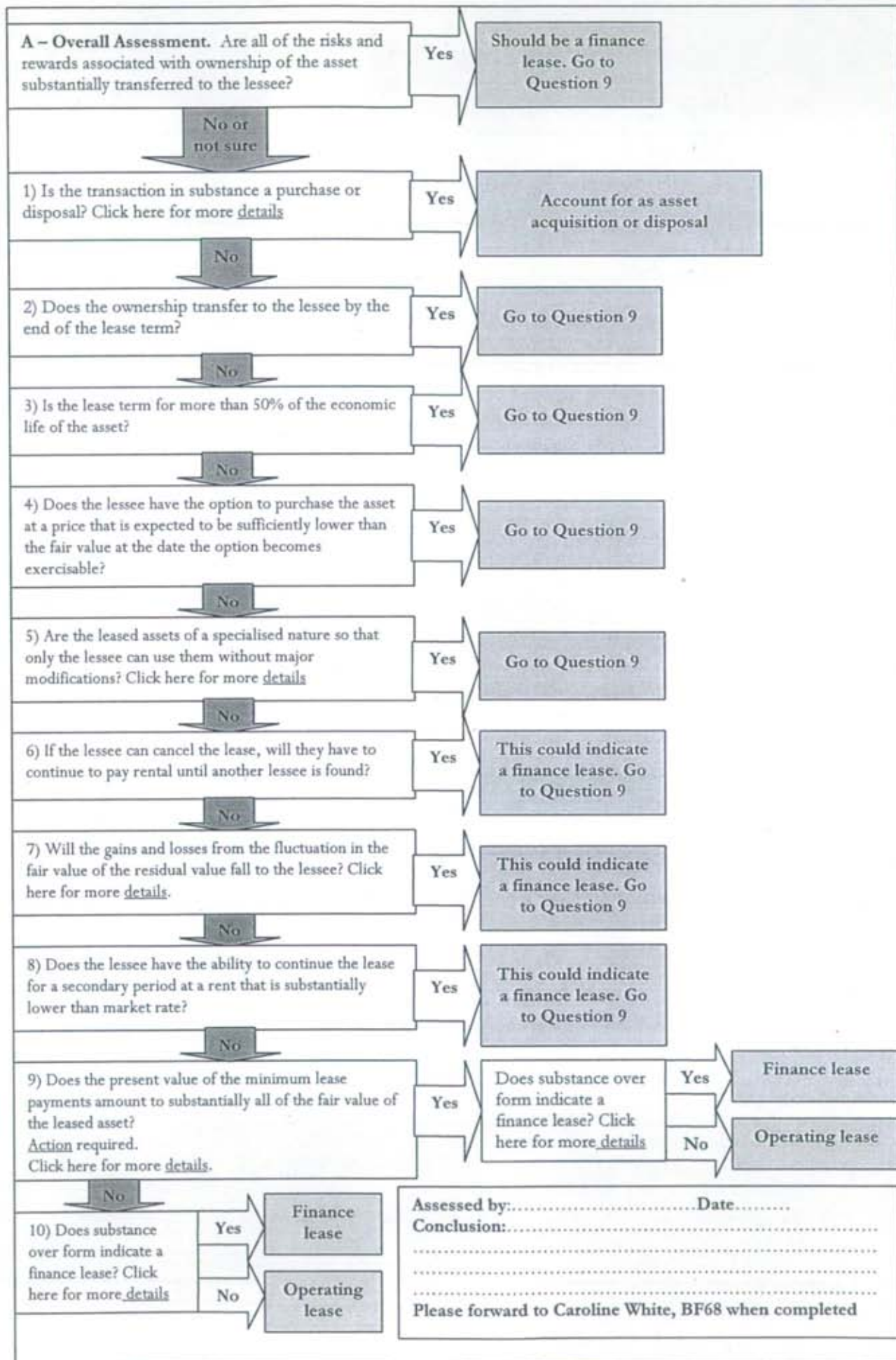
In respect of those cases that fall within the scope of Guideline 2, the Director of Finance shall inform the Committee of any revocation in a report to the next available meeting.

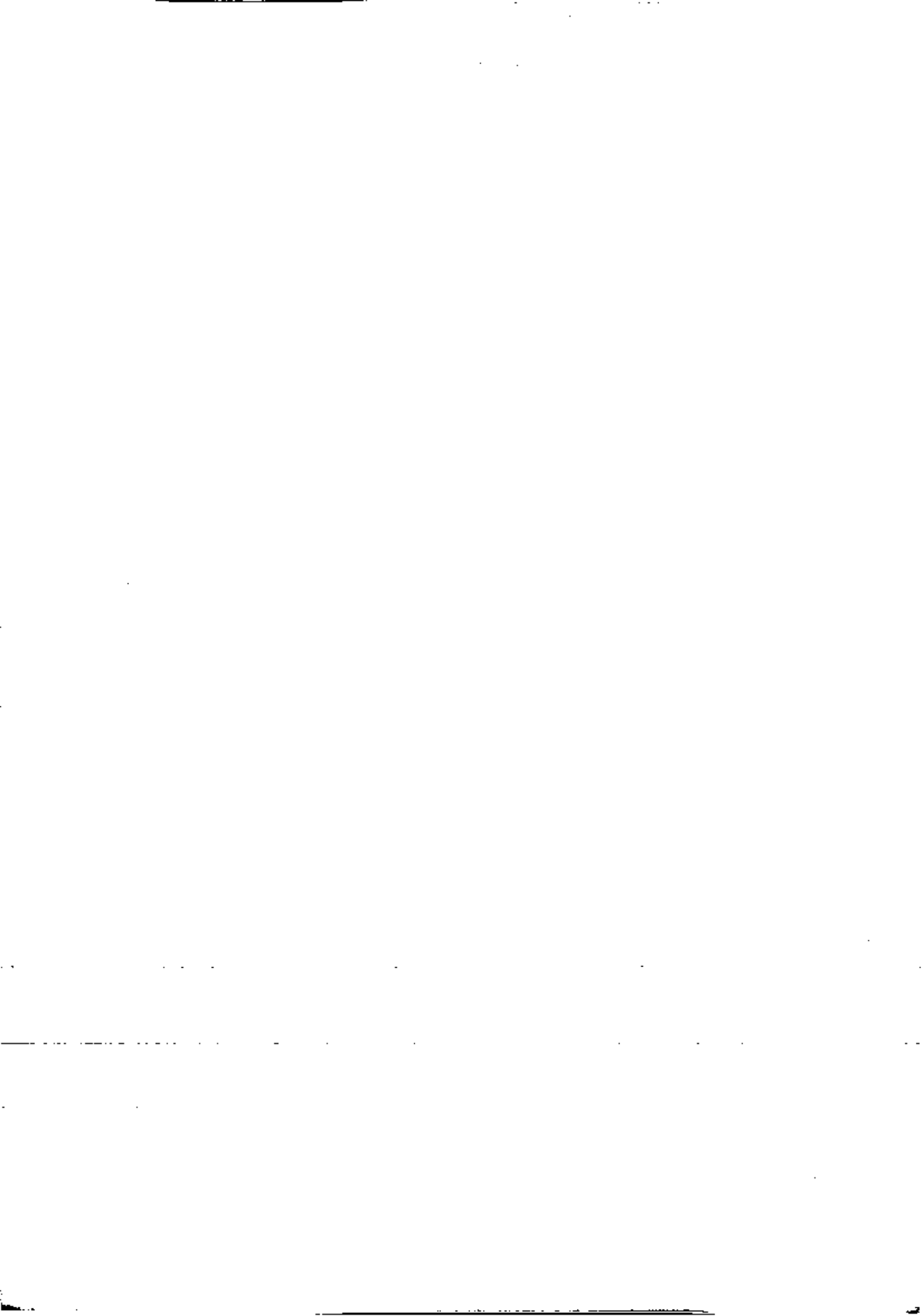
- Aggrieved claimants shall have the right of appeal to the Council.



Assessment Flow Chart of IAS 17 – Finance or Operating Lease?

Leased Asset.....





Assessment Flow Chart of IAS 17 – Finance or Operating Lease?

1. Is the transaction in substance a purchase or disposal?

If a premium has been paid or received upfront for the lease, and the amount of the premium is approximately equal to the fair value of the asset being leased, this indicates that the lease should be considered as an acquisition or disposal. Other indicators are a peppercorn rent thereafter the premium, and a rental period of material length e.g. 50 years or more.

5. Are the leased assets of a specialised nature so that only the lessee can use them without major modifications?

For example, trade marks or assets in locations where other entities couldn't use them.

7. Will the gains and losses from the fluctuation in the fair value of the residual value fall to the lessee?

For example, if the lessor sells the asset to a third party at the end of the lease for less than the expected residual value, the former lessee will make up the difference, or if it is sold for more, then the former lessee receives the 'profit'.

9. Does the present value of the minimum lease payments amount to substantially all of the fair value of the leased asset?

Action

- Please apply land and building apportionment to separate the valuation and rent payable and provide this information to Accountancy.

Details

- The guideline is 90% but this may be less and still meet one of the other criteria.
- Minimum lease payments **include** option payments, termination penalties, rentals on renewal, guaranteed residual values and refundable security deposits.
- Minimum lease payments **exclude** contingent rentals, costs for services, executory costs and payments made by the lessee to the third party.
- For plant and equipment, the fair value is calculated as follows:
 - If the lessor is a manufacturer or dealer** – Normal selling price reflecting any volume or trade discounts.
 - If the lessor is not a manufacturer or dealer** – Cost reflecting any volume or trade discount.
 - If the leased asset is a used asset** – use depreciated replacement cost of a comparable new asset.

10. Substance over form

Are all the risks and rewards associated with ownership substantially transferred to the lessee?

RUNNYMEDE BOROUGH COUNCIL

DISCIPLINARY PROCEDURE

1. INTRODUCTION

Discipline in any organisation is essential to the continued well-being of that organisation. Management must be able to apply sanctions against employees whose actions are unacceptable, and employees need to be aware and confident that management deals fairly and consistently with matters relating to discipline.

The accepted means of achieving these aims is by a formal disciplinary procedure agreed between the employer and representatives of the employees. A disciplinary procedure should, however, not only be viewed as a means of imposing sanctions, it should also be designed to help and encourage improvements in an individual's conduct. This document sets out the details of this Authority's disciplinary procedure. The procedure has been drawn up to reflect the ACAS Code of Practice and guidance. Matters concerning an individual's capability are subject to the Authority's separate 'Capability Procedure'.

The procedure applies to all staff except Directors and the Chief Executive Officer, the Monitoring Officer, and the Chief Finance Officer, who are subject to separate procedures.

Whatever the nature of the problem it is important that both management and staff deal with matters of possible sanction or dispute promptly, and seek to act consistently.

The ACAS Code of Practice

This and other Council procedures contain elements seeking to reflect the current ACAS Code of Practice for Disciplinary and Grievance Procedures issued in April 2009. The Code is issued under the Trade Union and Labour Relations Act 1992. Following the Code is not mandatory but Tribunals will take the Code into account and will also be able to adjust awards by up to 25% if either employers or employees have unreasonably failed to comply with any provision of the Code. Both managers and staff involved in these procedures should take advice before any departure from the approved provisions.

Trade Union Officials

No disciplinary action beyond an informal oral warning will be taken against any Trade Union official until the circumstances of the case have been discussed (subject to the employee's agreement) with a full-time official of the Union concerned. This paragraph does not apply if the employee does not agree to such discussion.

Time Limits

Steps in the procedure will be taken as promptly as practicable having regard to the interests of the parties and the requirements of natural justice. Timescales imposed during the process must be practicably achievable. The time limits referred to in the following procedure may be varied by agreement.

Thorough investigation and objective consideration form an important part of the Disciplinary Procedure.

2. DAY TO DAY SUPERVISION OF STAFF

- 2.1 The day-to-day supervision of staff and the monitoring of conduct are part of the normal management process and outside the scope of the formal written procedure for dealing with breaches of discipline. The appropriate supervisor should bring minor misconduct to the employee's attention at the earliest possible stage and deal with the matter informally.
- 2.2 Depending on the severity of the misdemeanour and whether or not it is a recurring problem, supervisors have three potential courses of action to follow - an informal oral warning, a formal oral warning or referral to senior management for formal disciplinary action.

Often supervisors will give an informal oral warning for the purpose of improving conduct when an employee commits a minor infringement of the established standards of conduct. No record of such a warning will be kept.

2.3 Formal Oral Warning

In certain cases, where for example the matter is of greater concern and/or a previous informal warning has proved ineffective, it may be necessary for the supervisor, provided he or she is properly satisfied on the facts, to consider the use of a formal oral warning. In such cases the supervisor will explain the complaint to the employee, listen to the reply, and then decide whether it is appropriate to give a formal oral warning. A formal oral warning will not be recorded on the employee's file but a note of the date and circumstances of the warning will be initialled by the employee and will be kept by the supervisor for a six month period, who will advise the employee that this has been done. After six months the note will be disregarded and expunged and the employee will be advised by the Supervisor or Line Manager that this has been done.

2.4 Formal Disciplinary Action

If the employee's conduct continues to be unsatisfactory or if, in the opinion of the supervisor, a situation arises which seems to warrant more significant disciplinary action the supervisor will, after consulting with senior management, initiate the formal written disciplinary procedure, the details of which are set out in Section 3.

2.5 Grievance/Disciplinary Procedure

In the event that a grievance is raised during the course of a disciplinary procedure then the parties should consider whether the disciplinary procedure should be suspended pending the outcome of the grievance procedure or whether the grievance and disciplinary matter can be satisfactorily dealt with together, following which consideration the Director will determine the appropriate course.

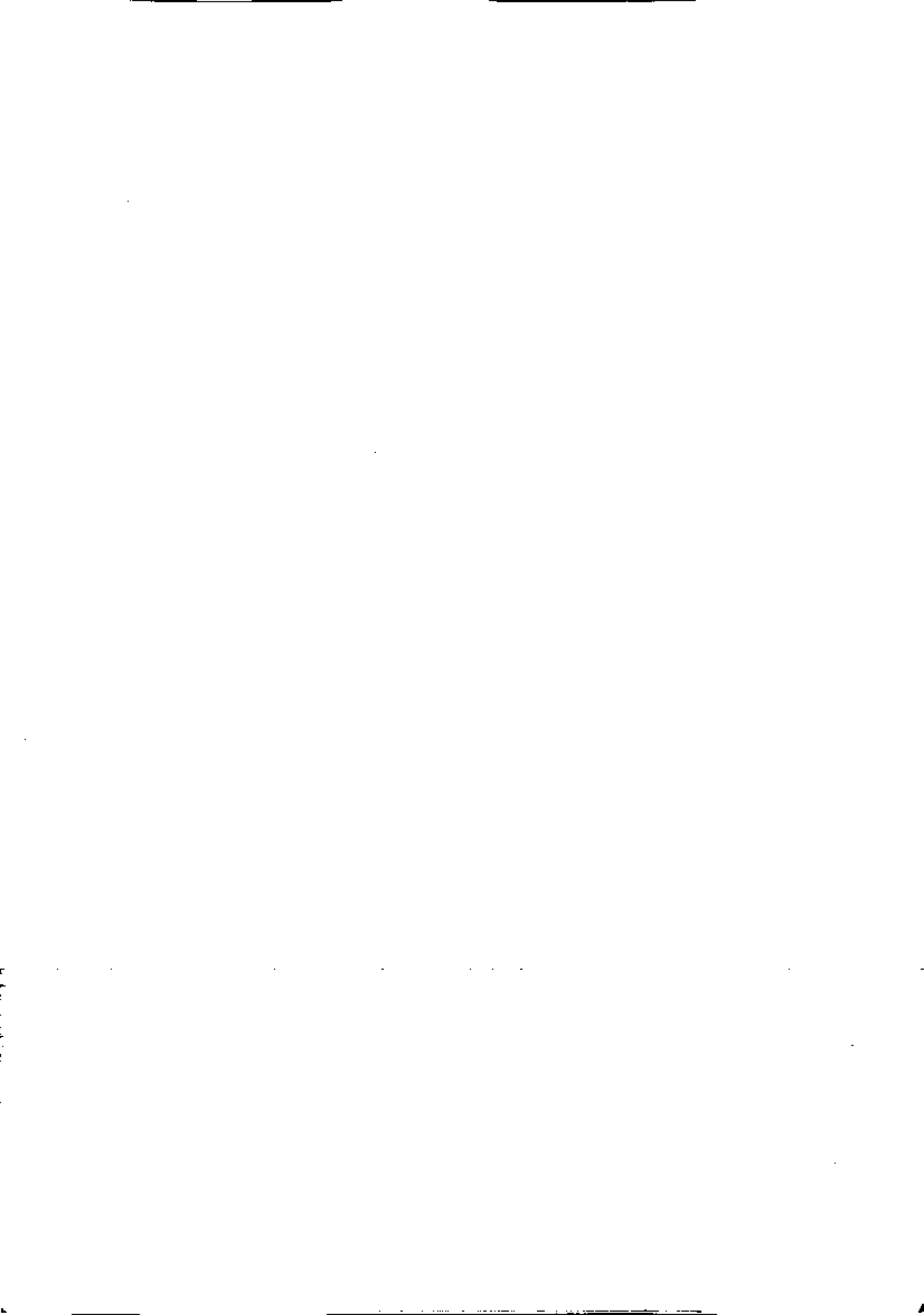
3. FORMAL DISCIPLINARY PROCEDURE

Establishing the facts

1. The relevant Director will arrange for any necessary investigation to establish the facts to be carried out dispassionately and without unreasonable delay. Evidence may be collected and the employer may, but need not, hold an investigatory meeting with the employee, to assist management in determining whether the facts justify further action. The employee may be accompanied at any such meeting. This is not a disciplinary hearing and no disciplinary action will directly follow such a meeting. If such a meeting is held, its nature should be explained to the employee in advance.
2. Where practicable, investigation will not be carried out by a person against whom the employee has previously made a complaint, or who is personally involved with the allegation (e.g. as witness or complainant), or who has a close personal relationship with the employee outside the workplace.
3. The relevant Director will determine as soon as possible after completion of the investigation whether the evidence justifies the holding of a disciplinary hearing.

Procedure for Conducting a Disciplinary Hearing

- 3.1 The intention of the Hearing is to ensure that under the formal disciplinary procedure every opportunity is given for an employee to state his/her case. If the employee declines to attend and fails to provide adequate reasons for non attendance then the hearing may proceed in the employee's absence. Any hearing will be held without unreasonable delay and the time and date for the hearing shall be set in consultation with the employee.
- 3.2 Every employee has a right to be accompanied (see c below). In order to give time to prepare for the Hearing the date, time and place will where possible be agreed by all parties involved. Following consultation with a Personnel Representative, the Director will then notify the employee in writing not less than 5 working days before a Hearing takes place. The letter will inform the employee of:-
- a) The allegations to be answered at the Hearing.
 - b) The date, time and place of the Hearing (this may be varied at the request of the individual to allow adequate time for representation to be arranged);
 - c) The right of the employee to be represented or accompanied. This would normally be a fellow worker, trade union representative or official employed by the Union, a CAB advisor or a family member.
 - d) The companion will be allowed to address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.
 - e) The fact that if the employee declines to attend and fails to provide adequate reasons for non-attendance then the hearing may proceed in the employee's absence.
- 3.3 The Director will ensure that the employee is given copies of any documents which will be referred to at the Hearing. These will be delivered to the employee no less than 5 working days before the hearing. The period of 5 working days may be reduced or extended with the agreement of the employer and employee before the Hearing. If practicable the employee will advise the person conducting the hearing of the identity of any companion as soon as known.
- 3.4 If the employee does not attend, and in the opinion of the Officer conducting the hearing the employee has been given a proper opportunity to do so and arrange for representation, and all reasonable measures to make contact have been made, then the Hearing may proceed in the employee's absence unless the Officer considers that there is a sufficient reason to adjourn it.
- 3.5 The Hearing will be conducted by the Director (or other person nominated by him/her) with the assistance of a Personnel Representative. Any officer who has participated in an investigation into the alleged misconduct shall not participate in the decision making function of those conducting the Hearing and will only attend to present the results of any investigations.
- 3.6 At the Hearing the employee will be given the reasons why his/her conduct appears to warrant disciplinary action. If available, the originals of any relevant documents must be shown to the employee, and witnesses may be called to give evidence. A written statement may be accepted from a witness in place of oral evidence if those conducting the hearing see fit, but they shall keep in mind that it is better to have evidence which can be tested and questioned.
- 3.7 The employee (and/or representative if appointed) will be entitled to ask questions of the officers conducting the Hearing and their witnesses (if any) relating to the alleged misconduct, to put his/her case and to call witnesses.



- 3.8 The employee (and/or representative if appointed) and his witnesses (if any) may be questioned by the officers conducting the Hearing.
- 3.9 The employee (and/or representative if appointed) may at this stage ask any further questions of the officers conducting the Hearing and their witnesses (if any) which are relevant to the case and may make any final statement.
- 3.10 If the officers conducting the Hearing consider that further investigation or discussion is necessary before reaching a decision, the Hearing may be adjourned for a specified period.
- 3.11 At the conclusion of the Hearing the employee will be informed of the decision verbally in the presence of his/her representative if appointed. The decision will be confirmed in writing within five working days. The decision letter must specify any facts and evidence that were relied upon in taking the decision.

First Written Warning

If a Disciplinary Hearing has decided that an employee's work, conduct or omission is thought to warrant formal disciplinary action, a First Written Warning will be given by the Director in consultation with a Personnel Representative. This warning will be conveyed in writing within five working days of the Hearing. The written confirmation will :-

- a) state the nature of the work, conduct or omission which has warranted formal disciplinary action and that a First Formal Warning is being given and that it will be recorded on the employee's personal file;
- b) the period of time that the warning will remain on the employee's file;
- c) indicate the form of improvement required and the time-span allowed for this to take place and (where appropriate) the training/supervision to be provided by management for this purpose;
- d) warn the employee of the likely consequences of a failure to improve or of a further offence being committed;
- e) specify the employee's right of appeal against the decision and the time limits for such appeal;
- f) advise the employee to consult his/her Trade Union or other Representative.

Final Warning

This stage in the procedure can be applied:-

1. where a further offence occurs after a First Written Warning, or
2. where the first offence is such that it does not warrant dismissal but is serious enough to take stringent action;

the same procedure as outlined for 'First Written Warning' will apply.

N.B. There may be circumstances when a further offence subsequent to the first written warning is more appropriately dealt with by a 'Second Written Warning' than by a Final Warning. The same procedure as outlined for 'First Written Warning' would then apply.

Dismissal after Final Warning

Where a further offence occurs after a Final Warning the employee incurs the risk of being dismissed. He/she will be interviewed at a Disciplinary Hearing by the Director or a person nominated by him/her and a Personnel Representative, and given the opportunity to explain.

If, following a disciplinary hearing, (or consideration of the matter in the absence of the employee, without reasonable cause) it is considered that the dismissal is warranted, the decision to dismiss will be made. The dismissal of an employee will be confirmed in writing within two working days, signed by the Director of the employee's department. The Written Confirmation will state :-

- a) the reason(s) for the dismissal;
- b) the employee's right of appeal against the decision and that any local appeal should be submitted within ten working days;
- c) the period of notice of dismissal and the arrangements during such period;
- d) that the employee is advised to consult his/her Trade Union or other representative.

Gross Misconduct

Gross Misconduct is misconduct of such a nature that the Council cannot reasonably allow the continued presence of the employee at the place of work.

If, in the light of preliminary investigation, it is considered that the case may be one involving Gross Misconduct the employee will be suspended (see below) pending full investigations.

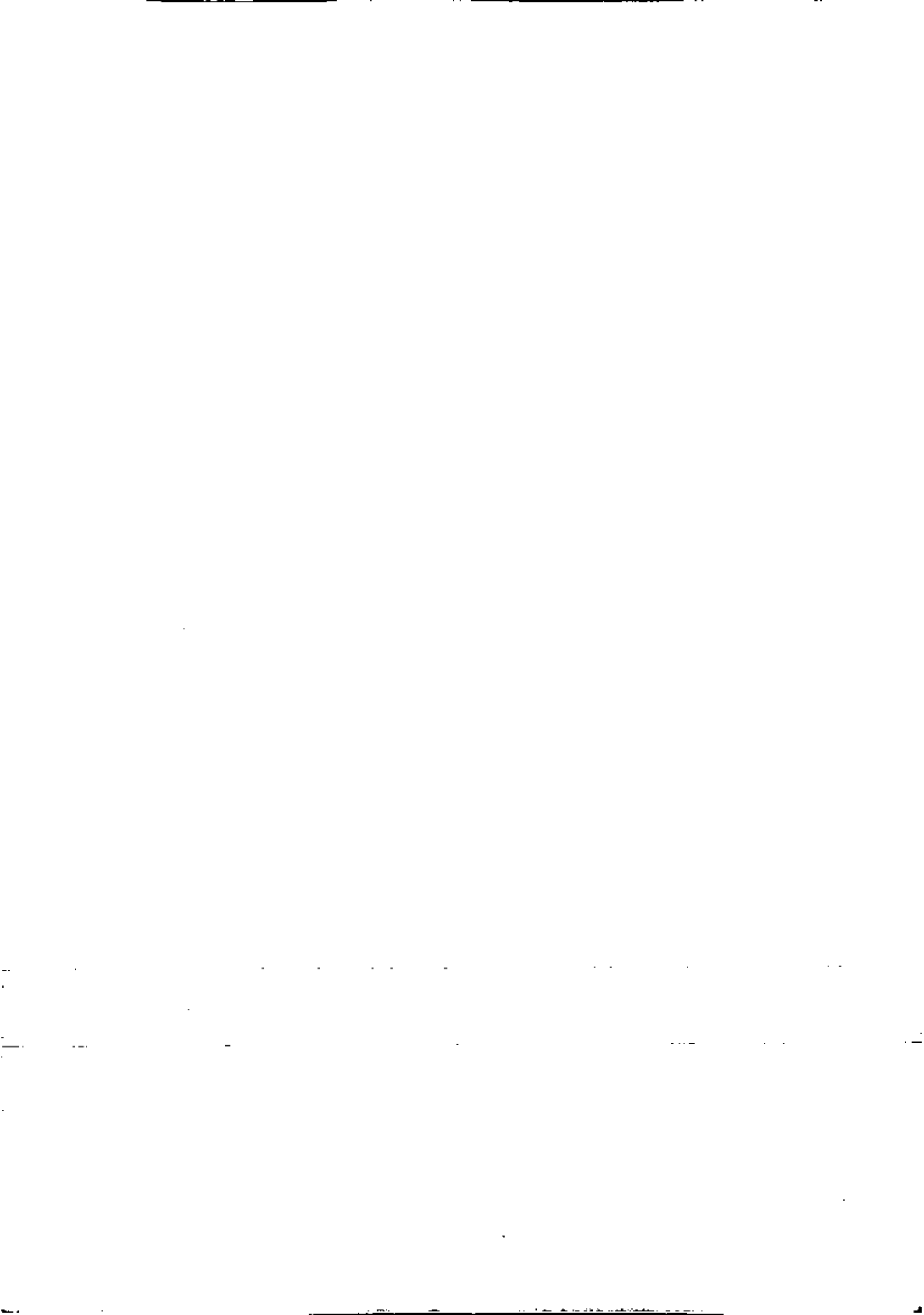
If, following full investigations and a disciplinary hearing, it is decided that an offence of Gross Misconduct has been committed, the employee shall be summarily dismissed.

In cases of Gross Misconduct the Director has the authority to dismiss, but in all cases a Personnel Representative will be consulted before any action is taken.

As a guide listed below are some examples of Gross Misconduct which have led to the dismissal of local authority employees:

Unauthorised removal or misuse of or damage to the authority's property;
Offences of dishonesty;
Sexual offences;
Sexual misconduct at work; including harassment;
Fighting;
Physical assault;
Bullying, both verbal and physical;
Deliberate falsification of time sheets, flexitime, subsistence and expenses/claims etc;
Theft;
Infringement of Equal Opportunities Policies;
Action wilfully taken which endangers life or limb;
Non-compliance with safety procedures and instructions.
Non-declaration of interests in contracts etc.;
Deliberate breach of the authority's internet policies
Wilful gross insubordination

This list is neither exclusive nor exhaustive and in addition there may be other offences of a similar gravity which would constitute Gross Misconduct.



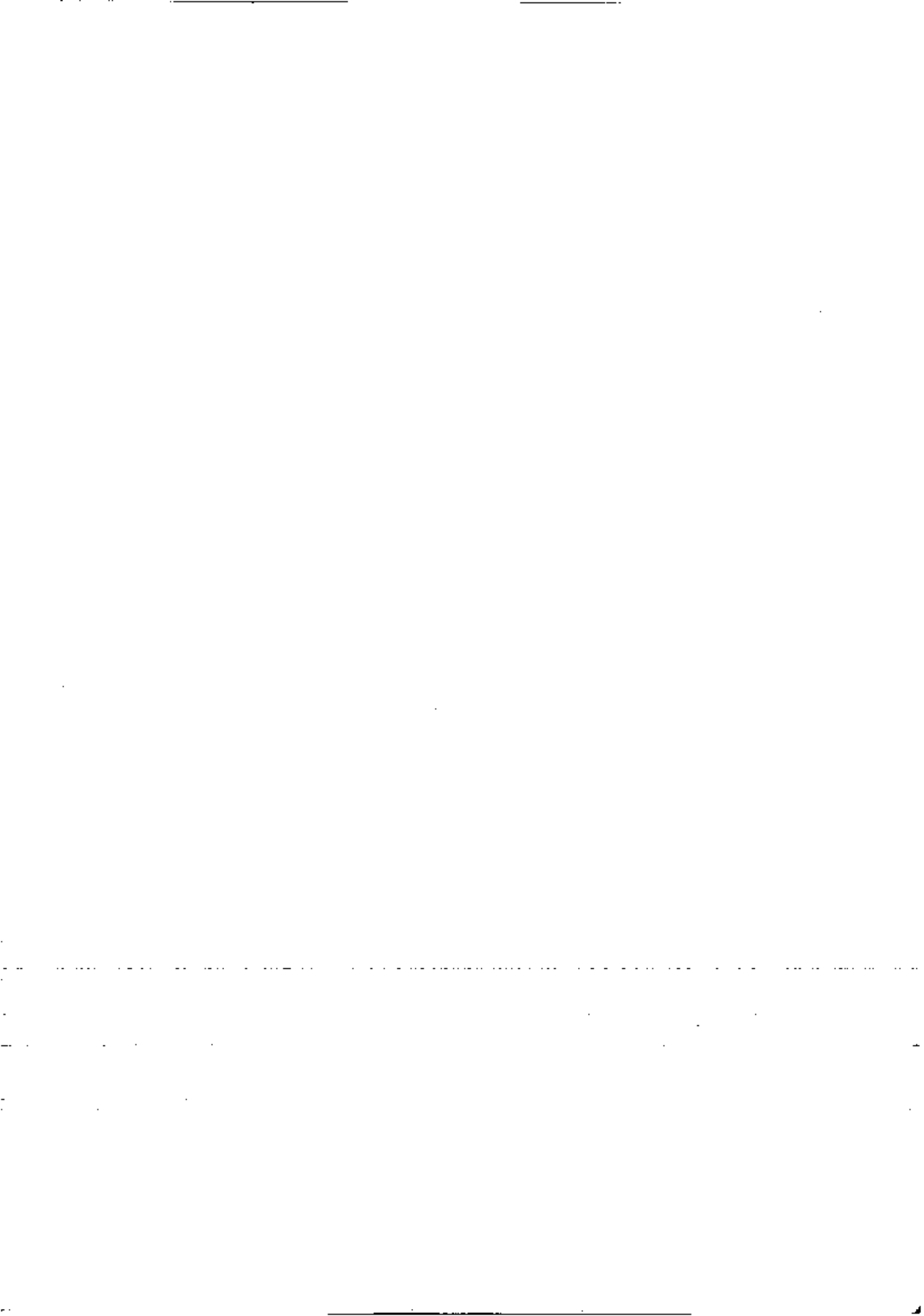
Suspension

Suspension in itself is not a disciplinary action.

1. Suspension of an employee will be on full pay and will normally only be considered when further time is required to undertake more detailed investigations into a matter where dismissal may result.
2. A decision to suspend may be taken by a Director in consultation with a Personnel Representative and as soon as possible afterwards, within two working days, the action will be confirmed in writing, signed by the Director and will state :-
 - a) the reason(s) for suspension;
 - b) the initial period of suspension.
3. The initial period of suspension may be reduced or extended by the Director who will inform the employee in writing as soon as possible.
4. When it is necessary to suspend a person, the period of suspension should be as brief as possible. Such suspension will not be considered as disciplinary action and the appropriateness of suspension will be reviewed at no longer than weekly intervals.

Disciplinary Records

1. Should a particular disciplinary action or stage in the disciplinary procedure be found to be unwarranted and subsequently withdrawn, any written reference will be expunged forthwith from the employee's file and the employee notified accordingly. All documents and copies of documents relating to the action will be confidentially destroyed.
2. Records of a disciplinary warning and all related documents will be disregarded and expunged from the individual's personal file and computer record as follows :-
3. Formal written warning = 6 months
Final written warning = 12 months
4. The period will be confirmed at the time of the hearing at which the disciplinary action is taken. All additional copies of documents will be destroyed ten working days after the Hearing if no appeal is received. In the event of an appeal all additional copies of documents will be destroyed after the Appeal Hearing.



4. DISCIPLINARY APPEALS PROCEDURE

The following Appeals Procedure is in place

[N.B. Any party may take notes during an appeal].

Formal Warning - Hearing Before a Director Panel

1. The employee may appeal in writing to the Director within ten working days of receiving confirmation of a warning. He/she must give the reasons for the appeal. A copy of the Appeal letter should be retained by the employee or his/her representative.
2. Following no less than five working days written Notice to the employee, the Appeal will be heard by a panel chaired by the Chief Executive (or, if unavailable, another Director nominated by him) sitting with two Directors not previously involved in the disciplinary proceedings. If two other Directors are not available and eligible to hear the Appeal a second tier Officer may take the place of one or both. The procedure will be the same as for an appeal before a Standards and Audit Committee as set out below except for the period of Notice in para 6, and paras 3, 4, 7, 8, 9 and 12. A suitable Officer will be nominated by the Chief Executive to administer the arrangements and to fulfil any duties of the Secretary to the Committee which apply to the panel.
3. On hearing the Appeal, the panel may allow or reject it or amend the terms of the warning given. The decision of the panel will be given verbally in the presence of the appellant and/or his/her representative, and confirmed within five working days in writing.
4. If the appeal is upheld the warning will be removed from the records and this fact confirmed to the employee in writing.
5. There is no further right of appeal.

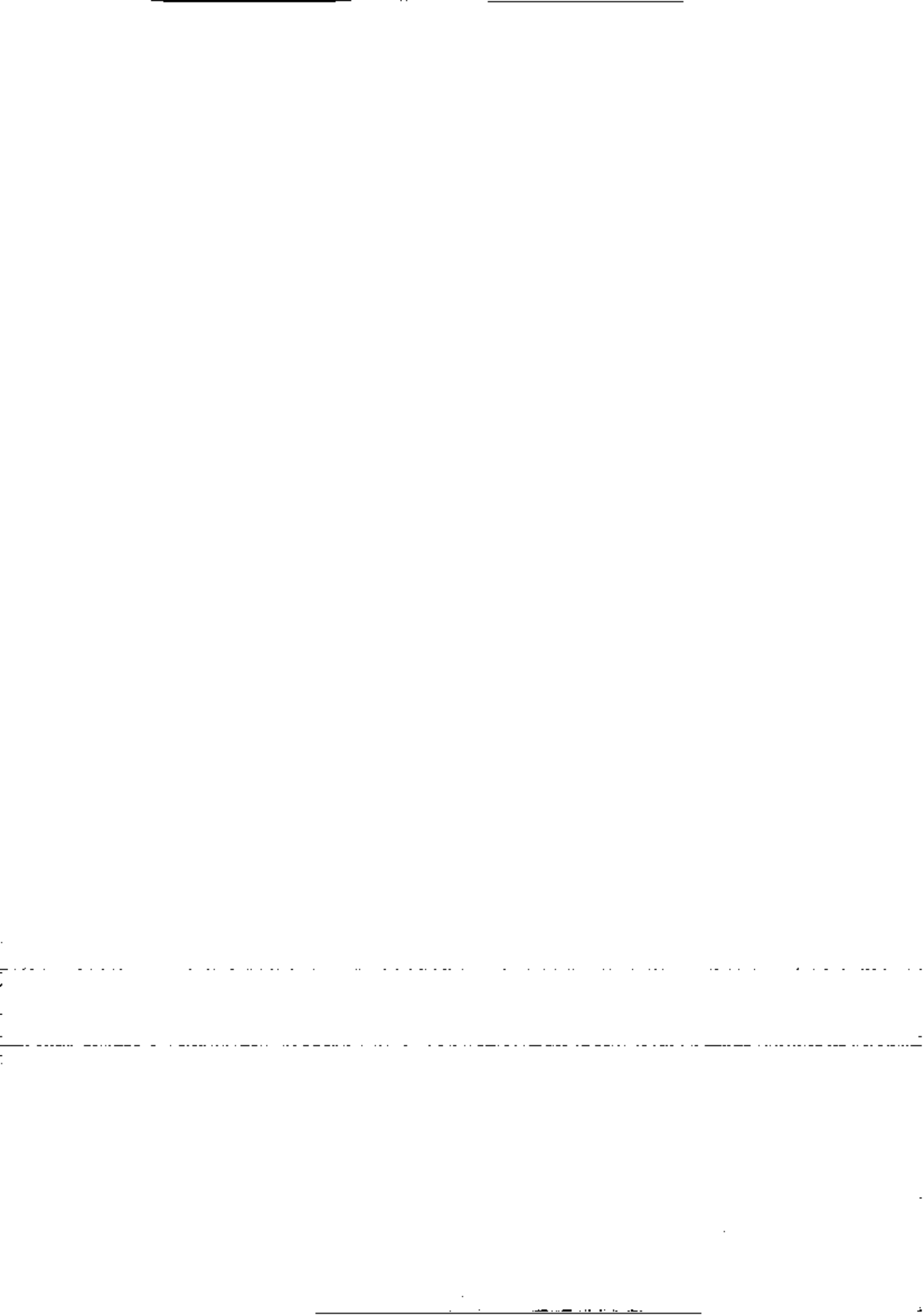
Dismissal - Appeal Before Standards and Audit Committee

1. Notice of Appeal against dismissal must be given by the employee or his/her representative to his/her Director in writing within ten working days of receiving the dismissal letter. Within a further ten working days the employee or his/her representative must give the Director a written statement setting out
 - a) the grounds upon which he/she disputes the decision to dismiss;
 - b) which (if any) facts or evidence relied on in that decision he/she disputes;
 - c) what witnesses the employee proposes to call at the Appeal Hearing;
 - d) what (if any) witnesses called by the employer at the Disciplinary Hearing the employee wishes to question at the Appeal Hearing.
2. If the Appellant fails to submit such a statement within the time specified without grounds which appear reasonable to the Committee, his/her Appeal will automatically be dismissed.

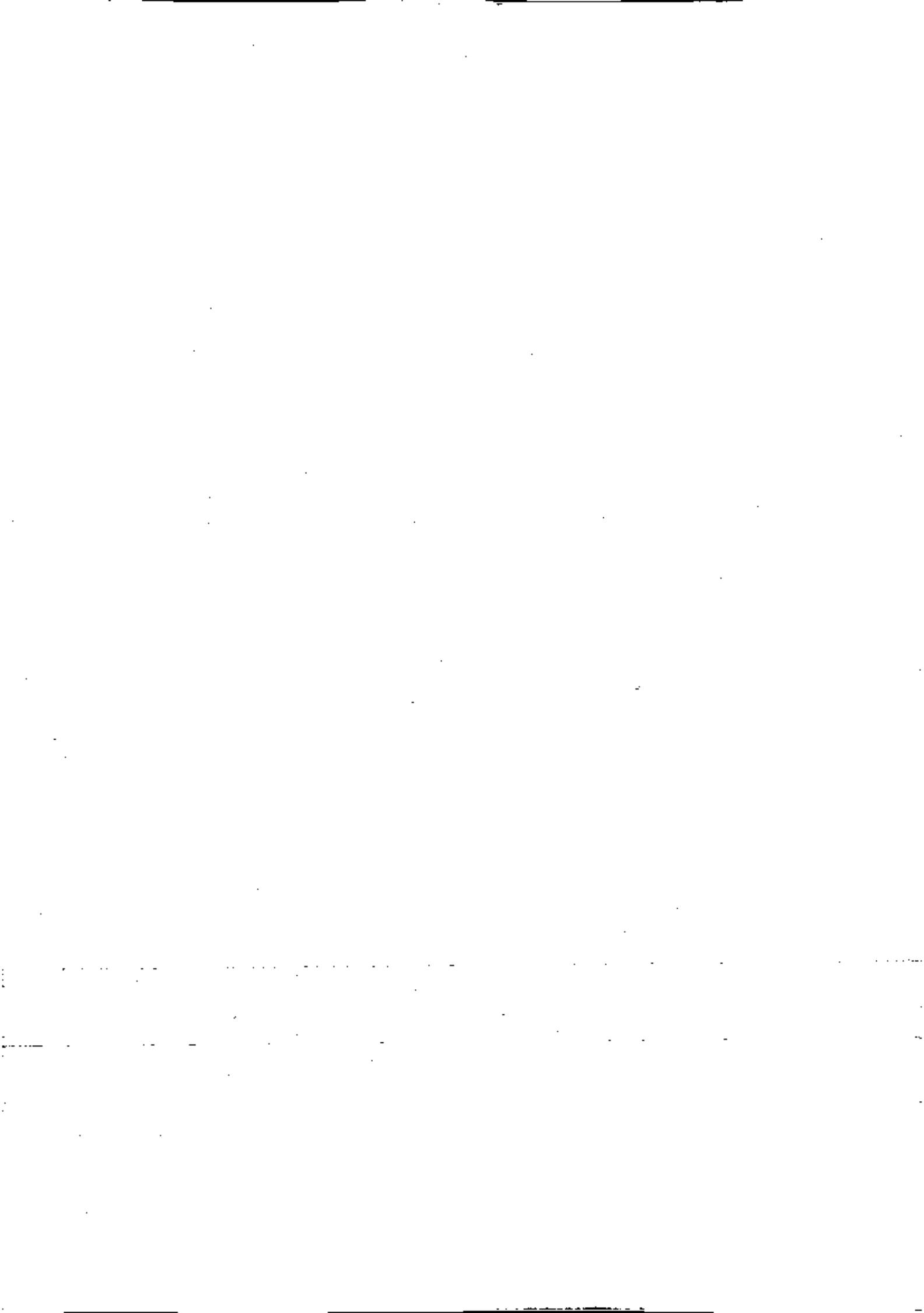
Standards and Audit Committee

1. For ease of process at the hearing and to avoid undue delay in finding suitable dates, the Standards and Audit Committee may sit as a bare quorum. No Member of the Committee sitting to hear the appeal shall have been involved previously in the investigation or determination of the matter under consideration. . . The Director of Administration and Leisure will advise the Committee of the employee's name to establish whether they are known to them when making the arrangements for the hearing.
2. The Committee is authorised to determine the appeals coming before it.
3. The Committee's decisions shall be reported to the Corporate Management Committee.

4. The Secretary to the Standards and Audit Committee will be the Director of Administration and Leisure, or an officer nominated by him. If the Appellant is a member of his staff, the Director of Administration and Leisure must take steps to ensure a reasonable and fair separation between the roles of responding to the appeal and administering the Committee. The Secretary to the Committee must not previously have been involved in the investigation or determination of the case.
5. All appeals are by way of rehearing of the allegations. The Committee may consider material which was not before the original hearing if it is reasonable to do so and if both sides have been made aware of it no less than six working days before the Hearing if practicable. In order to save time at the hearing undisputed matters may be set out in writing and/or one party may indicate that he/she accepts a statement, document or evidence provided by the other party.
6. The Appeal must be heard within a reasonable time. The Secretary to the Committee must give the employee Notice in writing at least fifteen working days in advance of the time and place of the Hearing. The employee will be allowed to be represented by his/her Trade Union Representative or some other person of his/her choice and will be able to call witnesses and produce documents relevant to the Hearing.
7. At least seven working days before the Appeal Hearing, the Director of the department concerned must give the Secretary to the Standards and Audit Committee a statement summarising the history of the case and the facts found at the Disciplinary Hearing, together with any other documents he or she wishes to draw to the attention of the Committee.
8. An agenda for the Committee must be distributed at least five working days before the hearing. The Secretary to the Committee must attach to the agenda a copy of the decision letter sent to the Appellant, the statement received from the Appellant, and the statement and documents received from the Director. Copies of the agenda must be sent to the Committee, the Appellant and his/her representative, the Director, and to any other individuals the Secretary deems appropriate.
9. The Committee at each meeting shall appoint a Chairman from amongst its Members. When the Chairman and Committee are ready, the Secretary to the Committee will conduct the representatives of the parties to the Hearing Room.
10. If the Appellant (and/or Representative if appointed) is not present, the hearing may proceed in his/her absence if
 - a) he/she has consented; or
 - b) the Appellant (and/or Representative if appointed) has been given all required notice of the Hearing and in the opinion of the Committee there is no reasonable ground to adjourn it.
11. Once the hearing has begun, the Committee may adjourn the hearing at any time for a specified period.
12. The Secretary to the Committee will introduce the representatives of the parties to the Committee.
13. The Chairman will introduce the members of the Committee.
14. The Chairman will invite the representative(s) of the Department involved to put the case in the presence of the Appellant (and/or Representative if appointed) and call witnesses.
15. The Appellant (and/or Representative if appointed) will have the opportunity to ask questions of the Department's representative(s) and any witnesses who have been called, on the evidence given.
16. The members of the Standards and Audit Committee will have the opportunity to ask questions of the Department's representative(s) and witnesses.



17. The Appellant (and/or Representative if appointed) will put his/her case in the presence of the Department's representative(s) and call such witnesses as required.
18. The Department's representative(s) will have the opportunity to ask questions of the Appellant (and/or Representative if appointed) and witnesses.
19. The Committee will have the opportunity to ask questions of the Appellant (and/or Representative if appointed) and witnesses.
20. The Department's representative(s) will be invited to sum up his/her case briefly. The Chairman will ensure that at this stage no new material is introduced or point made to which reference has not already been made during the proceedings.
21. The Appellant, (and/or Representative if appointed) will be invited to sum up his/her case briefly. The Chairman will ensure that at this stage no new material is introduced or point made to which reference has not already been made during the proceedings.
22. The parties will be asked to withdraw.
23. The Standards and Audit Committee with the Secretary to the Committee will deliberate in private, only recalling the Department's representative(s) and the Appellant (and/or Representative if appointed) to clear points of uncertainty on evidence already given. If recall is necessary both parties will return notwithstanding only one is concerned with the point giving rise to doubt. The Secretary to the Committee may advise the Committee (or procure advice for it) on matters of law and procedure.
24. The Standards and Audit Committee may allow or reject the appeal and its decision will be the final decision of the Council. Upon the return of the parties, the Chairman will convey the decision of the Committee to the parties and indicate that this will be confirmed in writing by the Secretary to the Committee within five working days of the Hearing.



CAPABILITY PROCEDURE

An employee who wilfully refuses to perform his or her duties efficiently is committing an act of misconduct and is subject to the formal disciplinary procedure. The disciplinary procedure is not however appropriate for an employee whose performance is inadequate because of lack of capability. For that person a different procedure is needed and where an employee's capability is in question the procedure to be followed by management will (subject to the paragraph below) be as Stages 1, 2 and 3 below.

The procedure applies to all staff except Directors and the Chief Executive Officer, the Monitoring Officer, and the Chief Finance Officer, who are subject to separate procedures.

Steps in the procedure will be taken as promptly as practicable having regard to the interests of the parties and the requirements of natural justice. Timescales imposed during the process must be practicably achievable.

Trade Union Officials: No capability action beyond Stage 1 below will be taken in respect of any Trade Union official until the circumstances of the case have been discussed (subject to the employee's agreement) with a full-time official of the Union concerned. This paragraph does not apply if the employee does not agree to such discussion.

The ACAS Code of Practice: This and other Council procedures contain elements seeking to reflect the current ACAS Code of Practice for Disciplinary and Grievance Procedures issued in April 2009. The Code is issued under the Trade Union and Labour Relations Act 1992. Following the Code is not mandatory but Tribunals will take the Code into account and will also be able to adjust awards by up to 25% if either employers or employees have unreasonably failed to comply with any provision of the Code. Both managers and staff involved in these procedures should take advice before any departure from the approved provisions.

For Clarification:

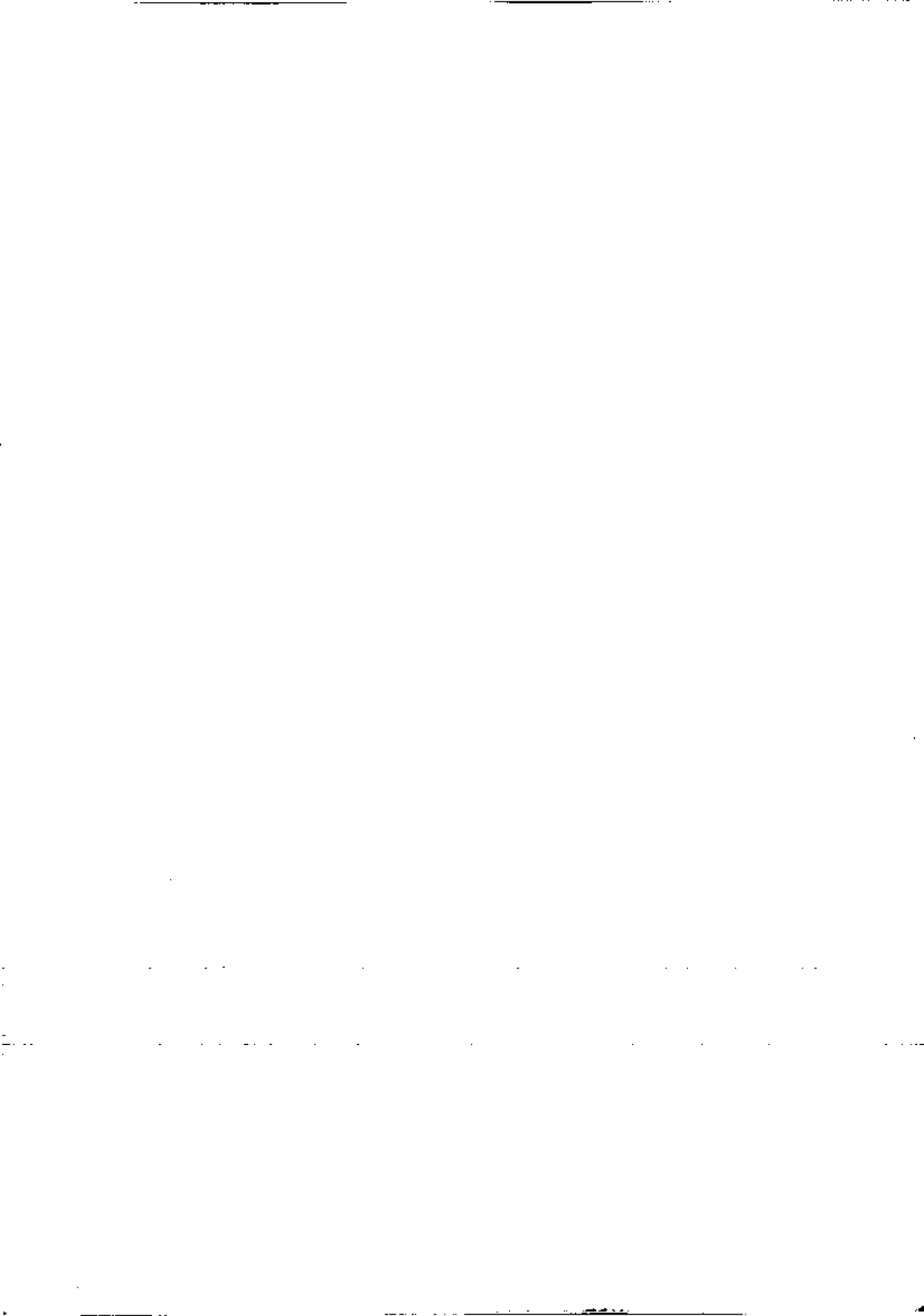
Line Manager will normally be the person who conducts the Appraisal for that employee, but if appropriate will be a more senior Manager.

Senior Management means the Line Manager's Head of Service and/or the Director of the relevant Department

Where an action is required to be taken by the Director, it may be taken by the relevant Head of Service or a person designated by the Chief Executive Officer if the Director is absent.

Ill Health: If the reason, or contributory reason, for the lack of capability is ill-health of the employee (whether or not that individual is on sick leave), the Manager should initially follow the Sickness Absence Procedure and the following must be taken into account:-

- The likelihood of an improvement in health and subsequent attendance.
- The availability of suitable alternative work.
- The effect of past and likely future absences on the organisation.



- Whether the illness is a result of a disability as defined in the Disability Discrimination Act 1995.

STAGE 1

The Line Manager will –

- draw the employee's attention informally to the ways in which his/her performance is deficient;
- give the training necessary to do the work (if relevant and has not already been done);
- if relevant, place the employee under the direct supervision of someone competent and experienced in the work.

STAGE 2

If, after the above steps have been taken the employee's standard of performance is still inadequate, the Line Manager, after consulting with Senior Management and Personnel, will arrange a formal Capability Meeting.

Capability Meeting

The meeting will normally be chaired by the relevant Line Manager with the assistance of a Personnel Representative. Every employee has a right to be accompanied (see (c) below). In order to give time to prepare for the Meeting, the date, time and place will be agreed by all parties involved, subject to the right of the Line Manager to set a time if the employee unreasonably fails to agree. At least five working days before the Capability Meeting, the employee will be informed in writing by the Director of:-

- a) The reason for the Meeting
- b) The date, time and place of the Meeting (this may be varied at the request of the individual to allow adequate time for preparation.
- c) The right of the employee to be represented or accompanied. This would normally be a fellow worker, trade union representative or official employed by the Union, a CAB advisor or a family member.
- d) The fact that if the employee declines to attend and fails to provide adequate reasons for non attendance then the meeting may proceed in the employee's absence.

If practicable the employee will advise the person conducting the hearing of the identity of any companion as soon as known. During the meeting a full discussion of the areas in which the employee's performance is not up to standard will take place and the employee and/or his or her representative will be given a full opportunity to respond and to explain. At the end of the meeting the manager chairing will decide whether or not there is a capability issue, and verbally inform the employee. If standards of performance need to improve, a clear written statement explaining this, with improvement targets, will be given to the employee by the Director within 5 working days of the meeting. Improvement targets will be specific and measurable. The date by which the targets are to be achieved will be included in the statement, and will be related to the complexity of the job and the length of employment. The Line Manager will review progress with the employee at least once during this period.



Right of Appeal

If the employee wishes to appeal against the decision taken at the Stage 2 Capability meeting, s/he must notify the Director in writing within 10 working days of receiving the letter confirming the decision. Arrangements for the Appeal will be the same as described in the Disciplinary Procedure for action short of dismissal.

STAGE 3

When the target date is reached the Line Manager, in consultation with Senior Management and Personnel, will reach a decision as to whether or not the required standard has been reached. If so, the employee will be informed and all details relating to the Capability issue will be expunged from the employee's file with immediate effect.

If not, a formal meeting will be arranged as in Stage 2, but chaired by the Director or his/her nominated representative. At the end of the meeting, one of the following decisions will be made:-

- a) to extend the period for reaching the required standard;
- b) to redeploy the member of staff if suitable alternative employment is available. This does not necessarily have to be equivalent employment, particularly in the case of an unsatisfactory promoted employee who could be offered a post at his or her previous level;
- c) to dismiss the employee if no suitable post is available, or the employee has refused a post which has been offered.

The decision must be confirmed in writing to the employee by the Director within 5 working days of the meeting

Right of Appeal

If the employee wishes to appeal against the decision taken at the Stage 3 Capability Meeting, s/he must notify the Director in writing within 10 working days of receiving the letter confirming the decision. In the case of dismissal the appeal will be heard by the Standards and Audit Committee and arrangements for the Appeal will be the same as described in the Disciplinary Procedure. In the case of other action, arrangements for the Appeal will be the same as for Stage 2.

RUNNYMEDE BOROUGH COUNCIL

GRIEVANCE PROCEDURE

This procedure has been drawn up to reflect the ACAS Code of Practice.

If you have a grievance relating to your employment, you have a right to express it, and the following procedure has been agreed as being the most effective way for you to do so:-

1. In the first instance, and without delay, you should see your immediate Supervisor or Line Manager informally (but see note (b) below). Most problems can be resolved this way.
2. If you are dissatisfied with the outcome of the meeting and want to pursue the matter formally you should put your complaint in writing without unreasonable delay and re-open the discussion with your immediate Supervisor or Line Manager. If, following discussion, you remain dissatisfied, then both parties must consider whether mediation might assist in resolving the dispute. Where the parties agree then the employer will arrange for an appropriate mediator to assist. There is no compulsion to agree to mediation for either employer or employee.
3. Following stage(s) 1 and 2 above, if you are still dissatisfied you may submit your written complaint to your sectional or divisional head as appropriate, stating what remedy you seek.

Your complaint will be discussed with you without unreasonable delay. You may be accompanied by a representative or companion if you wish. You will be able to explain your grievance and how you think it should be resolved. Management will consider whether any investigation is required and will if necessary adjourn the hearing to allow it to be undertaken. Your representative or companion may speak on your behalf if you wish, but does not have the right to answer questions on your behalf and may not prevent the management side being explained.

4. Thereafter, if your complaint is still unresolved you have a further right of appeal direct to the Director of your Department who will hear it in a similar way to (3) above. In order to appeal you must set out the grounds of your appeal in writing and without unreasonable delay.
5. If you are still dissatisfied, you may then ask the Director to arrange for a hearing before the Standards and Audit Committee who will follow the procedure set out below, determine the dispute and issue any instructions or guidance it sees fit. In order to appeal you must again set out the grounds of your appeal in writing and without unreasonable delay.

NOTES:

- (a) This procedure has been agreed between the Council and the appropriate Trade Unions.
- (b) Nothing in this procedure requires an employee to put a formal grievance to a manager who is the subject of the grievance. In such case the grievance should be put to the next most senior available manager.
- (c) At all stages, you are entitled to consult, be accompanied or represented by a fellow worker, a trade union representative or an official employed by the Union.



- (d) Every effort will be made to deal with your complaint as speedily as possible. Please remember, however, that some cases need time for a full investigation.

If within a period of two weeks the matter has not been dealt with at any stage of this procedure, you will be entitled to proceed to the next stage. This time limit may be altered by mutual agreement in any particular case.

- (e) Any questions relating to the payment of salaries or deductions therefrom should be addressed to the Payroll Section of the Finance Department.
- (f) Copies of the appropriate Handbooks setting out Conditions of Service, and other documents referred to in your Statement of Conditions of Service are available for inspection at the Depot and Civic Centre. All statements of Conditions of Service and supporting documents for new staff are issued by the Personnel Manager, to whom all such questions should be referred.
- (g) The Council has separate disciplinary and capability procedures, and you are entitled to a copy of these documents.
- (h) At stages 3, 4 and 5 above, you will receive the decision or confirmation of the decision in writing.
- (i) It is important that the facts are established and agreed as early as possible in the procedure, and that any written documents used at any stage are available at all subsequent stages of an appeal.
- (j) This and other Council procedures contain elements seeking to reflect the current ACAS Code of Practice for Disciplinary and Grievance Procedures issued in April 2009. The Code is issued under the Trade Union and Labour Relations Act 1992. Following the Code is not mandatory but Tribunals will take the Code into account and will also be able to adjust awards by up to 25% if either employers or employees have unreasonably failed to comply with any provision of the Code. Both managers and staff involved in these procedures should take advice before any departure from the approved provisions.

6. GRIEVANCE APPEALS

6.1. Standards and Audit Committee

6.1.1 For ease of process at the hearing and to avoid undue delay in finding suitable dates, the Standards and Audit Committee may sit as a bare quorum. No Member of the Committee sitting to hear the appeal shall have been involved previously in the investigation or determination of the matter under consideration. The Director of Administration and Leisure will advise the Committee of the employee's name to establish whether they are known to them when making the arrangements for the hearing.

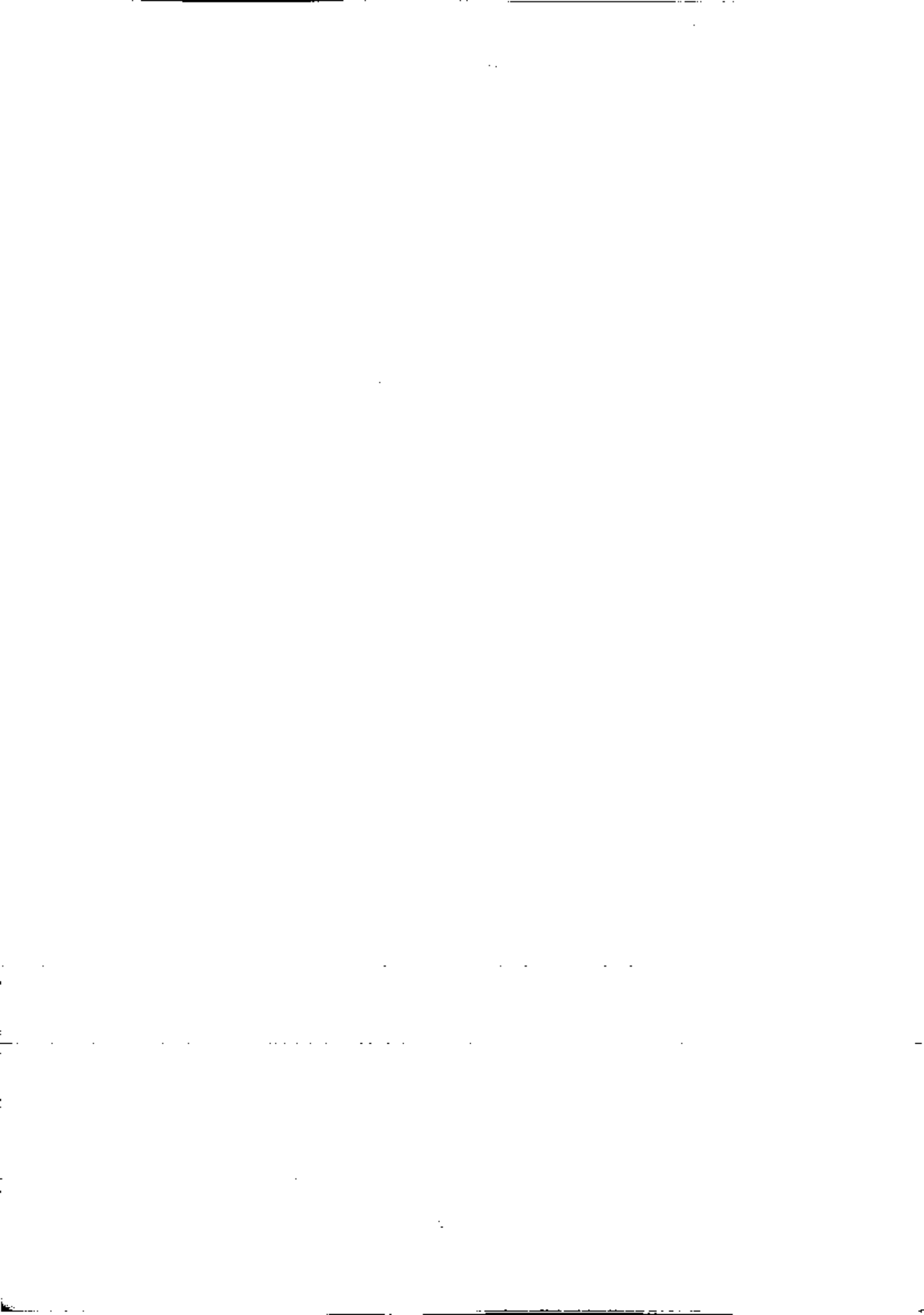
6.1.2 The Committee is authorised to determine the appeals coming before it.

6.1.3 The Committee's decisions shall be reported to the Corporate Management Committee.

6.1.4 The Secretary to the Standards and Audit Committee will be the Director of Administration and Leisure, or an officer nominated by him. If the Appellant is a member of his staff, the Director of Administration and Leisure must take steps to ensure a reasonable and fair separation between the roles of responding to the appeal and administering the Committee. The Secretary to the Committee must not previously have been involved in the investigation or determination of the case.

6.2. Procedure

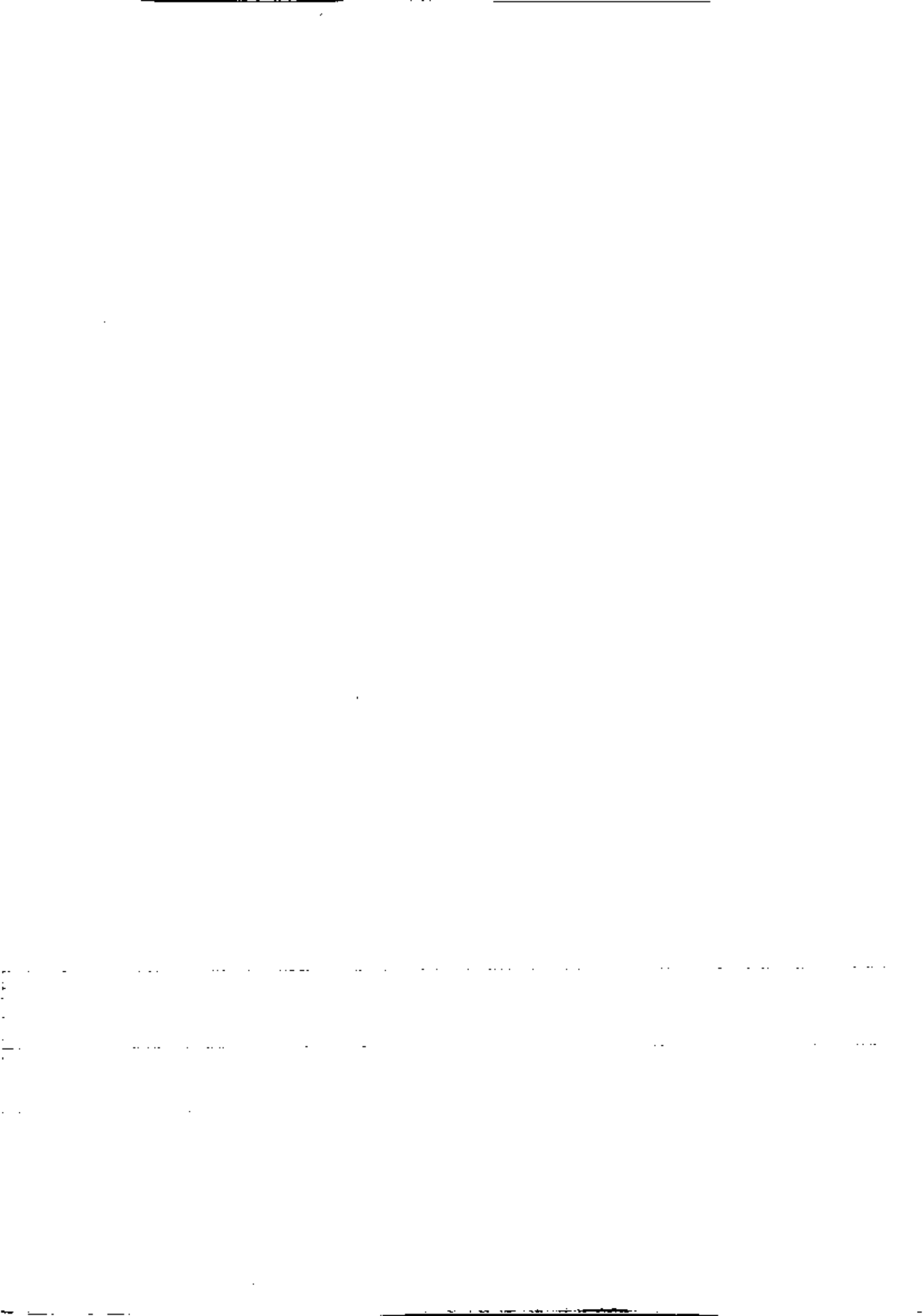
(Prior to Hearing)



- 6.2.1 The Secretary to the Committee shall consult the Appellant as to a convenient date for the hearing. The Secretary to the Committee must give the employee Notice in writing at least fifteen working days in advance of the time and place of the Hearing. The employee will be allowed to be represented by his/her Trade Union Representative or some other person of his/her choice and will be able to call witnesses and produce documents relevant to the Hearing.
- 6.2.2 At least seven working days before the Appeal Hearing, the Director of the department concerned must give the Secretary to the Standards and Audit Committee a statement summarising the history of the case and the facts found during the grievance process, together with the grounds of appeal received from the appellant and any other documents he or she wishes to draw to the attention of the Committee.
- 6.2.3 An agenda for the Committee must be distributed at least five working days before the hearing. The Secretary to the Committee must attach to the agenda a copy of the Appellants grounds of appeal, and the statement and documents received from the Director. Copies of the agenda must be sent to the Committee, the Appellant and his/her representative, the Director, and to any other individuals the Secretary deems appropriate

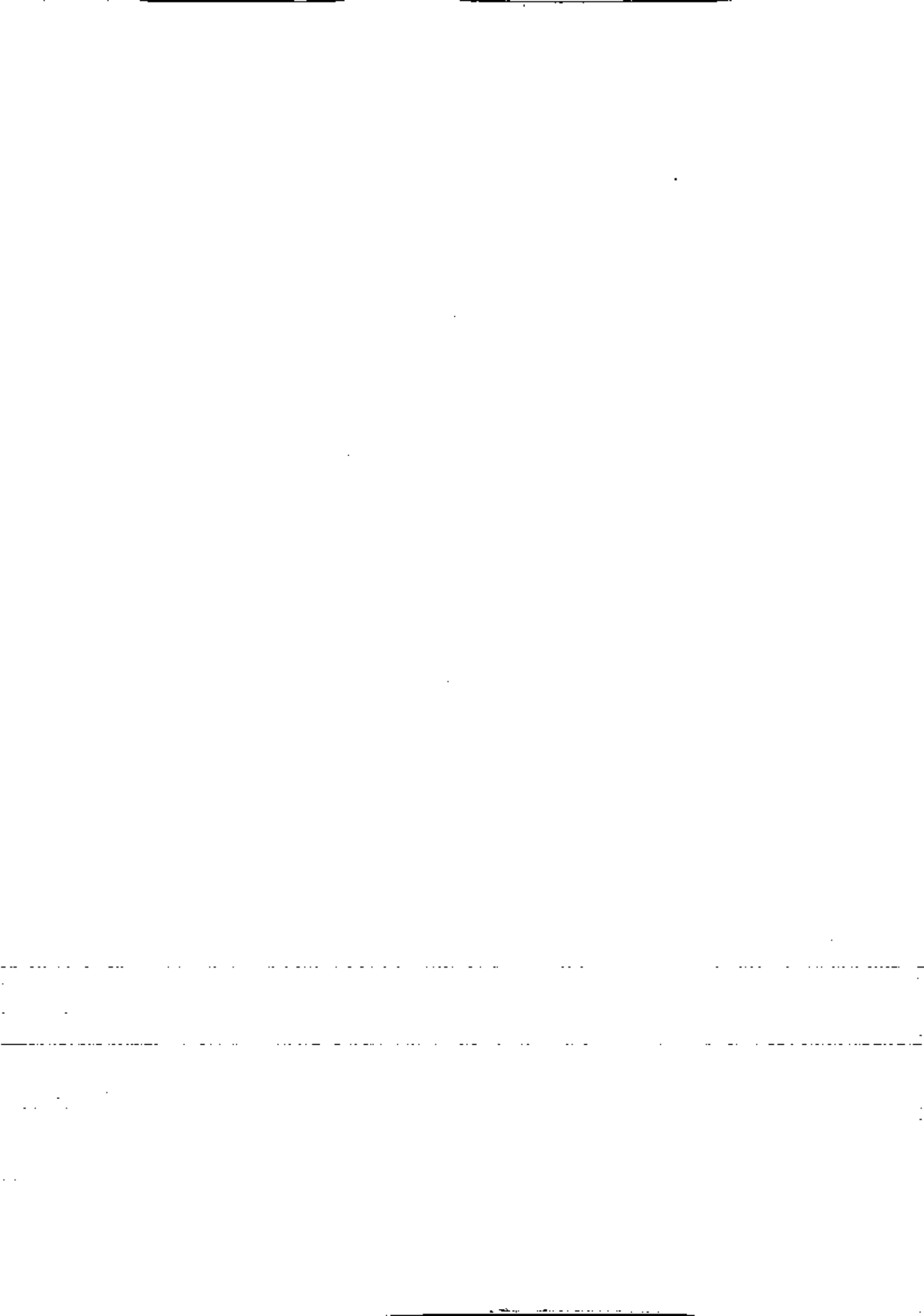
(At the Hearing)

- 6.2.4 The Committee will appoint a Chairman from amongst its members. The Secretary to the Committee will check that representatives of the parties are present and conduct them to the Committee Room.
- 6.2.5 If the Appellant (and/or Representative if appointed) is not present, the Committee will dismiss the appeal unless satisfied of a good reason for the absence.
- 6.2.6 Once the hearing has begun, the Committee may adjourn the hearing at any time for a specified period.
- 6.2.7 The Secretary to the Committee will introduce the representatives of the parties to the Committee.
- 6.2.8 The Chairman will introduce the members of the Committee.
- 6.2.9 The Chairman will invite the appellant, or the representative acting on his behalf, to present his case. Witnesses may be called, and may be questioned by the management side and by the Committee after giving their evidence.
- 6.2.10 The management side will be invited to question the Appellant and/or his representative.
- 6.2.11 The representative of the Council will be invited to present its case. Witnesses may be called, and may be questioned by the appellant (or representative) and by the Committee after giving their evidence.
- 6.2.12 The appellant, or his representative, will be invited to question the Council's representative.
- 6.2.13 Members of the Committee will be invited in turn by the Chairman to put questions to the parties.
- 6.2.14 The Council's representative to be invited to sum up his/her case briefly but not to introduce material to which reference has not been made during the proceedings.
- 6.2.15 The Appellant, or his representative, to be invited to sum up. The Chairman will ensure that at this stage no new material is introduced or point made to which reference has not already been made during the proceedings.
- 6.2.16 The parties will be asked to retire. The Standards and Audit Committee with the Secretary to the Committee will deliberate in private, only recalling the Department's representative(s)



and the Appellant (and/or Representative if appointed) to clear points of uncertainty on evidence already given. If recall is necessary both parties will return notwithstanding only one is concerned with the point giving rise to doubt. The Secretary to the Committee may advise the Committee (or procure advice for it) on matters of law and procedure.

- 6.2.17 The Committee's decision will be the final decision of the Council. Upon the return of the parties, the Chairman will convey the decision of the Committee to the parties and indicate that this will be confirmed in writing by the Secretary to the Committee within five working days of the Hearing.



DISCIPLINARY AND OTHER ACTION CONCERNING THE HEAD OF PAID SERVICE (CHIEF EXECUTIVE), MONITORING OFFICER, OR CHIEF FINANCE OFFICER

A. THE CHIEF EXECUTIVE

1. Issues requiring investigation

Where an allegation is made relating to the conduct of the Chief Executive or any matter is raised which could result in his dismissal for any reason other than redundancy, permanent ill-health or infirmity of mind or body, the matter will be considered by the Standards and Audit Committee. No Member of the Committee may be present, or participate in any way in the procedure, if they have had any involvement in the events giving rise to the allegation.

The Secretary to the Standards and Audit Committee will be the Director of Administration and Leisure or an Officer appointed by him. The Secretary to the Senior Appeals and Grievance Committee will be the Director of Administration and Leisure or an Officer appointed by him. The Secretary to the Committee may (but need not) be the same Officer who served as the Secretary to the Standards and Audit Committee. The Secretary to the Committee shall ensure due administration of the process and shall advise the Committee on matters of law and procedure but shall take no part in the Committee's substantive deliberations.

The Standards and Audit Committee, the Senior Appeals and Grievance Committee, and the Council shall consider at all stages whether it is appropriate to exclude the press and public in accordance with section 100A(4) of the Local Government Act 1972. Provided the statutory grounds are satisfied, it shall normally be considered appropriate to do so.

This procedure does not apply to failure to renew a contract of employment for a fixed term unless the authority has undertaken to renew such a contract

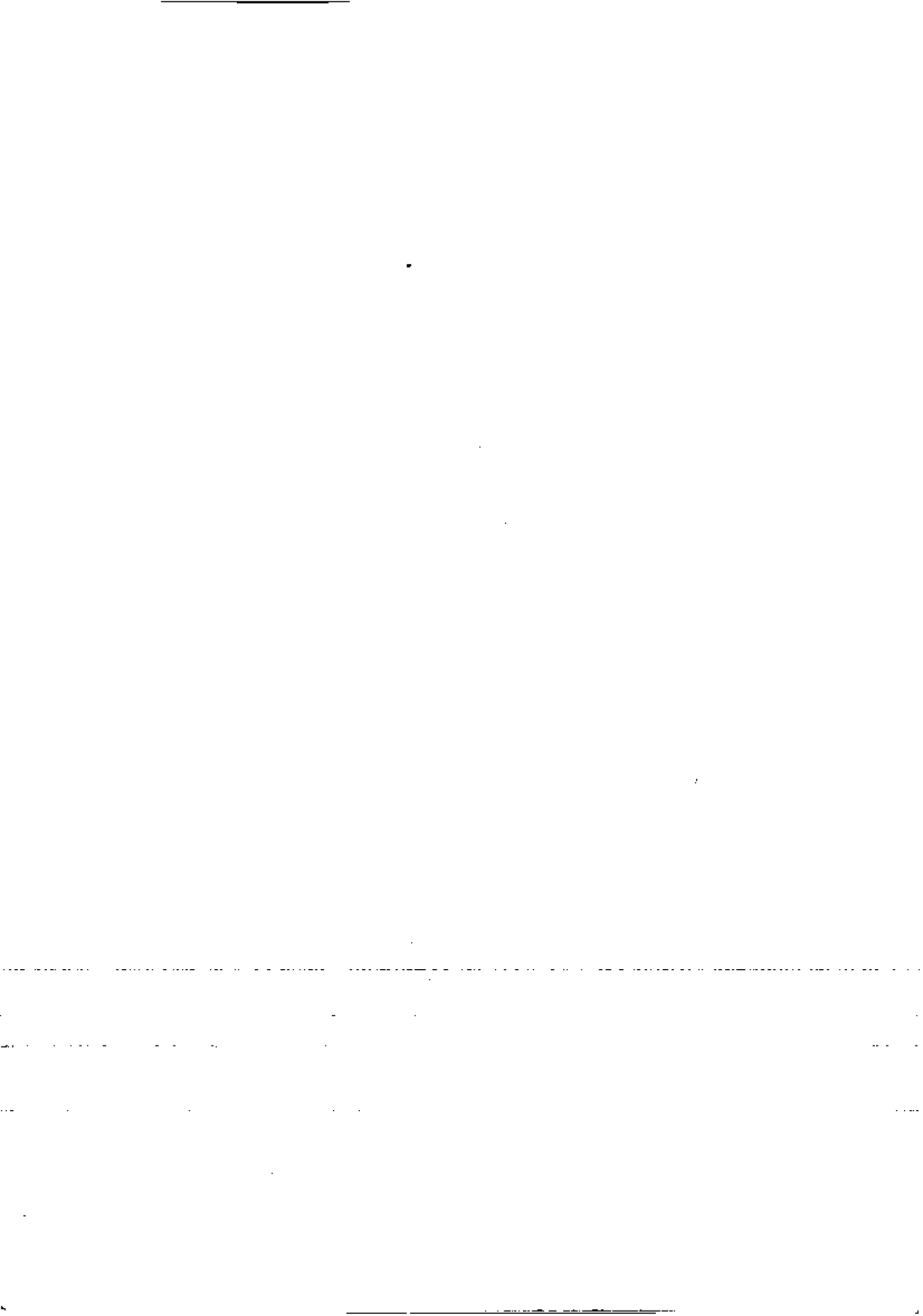
In applying this procedure, the Council and relevant Committees may have regard to the guidance on the model disciplinary procedure issued by the Joint Negotiating Committee for Local Authority Chief Executives, but is not obliged to follow it.

The ACAS Code of Practice

This and other Council procedures contain elements seeking to reflect the current ACAS Code of Practice for Disciplinary and Grievance Procedures issued in April 2009. The Code is issued under the Trade Union and Labour Relations Act 1992. Following the Code is not mandatory but Tribunals will take the Code into account and will also be able to adjust awards by up to 25% if either employers or employees have unreasonably failed to comply with any provision of the Code. Parties involved in these procedures should take advice before any departure from the approved provisions.

2. Timescales

Proceedings shall be conducted as expeditiously as practicable having regard to the interests of the parties and the requirements of natural justice. Timescales imposed during the process must be practicably achievable.



3. Suspension

Suspension will not always be appropriate as there may be alternative ways of managing the investigation.

However, the Standards and Audit Committee will need to consider whether it is appropriate to suspend the Chief Executive. This will usually be necessary if an allegation is such that if proven it would amount to gross misconduct. It may also be necessary in other cases if the continuing presence at work of the Chief Executive might compromise the investigation or impair the efficient exercise of the Council's functions. If allegations of misconduct by the Chief Executive are such that his/her presence at work poses a serious risk to the health and safety of others or the resources, information or reputation of the authority, the Standards and Audit Committee will meet to consider the question of suspension as soon as a quorum can be assembled.

In any case, the Chief Executive shall be informed of the reason for the proposed suspension and have the right to present information before such a decision is taken.

Suspension shall be in accordance with Standing Order 49.3 and must not last longer than 2 months unless the Independent Person has used his/her power to direct an extension to that period.

4. Right to be accompanied

The Chief Executive has a right to be accompanied by a trade union, legal, or other representative at all stages of the process, but in the case of an urgent meeting to consider suspension the right shall be restricted to such representative as may be available within the available timescale.

5. Preliminary consideration of the allegations or other issues under investigation

The Secretary to the Standards and Audit Committee will, as soon as is practicable, inform the Chief Executive in writing of the allegations or other issues under investigation and provide him/her with copies of any evidence that the Committee is to consider including available summaries or statements of oral evidence.

The Chief Executive will be invited to put forward written representations and any evidence including summaries or statements of oral evidence from witnesses he/she wishes the Committee to consider. The Committee will also provide the opportunity for the Chief Executive to make oral representations.

The Committee will give careful consideration to the evidence in support of the allegations and the response of the Chief Executive before deciding whether:

- the issue requires no further formal action under this procedure; or
- the issue should be referred to a Designated Independent Person.

The Committee shall inform the Chief Executive of its decision or instruct the Secretary to the Committee to convey the decision to him or her.

6. Appointment of a Designated Independent Person

The Designated Independent Person must be agreed between the Standards and Audit Committee and the Chief Executive. If there is a failure to agree on a suitable Designated Independent Person, the Council will ask the Secretary of State to nominate a Designated Independent Person.

Once a Designated Independent Person has been agreed, the Standards and Audit Committee will approve the appointment and provide him or her with all available information about the allegations, and shall have power to provide any necessary facilities and agree remuneration.

7. The Independent Person investigation

The Designated Independent Person may conduct an investigation and use his/her powers to access information in accordance with Regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001. The Investigation may include a formal hearing, at which the allegations and supporting evidence including evidence provided by witnesses are presented by a representative of the Council, and the Chief Executive or his/her representative is able to present his/her case. The procedure shall be at the discretion of the Designated Independent Person but whatever process is adopted, the Chief Executive shall be given a full and fair opportunity to understand the allegations against him or her and to respond to them.

The Designated Independent Person shall make a report to the Council and copy it to the Chief Executive in accordance with the regulations, stating in his/her opinion whether (and, if so, the extent to which) the evidence he/she has obtained supports any allegation of misconduct; and recommending any disciplinary action (if any is appropriate) or range of actions which appear to him/her to be appropriate for the authority to take against the Chief Executive.

8. Receipt and consideration of the Designated Independent Person's Report by the Standards and Audit Committee

The Standards and Audit Committee shall exercise the Council's powers to receive and consider the report.

The Standards and Audit Committee will give the Chief Executive or his or her representative the opportunity to make oral or written representations to it (as he or she prefers) before making a decision. Having considered the report and all relevant information available to it, the Standards and Audit Committee may:

- i) Take no further action;
- ii) Direct that steps be taken for informal resolution of the matter; these steps may include conciliation, training, or other appropriate action;
- iii) Refer the matter back to the Designated Independent Person for further investigation and report;
- iv) Take such disciplinary action against the Chief Executive short of dismissal as may be recommended by the Designated Independent Person;
- v) If recommended by the Designated Independent Person, recommend dismissal of the Chief Executive to the Council.

Although only (v) above must be approved by the Council by law, the Committee may recommend any of the steps (i) to (iv) to the Council if it sees fit, rather than

determining the matter itself. Unless there are special circumstances, however, action as described in (i) to (iii) should normally be taken by the Committee itself.

9. Action short of dismissal

Where the decision is to take action short of dismissal the Standards and Audit Committee will impose or recommend the necessary penalty/action, up to the maximum recommended by the Designated Independent Person.

10. Dismissal or other recommendation referred to Council

The Standards and Audit Committee will inform the Chief Executive of its recommendation. The Secretary to the Committee will arrange for the recommendation to be reported to the Council together with the report of the Designated Independent Person, any comments that the Committee wishes to draw to the Council's attention, and any other material appearing to him or her to be relevant.

The role of the Council

No Member of the Council may be present, or participate in any way in the process or deliberations, if they have had any involvement in the events giving rise to the allegation. The Council will consider the recommendation together with other material reported by the Secretary to the Standards and Audit Committee. The Council will give the Chief Executive or his or her representative the opportunity to make oral or written representations to it (as he or she prefers). The Council will then determine the matter. It may confirm the recommendation of the Standards and Audit Committee or substitute any other action set out in paragraphs (i) to (v) in Section 8 above.

12. Notification of Decision

The Secretary to the Standards and Audit Committee shall confirm the decision of the Committee or the Council (as the case may be) to the Chief Executive in writing as soon as practicable after it has been made.

12. Appeals

Appeals against dismissal

Where the Standards and Audit Committee has recommended dismissal or other action to the Council, the consideration by the Council will also fulfil the appeal function and there will be no further appeal from the Council's decision.

Appeals against action short of dismissal

If the Standards and Audit Committee itself takes action short of dismissal the Chief Executive may appeal to the Senior Appeals and Grievance Committee by written notice to the Secretary to the Standards and Audit Committee, including a summary of the grounds of his or her appeal, within ten working days of receiving written notification from the Secretary of the Committee's decision.

The Senior Appeals and Grievance Committee shall comprise all Members of the Corporate Management Committee who are not also Members of the Standards and Audit Committee (whether or not they sat on that Committee to consider the Chief



Executive's conduct). No Member of the Senior Appeals and Grievance Committee may be present, or participate in any way in the procedure, if they have had any involvement in the events giving rise to the allegation.

The Secretary to the Standards and Audit Committee will provide a written report on the decision of the Standards and Audit Committee for the Senior Appeals and Grievance Committee. The report shall include the report of the Designated Independent Person, the Chief Executive's notice of appeal, and any other material appearing to the Secretary to be relevant.

The Senior Appeals and Grievance Committee will consider the material before it and will give the Chief Executive or his or her representative the opportunity to make oral or written representations to it (as he or she prefers). The appeal will normally take the form of a review of the relevant material and of the Standards and Audit Committee's decision, but exceptionally, material which was not before the Standards and Audit Committee may be considered if the Senior Appeals and Grievance Committee considers that in all the circumstances it is fair and just to do so.

The Senior Appeals and Grievance Committee may confirm the recommendation of the Standards and Audit Committee or substitute any other action set out in paragraphs (i) to (iv) in Section 8 above.

The decision of the Senior Appeals and Grievance Committee will be final. The Secretary to the Senior Appeals and Grievance Committee shall confirm the decision of the Committee to the Chief Executive in writing as soon as practicable after it has been made.

B. THE MONITORING OFFICER AND THE CHIEF FINANCE OFFICER

The above procedure shall apply to the Monitoring Officer and the Chief Finance Officer as it applies to the Chief Executive, subject to the following adjustments:

1. If the Officer subject to the procedure is the Director of Administration and Leisure, the Secretary to the Standards and Audit Committee or Senior Appeals and Grievance Committee (as the case may be) shall be the Head of Law, Committees and Valuation, or an Officer appointed by him.
2. The Standards and Audit Committee may itself resolve to dismiss the Officer under paragraph (v) of section 8 without reference to Council, but may if it sees fit make a recommendation of whatever nature, within those paragraphs (i) to (v), to the Council.
3. Appeal against dismissal determined by the Standards and Audit Committee under its delegated power shall lie to full Council, which shall follow the same procedure as if receiving a recommendation for dismissal (paragraph 10).

DISCIPLINARY AND CAPABILITY PROCEDURE FOR DIRECTORS OTHER THAN THOSE SUBJECT TO THE PROCEDURE FOR CHIEF EXECUTIVE, MONITORING OFFICER, OR CHIEF FINANCE OFFICER.

1. Issues requiring investigation

- 1.1 This procedure will apply where an allegation is made relating to the conduct of a Director or concerns are raised as to his or her capability. No Member may be present at a Committee meeting considering the matter, or participate in any way in the steps outlined below, if they have had any involvement in the events giving rise to the allegation. Officers will not be involved in the administration of the process if they have been involved in such events.
- 1.2 The Secretary to the Standards and Audit Committee will be the Director of Administration and Leisure or an Officer appointed by him. The Secretary to the Senior Appeals and Grievance Committee will be the Director of Administration and Leisure or an Officer appointed by him. The Secretary to the Senior Appeals and Grievance Committee may (but need not) be the same Officer who served as the Secretary to the Standards and Audit Committee. In each case the Secretary to the Committee shall ensure due administration of the process and shall advise the Committee on matters of law and procedure but shall take no part in the Committee's substantive deliberations.
- 1.3 The Standards and Audit Committee, the Senior Appeals and Grievance Committee, and the Council shall consider at all stages whether it is appropriate to exclude the press and public in accordance with section 100A(4) of the Local Government Act 1972. Provided the statutory grounds are satisfied, it shall normally be considered appropriate to do so.
- 1.4 In applying this procedure, the Council and relevant Committees may have regard to the guidance in the model disciplinary procedure issued by the Joint Negotiating Committee for Directors of Local Authorities, but is not obliged to follow it.
- 1.5 The ACAS Code of Practice

This and other Council procedures contain elements seeking to reflect the current ACAS Code of Practice for Disciplinary and Grievance Procedures issued in April 2009. The Code is issued under the Trade Union and Labour Relations Act 1992. Following the Code is not mandatory but Tribunals will take the Code into account and will also be able to adjust awards by up to 25% if either employers or employees have unreasonably failed to comply with any provision of the Code. Parties involved in these procedures should take advice before any departure from the approved provisions.

2. Grievances

If a grievance is raised during a disciplinary or capability process, the process may be temporarily suspended in order to deal with the grievance (see separate procedure). If the grievance and disciplinary or capability issue are related it might be appropriate to deal with both cases concurrently.

3. Timescales

Proceedings shall be conducted as expeditiously as practicable having regard to the interests of the parties and the requirements of natural justice. Timescales imposed during the process must be practicably achievable.

DISCIPLINARY ISSUES

4. Preliminary Investigation

- 4.1 Allegations that a Director has been guilty of misconduct must be put to the Chief Executive, or, if that Officer is unavailable or has a conflict of interest, to the Monitoring Officer or the Personnel Manager ("the receiving officer"). Throughout this procedure the presumption shall be that the receiving officer is to be the Chief Executive if he is available, able to act, and not subject to a conflict of interest.
- 4.2 If in his or her opinion the allegations are serious enough and substantial enough to warrant investigation, and cannot be resolved by the Chief Executive informally, for example by guidance or through an unrecorded informal warning, the receiving officer shall notify the Director of the allegations in writing and give him or her the opportunity to make representations or to have someone make representations on their behalf. The receiving officer shall if practicable arrange an investigatory meeting with the Director, to assist in determining whether the facts justify further action. The Director may be accompanied at any such meeting. This is not a disciplinary Hearing and no disciplinary action will directly follow such a meeting. If such a meeting is held, its nature should be explained to the Director in advance.
- 4.3 The receiving officer will arrange for any other necessary investigation to establish the facts to be carried out dispassionately and without unreasonable delay. Where practicable, investigation will not be carried out by a person who is personally involved with the allegation (e.g. as witness or complainant), or who has a close personal relationship with the Director outside the workplace.
- 4.4 The receiving officer will consider whether the investigation or other circumstances require the Director to be suspended.

5. SUSPENSION

- 5.1 Where the Director's continuing presence at work compromises the investigation or impairs the efficient exercise of the Council's functions, or if further time is required to undertake more detailed investigations into a matter where dismissal may result, the Director may be suspended from duty on full pay in accordance with the procedure below. When a case appears to be one that if proven would constitute gross misconduct, normally the Director should be suspended from duty on full pay.
- 5.2 Suspension may be authorised by the Council, the Corporate Management Committee, by the Chief Executive, or by the receiving officer (if not the Chief Executive) with the agreement of the Chairman or Vice-Chairman of the Corporate Management Committee. As soon as possible afterwards, and within two working days, the receiving officer will confirm the action in writing, stating :-
- a) the reason(s) for suspension;
 - b) the initial period of suspension.
- 5.3 The period of suspension should be as brief as possible. Such suspension will not be considered as disciplinary action and the appropriateness of suspension will be reviewed at no longer than weekly intervals. The initial period of suspension may be reduced or extended by the receiving officer who will inform the Director in writing as soon as possible.

6 HEARING BEFORE THE STANDARDS AND AUDIT COMMITTEE

- 6.1 If after the preliminary investigation the receiving officer concludes that the allegation, if true, warrants further action and cannot be resolved informally, he or she shall notify the Secretary to the Standards and Audit Committee. The receiving officer shall also give to the Secretary to the Committee a statement outlining the allegation and the results of the preliminary investigation, together with copies of any documents to be placed before the Committee and a list of witnesses that the receiving officer wishes to call
- 6.2 As soon as practicable after receiving the notice and documents referred to in paragraph 6.1 above, the Secretary to the Committee shall notify the relevant Director that a Hearing is to be held and shall send him or her a copy of the documents from the receiving officer. Within fifteen working days the Director or his/her representative must give the Secretary to the Committee a written statement setting out
- a) which (if any) parts of the receiving officer's statement he/she disputes;
 - b) what witnesses the Director proposes to call at the Hearing;
- and shall append any documents in his or her possession which he or she wishes the Committee to see.
- 6.3 As soon as practicable after receiving the statement from the Director referred to in paragraph 6.2 above, the Secretary to the Committee will convene a meeting of the Committee to hear the allegation.
- 6.4 For ease of process at the Hearing and to avoid undue delay in finding suitable dates, the Standards and Audit Committee may sit as a bare quorum. No Member of the Committee sitting to hear the appeal shall have been involved previously in the investigation or determination of the matter under consideration.
- 6.5 The Committee's decision shall be reported to the Corporate Management Committee.
- 6.6 In order to save time at the Hearing undisputed matters may be set out in writing and/or one party may indicate that he/she accepts a statement, document or evidence provided by the other party.
- 6.7 The Hearing must take place within a reasonable time. The Secretary to the Committee must give the Director notice in writing at least fifteen working days in advance of the time and place of the Hearing. The Director will be allowed to be represented by his/her Trade Union Representative or some other person of his/her choice and will be able to call witnesses and produce documents relevant to the Hearing.
- 6.8 An agenda for the Committee must be distributed at least five working days before the Hearing. The Secretary to the Committee must attach to the agenda a copy of the statement and documents from the receiving officer, and the statement and documents received from the Director. Copies of the agenda must be sent to the Committee, the Director and his/her representative, the receiving officer, and to any other individuals the Secretary deems appropriate.
- 6.9 The Committee at each meeting shall appoint a Chairman from amongst its Members. When the Chairman and Committee are ready, the Secretary to the Committee will conduct the representatives of the parties to the Hearing Room.
- 6.10 If the Director (and/or Representative if appointed) is not present, the Hearing may proceed in his/her absence if
- a) he/she has consented; or

- b) the Director (and/or Representative if appointed) has been given all required notice of the Hearing and in the opinion of the Committee there is no reasonable ground to adjourn it.
- 6.11 Once the Hearing has begun, the Committee may adjourn the Hearing at any time for a specified period.
- 6.12 The Secretary to the Committee will introduce the representatives of the parties to the Committee.
- 6.13 The Chairman will introduce the members of the Committee.
- 6.14 The Chairman will invite the receiving officer (through his or her representative if desired) to put the case in the presence of the Director (and/or Representative if appointed) and call witnesses.
- 6.15 The Director (and/or Representative if appointed) will have the opportunity to ask questions of the receiving officer and/or representative and any witnesses who have been called, on the evidence given.
- 6.16 The members of the Standards and Audit Committee will have the opportunity to ask questions of the receiving officer, his or her representative, and witnesses.
- 6.17 The Director (and/or Representative if appointed) will put his/her case in the presence of the receiving officer and representative, and call such witnesses as required.
- 6.18 The receiving officer or his/her representative will have the opportunity to ask questions of the Director (and/or Representative if appointed) and witnesses.
- 6.19 The Committee will have the opportunity to ask questions of the Director (and/or Representative if appointed) and witnesses.
- 6.20 The receiving officer or his/her representative will be invited to sum up his/her case briefly. The Chairman will ensure that at this stage no new material is introduced or point made to which reference has not already been made during the proceedings.
- 6.21 The Director (and/or Representative if appointed) will be invited to sum up his/her case briefly. The Chairman will ensure that at this stage no new material is introduced or point made to which reference has not already been made during the proceedings.
- 6.22 The parties will be asked to withdraw.
- 6.23 The Standards and Audit Committee with the Secretary to the Committee will deliberate in private, only recalling the receiving officer and representative, and the Director (and/or Representative if appointed), to clear points of uncertainty on evidence already given. If recall is necessary both parties will return notwithstanding only one is concerned with the point giving rise to doubt. The Secretary to the Committee may advise the Committee (or procure advice for it) on matters of law and procedure.
- 6.24 The Standards and Audit Committee will recall the parties and the Chairman will advise them of its decision. The Committee may:
- a) exonerate the Director; or
 - b) state its opinion as to whether (and if so the extent to which) the evidence supports any allegation of misconduct against the Director, and determine the disciplinary action (if any) or range of actions which appear appropriate to take

against the Director. The appropriate course of action will be drawn from the following list:-

1. recorded oral warning;
2. written warning;
3. suspension on half pay or no pay for a specified period;
4. relegation (i.e. a reduction in salary) for a specified period;
5. an invitation to resign or accept retirement;
6. dismissal with notice.

If a warning is given, it should tell the Director:

1. the change of conduct required;
2. the date by which it is to be achieved;
3. what will happen if it is not.

The Committee may consider other action such as

1. early retirement;
2. secondment,
3. redeployment to a more junior post where there are issues relating to capability;

and may if it sees fit adjourn (for as short a period as practicable) to take advice on the point. If it does so it will advise the parties of its interim findings and conclusions. It must give each party an opportunity to make written representations (or at the Committee's discretion oral representations) on such other action being considered, before coming to a conclusion.

- 6.25 The Secretary to the Committee will communicate the Committee's decision (both at the point of any adjournment and at final decision) to the Director in writing at the earliest opportunity and in any case within five working days of the decision. The notice for any final decision within 6.24(b) above shall also inform the Director how to appeal.

7. APPEALS

- 7.1 The Director may appeal to the Senior Appeals and Grievance Committee against the final decision of the Standards and Audit Committee by written notice to the Secretary to the Standards and Audit Committee, including a summary of the grounds of his or her appeal, within ten working days of receiving written notification from the Secretary of the Committee's decision.
- 7.2 Subject to 1.1 above, the Senior Appeals and Grievance Committee shall comprise all Members of the Corporate Management Committee who are not also Members of the Standards and Audit Committee (whether or not they sat on that Committee to consider the Director's conduct).
- 7.3 The Secretary to the Standards and Audit Committee will provide a written report on the decision of the Standards and Audit Committee for the Senior Appeals and Grievance Committee. The report shall include the Director's notice of appeal, and any other material appearing to the Secretary to be relevant.
- 7.4 The Senior Appeals and Grievance Committee will consider the material before it and will give the Director or his or her representative the opportunity to make oral or written representations to it (as he or she prefers). The appeal will normally take the form of a review of the relevant material and of the Standards and Audit Committee's decision, but exceptionally, material which was not before the Standards and Audit Committee

may be considered if the Senior Appeals and Grievance Committee considers that in all the circumstances it is fair and just to do so.

7.5 The Senior Appeals and Grievance Committee may confirm the decision of the Standards and Audit Committee or substitute any other action set out in paragraph 6.24 above.

7.6 The decision of the Senior Appeals and Grievance Committee will be final. The Secretary to the Senior Appeals and Grievance Committee shall confirm the decision of the Committee to the Director in writing as soon as practicable after it has been made and in any event within five working days.

8. CAPABILITY

8.1 The Chief Executive is responsible for handling concerns that a Director lacks the capability required for his or her job. Where appropriate, a preliminary investigation should be undertaken in the manner set out in Section 4 above where there is any question or complaint regarding the capability of a Director.

8.2 If it appears that the lack of capability may be due wholly or in part to ill health (whether or not the Director is on sick leave), the Chief Executive should initially follow the Council's standard Sickness Procedure and the following must be taken into account:-

- a) The likelihood of an improvement in health and subsequent attendance.
- b) The availability of suitable alternative work.
- c) The effect of past and likely future absences on the organisation.
- d) Whether the illness is a result of a disability as defined in the Disability Discrimination Act 1995.

Should there be disagreement between the Council's Medical Advisor and the Director's own Doctor or medical adviser, the Chief Executive will consider whether to obtain a further consultant's opinion.

8.4 If use of the Sickness Procedure fails to clarify the situation, and the Chief Executive or other person undertaking the preliminary investigation concludes that there is a question of substance as to the Director's capability, he or she will advise the Director informally of the nature of that question. The Chief Executive will then notify the Director in writing of a capability meeting to be attended by the Director, the Chief Executive, and a Personnel representative, at which the Director may be accompanied by a representative of his or her choice. The date, time and place will be agreed by all parties involved, subject to the right of the Chief Executive to set a time if the Director unreasonably fails to agree. The meeting will cover:

- i) The facts pointing to incapability;
- ii) Problem areas;
- iii) What needs to be done to improve performance, including any opportunities for training the Director;
- iv) Time frames over which improvements should be shown (unless there has been a previous warning or there is evidence of serious incapability which is not likely to be remedied within a reasonable time). Any time period should be sufficient to allow reasonable opportunity for the Director to show either an improved performance or that the conclusion of the preliminary investigation was mistaken.



- v) If it is felt that there is no reasonable prospect of improvement, the Director may undertake actively to seek other employment, resign or (in circumstances acceptable to the Council) retire.

The Chief Executive will write to the Director within five working days of the meeting, confirming the outcome and (where relevant) the target date after which performance will be reviewed.

8.5 When the target date is reached the Chief Executive, in consultation with a Personnel Officer, will reach a decision as to whether or not the required improvement has been achieved. If so, the Director will be so informed in writing. If not, a further formal meeting will be arranged as set out above. At the end of the meeting, the Chief Executive will determine which of the following courses should be pursued:

- a) extension of the period for reaching the required standard; or
- b) if it is felt that there is no prospect of improving the Director's performance, the Director undertaking actively to seek other employment, resigning or (in circumstances acceptable to the Council) retiring; or
- c) in the final resort and if there is nor other course of action acceptable to both parties, to recommend to the Corporate Management Committee that the Director be dismissed.

8.6 The Chief Executive will write to the Director within five working days of the meeting, confirming the outcome.

8.7 At capability meetings an officer subordinate to the Director may give evidence of fact. Where the parties disagree on technical or professional matters it may be useful to refer to an appropriately qualified independent third party.

9. REDUNDANCY

9.1 The Council will consult with any Director affected at the earliest possible stage when there is a suggestion that the Director's post might be abolished or proposed for abolition.

9.2 If after such consultation a proposal is formulated to abolish the Director's post, the procedure of Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992, requiring consultation with trade unions, will be followed, the required statutory information being sent to the Director and to each independent trade union recognised by the employers for collective bargaining purposes for the Director. A period of not less than twenty-eight days will be allowed for the statutory consultation process unless the Director agrees to a shorter period. The Director and a representative of his or her choice should also be afforded an opportunity of making oral representations to the Committee or Council meeting concerned before a final decision is made.

9.3 If following such consultations the authority decide that the post must nevertheless be abolished, the Council will identify any reasonable opportunities for suitable alternative employment that may be available or which may become available in consequence of the re-organisation giving rise to the abolition of the Director's post.

9.4 The authority will bear in mind its discretionary powers of premature retirement, and permissible enhancement of benefits or redundancy payments, under its policies as they lawfully exist from time to time, and the possibilities of providing an alternative post or of extending the period of notice to assist the Director in finding other employment.

GRIEVANCE PROCEDURE FOR THE CHIEF EXECUTIVE

1 Introduction

1.1 This procedure covers the following circumstances:

- Where an employee raises a grievance against the Chief Executive
- Where the Chief Executive raises a grievance against an elected member(s) or Runnymede Borough Council.

1.2 To assist in applying this procedure the Council may at its discretion and where appropriate have regard to the model procedure and commentary provided by the Joint Negotiating Committee for Chief Executives of Local Authorities.

1.3 "Grievance" means a complaint about an action or omission by the Chief Executive which adversely affects a member of staff in the course of their employment, or an action or omission by one or more Members of the Council, or by the authority, which adversely affects the Chief Executive in the course of his or her employment.

1.4 The Senior Appeals and Grievance Committee will be constituted as set out in the Chief Executive's Disciplinary Procedure. No Member of the Senior Appeals and Grievance Committee may be present, or participate in any way in the procedure, if they have had any involvement in the events giving rise to the grievance. The Secretary to the Senior Appeals and Grievance Committee will be the Director of Administration and Leisure or an Officer appointed by him.

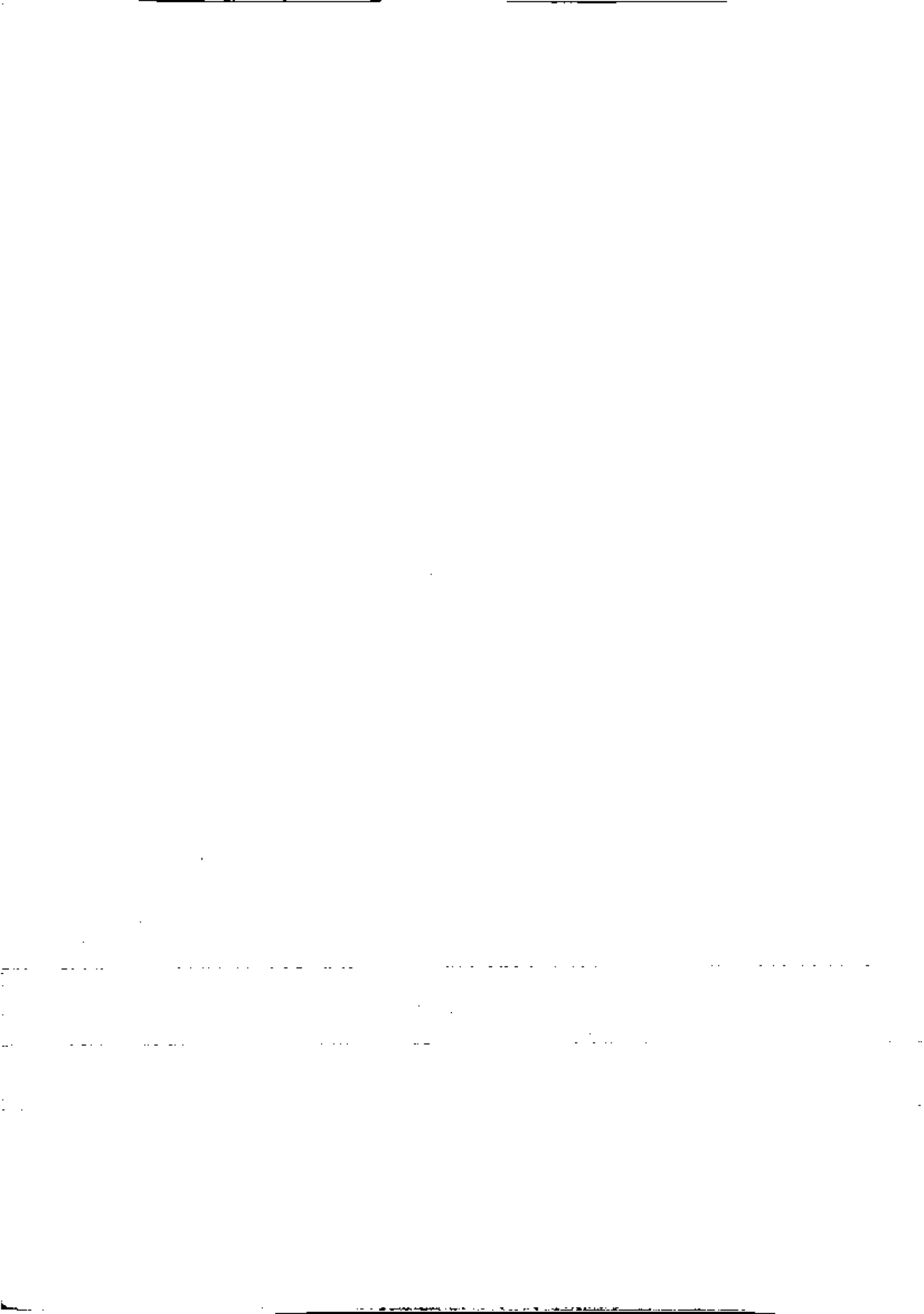
1.4 Attention is drawn to paragraphs 2.13 and 2.16 of this Procedure, covering the emergence of matters which should be handled under the Chief Executive's Disciplinary Procedure.

1.5 The ACAS Code of Practice

This and other Council procedures contain elements seeking to reflect the current ACAS Code of Practice for Disciplinary and Grievance Procedures issued in April 2009. The Code is issued under the Trade Union and Labour Relations Act 1992. Following the Code is not mandatory but Tribunals will take the Code into account and will also be able to adjust awards by up to 25% if either employers or employees have unreasonably failed to comply with any provision of the Code. Parties involved in these procedures should take advice before any departure from the approved provisions.

2 Procedure for dealing with a grievance raised by an employee against the Chief Executive

2.1 An employee who is concerned that a situation is arising which might lead to him or her having a grievance against the Chief Executive should if at all possible in the first instance, and without delay, contact the Chief Executive informally to explain the problem and give the Chief Executive the opportunity of dealing with it. Employees may do this, if they prefer, through a colleague, a representative, or a Line Manager. Nothing in this procedure requires the employee to contact the Chief Executive where it is clear that the situation



has already arisen, or if there are issues that make it personally difficult, whether related to the circumstances of the employee or the nature of the allegation. However where it is practicable it will assist the later investigation and handling of a formal grievance.

- 2.2 If the steps described in 2.1 above do not result in a satisfactory resolution and an employee wishes to pursue the matter formally, he or she should promptly put the complaint in writing to the Personnel Manager ("the receiving officer"), saying what remedy is asked for.

Initial filtering

- 2.3 If the receiving officer decides that the grievance is about a Council service, rather than a complaint against the Chief Executive personally, he or she will refer the matter back to the aggrieved employee, or their line manager, and indicate that it is one that they could raise under the Council's complaints procedure.
- 2.4 If the receiving officer decides that there are other formal appeal procedures that should be used rather than the Grievance Procedure (e.g. for cases of redundancy), he or she will advise the employee of how to proceed.
- 2.5. If the receiving officer decides that the grievance relates to an action or omission of a manager other than the Chief Executive, he or she will advise the employee of how to proceed under the Council's general Grievance Procedure.
- 2.6 If the receiving officer decides, after careful and reasoned consideration, that the grievance is patently frivolous or clearly unfounded, he or she will advise the employee of this, and that no further action will be taken, in writing. The receiving officer may take advice before reaching such a conclusion.

Resolving grievances informally

- 2.7 Where the receiving officer is satisfied that the grievance is neither procedurally flawed, nor patently frivolous or clearly unfounded, then he or she may suggest to the parties that attempts be made to resolve the matter informally. This might be through internally-facilitated informal joint discussions or informal joint discussions facilitated externally by an external mediator or the JNC Joint Secretaries. Such action could be particularly suitable to complaints about organisation, process, provision of facilities, inadequate IT equipment, failure of consultation, and similar matters.

Resolving grievances formally

- 2.8 In accordance with the ACAS code the procedure will comprise two stages. At the first stage the grievance will be referred to the Monitoring Officer. If the matter remains unresolved then the Senior Appeals and Grievance Committee will hear the grievance. The Committee can either uphold or dismiss the grievance and may issue appropriate instructions and/or advice to the parties.



Formal Stage 1 – Investigating Officer

- 2.9 Where informal attempts at resolution are either considered inappropriate or have been tried and failed then the receiving officer will refer the grievance to the council's Monitoring Officer or, if that Officer has a conflict of interest, to another Director not involved, who will deal with the stage 1 investigation. If the receiving officer considers it justified in exceptional circumstances, he or she may appoint an independent investigator. The person to whom the matter is referred is known below as the Investigating Officer.
- 2.10 The Investigating Officer will make such enquiries as he or she sees fit and will interview the parties to the grievance. At his or her discretion (and having regard to the circumstances), he or she may conduct a formal hearing at which each party (with or through trade union or other representatives if desired) may state their case and question each other.
- 2.11 If the Investigating Officer concludes that the grievance is unjustified, he or she will promptly notify the employee and the Chief Executive in writing. The complainant may appeal to the Senior Appeals and Grievance Committee by giving written notice to the Investigating Officer, stating the reasons for the appeal, within ten working days of receiving the Investigating Officer's letter of decision. The Investigating Officer will promptly inform the Chief Executive of receipt of the notice of appeal.
- 2.12 If the Investigating Officer concludes that the grievance is justified, he or she will promptly notify the employee and the Chief Executive in writing and propose a solution, taking into account the remedy requested by the complainant and his or her own assessment of what would be appropriate in all the circumstances. If the Chief Executive is unwilling to accept these proposals he must give written notice to the Investigating Officer, stating his reasons, within ten working days of receiving the Investigating Officer's letter of decision. The Investigating Officer will promptly inform the complainant that the Chief Executive does not accept the proposals and will refer the matter to the Senior Appeals and Grievance Committee.

Disciplinary Matters

- 2.13 The receiving officer must refer allegations suggesting personal misconduct by the Chief Executive directly to the Standards and Audit Committee, for handling in accordance with the Disciplinary Procedure for the Chief Executive, whether or not the matters have been raised by the employee under the grievance procedure.

Formal Stage 2 – Senior Appeals and Grievance Committee

- 2.14 The Senior Appeals and Grievance Committee will hear the case, using the procedure set out in the general Staff Grievance Appeals Procedure with any modifications the circumstances may require (to be notified to the parties by the Secretary to the Committee). The Committee will uphold or dismiss the grievance.
- 2.15 If the Committee upholds the grievance it may issue instructions or advice on how the issue can best be resolved.

2.16 Where the committee upholds the grievance and also finds that the case has raised any allegation of a serious nature regarding the conduct of the Chief Executive, it may require that the matter be brought before the Standards and Audit Committee and dealt with in accordance with the Chief Executive's Disciplinary Procedure and the Local Authorities (Standing Orders) (England) Regulations 2001.

2.17 The Senior Appeals and Grievance Committee's decision on the grievance is the final stage in the process and there is no further review or appeal.

3 Procedure for grievances raised by the Chief Executive

3.1 Where the Chief Executive raises a grievance, the Council will similarly follow a process of informal resolution if possible, and if not, a formal two-stage process, as set out below.

3.2 The Chief Executive cannot raise a grievance against another member of staff as any justified grievance will be a disciplinary matter. The Chief Executive may raise a grievance against one or more Members, or the authority itself.

3.3 If the Chief Executive wishes to raise a grievance he must notify the Monitoring Officer, who should establish, through discussions with the appropriate parties, whether there is any value in seeking to resolve the matter informally. This might be through internally-facilitated informal joint discussions or informal joint discussions facilitated externally by an external mediator or the JNC Joint Secretaries.

3.4 If informal resolution is either inappropriate or unsuccessful the Monitoring Officer will refer the matter to the Senior Appeals and Grievance Committee. The Senior Appeals and Grievance Committee will hear the case, using the procedure set out in the general Staff Grievance Appeals Procedure with any modifications the circumstances may require (to be notified to the parties by the Secretary to the Committee).

3.5 If the Committee upholds the grievance it may issue instructions or advice on how the issue can best be resolved.

3.6 If the Senior Appeals and Grievance Committee considers it appropriate, having come to its conclusions, it may refer a matter regarding the conduct or behaviour of an elected Member to the Standards and Audit Committee. If the matter amounts to an allegation that the Member has broken the Council's Code of Conduct, the Standards and Audit Committee will follow the appropriate procedures as required by law and by the Council's Standing Orders.

3. Either party to the grievance may appeal against the decision of the Senior Appeals and Grievance Committee to full Council, by notice to the Secretary to the Senior Appeals and Grievance Committee, stating the grounds of appeal, to be received within ten working days of receipt of the written notice of the Committee's decision. No Member of the Council may be present at the meeting that hears the appeal, or participate in any way in the associated procedure (other than under 3.7 below), if they have had any involvement in the events giving rise to the grievance or in the procedure up to the point of appeal.

- 3.7 The Secretary to the Senior Appeals and Grievance Committee will submit to the Council a report summarising the material before the Senior Appeals and Grievance Committee, together with the Committee's formal decision and a copy of the notice of appeal. The Council will give the Chief Executive and the Chairman of the Senior Appeals and Grievance Committee (each through their representative if desired) the opportunity to make oral or written representations to it (as the party prefers). The Council will then proceed to a decision in the absence of the parties and their representatives. It may confirm the view of the Senior Appeals and Grievance Committee or substitute any other action open to that Committee.

Grievances raised by a Director during disciplinary proceedings

- 3.8 If a Director is the subject of a disciplinary/capability investigation and raises a grievance relating to the case, the Standards and Audit Committee will decide how to deal with the grievance, taking into account the facts of the case, the stage of the procedure reached and the nature of the grievance. The Committee will determine whether it is appropriate for the authority to deal with the grievance before continuing with the disciplinary/capability investigation, or to deal with the issues raised in the grievance as part of the wider disciplinary/capability investigation. If the former the Committee shall also determine whether it is appropriate for the Monitoring Officer to fulfil his or her role under this procedure in addition to any role that he or she is performing under the Director's Disciplinary Procedure.

GRIEVANCE PROCEDURE FOR DIRECTORS

APPENDIX 'K'

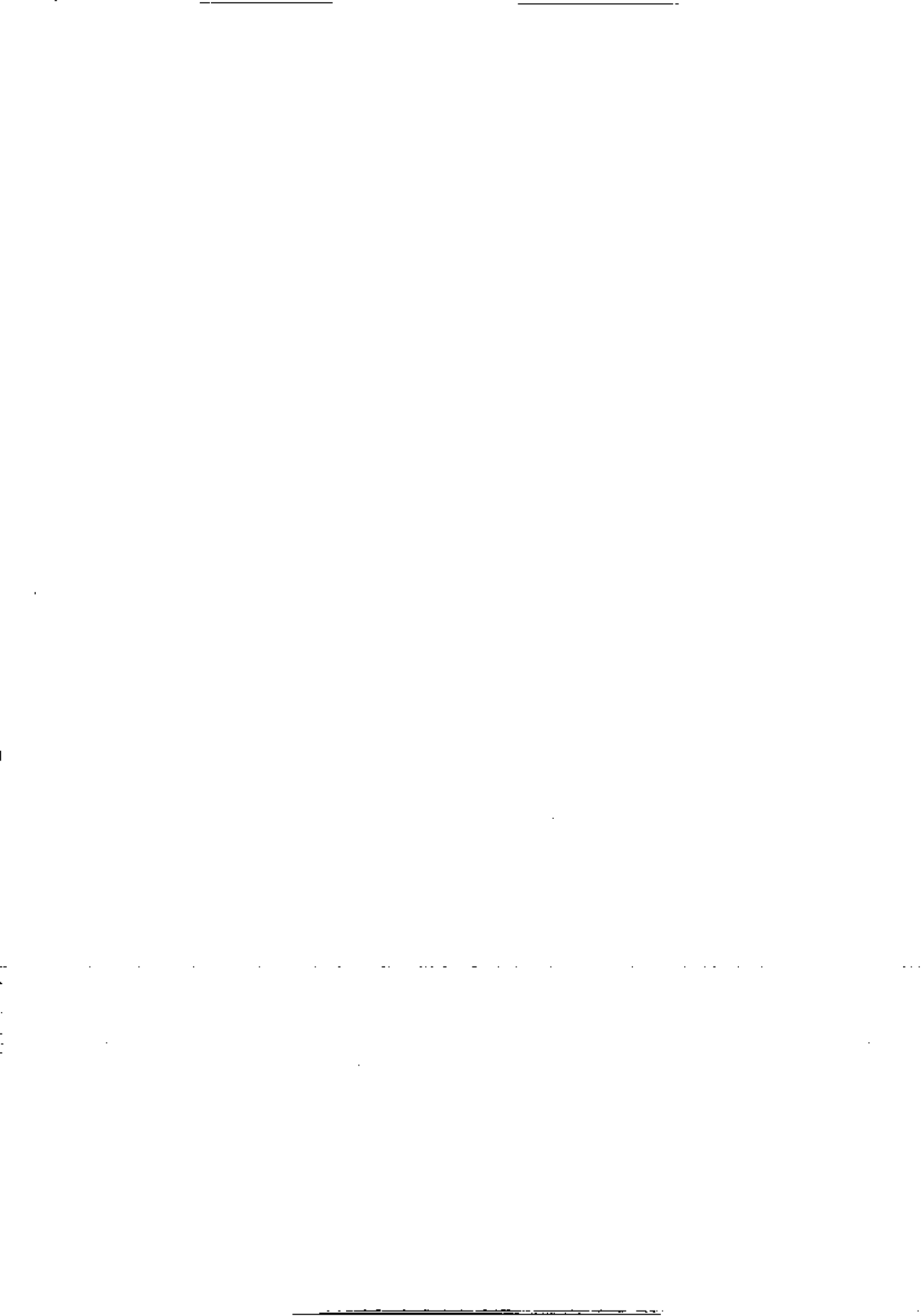
1 Introduction

- 1.1 This procedure covers the procedure to be followed where a Director raises a grievance against the Chief Executive, an elected member(s) or Runnymede Borough Council.
- 1.2 "Grievance" means a complaint about an action or omission by the Chief Executive which adversely affects a Director in the course of their employment, or an action or omission by one or more Members of the Council, or by the authority, which adversely affects the Director in the course of his or her employment.
- 1.3 The Senior Appeals and Grievance Committee will be constituted as set out in the Directors' Disciplinary and Capability Procedure. No Member of the Senior Appeals and Grievance Committee may be present, or participate in any way in the procedure, if they have had any involvement in the events giving rise to the grievance. The Secretary to the Senior Appeals and Grievance Committee will be the Director of Administration and Leisure or an Officer appointed by him. If the Officer subject to the procedure is the Director of Administration and Leisure, the Secretary to the Standards and Audit Committee or Senior Appeals and Grievance Committee (as the case may be) shall be the Head of Law, Committees and Valuation, or an Officer appointed by him.
- 1.4 Attention is drawn to paragraph 3.1 of this Procedure, covering the emergence of a grievance from a matter being handled under the Directors' Disciplinary and Capability Procedure.
- 1.5 The ACAS Code of Practice

This and other Council procedures contain elements seeking to reflect the current ACAS Code of Practice for Disciplinary and Grievance Procedures issued in April 2009. The Code is issued under the Trade Union and Labour Relations Act 1992. Following the Code is not mandatory but Tribunals will take the Code into account and will also be able to adjust awards by up to 25% if either employers or employees have unreasonably failed to comply with any provision of the Code. Parties involved in these procedures should take advice before any departure from the approved provisions.

2 Procedure

- 2.1 If the grievance is about the Chief Executive, the director in question shall raise it with the Monitoring Officer, or in his absence with the Deputy Monitoring Officer or Personnel Manager. If the grievance is about the Council, or one or more Members of the Council, the Director shall raise it with the Chief Executive, or in his absence the Monitoring Officer or Deputy Monitoring Officer. The Officer receiving the grievance is referred to below as the receiving Officer.
- 2.2 Where the receiving officer is satisfied has been correctly lodged, then he or she may if he/she considers it appropriate suggest to the parties that attempts be made to resolve the matter informally. This might be through internally-



facilitated informal joint discussions or informal joint discussions facilitated externally by an external mediator.

- 2.3 If informal resolution is either inappropriate or unsuccessful the receiving Officer will refer the matter to the Senior Appeals and Grievance Committee. The Senior Appeals and Grievance Committee will hear the case, using the procedure set out in the general Staff Grievance Appeals Procedure with any modifications the circumstances may require (to be notified to the parties by the Secretary to the Committee).
- 2.4 If the Committee upholds the grievance it may issue instructions or advice on how the issue can best be resolved.
- 2.5 If the Senior Appeals and Grievance Committee considers it appropriate, having come to its conclusions, it may refer a matter regarding the conduct or behaviour of an elected Member to the Standards and Audit Committee. If the matter amounts to an allegation that the Member has broken the Council's Code of Conduct, the Standards and Audit Committee will follow the appropriate procedures as required by law and by the Council's Standing Orders.
- 2.6 Either party to the grievance may appeal against the decision of the Senior Appeals and Grievance Committee to full Council, by notice to the Secretary to the Senior Appeals and Grievance Committee, stating the grounds of appeal, to be received within ten working days of receipt of the written notice of the Committee's decision. No Member of the Council may be present at the meeting that hears the appeal, or participate in any way in the associated procedure (other than under 2.7 below), if they have had any involvement in the events giving rise to the grievance or in the procedure up to the point of appeal.
- 2.7 The Secretary to the Senior Appeals and Grievance Committee will submit to the Council a report summarising the material before the Senior Appeals and Grievance Committee, together with the Committee's formal decision and a copy of the notice of appeal. The Council will give the Director and the Chairman of the Senior Appeals and Grievance Committee (each through their representative if desired) the opportunity to make oral or written representations to it (as the party prefers). The Council will then proceed to a decision in the absence of the parties and their representatives. It may confirm the view of the Senior Appeals and Grievance Committee or substitute any other action open to that Committee.

Grievances raised by Director during disciplinary proceedings

- 3.1 If a Director is the subject of a disciplinary/capability investigation and raises a grievance relating to the case, the Standards and Audit Committee will decide how to deal with the grievance, taking into account the facts of the case, the stage of the procedure reached and the nature of the grievance. The Committee will determine whether it is appropriate for the authority to deal with the grievance before continuing with the disciplinary/capability investigation, or to deal with the issues raised in the grievance as part of the wider disciplinary/capability investigation. If the former the Committee shall also determine whether it is appropriate for the receiving Officer to fulfil his or



her role under this procedure in addition to any role that he or she is performing under the Director's Disciplinary Procedure.

EQUALITY SCREENING

APPENDIX 'L'

Equality Impact Assessment guidance should be considered when completing this form.

POLICY/FUNCTION/ACTIVITY	LEAD OFFICER
Disciplinary, Capability and Grievance Procedures	DAL (drafting) Personnel Manager (monitoring)

A. What is the aim of this policy, function or activity? Why is it needed? What is it hoped to achieve and how will it be ensured it works as intended? Does it affect service users, employees or the wider community?

To provide lawful, coherent and fair procedures for the handling of disciplinary, capability and grievance issues that may arise in the workplace affecting staff at any level.

B. Is this policy, function or activity relevant to equality? Does the policy relate to an area in which there are known inequalities or where different groups have different needs or experience? Remember, it may be relevant because there are opportunities to promote equality and greater access, not just potential for adverse impacts or unlawful discrimination.

Yes. The procedures will apply to situations in which employees with a disability, or of a particular sex, ethnic origin, religion/belief, sexual orientation or age grouping, may be in a minority or feel themselves to be at a disadvantage. It will be important that the procedures protect them against unfair treatment and ensure parity with other employees subject to the procedures.

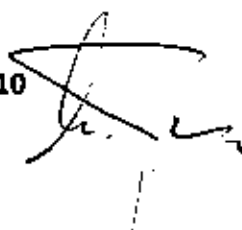
If the policy, function or activity is considered to be relevant to equality then a full Equality Impact Assessment must be carried out.

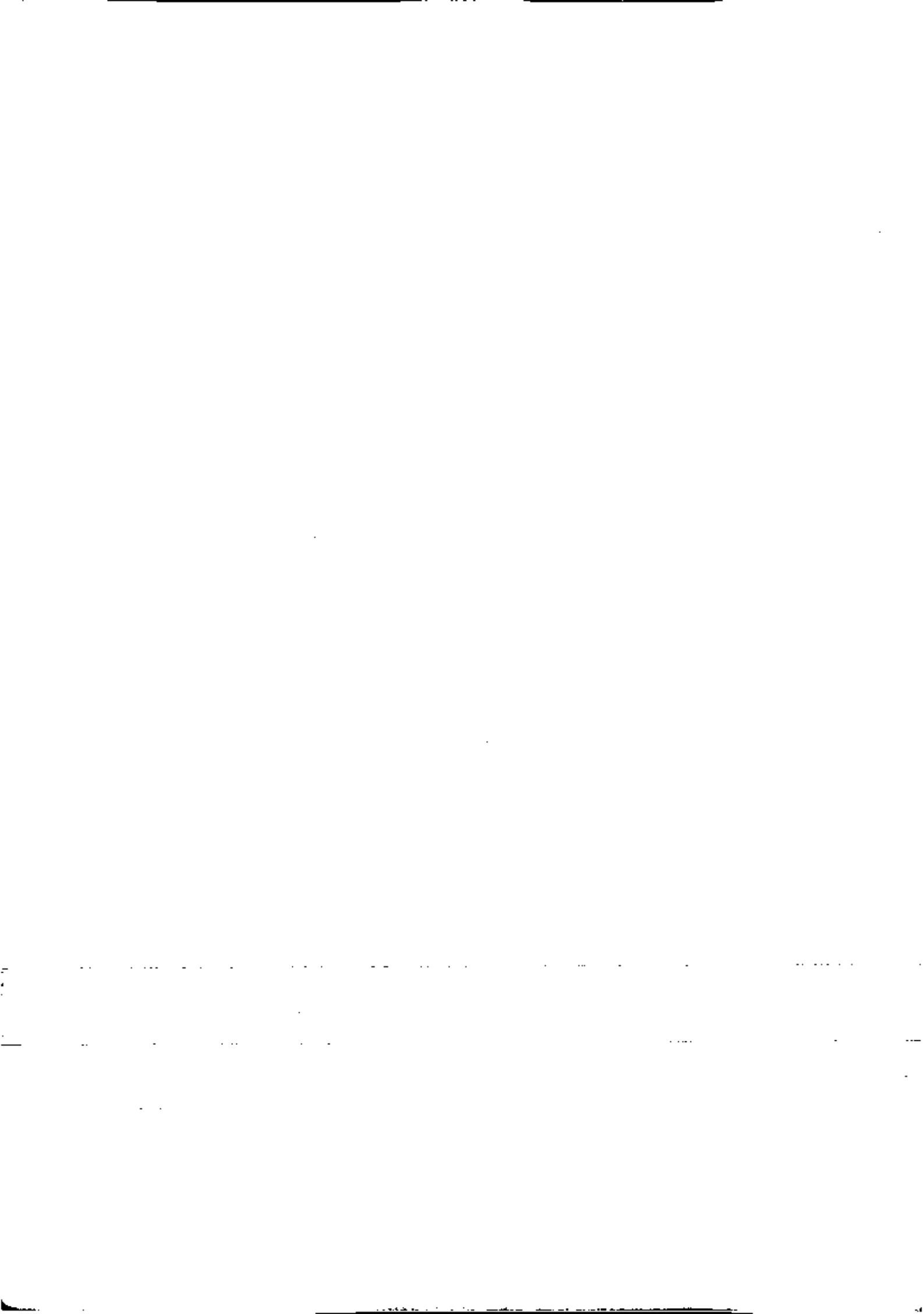
C. If the policy is not considered to be relevant to equality, what are the reasons for this conclusion? What evidence has been used to make this decision? A simple statement of 'no relevance' or 'no data' is not sufficient.

This screening assessment will need to be referred to the Equality Group for challenge before sign-off.

Date completed: 10th March 2010

Sign-off by senior manager:





EQUALITY IMPACT ASSESSMENT

DISCIPLINARY, CAPABILITY AND GRIEVANCE PROCEDURES

SCOPING

1. What aspects of the policy are particularly relevant to equality? Other aspects should not necessarily be excluded from the assessment, but attention should be focused on the most important areas.

All aspects of the procedures which protect individuals against unfair treatment and seek to ensure that the same quality of process is applied to all.

Any aspect of the procedures which could result in protected groupings being treated less favourably than others.

2. Which of the equality strands is the policy relevant to? It may relate to one or all of the following: race, disability, gender, religion/belief, sexual orientation and age. Diversity within these strands should be considered.

All of them.

3. Set out the available evidence that will help you assess the impact of this policy on equality. This could include service-level monitoring data, analysis of complaints/enquiry records, existing user feedback, and information about the local community. You may find it useful to compare your service user statistics against the Runnymede population profile.

For a detailed assessment, evidence would need to be collated as set out in 5 below. Under the existing policies, this is not done.

Another less complete source of evidence is the incidence of allegations of discriminatory treatment from employees of protected groupings subject to the procedures. In the last five years there has been one such case, which was not pursued.

There is accordingly little evidence on which to judge the need to change particular aspects of the current procedures.



4. What consultation and involvement has been undertaken in relation to this (or a similar) policy, and what are the results? If none have been carried out, what consultation will be needed? Data may be available from recent consultation activities on a related policy or EIA.

The existing policies have not been revised for a number of years but were subject to the standard Committee procedures in effect at the time they were created. The revised procedures have been the subject of consultation with all Directors, Unison, and Personnel staff.

5. Are there any gaps in the evidence? If so, set out how these gaps will be filled?

There should be analysis of cases subject to the procedures, categorised by reference to type of case and the protected groupings, and benchmarked against cases involving staff outside these categories, in order to establish: (1) whether a disproportionate number of employees in protected groupings become subject to the procedures; (2) Whether there is any significant difference between the groupings in the incidence of outcomes favourable/unfavourable to the employee.

Because of the low numbers of cases, care will be needed that small variations are not interpreted as large differences. This analysis is not currently available and would need to be maintained in future by Personnel staff.

Where it is not possible to fill data gaps in time to inform this assessment, specific action points will need to be included in the action plan section below, with a focus on monitoring the actual impact of the policy.

ASSESSING IMPACT

It is essential to consider not just the intended consequences of the policy but also any unintended consequences and barriers that might prevent it being effective for certain groups.

6. What are the main findings of your consultation and involvement activities, and do they demonstrate problems that need to be addressed?

The points raised during the consultation have been on matters relating to any employee subject to the procedures, rather than specifically about protected groupings. All comments have been considered against the overall aim of providing workable procedures with safeguards against unfairness and abuse. Where relevant, the objective has been to follow or exceed the safeguards in the ACAS Code of Practice.

7. Could the policy outcomes differ according to people's ethnic group, disability, gender, religion/belief, sexual orientation, or age? For instance, there might be evidence of higher or lower participation/uptake by different groups.

There are different procedures for Directors, the Head of Paid Service, the Monitoring Officer, and the Chief Finance Officer, in some cases for legal reasons and in all cases through use of the different models provided by the JNC Conditions for Chief Executives and Chief Officers. If particular protected groupings are under or over represented in categories of staff subject to these different procedures, there is the potential for different outcomes. However as all procedures seek to respect the rules of natural justice and follow the same underlying principles, this should not be a significant issue.

8. Is there is a disproportionate impact on one group? If so, is it appropriate and consistent with the policy objective? For instance the policy may include lawful positive action or other methods to address particular needs.

All staff are subject to the procedures and no one group should be disproportionately affected by the way in which the procedures operate.

9. Does the policy miss potential opportunities to promote equality or positive attitudes to (and between) different groups or communities?

It is not believed so. The aim is to ensure that all categories of staff have access to the same quality of handling of disciplinary, capability or grievance issues.

It would be possible to build in additional review steps for staff in protected groupings but this might risk promoting negative rather than positive attitudes, and without evidence of need this has not been done. As all staff are in one or more groupings that it would be possible to discriminate against, it would be difficult to build in an automatic trigger and such a review process, if introduced, would probably have to be on request by the staff member.

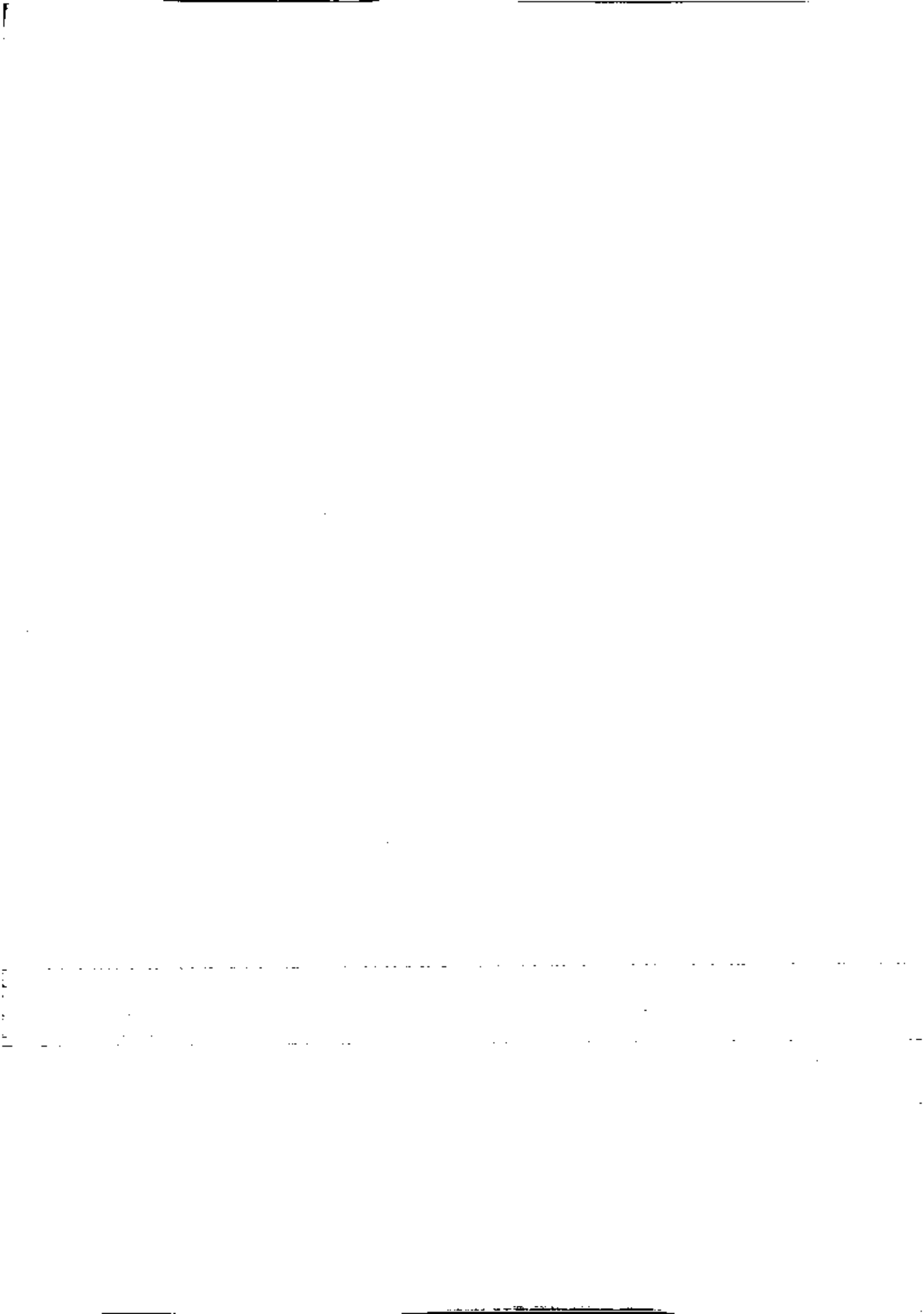
ADDRESSING THE IMPACT: ACTION PLANNING, MONITORING AND REVIEW

10. Does the policy require reconsideration or amendment? If not, explain the reasons for this conclusion. If an adverse impact has been identified, you will need to set out the justification for continuing the policy, or outline measures to mitigate the impact.

No adverse impact has currently been identified that necessitates amendment.

11. What actions have you identified as a result of this equality impact assessment? These might include improving data collection in order to give a clearer picture of your service-users, physical adjustments to a building, arranging for information to be sent out to individuals in alternative formats or languages, or consulting with a wider group of people to understand the impact of the policy.

Improvement of data collection as set out in (5) above. This should be analysed and reported upon to Directors Management Team periodically for consideration of whether amendment is needed. An annual report shortly before preparation of the Annual Pay and Workforce Plan is likely to be appropriate.



12. Action Plan: Who will be responsible for completing these actions and in what timescale?

The Personnel Manager as employed from time to time: (1) Collation of data should commence from the first case brought under the new procedures; (2) the first analysis and report should be in December 2010 and thereafter annually.

13. How will you review the actual impact of this policy? Provide details of timescale and actions for review, and details of how the actions will be evaluated to measure if expected outcomes are achieved in practice. You may have identified 'triggers' that would indicate a problem with the policy and suggest a revision is needed.

Directors Management Team should review the position on receipt of the reports proposed under (11) and (12) above. If it is apparent that a disproportionate number of members of staff in a particular protected group are facing these procedures, or that the outcomes are different from other staff, in a statistically significant way, management should consider whether amendment to the procedures or other action such as training can be implemented to correct the situation. Future reports would be monitored to see if any such amendment or action has had the desired effect.

This assessment will need to be referred to the Equality Group for challenge.

Date completed: 10th March 2010

Sign-off by senior manager:



RUNNYMEDE BOROUGH COUNCIL

Notes of Runnymede Safety Committee Meeting
2 p.m. Wednesday, 2nd December 2009

Present:

Stuart Cawthorne	(SC)	Director of Finance, Chairman
Ed Keith	(EK)	Municipal Safety Advisor, Secretary
Julie May	(JM)	Department of Administration and Leisure
David Thomas	(DT)	Personnel Manager
Clare Pinnock	(CP)	UNISON
Jenny Soffe	(JS)	Leisure Services
Andy Cryer	(AC)	Housing & Community Services
Steve Dandridge	(SD)	UNISON – Chertsey DSO
Dave Stedman	(DS)	DSO Manager
Brian Mannian	(BM)	Principal Building Manager
Simon Hunt	(SH)	IT Section

Apologies for Absence:

Dennis Speight	(DNS)	Head of Environmental Protection
Ian McLeod	(IM ^L)	Non-Union Staff Safety Representative
Tina Sawyer	(TS)	UNISON – Safer Runnymede

- | | | |
|-------|---|------------------|
| 2. | <u>NOTES OF MEETING HELD ON 23RD SEPTEMBER 2009</u> | ACTIONS |
| | The minutes were passed as a true record. | |
| 3. | <u>MATTERS ARISING NOT ON ROLLING LIST</u> | |
| | There were no matters arising. | |
| 4. | <u>ROLLING LIST OF OUTSTANDING ITEMS</u> | |
| i. | Safety Management System – Due to the present financial situation, it was felt that this purchase should be postponed until funding was available. EK to talk to Head of IT with a view to producing a limited database using Access. | EK |
| ii. | Bomb Procedures – BM to review bomb procedures with Police at next liaison group meeting. | BM |
| iii. | Depot & Parks Fire Risk Assessment – In hand. BM to provide EK with fire plan for depot offices. Ongoing | EK
BM |
| v. | Lone Working – New street cleaning process – Assistant DSO Manager has produced a new lone working procedure for street cleaning. Copy to be sent to EK. Ongoing. | DS |
| vi. | Adverse Weather Policy – To be reviewed by Chief Officers. Ongoing | CP/DT/SC |
| vii. | Swine flu pandemic – Gel now held in store until required and Version 5 of the Borough Plan has now been produced for approval by members. | Completed |
| viii. | Fire Protection System – BM assured the committee that fire precaution system for the server room is safe for those using the room, as long as the proper procedures are followed. Inadvertent discharge of the extinguishing media, would necessitate evacuation of the room. | Closed |
| ix. | Safety Consultants – Issue of the health and safety implications in the use of external contractors and the employment of health and safety consultants. DNS has followed up with the Assistant Borough Housing Manager and has | Closed |

arranged for procedures to be drawn up in house. Ongoing.

- ix. **Risk Assessment Training** - Returns for Risk Assessment Training from departments have been poor. (See Item 8) ALL
- x. **Outstanding Audit Action (1)** - EK to produce, and place on the intranet, a spreadsheet of records required to be retained by managers/supervisors EK
- xi. **Outstanding Audit Action (2)** - The Health and Safety Management System document for Runnymede be revised and adopted as good practice and formally approved by Chief Officers. DIR
- xii. **Outstanding Audit Action (4)** - EK to liaise with the Council's insurance officer to produce, and place on the Intranet, suitable instructions and guidance for the completion of accident and incident reports including a blank template for a witness statement and guidance on its completion. EK
5. **STRESS**
- EK stated that the response from the request for members to review their department performance against the Equivalence Checklist found on the HSE stress website was extremely poor. Replies received seemed to indicate that managers were unaware of the stress management policy or that they should be doing anything about stress. SC agreed to take this issue back to the DMT. SC
6. **DSE**
- Following directors intervention, 312 members of staff have completed the online DSE assessment form. On being asked how many he expected to receive EK stated that he did not know as he did not have a list of computer users. SH was requested to check if IT had a list of authorised users and provide it to EK. EK/SH
7. **FIRE**
- Fire Risk Assessments are ongoing for Parks Buildings but will require building plans to convert into fire plans before completion. EK to talk to BM as to how this can be achieved. Ongoing EK/BM
8. **RISK ASSESMENTS**
- Response on identifying those members of staff requiring Risk Assessment training has been poor, with only one member of staff requesting training. It had been agreed that training should be mandatory for those with a responsibility for carrying out risk assessments. EK to draft a course plan for SC to present to directors. EK/SC
9. **DRIVERS POLICY – ALCOHOL AND DRUGS/GREY FLEET**
- It was agreed at the previous meeting that the drivers policy should go to the DMT for ratification, with the recommendation that a company be employed to carry out separate driver licence checks. No response received. SC to feed back outcome from DMT. SC
- The Alcohol and Drugs policy was discussed in detail, with recommendations and changes being made.
10. **LONE WORKING**
- EK advised that response from other boroughs to the "Lone Worker" question varied from the use of whiteboards, to the use of in house and external monitoring systems. EK reiterated that the problem we have is that, while Safer Runnymede may be able to respond to an emergency call, they do not have sufficient staff / facilities to enable them to monitor the whereabouts or safety of staff who are lone working. The question is that, "Does the use of the whiteboard system constitute a clear procedure EK

to meet the minimum standards for the safety of all lone workers?"

JS raised the issue of the safety of Leisure Centre staff attending an out of hours call out, on their own, at one of the Centres because of an alarm issue. AC advised that Community Services now used a security company to deal with this problem on their premises, and had sent details to Leisure Centre managers with an invite for them to sign up to the service. AC to provide JS with details. JS to discuss with Leisure Centre managers.

AC/JS

11. NEW CIVIC CENTRE: HEALTH AND SAFETY ISSUES

The Health and Safety issues which were discussed at previous meetings form part of the Civic Offices Action List which is reviewed at regular directors meetings.

Latest Update as of the 2nd December 2009

1. Revolving Door.
This continues to be a source of accidents involving children and others.
Update: Rate of incidence seems to have decreased since new gearbox fitted. Ongoing
2. Heating and ventilation
Issues with drafts and temperature variations, due to windows and controls.
Update: New motors are being ordered for the windows. Ongoing
3. Lighting
Some areas are too dark, others are too bright, and some lights are switching off when still required while others are remaining on in areas of bright sunlight. This is particularly evident in the area below the smaller well opposite the centre stairs.
Update: Being resolved Ongoing
4. Cable covers in meeting/quiet rooms
Trip hazard formed by these phone outlet points for desks.
Action: Telephones being located on wall in convenient position and remaining cables to be placed in void until required. Ongoing
5. Refuge Areas
Faulty intercom points, therefore no communication with reception.
Update: This is with Wilmot Dixon to resolve. Ongoing
6. Traffic/Pedestrian segregation.
Safety of pedestrian staff walking down the side of the building to access through the undercroft.
Blind sighted areas for cars entering or leaving the undercroft.
Update: Further mirrors and signs to be placed. Pedestrians should not be accessing the building by this route. Part of Phase 2 Review. (Access via rear door.) Ongoing
7. Banister handrail
The end of banister hand rail on the undercroft stairs sticks out too far and presents a hazard.
Update: Impractical to make changes, situation to be monitored. Closed

Additional Items from 4th March 2009

- Plinth safety in Council Chamber – The drop from the plinth is sufficient to cause an injury and is highly likely due to the narrowness of the platform.
Update: Ongoing BM
- Card Access at Barrier – Proximity to kerb/hole at ramp – to access the proximity reader it is necessary to park very close to the kerb and stretch upwards, making it extremely difficult for a disabled driver to use the two disabled parking bays in the undercroft.
Update: It was asked if it was possible to lower the intercom/ card reader to a BM

more accessible height for car drivers. RW advised that he would enquire about feasibility.

- **Bin area – Flooding – Slip Hazard –** The bin area is prone to flooding and presents a slip hazard. In hand with contractors.
Update: In consultation with contractors. Ongoing

BM

12. HSE Strategy – Sign up to Health & Safety

- **Signup to Health and Safety.**
 - In a joint initiative with the Local Government Associations (LGA) and others, local authority Chief Executives are signing-up to the principles of sensible risk management.

See

- **The Health and Safety of Great Britain\ Be part of the Solution – sign the Pledge.**
 - Business leaders are invited to sign up online to show their commitment to keeping workplaces safe.

See: <http://www.hse.gov.uk/strategy/index.htm> for details

As an Enforcement Authority there is a Statement of Commitment between the HSE and Local Authority representative bodies. See <http://www.hse.gov.uk/lau/statement.htm>

Under Section 18 Standards, Enforcement Authorities are required:

- from 1st April 2008, to work towards compliance with the requirements of the Standard, and
- from 31st March 2011, to comply fully with all the requirements of the Standard.

See: <http://www.hse.gov.uk/section18/index.htm> - Foreword - for full text.

The requirement to sign up for the promotion of sensible Risk Management can be found at:

<http://www.hse.gov.uk/section18/toolkits/sensible-risk-management.pdf>

13. ACCIDENTS REPORTED SINCE MEETING OF 23RD SEPTEMBER 2009

Fourteen accidents had been reported and were discussed.

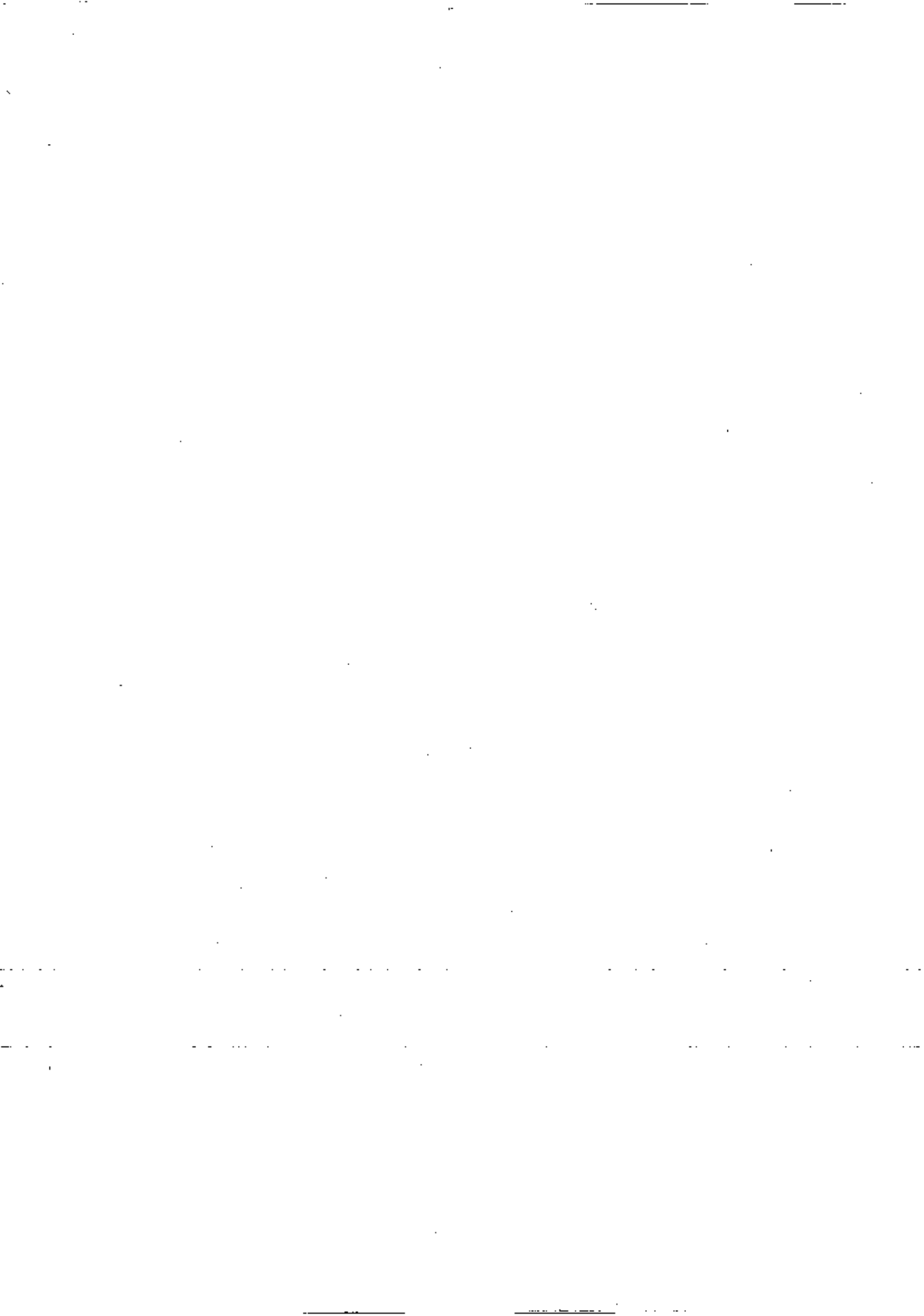
14. DIFFICULT VISITS AND INTERVIEWS INCIDENTS SINCE 23RD SEPTEMBER 2009

Two new incidents had been reported and were discussed.

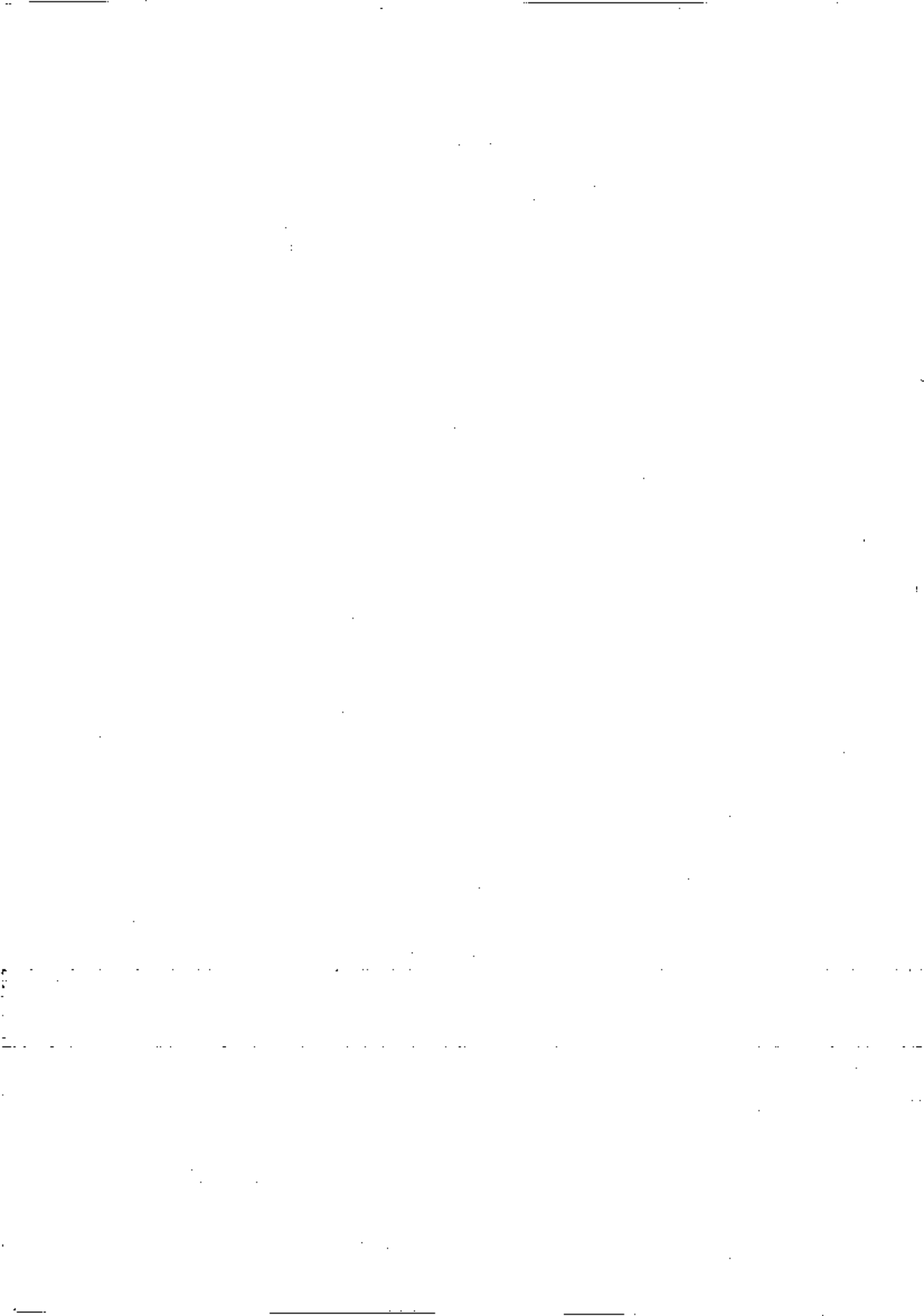
15. HEALTH & SAFETY ARTICLES POSTED SINCE MEETING OF 23RD SEPTEMBER 2009

HSE's WHATS NEW

DATE	ARTICLE	AFFECTS
	HM = Housing Maintenance. BS = Building Services. CS = Community Services PS = Property Services Please note that these entries are links to articles on the HSE website.	
September		
10/09/09	Risk assessment guidance - what do you think?	All
11/09/09	HSE at TUC Conference - getting more workers involved	All



14/09/09	Blind daredevil makes health & safety pledge	All
	Electric shock for welder prompts HSE to encourage maintenance	
16/09/09	HSE warns those responsible for people working at height	All
	Company fined after exposure to severe dermatitis risk	All
	Manage transport warning after forklift death	All
17/09/09	Stress Inspection Pack	Directors & Managers
18/09/09	Gas and Cowboys don't mix	All
DATE	ARTICLE	AFFECTS
	Example risk assessment - maintenance of flats	Housing Maintenance
	Working alone	All
21/09/09	Construction company fined after fall from height	BS & HM
22/09/09	HSE warning after incident at road works leaves motorcyclist in intensive care	DSO
23/09/09	HSE increases flexibility of first aid at work training regime	All
24/09/09	National Stress Awareness Day	All
	HSE issues warning after NHS trust fails to comply with dermatitis notice	Managers
25/09/09	HSE prosecutes water filtration company after worker is severely injured	DSO & HM
	History of HSE - online timeline	All
28/09/09	Businesses urged take proper precautions after worker fractures skull in fall	All
29/09/09	Cheltenham borough council fined £14,000 after ride on mower incident	Leisure
October		
01/10/09	Fragile roofing warning after firm fined for worker's seven-metre fall	All
	First aid at work - new training regime comes into force	All
02/10/09	Machinery guarding warning	All
	Food manufacturer fined after worker's fingertips amputated	All
06/10/09	Graduates banned from throwing mortar boards	All
09/10/09	Liverpool hospital fined over legionella	All
	Mental Health Awareness Day 2009	All
	Requirements for slip-resistant floor finishes	BS
12/10/09	Firm fined £20,000 after worker's three-metre fall	All
14/10/09	Waste Industry Safety and Health (WISH) Forum	DSO
	Southwark council fined following death	CS
	HSE warns employers after two teenagers injured by electric shocks	All
15/10/09	Pet food director fined after worker crushed to death	Directors



	Building firms fined after scaffolder burnt by power cables	All
	Safety warning after Lancashire workers get 11,000-volt shock	All
16/10/09	HSE warns building firms after worker is seriously injured in fall	All
	Stress - calling all managers	Managers
19/10/09	European Week - 'Demystifying Risk Assessment'	All
21/10/09	South West businesses urged to cut deaths and injuries caused by lorries	All
	Stress - Management standards	All
DATE	ARTICLE	AFFECTS
November		
2/11/09	Pressure on to tackle stress as business loses out	All
03/11/09	Britain's biggest workplace killer - death toll tops 35,000	All
05/11/09	Violence at work - tell us what you think	All
06/11/09	Fine after driver's arm amputated during Kent delivery	All
09/11/09	HSE warns illegal gas fitters will be punished in court	All
	HSE consults on EU artificial light regulations	All
11/11/09	Pesticide approvals for October 2009	Leisure
13/11/09	Edinburgh council fined £14,000 for asbestos failures that put workers at risk	BS, HM, PS
	Director fined for repeated negligent safety practices	All
	HSE warns firms to better protect employees who work at height	All
	Asbestos: The Hidden Killer - Chris Morgan's Story	All
	Human factors and ergonomics	All
16/11/09	INDG422 - Thorough Examination of industrial lift trucks	DSO
	Property developer fined for putting workers at risk	CDM
	Carbon Monoxide Awareness Week	All
17/11/09	Waste - Risk comparator tool	Waste & Recycling
18/11/09	Stress at work - causes, signs and symptoms	All
19/11/09	Carbon monoxide awareness week warning to rogue gas fitters	All
20/11/09	RoSPA Awards 2010 - nominations open	All
	HSE consults on EU artificial light regulations	All
11/11/09	Pesticide approvals for October 2009	Leisure
13/11/09	Edinburgh council fined £14,000 for asbestos failures that put workers at risk	BS, HM, PS
	Director fined for repeated negligent safety practices	All
	HSE warns firms to better protect employees who work at height	All



	Asbestos: The Hidden Killer - Chris Morgan's Story	All
	Human factors and ergonomics	All
16/11/09	INDG422 - Thorough Examination of industrial lift trucks	DSO
	Property developer fined for putting workers at risk	CDM
	Carbon Monoxide Awareness Week	All
17/11/09	Waste - Risk comparator tool	Waste & Recycling
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18/11/09	Stress at work - causes, signs and symptoms	All
19/11/09	Carbon monoxide awareness week warning to rogue gas fitters	All
20/11/09	RoSPA Awards 2010 - nominations open	All

16. **ANY OTHER BUSINESS**

There being no further business the meeting closed at 4.15 p.m.

17. **DATE OF NEXT MEETING**

The next meeting will take place on Wednesday, 3rd March at 2pm in the Council Chamber



Ed Keith
Municipal Safety Advisor

18th December 2009

AGENDA REPORT TO LEISURE AND ENVIRONMENT COMMITTEE – 18 MARCH 2010

RENEWAL OF KERBSIDE RECYCLABLES COLLECTION CONTRACT (DTS)
(Ref: Minutes of Leisure and Environment Committee, November 2008, page 456, para 321 and September 2009, page 272, para 296)

1. Purpose of Report

1.1 The purpose of this report is to:

- i) Determine the form of future kerbside collection of recyclables from a range of options;**
- ii) Put forward recommendations for the award of the contract for the kerbside collection of recyclables;**
- iii) Consider the implications for the refuse collection service; and**
- iv) update Members on the position relating to the current contract.**

2. Background Information

2.1 In March 2007, full Council resolved that:

- i) A Member/Officer Working Group for refuse collection and recycling be established for a period of 18 months, to be extended if necessary, with the remit of advising on the introduction of alternate weekly collection and giving appropriate guidance to Officers, with three Members to be appointed to serve on the Group;**
- ii) Subject to the deliberations of the Member/Officer Working Group and following consultation with staff, UNISON and the recycling contractor, the introduction of alternate weekly collections of residual household waste be approved in principle; and**
- iii) A further detailed report on the proposals of the Member/Officer Working Group, staffing implications, and fully costed proposals be submitted to the Corporate Management Committee in due course for consideration and subsequent recommendation to Full Council.**

2.2 Following consideration at a meeting of the Corporate Management Committee in September 2007, Full Council in October 2007 resolved that 'Fortnightly refuse collections not be introduced at this time and the Member/Officer Working Group considers further and recommends when this might be appropriate.'

2.3 The initial 18 month life of the Working Group was subsequently extended by two years, and meetings of the Member/Officer Working Group have now been taking place for the past three years. The Group has discussed possible options for future recycling and refuse collections and they support and recommend a particular option, as set out later in this report.

2.4 The current recycling contract was due to expire in February 2010. In November 2008, this Committee approved an extension of the contract for an additional period of not less than six months to explore potential partnering options with Spelthorne Borough Council. After further meetings however, it

was decided by the Working Group and Officers that the project would not be financially viable for either authority. Spellthorne Borough Council currently favours co-mingled collection of recyclable materials and Runnymede uses the kerbside sort method. However, it was agreed that there was scope for savings to be made in the procurement of replacement refuse collection vehicles. The contract has subsequently been extended to 1 February 2011 to allow for completion of the re-tendering exercise.

- 2.5 It was agreed by this Committee in June 2008 that the existing method of collection i.e. kerbside sorting of recyclable materials, would be maintained and that costs for both weekly and fortnightly collections, and an expanded range of materials would be requested from shortlisted tenderers for the new contract.
- 2.6 A tender exercise has been carried out for the appointment of a recyclables collection contractor with a proposed start date of 1 February 2011. At the meeting of this Committee in September 2009, the following shortlist was agreed for the new contract:- Runnymede's DSO, Cheshire Recycling Ltd, trading as AbitibiBowater Recycling Europe (the Council's current contractor), May Gurney Limited, Biffa Waste Services, SITA UK and the Verdant Group. The initial closing date for bids was 9 November 2009, but at the request of some of the bidders this was later extended to 30 November, which was considered reasonable given the complexity of the requirements of their tender submissions.

3. Report

Legal and strategic framework and other considerations

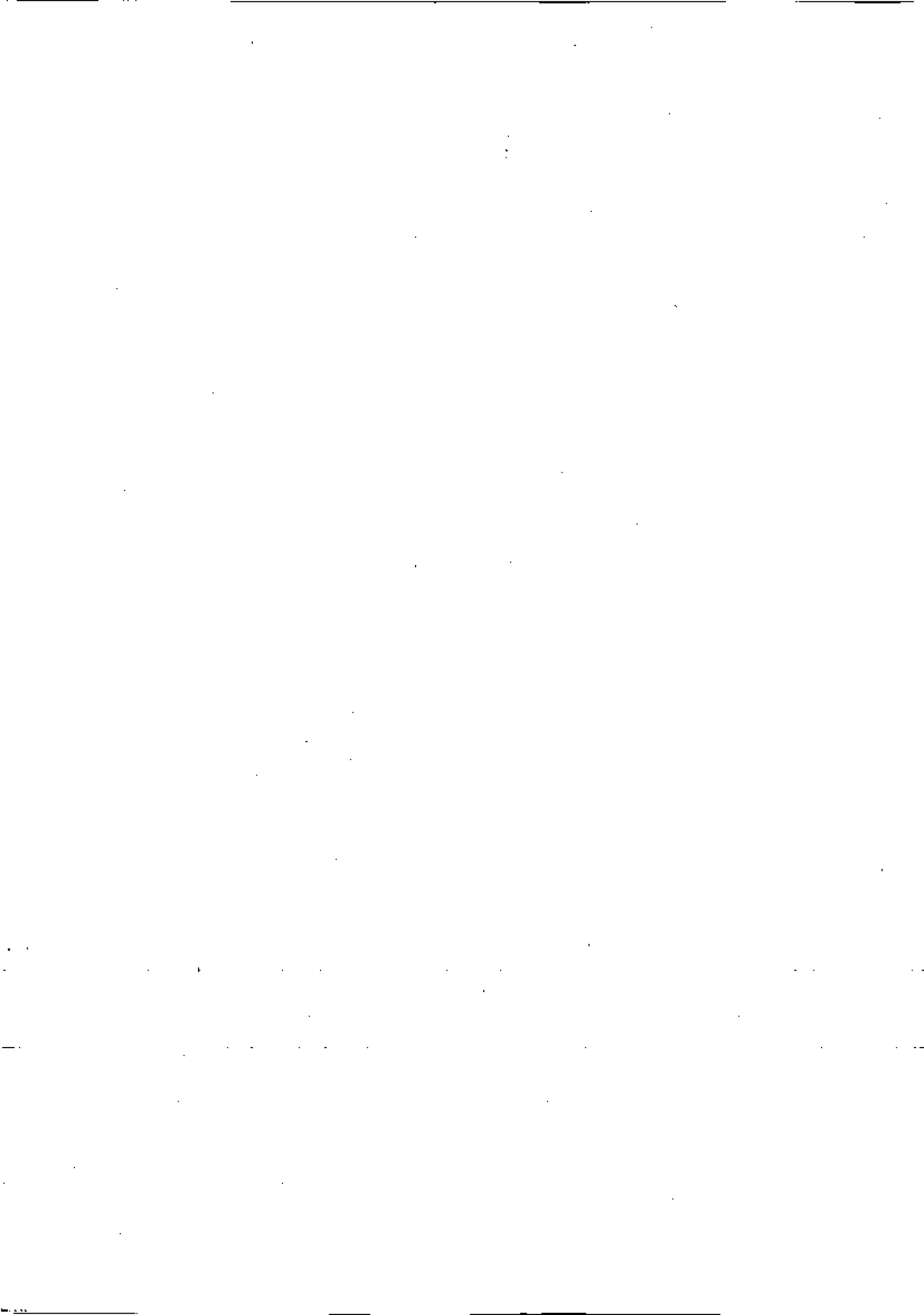
- 3.1 The Waste Framework Directive ("WFD") (Directive 2008/98/EC) which was incorporated into UK law last year, contains the following requirements under Article 11:
- i) To take measures to promote high quality recycling and, to this end to set up separate collections of waste where technically, environmentally and economically practicable and appropriate to meet the necessary quality standards for the relevant recycling sectors; and
 - ii) To set up separate kerbside collection for (at least) the following materials: paper, metal, plastic and glass by 1 January 2015.
- 3.2 The WFD therefore has significant implications for the Council in regard to the collection of dry recyclables, as the requirements will take effect during the life of a new contract. The tender specification includes options for contractors to include these materials.
- 3.3 The WFD also introduces a new provision which could have implications for refuse and recycling collections during the lifetime of the new recycling contract. Article 22 requires that Member States take measures, as appropriate (a) to encourage the separate collection of bio-waste with a view to its composting and digestion; (b) the treatment of bio-waste in a way that fulfils a high level of environmental protection; and (c) the use of environmentally safe materials produced from bio-waste. The effect of this is not known as the Government's initial response is that it recognises a need for separate collection of bio-waste [however] the cost to waste producers of separate collection is an important factor [and] evidence is that financial costs for English local authorities in respect of municipal food waste could be substantial. The Government further states that it encourages local authorities in England to consider separate collection of food waste for

anaerobic digestion, and is considering whether to introduce further requirements as part of its Renewable Energy Strategy.

- 3.4 The Landfill Directive/Landfill Allowance Trading has as its objective the reduction in the amount of biodegradable municipal waste that can be deposited into landfill sites with significant target deductions in the lifetime of the recyclables collection contract.
- 3.5 The Surrey-wide Memorandum of Understanding relating to the implementation of the Joint Municipal Waste Management Strategy for Surrey which the Council has signed up to is committed to achieving higher rates of recycling and composting in future years. Whilst there is no legal requirement to introduce a "step change" to significantly increase recycling rates there is an expectation that this will be done and the present low performance does impact on the Council's rating under Comprehensive Area Assessment.

Surrey County Council Financial Support

- 3.6 In addition, support is now being offered by Surrey County Council to provide three years of funding to assist with the set up and running costs of a kitchen waste collection service. Funding is being offered to all district and borough Councils in Surrey. The level of the grant to be based on the number of households in the Borough.
- 3.7 The financial support offered by the County Council for agreeing to provide a kitchen waste (food waste) collection service is a one off lump sum of approximately £250,000 capital and a further £98,000 per annum revenue for three years. The terms of the offer have yet to be finalised and the County Council has indicated that it would consider providing further revenue support after the initial three year period. Even if the sum remains for three years only; when spread across the seven years of the contract, this would equate to £42,000 per annum.
- 3.8 There are clear drivers to increase recycling above the present rate and reduce residual waste. It is becoming increasingly expensive to dispose of waste as landfill tax increases annually and failure to meet drastically reducing landfill targets will result in very substantial financial penalties. Added to this is the range of legislation coming into force in the form of Directives.
- 3.9 There is far greater environmental awareness amongst the general public and a keenness to recycle more, which is evidenced in the amount of material brought to the 'bring' sites - especially material such as plastic bottles and cardboard which is not currently collected from households.
- 3.10 The Audit Commission has consistently criticised Runnymede for its low recycling rates, supported by DEFRA and Surrey County Council.
- 3.11 The Surrey Waste Strategy has targets of 40% recycling in 2010 (which across the county as a whole, is already being exceeded), and 50% in 2015. Surrey County Council would like to increase the recycling rate further to 60% and possibly even 70%, taking Surrey from the bottom 25% of performers to the top quartile. The County Council is aware of the role that the districts and boroughs (Waste Collection Authorities) would have in order for such high rates to be achieved.
- 3.12 Several Surrey Districts and Borough Councils have recently made "step changes" to their refuse and recycling services, pushing up recycling rates to 50% or more. This includes introducing kitchen waste collections, collecting



a wider range of recyclable materials and moving to fortnightly refuse collections. By the end of 2010, only Runnymede, Reigate and Banstead, and Tandridge are still likely to have weekly refuse collections. Officers at councils including Elmbridge, Epsom and Ewell, Guildford, and Surrey Heath have all advised that their recent moves to fortnightly refuse collections alongside enhanced recycling and food waste collections have gone well. They have seen large increases in recycling rates with a corresponding reduction in the amount of residual waste. Appendix 'O' shows the levels of recyclables collected by all the districts and boroughs in Surrey.

Consideration for Award of Contract

- 3.13 It is suggested that in considering the look of the future recycling service, Members should decide on a preferred option, based on the various considerations and costs as set out in this report. Following that, consideration can be given to the award of the contract to the most economically advantageous tenderer which is assessed on the basis of the evaluation criteria supplied. A breakdown of tenderers' scores using the evaluation criteria is set out in Exempt Appendix '1'.

Award Options

- 3.14 There are four options which are based on the 2009/10 budget and Financial Forecast approved by Corporate Management Committee in October 2009 which includes an additional £180,000 per annum in funding. It should be stressed that in looking at potential costs for the various options below, assumptions have had to be made about income from material and recycling credit. Clearly this depends on the amount of material put out by the public for collection and the efforts to increase this by the eventual contractor.

Option A

- 3.15 This is the option of no change to the existing service: that is weekly collection of refuse and some recyclables (paper, glass, cans and textiles) and on the bids submitted would be likely to achieve savings of £127,000 per annum (see Exempt Appendix '2'). However, the Waste Framework Directive will impose on the Council a requirement to provide a kerbside collection service for plastics and cardboard (in addition to the materials already collected) from January 2015. Therefore, Officers and the Member/Officer Working Group consider that it would be more efficient to commence the collection of the additional materials required by the Directive at the outset of the contract in February 2011. This would save confusion to the public and cause less disruption to the service and the contractor in delivering it and avoid the potential for additional cost.
- 3.16 However, a collection of all the materials covered by the Waste Directive on the basis of weekly recycling and weekly refuse collection is likely to do little to boost recycling rates and would only break even (given the assumptions made in the evaluation process in regard to tonnages and material prices) when compared to the Financial Forecast and is not put forward as a recommendation on account of the Council's need to achieve cost savings.

Option B

- 3.17 This is the option of weekly recycling (excluding kitchen waste) and fortnightly waste collection.
- 3.18 In Runnymede it is estimated that a move to fortnightly refuse collection could boost recycling rates from the current 27% to between 45 – 50%. This could be achieved by the introduction of a comprehensive recycling service which

would be funded by reduced costs and increased income. It is estimated that a move to fortnightly refuse collection could reduce the number of rounds from five to three, although a detailed assessment of the operational implications of this would need to be undertaken. Such a reduction is anticipated to deliver £204,000 savings per year on waste collections and will increase the income from the sale of materials and recycling credits.

3.19 As the refuse collection service is run in-house, this has implications for existing staff. A reduction in two rounds affects two drivers and four loaders. However, an expected increase in garden waste collections will mean some redeployment to this area. As the new arrangements would not commence until February 2011 it is expected that any adjustments in staff numbers would be achieved by natural wastage. However, there has been consultation with refuse staff and their initial comments are set out in Section 8 of this report.

3.20 The best tender for fortnightly collection of refuse and weekly collection of recyclables would provide for recycling of the following materials:

- paper
- glass
- cans
- textiles
- plastic bottles
- other plastics
- cardboard
- tetrapaks
- batteries
- ink cartridges
- mobile telephones
- spectacles

3.21 This could potentially achieve savings of around £380,000 per annum with an initial outlay of £162,000 for an additional recycling container (see Exempt Appendix '2').

Option C

3.22 This is the option of fortnightly recycling and fortnightly refuse collection. This is the most cost-effective of all the options put forward by tenderers which would be to move to both fortnightly refuse and fortnightly recycling collections. This would be based on the same recyclable materials as Option B above. This could achieve savings of £710,000 per annum, again with an initial outlay of £162,000 for an additional recycling container.

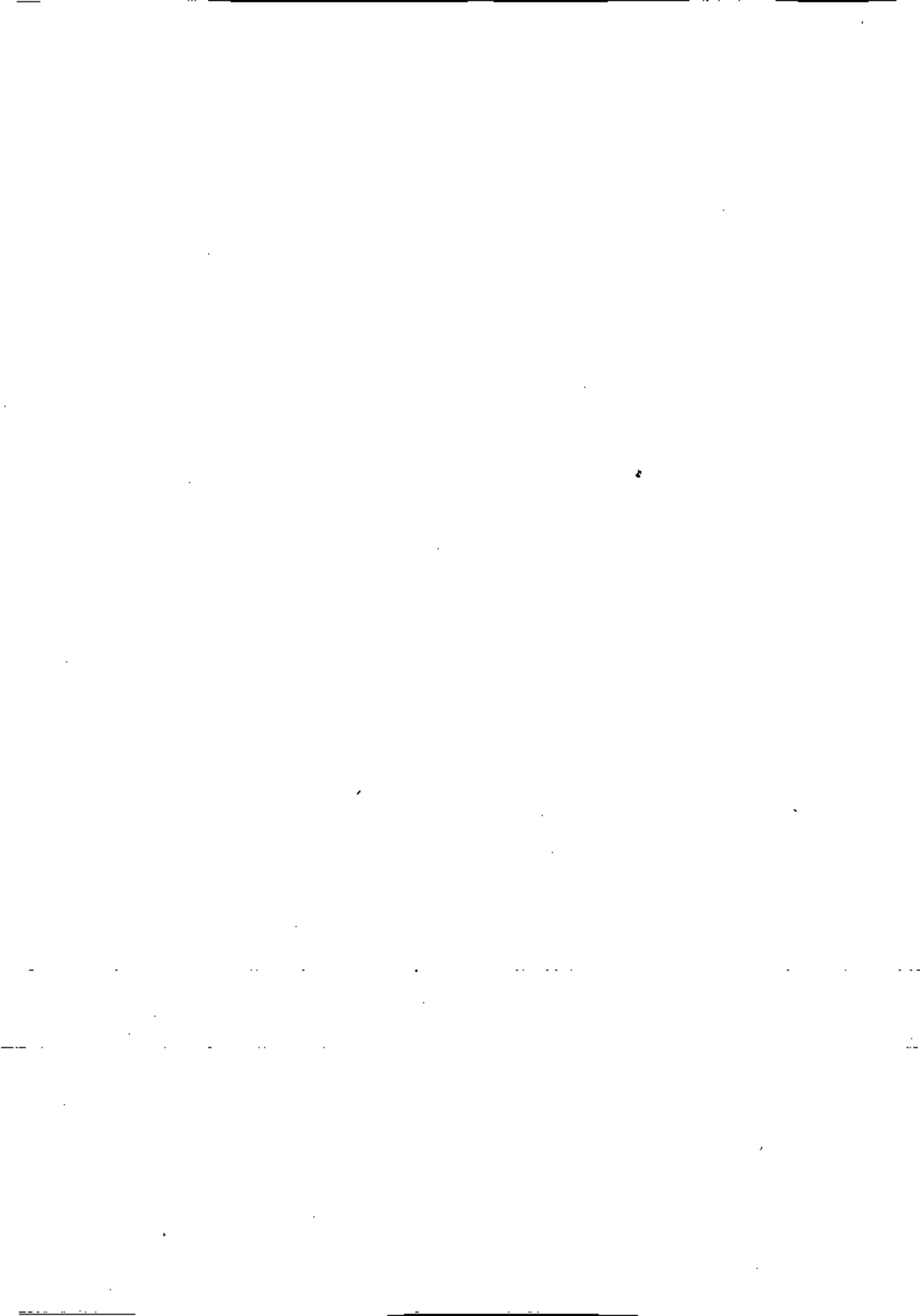
3.23 Whilst this has attractions in terms of the Council's financial position, it would be more difficult to gain public acceptance, as although the range of recycling material collected would greatly increase, the frequency of collection of both refuse and recycling would reduce.

3.24 In addition, a move to fortnightly refuse collections is best accompanied by a separate kitchen waste collection which removes many of the public's concerns about smells and vermin deriving from such waste remaining in wheeled bins for longer periods.

3.25 To add separate fortnightly kitchen waste to the collection on Option C reduces the annual saving to £560,000 but an additional £110,000 would also be required for the one off acquisition of kitchen caddies.

3.26 Ideally, kitchen waste needs to be collected weekly. If recycling and refuse collection were to be fortnightly then a separate weekly kitchen waste collection would cost an additional £500,000 per year, reducing the saving to £210,000 per annum.

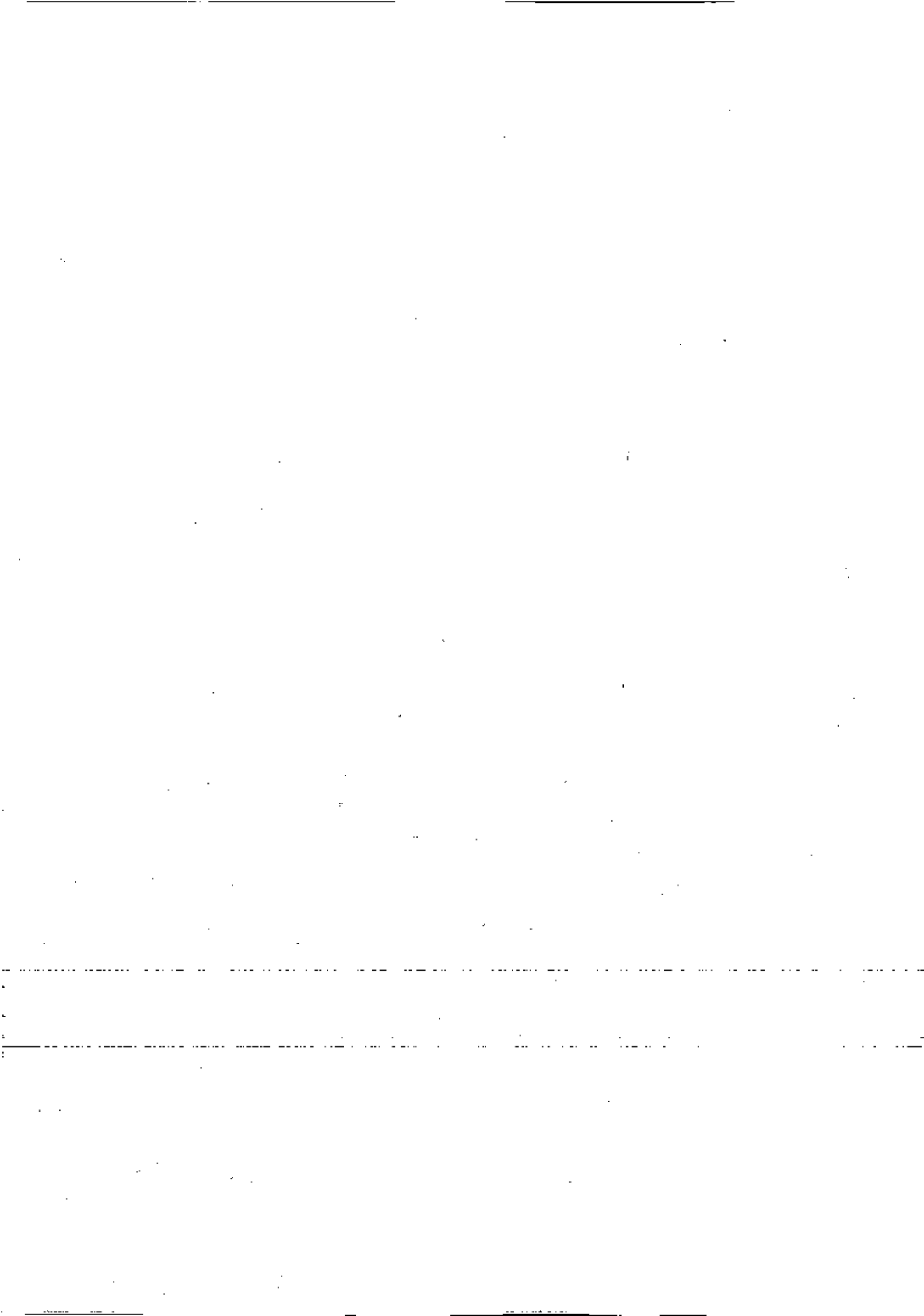
Option D



- 3.27 This is the option of weekly recycling, including kitchen waste and fortnightly refuse collection. If Members agree that a weekly collection of recyclable kitchen waste is desirable then it would be logical to have a weekly collection of all recyclables. This could be financially supported by a move to fortnightly refuse collections.
- 3.28 Option D is therefore a weekly collection of all the materials set out in paragraph 3.20, in addition to kitchen waste, with refuse collected on a fortnightly basis. Given the wide range of materials collected weekly for recycling, provided residents participated in the recycling scheme, they would have no need to have residual refuse collected on a more frequent basis.
- 3.29 This option could achieve a possible saving of £180,000 but must take into consideration the one-off additional cost for all storage containers of £272,000 – although the majority of this could be met from the Surrey County Council capital funding (see Exempt Appendix '2').
- 3.30 The Member/Officer Working Group and Officers recommend to the Committee that this is the option which is taken forward. It is anticipated that this option could boost recycling rates locally to between 45 and 50%.
- 3.31 In addition, the tenderer who has offered the best price for this option indicates that it will recycle kitchen waste. This should mean that the Council would be entitled to recycling credits which could add another £100,000 per annum to the savings. This does however need to be clarified. Therefore, this potential source of income has not been included in the financial analysis.

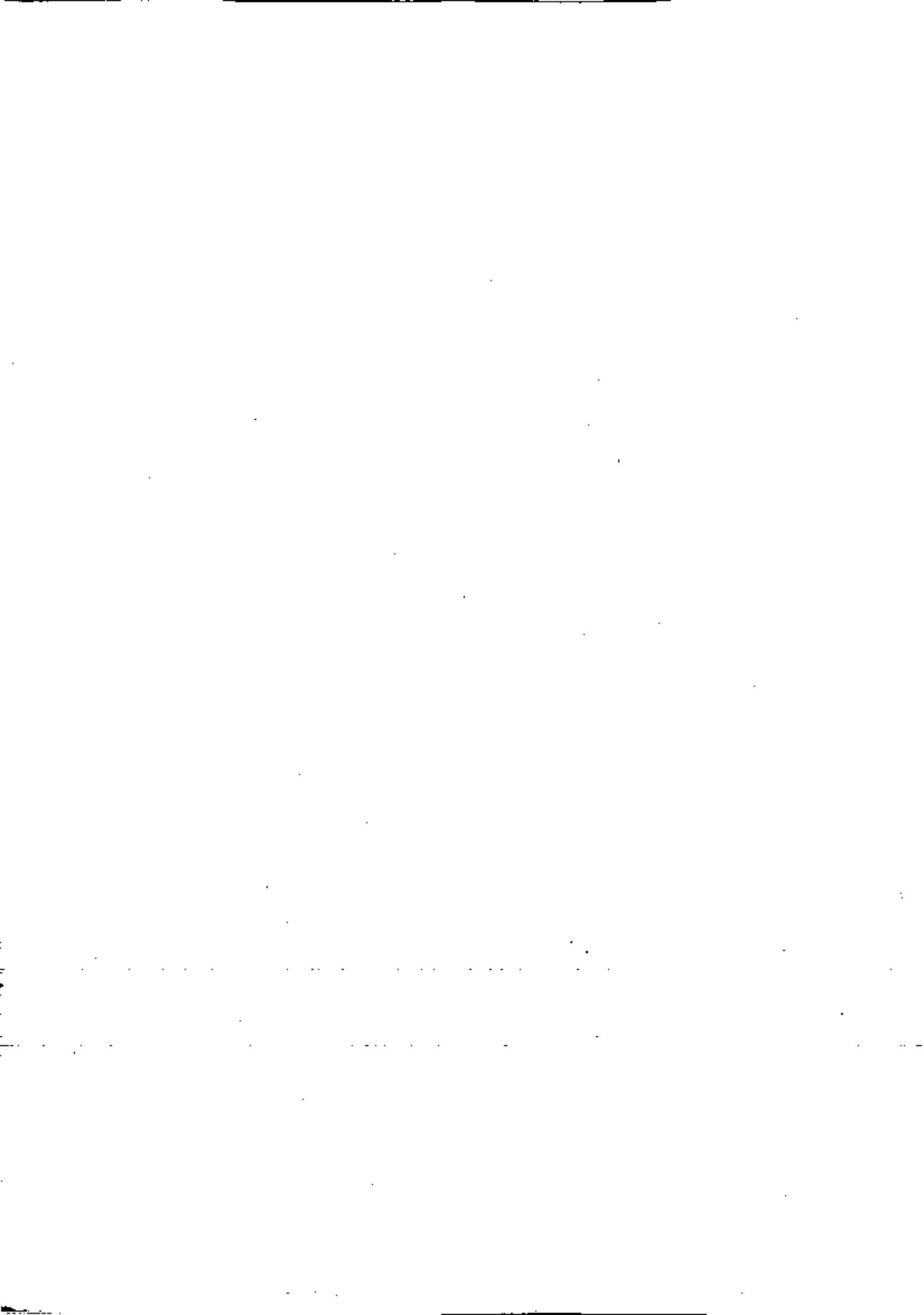
4. Tender Process

- 4.1 Shortlisted tenderers were invited to submit bids on a variety of basis, to determine which services would be feasible to pursue within existing budgetary arrangements. The options available ranged from prices for maintaining the existing services to fortnightly collections for both recycling and residual waste. Prices were also obtained for an enhanced collection service to include additional materials to those currently collected (paper, cans, glass and textiles). This could include the kerbside collection of plastics and cardboard; the kerbside collection of which will be a mandatory requirement from 1 January 2015. Tenderers were further provided with the option of pricing for the collection of additional materials including kitchen waste.
- 4.2 The tender process was carried out in accordance with the requirements of the Public Contracts Regulations 2006 (EU procurement regime). In addition, Officers have factored in time for the contractor appointed to procure vehicles and equipment. An estimated lead in period of at least seven months is required.
- 4.3 Based on Westminster City Council's initial ideas, this Council's pricing structures have been devised to enable the Council to share in the contractor's income from materials collected, whilst retaining an incentive for the contractor to continue to pursue the collection of high volumes of recyclable materials. Essentially, the Contractor charges an annual sum for the provision of the services (including all additional costs; for example, transport and disposal) and the Council receives 50% of the gross income from all receipts from the sale of materials. There is an element of risk as the income received is likely to fluctuate with the market value of materials. However, on balance this approach is perceived by Officers as likely to be financially beneficial throughout the life of the contract.



- 4.4 A strategy to pursue the kerbside separation of materials was considered to be most advantageous not only on account of the large capital costs involved in purchasing suitable containers for co-mingled waste but also because the value of the waste is much reduced when co-mingled and would not be compatible with the strategy pursued of maximising income from the waste for both the Council and future Contractor.
- 4.5 Whilst technology at material recovery facilities is improving so that contamination is reducing, currently Councils providing co-mingled recyclables to them do not receive income and also have to pay a gate fee for disposal. It is estimated that loss of income and additional costs would result in additional costs of £400,000 falling to the Council if a move from kerbside to co-mingled recycling was contemplated (based on Option D set out in Exempt Appendix '2').
- 4.6 In addition to the complexities of the pricing structure, tenderers were required to submit bids taking into account TUPE (Transfer of Undertakings (Protection of Employment) Regulations 2006) requirements and detailed method statements, setting out proposed resourcing and types of vehicles they would propose to use.
- 4.7 Bids were received by 5 of the 6 shortlisted tenderers on 30 November 2009. The Verdant Group decided not to submit a bid and Cheshire was subsequently placed into administration. It was initially proposed that Officers report to this Committee in January 2010. This was postponed to enable the Service Review Group to consider the waste and recycling strategy generally and agree an appropriate time to put forward recommendations for award. Both the Service Review Group and Member Officer Working Group have now considered the issues arising and have agreed that the award decision should now be considered by this Committee, followed by Corporate Management Committee and finally Full Council, in line with the following project management timetable:

Activity	Period	Date	Comments
Tender return date	61 days	30.11.2009	Completed
Evaluate Compliance with tender requirements	1 day	01.12.2009	Completed
Evaluate tenders Stage 1 Detailed evaluation of submissions • Technical • Experience			Completed
Evaluate tenders Stage 2 • Interview of Tenderers			Currently underway
Recommendation of Award of Tender by Leisure and Environment Committee		18.03.2010	
Recommendation of Award of Tender by Corporate Management Committee		08.04.2010	
Award of contract by Full Council		22.04.2010	
Standstill (formerly Alcatel) Period			10 days after electronic notification
Tender award date		03.05.2010	
Contract Start		01.02.2011	

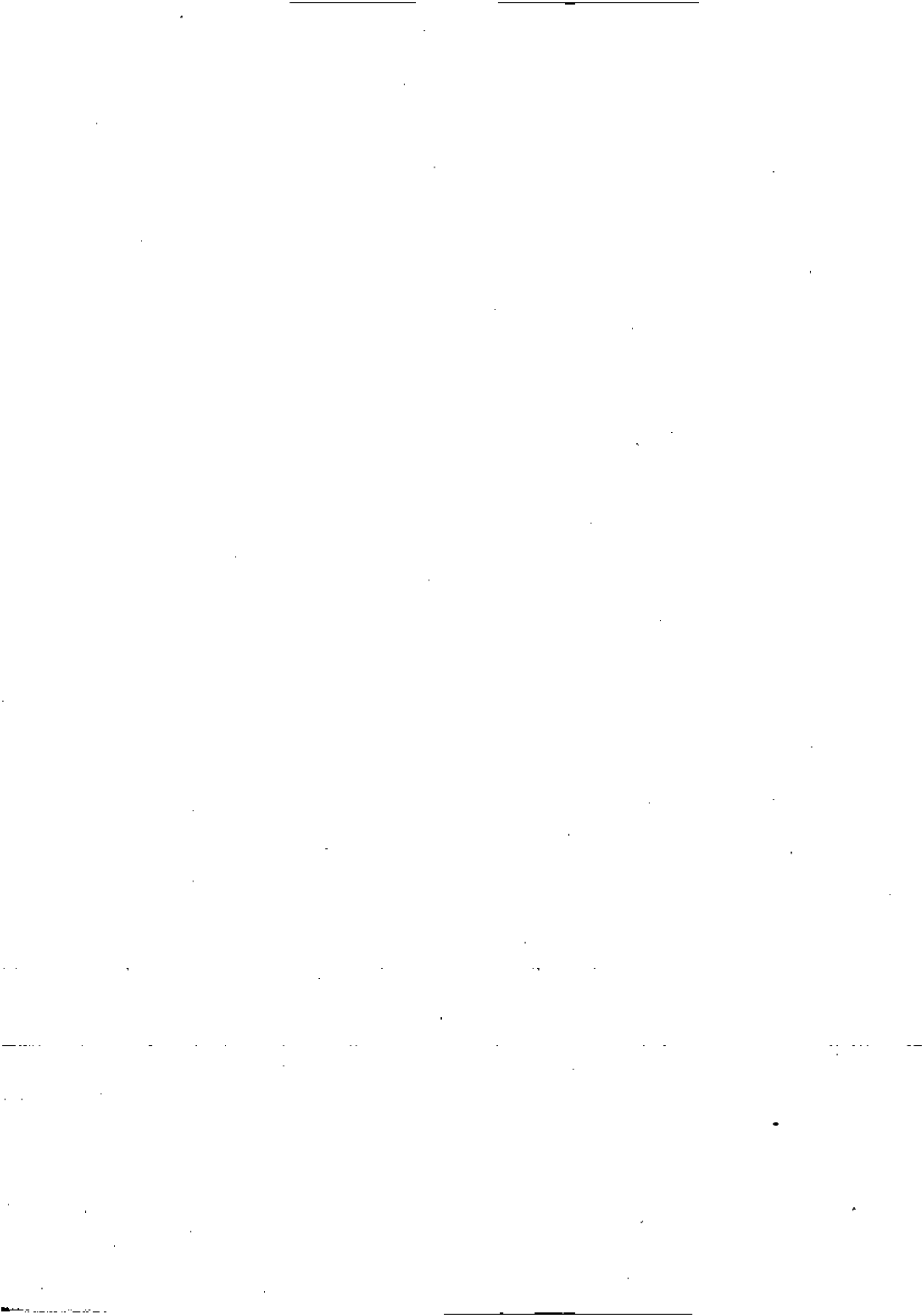


The Tender Submissions

- 4.8 Tenders were evaluated on the basis of the following criteria (weighting shown in brackets):-
- Price (80%)
 - Proposals, plans and initiatives to increase recycling rates and plans to introduce optional and/or additional items for recycling (10%)
 - Proposals to optimise the market value of materials recycled and secure exit contracts for recyclables (5%)
 - Quality control procedures and systems for managing the recycling service (1%)
 - Proposals to reduce emissions/ environmental impact of your vehicles (1%)
 - Complaints handling procedures (1%)
 - Equalities policies (1%)
- 4.9 The openness of the tender led to 84 different material combinations/collection frequencies being received. Due to the number of price evaluations required, it is not practical to list them all out in this report. However, Exempt Appendix '1' sets out the tenderers evaluation scores for each of the four options set out in this report.
- 4.10 Save for the current liquidity problems suffered by the current contractor, any one of the organisations submitting a bid would meet the criteria in terms of quality of their bid and ability to carry out the services. On three of the four options, Biffa Waste Services achieved the highest evaluation score by some margin. The one option where Biffa failed was Option A - the re-provision of the current service.
- 4.11 Biffa Waste Services, a private company, was formed from Biffa PLC in April 2008, by a consortium led by Montagu Private Equity and Global Infrastructure Partners in a £1.7 billion transaction. Biffa is a leading nationwide integrated waste management business in the UK, operating in all areas of waste. Biffa provides waste collection, transfer and logistics, recycling, treatment, recovery and disposal services, together with the management of hazardous waste and the provision of a range of environmental services to approximately 65,000 local, regional and national customers in the UK. This includes a significant presence in the public sector, providing street cleansing, waste collection, recycling, recovery and disposal services to over 30 local authorities and a wide range of other public bodies. The company has provided contact details of various waste and recycling collection and disposal contracts at 20 local authorities including three in Surrey (Mole Valley District Council, Tandridge District Council and Woking Borough Council).
- Administration of Bridgewater Paper
- 4.12 Cheshire Recycling's parent company Bridgewater was placed into administration on 2 February 2010 and subsequently ceased production - it had faced soaring energy bills, high raw material costs and difficulties in increasing prices for the newsprint it produced.
- 4.13 Within ten days Cheshire followed suit, and the administrators sold the assets of the company to German-owned Palm Paper Limited. Palm has contacted

Officers and confirmed that a new subsidiary called Palm Recycling Limited will continue to service Cheshire Recycling's local authority clients.

- 4.14 Palm Paper opened a new newsprint mill in King's Lynn last year and the acquisition of Cheshire Recycling is seen as the means by which this will be provided with recycled paper. There is to be no change in the current contractual arrangements, and the contract will continue to run until the end of January 2011.
5. Council Policy
- 5.1 The Council's Sustainable Community Strategy and Corporate Plan set out the vision to enhance the quality of life for residents, visitors and businesses.
- 5.2 In terms of recycling, the Plan sets out actions to promote the sustainable use of resources and meet Government targets and National Performance Indicators.
6. Resource Implications
- 6.1 The current contract costs approximately £167,000 per annum, after taking into account the income from sale of materials and recycling credits from Surrey County Council (for avoidance of disposal costs). A further £110,000 per annum is spent on servicing banks on Bring Sites throughout the Borough. Consideration would be given to removing the banks for plastic bottles and cardboard should the new contract be extended to include these materials, therefore saving on some of these substantial collection costs.
- 6.2 In evaluating the affordability to the Council of each tender submission, Members should be aware of some of the assumptions that have been made. Income projections have been based on average tonnages collected for a range of options (using the figures submitted by all the tenderers), should tonnages vary by 10% this could potentially affect the income by £70,000. Likewise, income from the sale of the materials collected has been based on material prices from October 2009. Using the figures for November 2009 affects the income generated by approximately £7,000.
- 6.3 The Financial Forecast approved in October 2009 includes additional provision for the recycling service of £180,000 in 2010/11 onwards. This is additional money to that which is currently spent on the service and was included to recognise the likelihood that the new contract will be at a higher price than the current competitive bid. The options considered in this report have been compared against this Financial Forecast figure.
- 6.4 The Council is currently looking for savings of around £1.5m in order to bring into balance its income and outgoings over the medium term. The tenders received by Biffa for all four options highlighted in Exempt Appendix '1' would contribute towards this by not calling on all of the additional money identified in the Financial Forecast, and would provide a cushion should there be an adverse effect on the level of income generated from these proposals.
- 6.5 Surrey County Council funding of approximately £250,000 capital (single payment) and £98,000 per annum revenue for three years is still subject to discussions between Runnymede and the County Council. If agreed, any funding from them towards the implementation of a food waste collection scheme is to be welcomed. However, as with all time limited contributions, the Council will need to ensure that once the three year revenue funding is over, there are alternative measures in place to ensure that the additional costs of running such a scheme are met by other means.



6.6 The staff employed by the current recycling contractor would have their terms and conditions preserved under TUPE (Transfer of Undertakings (Protection of Employment) Regulations) legislation. Whilst this would be a matter between the two companies, the Council would wish to ensure that the new employer fully meets their legal obligations in this regard.

6.7 In addition, it is recommended that in preparation for the new contract, and immediately after it commences, there will be a need to employ temporary staff to enforce the current bin policy and educate the public in terms of recycling their waste. This was something that was requested by the Member Group on Waste and Recycling some 18 months ago, but fell by the wayside when the reduction in refuse rounds took longer to stabilise than originally envisaged. This would be part of a communications strategy which will be reported to this Committee in due course.

7. Legal Implications

7.1 The proposed recyclables collection contract has been let under the regime set out in Public Contracts Regulations 2006 and in accordance with EU procurement law. The Authority is not obliged to make an award of contract following the tender exercise. However, following any such award recent caselaw (the Presstext case) has established that the Council would need to exercise caution should any variations (not anticipated in the tender documentation) be required. Essentially this means that upon award the Council will be bound to their decision for the seven year duration of the contract.

7.2 The Waste Framework Directive will impose the requirement to collect plastics and cardboard in addition to materials already collected by this Council from the beginning of 2015, i.e. in the fifth, sixth and seventh years of the contract.

7.3 Officers strongly recommend that any contract includes at least the material required to be collected in 2015, so that there is no need for further change when that legislation is introduced, which would cause disruption and confusion to the public.

8. Comments from Staff and UNISON

8.1 The refuse crews have been consulted about possible changes and their initial views are set out below. Clearly there will be further opportunities for them to put forward comments and concerns as this matter is later considered by the Corporate Management Committee before a final decision by Full Council at the end of April 2010.

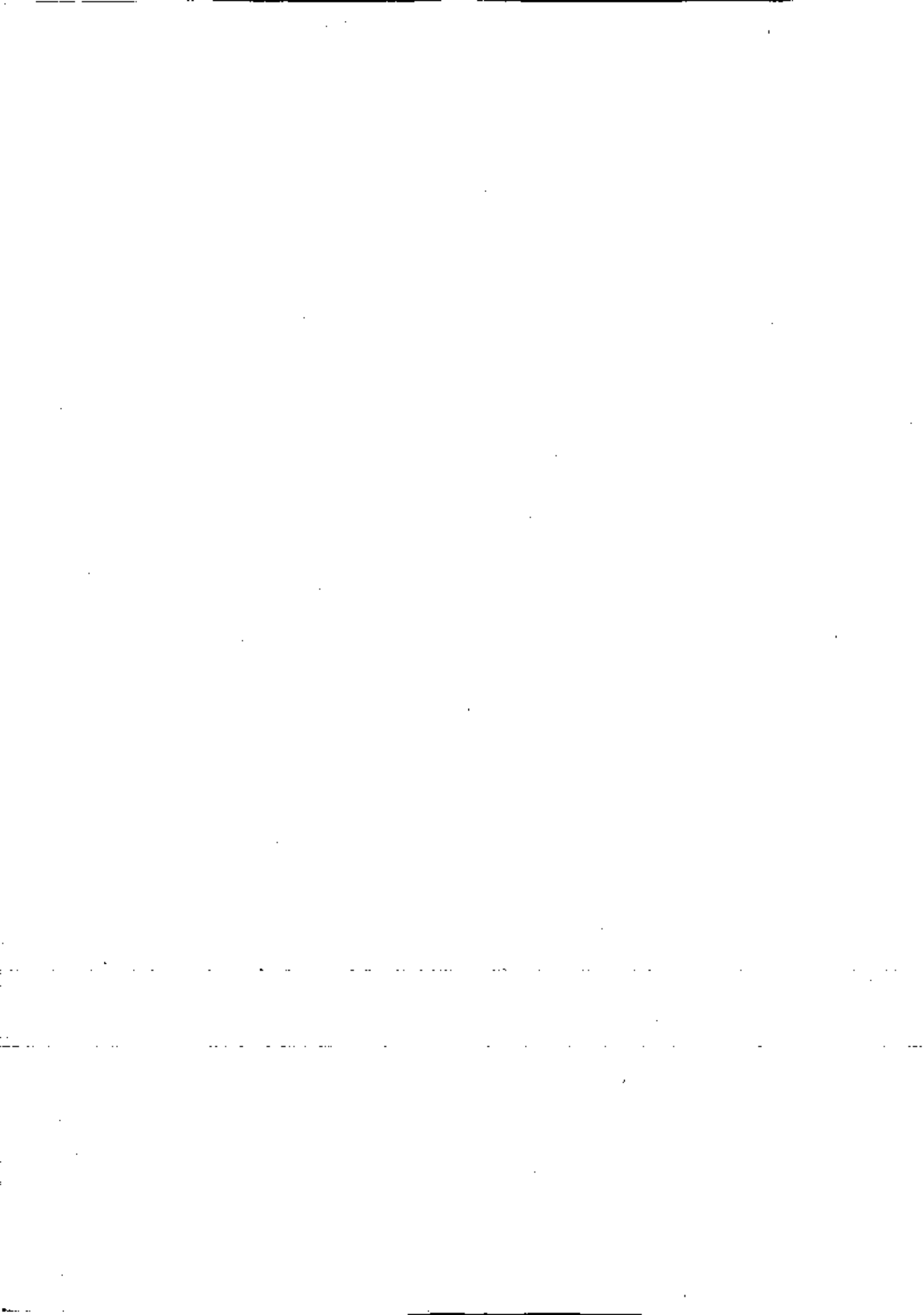
8.2 Inevitably, initial concerns were over a reduction in jobs and whether this could be achieved through natural wastage. There was also concern about any public anger regarding changes being directed at them whilst working and it was agreed that ample publicity information needed to be provided to the public.

8.3 Staff commented that it would be necessary to re-arrange all remaining rounds to ensure equality of workload and felt it necessary to have close working relationships with the recycling contractor.

8.4 The comments of UNISON are at Appendix 'P'.

9. Equalities Implications

9.1 An Equality Impact Assessment is attached at Appendix 'Q'.



9.2 The current provision of wheeled bins and recycling containers would be retained, albeit with an additional container, so many of the equalities issues would remain unchanged. The current arrangements to provide assisted collections for elderly and disabled residents would remain.

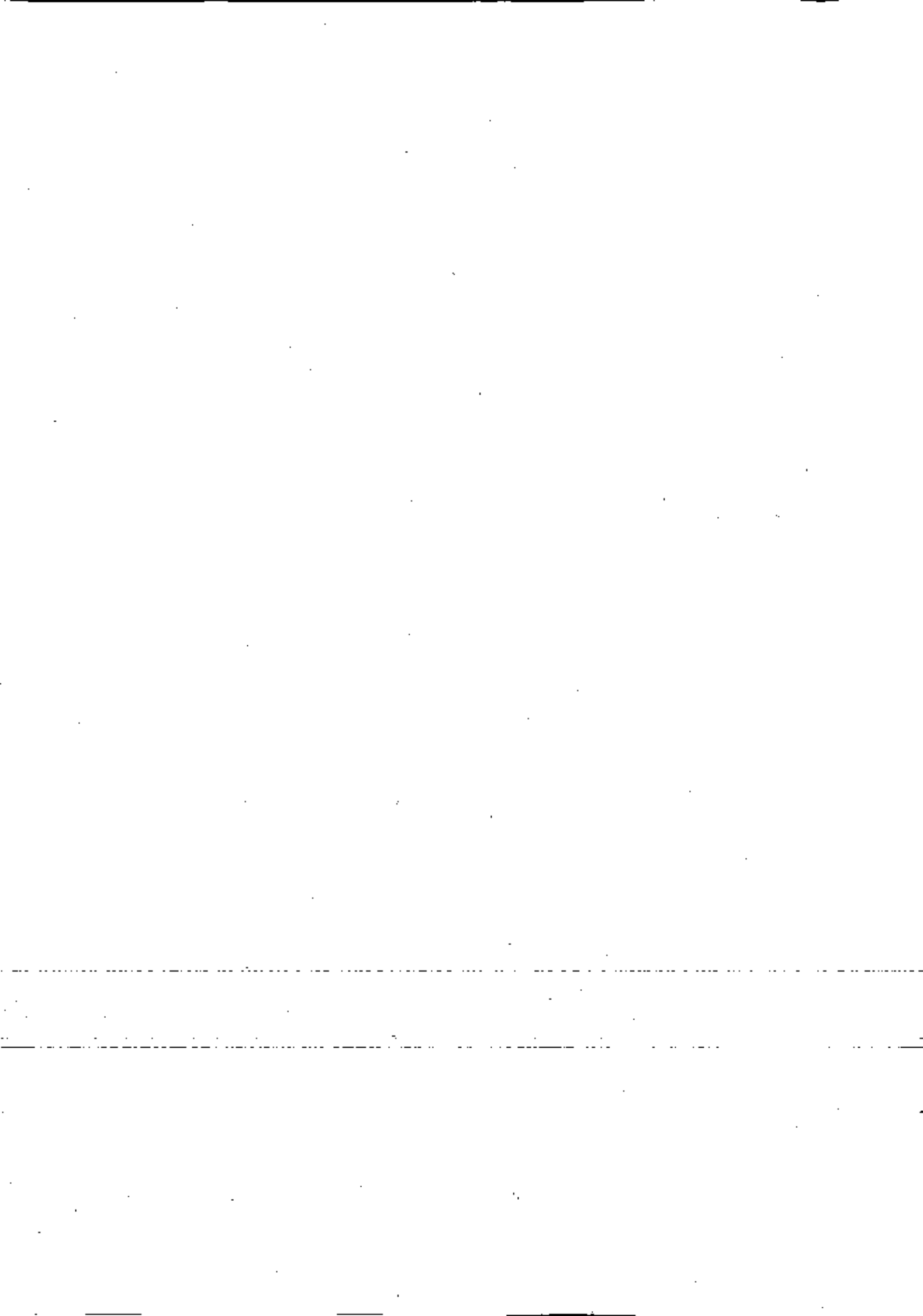
9.3 Consideration does however have to be given to the following issues:

- Older and disabled residents may have some difficulty with the use of the collection containers and may find the containers too large.
- Boxes of recyclable materials can be too heavy for disabled or older people to carry. If bags are used, these may split if people drag them along the ground because they can't carry them.
- If boxes are used without lids, paper gets wet and the box is then even heavier.
- Some residents may have difficulty in remembering what can and cannot be recycled and how the materials should be sorted.
- Visually impaired residents may have difficulty in distinguishing the different bins used for recycling.
- Visually impaired residents may have difficulty in cleaning out kitchen caddies, cans and bottles, resulting in smells or vermin.
- Visually impaired residents in particular have problems when collection crews do not leave empty boxes and other containers in the precise location as the resident left them for collection.
- Wheelchair users who travel independently by car have problems if containers are left on their driveways such that they cannot drive their cars onto their property in order to transfer from car to wheelchair.
- Wheelchair users and older people may have difficulty in using a wheeled bin. If minority groups have more difficulty than others this is not justified and reasonable adjustments will need to be made to enable everyone to use the bins provided.
- Provision may have to be made for larger families in terms of a larger or additional bin. Consideration will also have to be given to nappy disposal as well as incontinence pads.
- Those persons for whom English is not their first language may have difficulty in understanding written advice on the changes to the service.
- People without transport would have difficulty taking excess material to the civic amenity sites.

10. Conclusions

10.1 Given the legislative changes that come into force in 2015 it is recommended that the recycling contract starts with at least this range of materials. The best bid includes a wide range of recycling materials. To encourage recycling and reduce costs to afford such an extensive recycling scheme it is recommended that refuse collection move to a fortnightly basis.

10.2 To accompany fortnightly refuse collection, a kitchen waste collection is desirable, preferably on a weekly basis. If this is collected weekly, then to



save a separate collection service, it is recommended that all recyclables are collected weekly. It is therefore recommended that Option D be adopted.

- 10.3 As indicated in Exempt Appendices '1' and '2', when all the evaluation criteria are considered, the highest scoring tenderer is Biffa Waste Services and it is recommended that they be awarded the tender.
- 10.4 Although the decision to award this contract rests with this Committee, it has previously been agreed that any changes to the frequency of refuse collections will be made by Full Council, following a recommendation from the Corporate Management Committee. Given that the decisions on both the recycling contract and future of refuse collections are interdependent, it is recommended that this Committee makes a formal recommendation to the Corporate Management Committee.

OFFICERS' RECOMMENDATION that -

the Corporate Management Committee be recommended to:

- i) award the contract for the provision of a weekly recycling service for those materials in Option D at Exempt Appendix '2', including a weekly collection of kitchen waste;**
- ii) award the recycling contract to Biffa Waste Services commencing on 1 February 2011; and**
- iii) introduce the collection of refuse on a fortnightly basis commencing on 1 February 2011.**

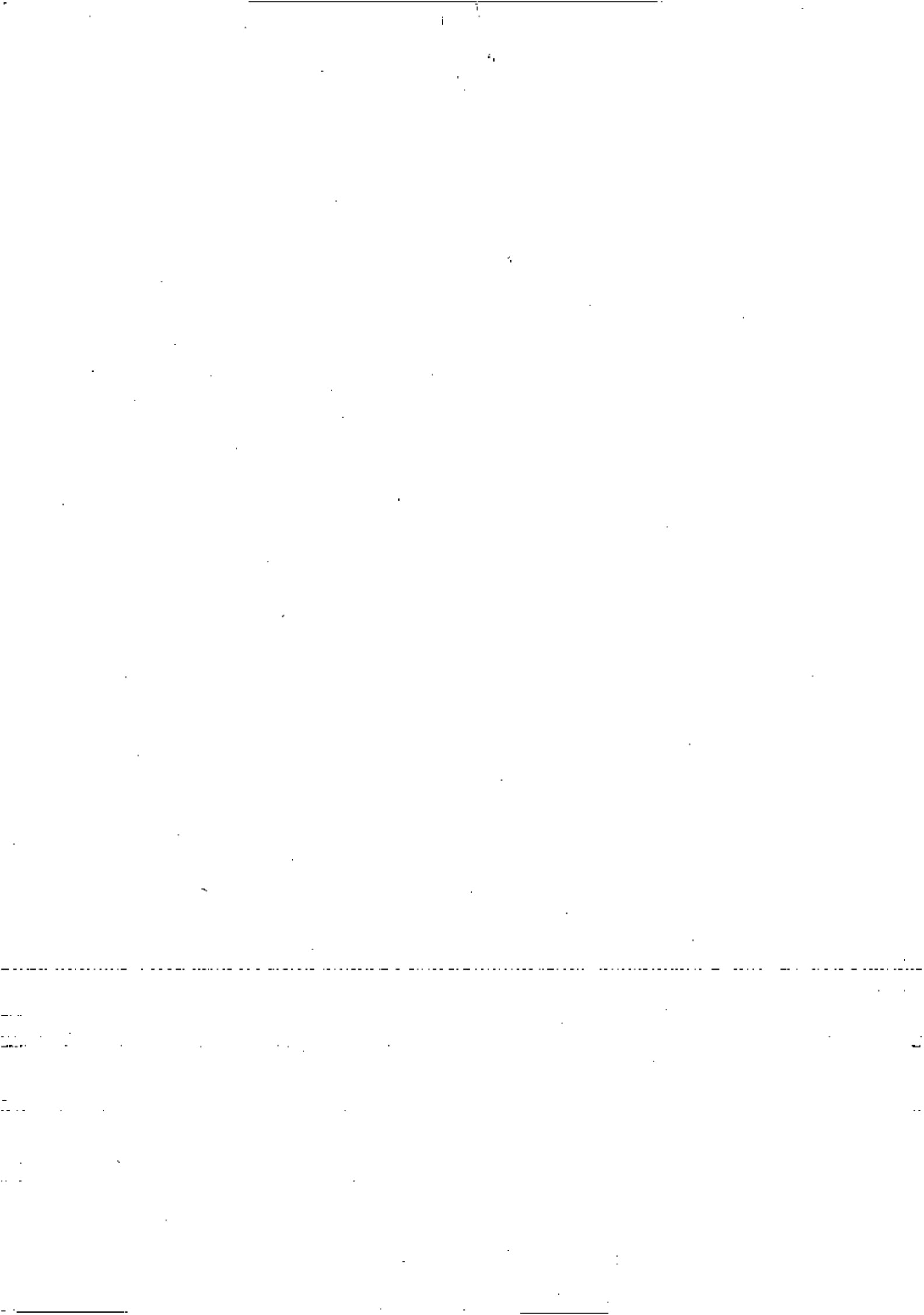
{TO RECOMMEND}

Background Papers

The Waste Framework Directive (WFD) (Directive 2008/98/EC).

Stage One: Defra Consultation on the transposition of the revised Waste Framework Directive.

Memorandum of Understanding for the implementation of the Surrey Joint Municipal Waste Management Strategy.



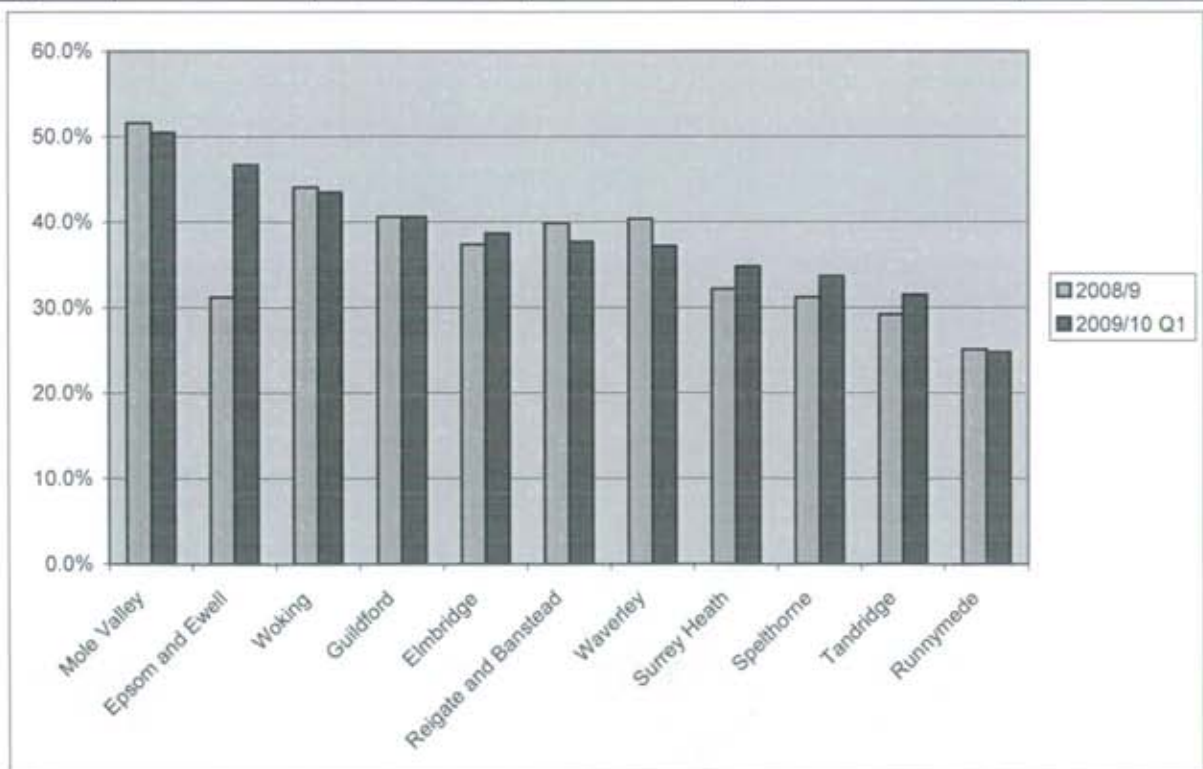
District and Borough Recycling Statistics

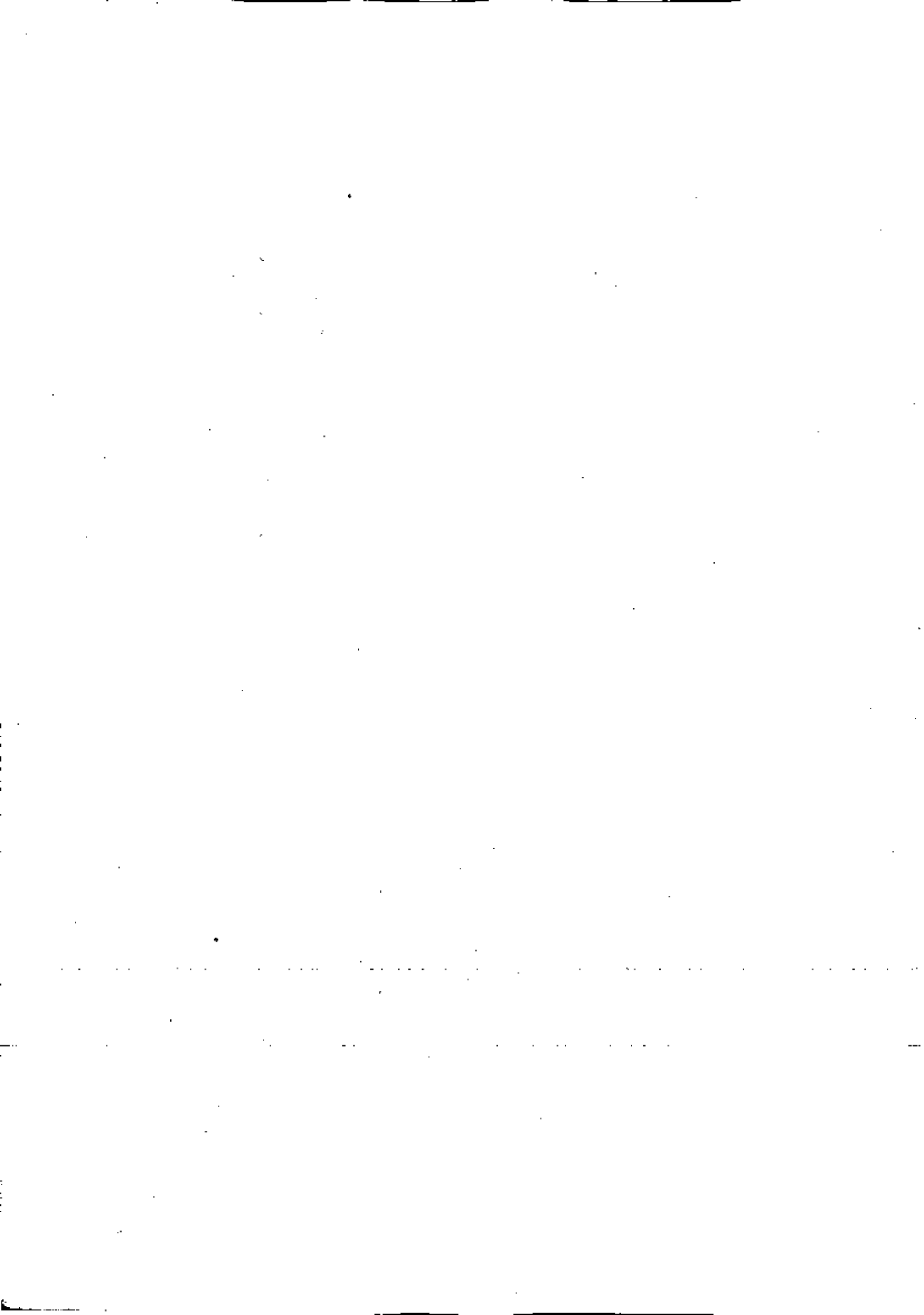
Waste Collection Authority NI 192 Percentage HH Waste Sent For Recycling, Reuse or Composting

Authority	Qtrs 1 & 2 2009/10	Qtrs 1 & 2 2008/9	Difference	Position Qtr 1& 2 2009/10	Position 2008/9
MoleValley	50.5%	50.5%	0.0%	1	1
Epsom	46.7%	32.1%	14.6%	2	7
Woking	43.5%	44.9%	-1.4%	3	2
Guildford	40.6%	41.0%	-0.4%	4	3
Elmbridge	38.7%	37.7%	1.0%	5	6
Reigate	37.7%	40.9%	-3.1%	6	4
Waverley	37.2%	38.9%	-1.7%	7	5
Surrey Heath	34.8%	31.8%	3.0%	8	8
Spelthorne *	33.7%	26.0%	7.6%	9	11
Tandridge	31.5%	28.5%	2.9%	10	9
Runnymede	24.8%	25.3%	-0.5%	11	10

Waste Collection Authority NI 192 Percentage HH Waste Sent For Recycling, Reuse or Composting

Authority	2009/10 Projection	2008/9 Actual	Difference	Position 2009/10 Projection	Position 2008/9
MoleValley	50.8%	51.6%	-0.8%	1	1
Surrey Heath	47.4%	32.2%	15.2%	2	7
Woking	47.0%	44.1%	2.9%	3	2
Epsom	46.0%	31.2%	14.8%	4	9
Guildford	44.9%	40.6%	4.3%	5	3
Elmbridge	43.9%	37.4%	6.5%	6	6
Reigate	40.0%	39.9%	0.1%	7	5
Waverley	36.8%	40.4%	-3.6%	8	4
Spelthorne	34.1%	31.2%	2.9%	9	8
Tandridge	32.3%	29.2%	3.1%	10	10
Runnymede	25.1%	25.1%	0.0%	11	11







Runnymede UNISON
Comments on "Renewal of Kerbside Recyclables Collection Contract"
Leisure and Environment Committee 18 March 2010

UNISON represents members in all sections of the DSO and at the Civic Centre who are involved with both refuse collection and recycling which are two separate services.

UNISON's national policy is to support the in-house provision of all services. At branch level this is on the basis and agreed understanding that services should be resourced properly and sufficient service level agreements exist so that staffing and other resources are not stretched to the detriment of one service over another if there are staff shortages or a conflict in priorities.

UNISON appreciated the briefings at the DSO given by the Director of Technical Services. They were well attended and several issues were raised. A written note with contacts was produced for those unable to attend which was very useful and has been displayed at the DSO.

Refuse staff at the DSO were very disappointed not to be considered for the recycling contract. It is understood that this was primarily on the grounds of cost; which formed 80% of the evaluation.

Staff were surprised that the DSO bid was not considered cost effective and that another company was able to offer a lower price and make a profit.

It is understood that alternate weekly collection; refuse one week and recycling the next, has also been discounted.

Refuse staff are also concerned that a move to fortnightly collection will result in heavier bins, more trips to the tip and potential conflict with residents who need to be educated to recycle more and abide by council policy regarding side waste and prohibited items being placed in the refuse bins. Unless adequately sized recycling receptacles are provided for residents any excess recycling, if not taken to the recycling sites within the Borough, would possibly be put into the household bin thus creating heavier bins for refuse collectors.

Without further information, the case for the wholesale reduction of 'bring sites' for recycling cannot be endorsed. There will always be 'hard to reach' properties, residents that are unable to accommodate the different receptacles needed, and those who prefer to go to the bring sites or who need to on occasion to supplement the kerbside collection service.

The Council will need to be consistent in its approach to a new regime and avoid front line staff being criticised. It is understood that staff are provided

with cards to give residents that need clarification or assistance on either refuse or recycling.

If the recycling contract is provided by an outside contractor the relationship between refuse and kerbside recycling is minimal and there is little overlap between the management arrangements and no need to re-locate staff.

UNISON does have concerns for front-line and office staff at the DSO and civic centre regarding workload and other related issues which need to be addressed separately as these implications are clarified over the next few months.

UNISON is concerned that an external contractor maintains its duty of care towards employee health and safety and exercises fair employment practices, the monitoring of which is the contractor's responsibility although the Council's duty of care remains.

In terms of representation, externalised staff and contractors are entitled to join a union, and if their union is UNISON, there is no doubt that dealing with an external contractor poses issues which do not exist when negotiating with an in-house employer.

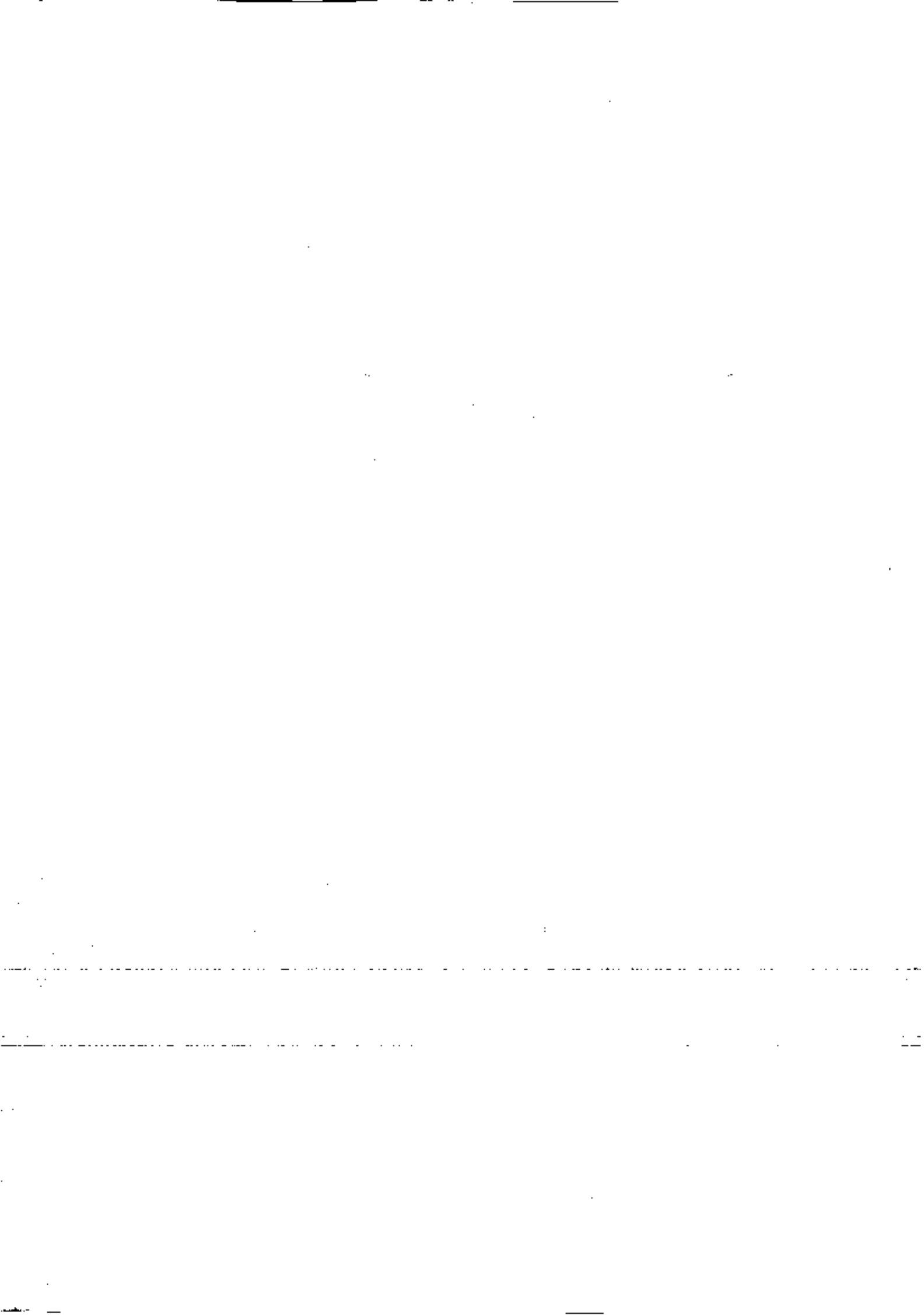
Staff have expressed legitimate concerns about the future provision of the refuse service and other DSO functions like street cleansing etc.

A reduction in the main refuse rounds from five to three is a concern as to how this can be practicably achieved through natural wastage. Therefore, UNISON seeks, on behalf of its members, to minimise compulsory redundancies. A new redundancy policy is being discussed with the employer in respect of the whole authority which should set out clear selection and consultation procedures, options and information for staff.

There should be scope for re-deployment from refuse to the in-house aspects of recycling, perhaps with the possibility of enhancing street cleansing arrangements and the green waste collection service to accommodate other functions not provided by the external contractor and to assist with the educational and enforcement role of a change in service provision. This will require a degree of flexibility and increased support for staff.

UNISON will continue to support the DSO and the directly employed staff involved with all aspects of recycling and negotiate on their behalf to protect their interests in the future, whilst having regard for a high standard of service delivery.

Runnymede UNISON
12 March 2010.



EQUALITY IMPACT ASSESSMENT

**SERVICE:-
REFUSE AND RECYCLING**

**LEAD OFFICER:-
Peter Sims**

SERVICE OBJECTIVES:-

To provide a waste and recycling collection service to all residential properties in Runnymede. Consideration is being given to extending the range of recyclables collected, including kitchen waste and maintaining this on a weekly basis. At the same time, residual household waste would change from a weekly to a fortnightly collection service. Residents can 'opt-in' to a fortnightly chargeable green garden waste collection service. Changes to the range of recyclables collected and frequency of waste collections would be implemented in February 2011.

Does the service involve, or have consequences for, any of the people served or employed by Runnymede? Yes

If so, please state for whom:

The service is delivered to all households in the Borough and therefore has an impact on all residents.

Residents will have to recycle and minimise their waste if they are to manage with fewer collections of their wheeled bins.

Staff in the DSO will have to collect and move wheeled bins which may be heavier once they are emptied on alternate weeks.

Some residents might be abusive towards refuse operatives and staff answering telephone enquiries.

Could the service be delivered differently because of people's racial group, ethnicity, disability, gender, religion, belief, sexual orientation or age, for example, because they have particular needs, experiences or priorities?

Disability

Age

Race

Religion

Gender

Sexual
orientation

Do you know how these groups could be affected?if "yes", please state how (eg. Existing customer feedback , statutory constraints on your service)

Existing customer feedback including complaints; previous consultations; feedback from other authorities.

An 'assisted service' for refuse collection is already provided for elderly and disabled residents, identified by the ROCC refuse management system, whereby crews pull out and return bins.

The Council offers a collection service for residents without the means of carrying bulky items to a community recycling centre.

One free collection in a 12 month period is offered for residents in receipt of means tested benefits e.g. income support.

One free collection in a 12 month period is offered to residents over 75 years old.

If "no", who will you consult to find out? How will you ensure you consult 'hard-to-reach' groups?

RESEARCH/CONSULTATION

Please give details of any consultation the service has already undertaken to establish that it is accessible for all members of the community. This might include feedback when work has been completed for tenants, or Residents' panel feedback or regular service reviews.

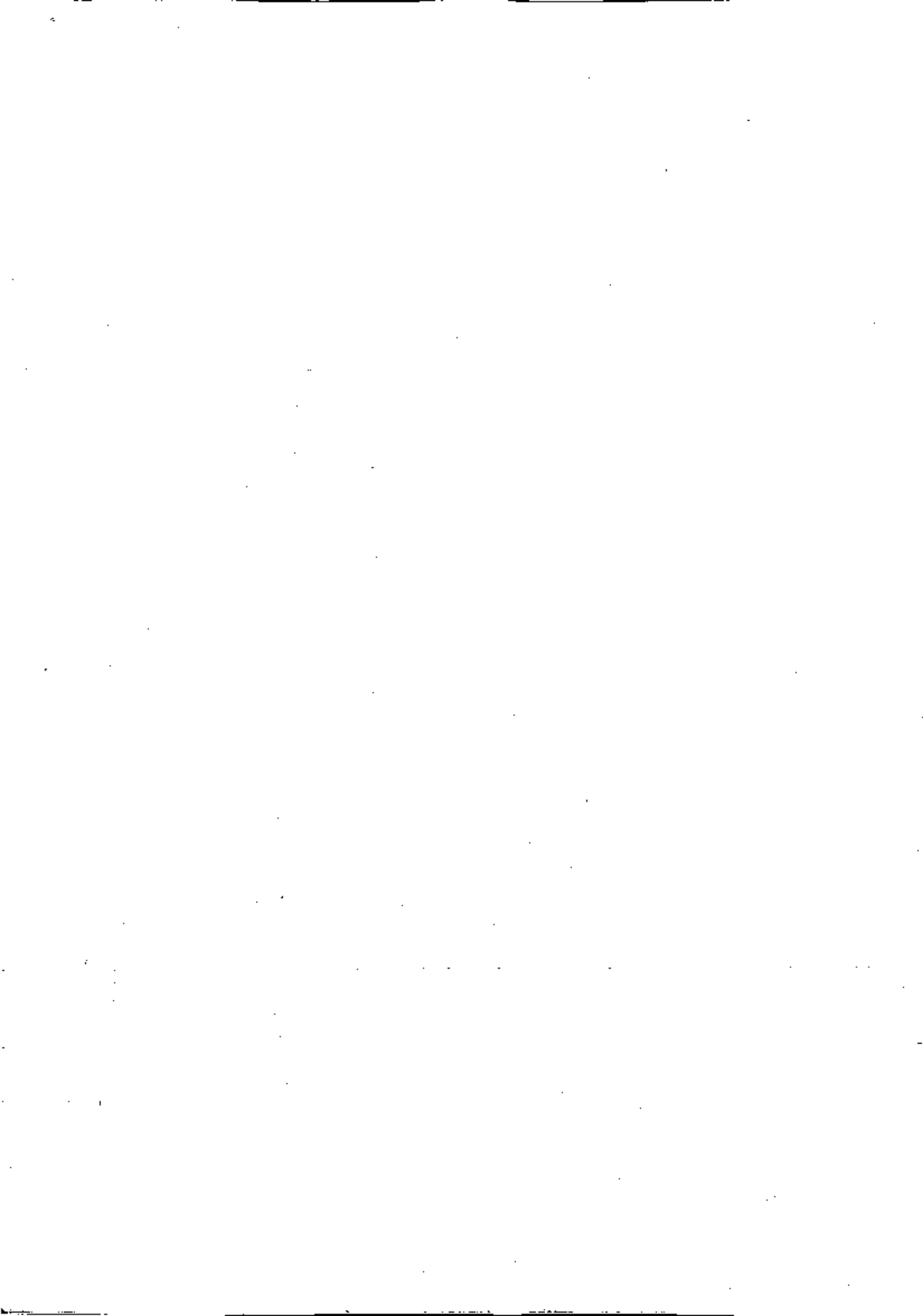
As above

IMPACT ASSESSMENT

From the data you have available, is it possible to establish whether any specific group might be more adversely (or positively) affected than others, consider what the potential impact might be. Could the policy lead to direct or indirect discrimination? If you don't know, it may be that you need to undertake more consultation to find out.

It is often helpful to review the impact under the headings of the different equality strands, i.e. Race/disability/gender/age/religion or belief/sexual orientation/age.

- Older and disabled residents may have some difficulty with the use of the collection containers and may find the containers too large.
- Boxes of recyclable materials can be too heavy for disabled or older people to carry. If bags are used, these may split if people drag them along the ground because they can't carry them.



- If boxes are used without lids, paper gets wet and the box is then even heavier.
- Some residents may have difficulty in remembering what can and cannot be recycled and how the materials should be sorted.
- Visually impaired residents may have difficulty in distinguishing the different bins used for recycling.
- Visually impaired residents may have difficulty in cleaning out kitchen caddies, cans and bottles resulting in smells or vermin
- Visually impaired residents in particular have problems when collection crews leave empty boxes and other containers on the footway. In addition, visually impaired people have difficulty if care is not taken to replace the boxes to the precise location as the resident left them for collection.
- Wheelchair users who travel independently by car have problems if containers are left on their driveways such that they cannot drive their cars onto their property in order to transfer from car to wheelchair.
- Wheelchair users and older people may have difficulty in using a wheelie bin. If minority groups have more difficulty than others this is not justified and reasonable adjustments will need to be made to enable everyone to use the bins provided.
- Provision may have to be made for larger families in terms of a larger or additional bin. Consideration will also have to be given to nappy disposal as well as incontinence pads.
- Those persons for whom English is not their first language may have difficulty in understanding written advice on the changes to the service.
- People without transport would have difficulty taking excess material to the civic amenity sites.

DOES THE POLICY REQUIRE AMENDMENT OR RE-CONSIDERATION?

Either outline changes required or indicate why none are necessary.

No, although consideration needs to be given to addressing the above issues.

What actions or changes will you feed into your service as a result of this EIA?

Prepare for the introduction of a revised scheme with sufficient literature for residents and provide assistance for those who have difficulty in understanding the changes.

Extra staff will be required during a changeover to a new scheme.

Date completed: February 2010