

To: Members of the Special Sub-Group

Councillors Humphreys, Phillips, Smith, M Stanley and Sweet

For the information of the other Members of the Council

SPECIAL SUB-GROUP

9 MARCH 2015

The Special Sub-Group will meet in the Council Chamber, The Council House, South Street, Atherstone on Monday 9 March 2015 at **3.00 pm**.

AGENDA

PART I - PUBLIC BUSINESS

- 1 Evacuation Procedure.**
- 2 Apologies for Absence / Members away on official Council business.**
- 3 Disclosable Pecuniary and Non-Pecuniary Interests**
- 4 Public Participation**

Up to twenty minutes will be set aside for members of the public to ask questions or to put their views to elected Members. Participants are restricted to five minutes each. If you wish to speak at the meeting please contact David Harris on 01827 719222 or email democraticservices@northwarks.gov.uk.

**PART A – ITEMS FOR DISCUSSION AND DECISION
(WHITE PAPERS)**

- 5 **Review of Flexible Working Policy and Leave Guidance and the Management of Contractors Policy** - Report of the Assistant Director (Finance and Human Resources)

Summary

This report reviews and updates existing policies.

The Contact Officer for this report is Janis McCulloch (719236).

- 6 **The Inclusion of Overtime in Holiday Pay** - Report of the Assistant Director (Finance and Human Resources)

Summary

This report advises Members of the background to including overtime in holiday pay.

The Contact Officer for this report is Janis McCulloch (719236).

- 7 **Reference Policy and Procedure** - Report of the Assistant Director (Finance and Human Resources)

Summary

This report advises Members of the background to the new policy on giving references for current and former employees and recommends the adoption of the Reference Policy and Procedure for the Council.

The Contact Officer for this report is Janis McCulloch (719236).

- 8 **Development of New Indoor Leisure Facilities in Coleshill** – Report of the Assistant Director (Leisure and Community Development)

Summary

This report updates the Sub-Group on progress in respect of the development of new indoor leisure facilities in Coleshill, most particularly in respect of the capital finance implications of the project.

The Contact Officer for this report is Simon Powell (719352).

- 9 **Local Enterprise Partnership and Joint Committee** – Report of the Assistant Chief Executive and Solicitor to the Council

Summary

Verbal update on the progress of the LEP and Joint Committee

The Contact Officer for this report is Steve Maxey (719438).

JERRY HUTCHINSON
Chief Executive

For general enquiries please contact David Harris, Democratic Services Manager, on 01827 719222 or via e-mail – davidharris@northwarks.gov.uk.

For enquiries about specific reports please contact the officer named in the report.

Agenda Item No 5

Special Sub-Group

9 March 2015

**Report of the
Assistant Director
(Finance and Human Resources)**

**Review of Flexible Working Policy
and Leave Guidance and the
Management of Contractors Policy**

1 Summary

- 1.1 This report reviews and updates existing policies. The policies have been consulted on with senior managers and the trade unions.

Recommendation to the Sub-Group

- a To adopt the revised Flexible Working Policy and Leave Guidance; and**
- b To adopt the revised Management of Contractors Policy**

2 Introduction

- 2.1 Human Resources policies are reviewed periodically to ensure that they remain up to date and incorporate any changes in legislation. The Flexible Working Policy and Leave Guidance and the Management of Contractors Policy have been updated, although none of the changes are major.

3 Flexible Working Policy and Leave Guidance

- 3.1 The Flexible Working Policy and Leave Guidance was last reviewed in January 2011. The latest review has looked at how it has been applied in practice, with a view to providing further clarification to ensure consistency in its application.
- 3.2 Since its implementation flexible working has become part of North Warwickshire Borough Council's culture and is embedded in the way we operate. The application of the policy has ensured that the working day has been covered more effectively whilst it has enabled employees to manage their work and personal commitments. It has encouraged a spirit of 'give and take' between the Council and its staff.
- 3.3 Feedback on the application of the policy was sought from staff through Managers and the Trade Unions. All of the recommendations have been considered and wherever possible included in the review of the policy.

- 3.4 Since the last review a number of practices have evolved, which have improved the application and management of the policy. These changes relate to the way leave is booked and time away from the workplace on business and/or training.
- 3.5 Other changes are to cover new legislation for shared parental leave and the addition of fraud information to the section covering abuse of the system
- 3.6 The changes to the policy reflect the changes in legislation and the changes in our processes and practice. A copy of the revised policy can be found at Appendix A.

4 Management of Contractors Policy

- 4.1 The review of the Management of Contractors Policy was carried out in the first instance by examining the Health & Safety Executive's own policy and that of other Council's to establish any areas of best practice that should be included in the Council's policy
- 4.2 The Council recognises its responsibility to appoint competent contractors when commissioning contracts and projects for construction or maintenance work on any of its properties. A copy of the revised policy can be found at Appendix B.
- 4.3 This policy has been updated to ensure as far as is reasonably practicable the health, safety and welfare at work of its employees and others who may be affected by instructed construction or maintenance work. It does this by seeking to prevent injury or accidents through the provision of procedures to ensure competent contractors are commissioned and monitored.
- 4.4 The policy also covers the engagement of contractors who may come into contact with children and / or vulnerable adults. This links to the Council's policy on the Employment of Ex-Offenders (paragraph 3.2) which states: "the policy will also be applied to staff engaged in contracted positions and to contract/partnership staff where the contract/partnership agreement with the Council specifies the requirement for a DBS disclosure for all personnel providing the contracted service/partnership activity".

5 Report Implications

5.1 Human Resources Implications

- 5.1.1 As detailed in the report

5.2 Equality Implications

- 5.2.1 The Council has specific responsibilities under the Equality Act 2010 in the exercise of our functions to have due regard to the need to

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

5.2.2 The Flexible Working Policy includes specific aspects which help demonstrate that the Council is meeting its duties including promoting equality, applying a fair and consistent approach to managing employee attendance, provision for transsexual and gender reassignment and religious observances.

5.2 Links to Council’s Priorities

5.2.1 The use of the Flexible Working Policy and Leave Guidance will reduce the risk of inconsistencies. The use of the Management of Contractors Policy will reduce the risk of employing unsuitable people in relation to Health & Safety and from working with vulnerable groups, including children. Proper management of employee issues, including contractors, through policies contributes to the Council’s priority relating to the effective use of resources.

The Contact Officer for this report is Janis McCulloch (719236).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

**FLEXIBLE WORKING POLICY AND
LEAVE GUIDANCE**
Reviewed September 2014



**North Warwickshire
Borough Council**

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1. INTRODUCTION

- 1.1 This document balances the degree of flexibility offered to employees against the requirement to ensure the efficiency and standards of the Council's services, and the way in which they are provided.
- 1.2. It must be recognised that there is no entitlement to paid time off. As an example, there is no automatic right to paid time off for Hospital, Medical or Dentist Appointments and employees should, where possible, make appointments outside of normal working hours. Employees should use flexi/flexible working arrangements wherever possible. However, where the employees are unable to work within the rules of the flexi/flexible working section of this policy they must get their time off authorised by their line manager to attend appointments during working hours, and agree that paid time off to attend the appointment will normally be given.
- 1.3. If necessary, advice and guidance can be obtained from Human Resources.
- 1.4 The reference guide to authorised leave is given at Appendix B.

2. SCOPE

- 2.1 The policy applies to all employees.

3. PRINCIPLES

- 3.1 When agreeing flexible ways of working the guiding principles are:
 - The service must not suffer
 - There would be no additional costs
 - There would be no negative impact on colleagues both inside and outside of the service
- 3.2 Inevitably over the course of an employee's service with the Council they will experience situations which put demands on their time and causes conflict between work and life commitments. In order to provide employees with flexibility in balancing these work-life responsibilities, the Council endeavors to:
 - Promote equality
 - Promote employee well-being through its promotion of work-life balance;
 - Ensure a fair and consistent approach to managing employee attendance;
 - Provide assistance and support to employees when absence from work is necessary.In addition the Council will use flexible working to:
 - Help with business continuity
 - Help with emergency planning
 - Help with value for money
- 3.3 However, employee sickness can have an adverse impact on the Council's overall performance and performance rating. Therefore, notwithstanding the overriding aim to provide flexibility, the Council looks to promote:

- High attendance levels;
 - The avoidance or minimisation of disruption to service delivery;
 - An understanding that each employee holds an important role within the Council, regardless of their current circumstances;
 - Good working relationships amongst all employees.
- 3.4 Throughout this document direction is given as to the amount of time off that is appropriate for different circumstances. It should be recognised, however, that where appropriate, line managers in consultation with HR may use their discretion in the interpretation and application of the guidance to ensure both the well being of the employee and the requirements of the service.
- 3.5 Time off from work, as defined in this document should not, however, be seen as an automatic right and entitlement. Inevitably, instances will arise where the line manager may have to refuse the request for time off either for business reasons or in relation to the specific request made. Wherever this is the case the employee will be given a full explanation of the reason behind the refusal and, where appropriate, alternative leave arrangements will be discussed and agreed. This explanation and any alternative arrangements, will be specified in writing if requested by the employee.
- 3.6 Where there is a service qualification for eligibility to particular types of leave covered by the provision of this document, this is stated. Each type of leave is regarded as a separate entitlement. However, the granting of leave remains at the discretion of the line manager and/or the Assistant Director, as appropriate.
- 3.7 Where an employee is experiencing emotional or difficult circumstances it may be appropriate for them to be granted leave under one of the categories listed and then discuss the situation with Human Resources.
- 3.8 The entitlements to leave given are for full time employees, this entitlement should be calculated as a pro rata amount for employees working on part time or term time only basis or pro rata to the length of the contract for employees on temporary contracts.
- 3.9 Where leave is paid, the employee will receive their normal salary payment including all regular contractual payments.

4. TYPES OF ABSENCE

- 4.1 There are a number of different forms of leave covered and these fall into a number of broad categories. This document covers each type of leave in turn and gives a full explanation of the entitlements, statutory and non-statutory, paid and unpaid, and the procedure for applying for leave in each instance.
- 4.2 There will be occasions when employees will request authorised leave for reasons not covered in this document or in the reference guide at Appendix B. In these circumstances the Assistant Director, Deputy Chief Executive (DCE), Assistant Chief Executive (ACE)/Head of Service in consultation with HR will decide whether authorised leave will be approved.

5. FLEXTIME/FLEXIBLE WORKING

5.1 Accommodating flexible working does depend upon the service provided. Where the service can accommodate this it allows employees to stagger their start and finish times with the opportunity to build up hours to be taken at a future time for personal or domestic requirements. It ensures that the working day is covered more effectively and has a mutual benefit to the employee and the organisation. It enables employees to manage their work and personal commitments and encourages a spirit of 'give and take' between the employer and the employee. However, for this to work teams must ensure that 'work comes first' in all but exceptional circumstances. This requires some basic principles to be followed:

- Minimum cover is required during normal office hours
- There needs to be a shared understanding within teams of the level of cover required to ensure that the service is delivered to the required standard.
- Service delivery must not suffer
- Flexible working for a team member must not impact negatively on the rest of the team or other sections
- Flexible working is always subject to the exigencies of the service
- Managers have the responsibility to ensure an appropriate level of service at all times
- Managers, having consulted with the team, have the right to change arrangements in the interests of operational efficiency or quality of service

Provided the work is covered the following applies:

- There are no standard core hours
- Employees can start and finish their working day between the hours of 7.30am and 7.30pm Monday to Thursday and 7.30am and 7.00pm on Friday at the Council offices to meet the needs of the service. Flexible working is not limited to these hours provided working outside of these hours is agreed by the line manager. Operational staff who can work flexi time may start earlier to meet service needs.
- Where an employee is asked not to work extended hours due to an absence of 'business need' they will, upon request, be given a written explanation of the manager's decision.
- Customer based services must have cover for the hours when open to the public. eg 9.00am to 5.00pm Monday to Friday for the Council House. **see footnote*
- Where more than 6 hours are worked in any day a 30 minute lunch break must be taken
- Smokers are not allowed to take smoking breaks during the working day

**Footnote ICT systems are supported from 8.50am to 5.15pm Monday to Friday and although systems may be available outside these times, this cannot be assumed or guaranteed*

- Time sheets must be completed daily, using the NWBC template flexi sheet within TRIM where available, saved within the employee's HR folder. The employee should submit their timesheet to the line manager at the end of the 4 week accounting period, or make them aware when it is complete
- At the end of each 4 week accounting period Line Managers must review the timesheets for accuracy and compliance of this policy; cross reference Annual leave records/Toil records/Carer's Leave records to the timesheet and raise any discrepancies with the individual immediately in order that they can be rectified. The timesheet should be finalized at the end of the year when the document is no longer in use or a hard copy should be signed by both the employee and the line manager
- The maximum surplus allowed is 16 hours – pro rata for part-time employees (except for employees on annualised hours). All hours in excess of this are lost at the end of the period (except if agreed in advance with management to be banked as Toil or Carer's Leave)
- The maximum deficit allowed is 4 hours
- Flexi leave does not have to be banked prior to it being taken provided that at the end of the period there is no more than the maximum 4 hours deficit.
- A maximum of two days can be taken in the flexi period for full time employees
- Flexi leave is booked and authorised by the line manager in the same way as annual leave
- When managers take bookings for flexi leave in advance they are responsible for ensuring that the time is accrued appropriately.
- When it is due to be taken if the member of staff does not have enough leave to meet the criteria above, ie at the end of the period there is no more than the maximum 4 hours deficit, then the member of staff must either convert the day to annual leave or cancel it.
- TOIL is where an employee needs to work hours in excess of the 16 hours to complete a piece of work, a project etc. This has to be agreed in advance and authorized by the line manager. It could be that the Line Manager has asked for the additional hours to be worked or in the case of seasonal fluctuations it is necessary to agree TOIL (See Appendix B for more details)
- Where employees are lone workers a safe system of work must be in place for when they are working. See section 6 of the Lone Working Policy
- Internal Audit will undertake sample checking of flexi sheets to ensure adherence to and consistency with the policy
- Any employee found to be abusing the system will place themselves in a position where the Disciplinary Policy applies and the remedy may be the removal of the right to flexible working to fixed hours of work to suit the business.

Employees are in a position of trust especially when working from home.

Working from home where appropriate:

- Must be authorised by the line manager
- Work to be done must be agreed with the line manager
- When the work will be done must be agreed with the line manager eg out of office hours
- Hours worked should be documented on their flexi time sheet stating home in the 'code' column
- The employee must be contactable

Employees away from their place of work on business or on training should book their time as follows:

- From the start of their journey, arrival until the event finishes minus their lunch break plus their return journey time on their flexi sheet.
- If the event involves an overnight stay they should book the journey to and from the venue as above and the start and finish times of the event for each day. They should not book time spent in the evening networking/dining.

The submission of the timesheet/flexi sheet is a representation of the hours that an individual has completed in the course of their duties. If there is any suspicion of fraud or that an individual is abusing the system, the Line Manager should report the matter to Internal Audit or follow the reporting procedures within the Fraud and Corruption Policy. Following an investigation any employee found to have submitted false information on their timesheet/flexi or abusing the system may be subject to criminal and/or disciplinary action. See footnote 1

6. MEDICAL DENTAL AND HOSPITAL APPOINTMENTS

6.1 See Appendix B for guidance

7. ANNUAL LEAVE/BANK HOLIDAYS

7.1 The holiday year runs from 1 April to the 31 March. All employees are entitled to this leave in line with their contract of employment.

7.2 A member of staff wishing to carry over up to 5 days leave from one leave year to the next may do so provided it is not in breach of the Working Time (Amendment) Regulations 2007.

7.3 In exceptional circumstances leave may be brought forward from the next year. Staff wishing to do this must agree this with their line manager provided it is not in breach of the Working Time (Amendment) Regulations 2007.

Employees leaving the Authority will have to pay back any leave taken that is in excess of their entitlement.

Footnote 1: Contrary to the Fraud Act 2006

- 7.3 Employees under suspension are entitled to accrue leave during this period but are required to advise their managers if they take holidays away from home at anytime so that it can be deducted from their leave card. Employees are on trust to be honest about holidays taken. If the period of suspension takes them into a new entitlement year then any outstanding leave from the previous year should be carried forward.
- 7.4 All holiday dates must be approved in advance by the line manager. As much notice as possible of a proposed holiday date must be given to the line manager to ensure adequate staffing coverage at all times. The legal guidance in the Working Time regulations is that the notice the employee gives to the employer should be at least twice as long as the amount of holiday they want to take (eg the employee would give two week's notice for one week's holiday). The employer can refuse permission for the holiday as long as they give notice which is at least as long as the holiday requested (so to refuse a request for one week's leave, the employer has to tell the employee one week in advance). However, in practice teams agree time off well in advance with each other and their line manager to ensure the service is covered. The maximum annual leave that a line manager can authorise is three weeks. It is the line manager's responsibility to ensure sufficient cover for his/her service. In exceptional circumstances where an employee requires more than 3 weeks annual leave at one time, this will need to be authorised by the Assistant Director/ DCE/ ACE/ Chief Executive as appropriate.
- 7.5 Employees who are contracted to work bank holidays and extra statutory days will have the bank holidays and extra statutory days added to their annual leave entitlement
- 7.6 Employees, particularly those who do not work every or the same days each week should have their leave including bank holidays and extra statutory days calculated in hours to ensure that they receive the correct leave for their contracted hours. This also applies to employees who work part time.
- 7.7 Managers should respond to a request as soon as is practicable. If a line manager has to refuse a holiday request, this should be done in good faith and on reasonable grounds, not simply on an arbitrary basis. If a request is refused the reasons should be given to the employee. This shall be in writing if the employee requests so.
- 7.8 If an employee becomes ill during a period of leave, sickness will replace the leave provided the employee follows the sickness reporting procedure.
- 7.9 If an employee is unable to take all of his/her leave due to sickness by the end of the year, this will be carried over to the next leave year.
- 7.10 Leave entitlement is pro rata to the hours worked for part time and job share employees regardless of which days are worked.

8. COMPASSIONATE LEAVE

- 8.1 In the event of a life threatening illness of a close relative, up to three days leave of absence with pay will normally be granted for any one occasion. The decision should be made in consultation with HR.
- 8.2 A close relative is defined as mother, father, guardian, sister, brother, husband, wife, partner, son, daughter, grandparent, grandchild, father in law, mother in law, partners' parents.
- 8.3 In the event of the death of a close relative, up to five days leave of absence with pay will be granted. In determining how much leave to grant, managers should take into account travel and the help that is to be given with funeral arrangements when granting bereavement leave.
- 8.4 Extended family ie uncles, aunts, nieces, nephews, spouse or partner's sister, brother, grandparent are normally excluded. However, where employees have been raised by any of these relatives the same arrangement as for a close relative will apply.
- 8.5 In the event of a death of an extended family member one day will be granted for attending the funeral. Shift workers and staff on rota will be granted the hours they were due to work on the day of the funeral.

9. INCLEMENT WEATHER

- 9.1 Employees should take reasonable steps to get into work but if they feel unable to do so they will have to make up the time, book leave or work from home. This should be agreed with the line manager within a reasonable time on the day.
- 9.2 Employees who have taken reasonable steps to get into work on time and are on fixed hours ie not on flexitime or must be at their desk for when the phone lines open arriving late in the morning, where their lateness is directly attributable to the adverse weather conditions, will not lose pay or be required to make up lost time.
- 9.3 Employees who have declared a disability relating to mobility problems and cannot work from home should not attempt to come to work and will not lose pay or be required to make up the lost time.
- 9.4 Depending on the numbers able to get into work, there may be a need to ask some employees to cover different duties to those they normally undertake in order to keep priority services running. The alternative duties shall be reasonably comparable or of lesser demand than their normal duties.
- 9.5 Where the Council cannot provide employees with work and they are sent home or in exceptional circumstances the premises are closed employees will receive pay for their contracted hours on that particular day

10. INTERVIEWS

- 10.1 If an employee applies for vacancies within North Warwickshire Borough Council or another local authority, (including any associate employer for the calculation of continuous service for redundancy purposes), time off will be granted for the actual interview, plus reasonable traveling time.
- 10.2 Employees who are officially “at risk” of redundancy will be afforded reasonable time off for interviews with any prospective employer.

11. INFERTILITY TREATMENT

- 11.1 North Warwickshire Borough Council will grant up to three days' leave in any one year for an employee to undergo fertility treatment.
- 11.2 Rest periods after treatment will be classed as sick leave and will require a medical certificate. This time would not be counted with regards to Attendance Management monitoring of sickness absence.
- 11.3 In order to qualify for time off for infertility treatment, the employee must have a minimum of 12 months continuous service with North Warwickshire Borough Council.
- 11.4 Time off for fertility treatment up to the permitted number of days will be paid at the employee's normal rate of basic pay.
- 11.5 Any employee planning to undergo fertility treatment must:
- inform his/her line manager as soon as his/her plans to undergo fertility treatment have been confirmed;
 - provide a statement from a qualified medical practitioner that fertility treatment has been recommended and approved;
 - produce an appointment card for each occasion on which time off is requested;
 - try to arrange appointments at times that will cause the minimum amount of inconvenience to North Warwickshire Borough Council;
 - give as much notice as possible of the days on which time off is required.
- 11.6 Any information provided to the line manager will be maintained in strict confidence.

12. TRANSSEXUALS AND GENDER REASSIGNMENT

- 12.1 The Council's policy on transsexuals and gender reassignment, including working arrangements, is given in Appendix A.

13. COSMETIC SURGERY

- 13.1 Cosmetic surgery which is concerned with the enhancement of appearance through surgical and medical techniques, eg face-lifts or breast implants will have no entitlement to authorised leave. The employee will be expected to request annual leave, unpaid leave or flexible working. Where failure to undergo the procedure presents a threat to the employee's physical or mental

well being advice will be sought from Occupational Health and this may be covered by the Attendance Management Policy

14. OTHER ELECTIVE SURGERY

- 14.1 Elective medical procedures such as laser eye treatment or sterilisation would be covered under medical appointments

15. CARER'S LEAVE

- 15.1 Proper provision for employees with family responsibilities is a vital ingredient in promoting equal opportunities. Caring responsibilities are not just restricted to childcare, a growing number of employees provide care for the elderly and disabled relatives.
- 15.2 A carer is anyone whose life is in some way restricted because of the need to take responsibility for the care of a child, a person with a disability or an elderly person. It is not a substitute for regular childcare eg getting a child to and from school or nursery.
- 15.3 Carer's leave is intended to enable employees to combine work and their caring responsibilities. To be successful it must be operated in a spirit of 'give and take' and with an acceptance of the principal that the efficient functioning of the Council's services and the interests of the public are paramount.
- 15.6 Employees when they become a carer should register with their line manager and HR to use carer's leave. An employee would approach their line manager who would then contact HR to confirm that they support the request. HR will put them onto a register and issue them with a carer's leave card. An employee could be a carer to more than one person at any one time eg a child and an elderly relative.
- 15.7 An employee registered with their line manager and HR as a carer will be allowed to bank up to a maximum of two weeks of their weekly contracted hours for time off in lieu to be used in either emergencies or planned hospital visits for the person/persons they are caring for.
- 15.8 Any carer's leave will be recorded on a carer's leave card and must be monitored and authorised by the line manager prior to reclaiming the leave.
- 15.9 Once an employee has used their two weeks carer's leave, one further week can be banked. However, an employee can only be allowed to take a maximum of three weeks carer's leave in any twelve-month period ie a rolling year. This can be extended at the discretion of the relevant Assistant Director or member of Management Team
- 15.10 As it is a rolling year the number of hours banked can be carried over from one leave year to another subject to the maximum above.
- 15.11 Employees who are registered carer's and are also eligible for flexi time will still be allowed to build up flexi time in addition to their carer's leave.

- 15.12 Employees must not work less than their contracted weekly hours including credits in respect of sickness, annual leave, carer's leave, bank and statutory holidays and other authorised credits. However employees may be up to 4 hours down under flexi time arrangements.
- 15.13 On leaving the employment of the Council, the employee will, during the period of notice, work the contracted hours for the period of notice in question, decreased by the amount of any carer's leave banked outstanding at the beginning of the notice period, or be paid for the banked carer's leave at the discretion of the Assistant Director. Carer's leave when claimed will only be paid at plain time.
- 15.14 Employees who abuse the carer's leave by taking the leave for other than the reasons stated above will place themselves in a position where the Disciplinary Policy applies. The remedy may be to return to their normal working pattern.

16. SPECIAL LEAVE

See Appendix B for guidance

16.1 This covers:

- Blood Donation
- Bone Marrow Donation, Organ and Tissue Donation
- Blind and Partially Sighted Employees
- Miscarriage or Still Birth
- Dependency/Emergency Leave

17. PLANNED PARENTAL LEAVE

See Appendix B for guidance

17.1 This covers:

- Antenatal Care
- Maternity Leave
- Adoption Leave
- Paternity Leave
- Maternity Support Leave
- Parental Leave
- Shared Parental Leave

18. RELIGIOUS OBSERVANCE

- 18.1 Employers are not required to provide time and facilities for religious or belief observation in the workplace. However, it is good practice to accommodate wherever practicable requests related to religious or belief observations. North Warwickshire Borough Council has an established procedure for booking leave as set out in Paragraph 7.4. Discussion and flexibility between staff and managers usually results in a mutually acceptable outcome that balances the need of the individual, the business and other employees. All requests will be considered sympathetically and where it is reasonable and practical for the employee to be away from work, and they have sufficient holiday entitlement in hand, the request will be granted.

19. PUBLIC DUTIES:

See Appendix B for guidance

19.1 This covers:

- Called to be a witness at Court or Tribunal
- Member of a local authority, a police authority, any statutory tribunal, a health authority, a primary care trust, or a governing body
- Jury Service
- Magisterial and Justice of the Peace Duties
- Election Duties
- Services Leave
- Reservist Mobilisation

20. MISCELLANEOUS

See Appendix B for guidance

20.1 This covers:

- Examination and Study Leave
- Sickness Absence
- Unpaid Leave
- Time off in lieu
- Unauthorised Leave

21. MONITORING AND REVIEW OF POLICY

21.1 The provisions of this policy will be subject to regular review and as required by changes in legislation and guidance. This policy has been in place since 2009. This is its second review. The Human Resource Section will monitor the policy.

The policy will be reviewed again in September 2017

22. COMMUNICATION AND TRAINING

22.2 The provisions of this policy and any updates will be communicated to all employees of the Council.

TRANSSEXUALS AND GENDER REASSIGNMENT

1. Transsexual people are those who decide to adopt the opposite gender to that assigned at birth because they do not feel that their gender identity matches that assigned to them. Gender reassignment is the process of changing to the new gender identity. This may involve surgical treatment but some transsexual people will not undergo surgery for personal reasons, such as age, health or finance. The process of gender reassignment will normally involve a period of at least one year when the transsexual person must live and work in the gender to which he/she is reassigning (the 'real life test') and undergo hormone treatment. If the person decides to undergo surgery, this will follow the real life test.
2. Under the Equality Act 2010, a person who has the protected characteristic of gender reassignment is defined as someone who is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning his/her sex by changing physiological or other attributes of sex. It is no longer necessary for the individual to be under medical supervision or surgery. It is sufficient that he/she decides to live as a member of the opposite sex. The definition covers a woman who has decided to live as a man, but has not and will not undergo any surgical or medical procedures or treatments. However, the act does not cover, for example transgender people such as cross dressers.
3. North Warwickshire Borough Council is committed to ensuring that transsexual people are treated with respect and that it does not discriminate unlawfully. This commitment is an important aspect of its overall commitment to providing equal opportunities in employment.
4. North Warwickshire Borough Council will put this commitment into practice and will help, transsexual people and other employees to deal with any practical issues that may arise. This should also ensure that employees do not commit unlawful acts of discrimination.
5. Striving to ensure that the work environment is free of harassment and bullying and that everyone is treated with dignity and respect is an important aspect of ensuring equal opportunities in employment. An employee who discriminates against another employee on grounds of gender reassignment may be held liable for unlawful discrimination and be required to pay compensation as well as, or instead of, the employer. The Council has a Dignity at Work Policy, which any employee alleged to have discriminated against another employee would be investigated under. If it was found that there was a case to answer this could lead to a disciplinary hearing.
6. The employee should discuss with the line manager and HR what time off is likely to be required and when, if known. The employee may require time off for medical or other treatment. Time off for these purposes should be treated no less favourably than time off for illness or other medical appointments. The employee may also need time off for additional appointments, such as electrolysis. Where possible flexible working will be used to accommodate these appointments. Where this is not possible holiday or unpaid leave should be taken for these purposes. Some employees may wish to take a

period of leave before returning to work in their new gender. This will need to be agreed whether this is to be part of the employee's normal annual leave entitlement or unpaid leave.

7. HR in consultation with the employee will appoint a person who will be the transsexual employee's principal contact in relation to the transition and who will manage the transition from North Warwickshire Borough Council's perspective. This would be a member of the HR team and/or the welfare representative from the trade union. This contact person should meet with the transsexual employee at an early stage and agree the process for managing the transition. This should then be recorded as a written action plan. With the employee's consent HR will arrange consultation with Occupational Health to help with agreeing an action plan.
8. The contact person and the transsexual employee should set out in writing a plan for managing the transition at work. This plan and any notes from the meeting should be kept strictly confidential in the employee's personnel file. Matters to be addressed in the plan may include:
 - whether the employee is to remain in the same job or be redeployed;
 - time off;
 - timing of change of social gender and information to be provided;
 - dress codes;
 - use of single-sex facilities;
 - insurance and pension; and
 - records and confidentiality.
9. Any information provided to the line manager will be maintained in strict confidence. The reason for the employee's absence will be disclosed only on a 'need-to-know' basis and in consultation with the employee.
10. The employee may give the North Warwickshire Borough Council his/her consent to disclose the reason for the absence to colleagues.
11. Where the reason for the absence is disclosed to colleagues, North Warwickshire Borough Council will ensure that the employee, on his/her return to work, is treated with sensitivity and dignity, in accordance with the North Warwickshire Borough Council's dignity at work policy. Inappropriate jokes or comments about the employee's surgery will be dealt with under the North Warwickshire Borough Council's Dignity at Work Policy.
12. Where the outcome of the surgery is unexpected and the employee suffers an injury, North Warwickshire Borough Council's sick pay will apply, following receipt of the relevant sickness certificate.
13. **Third-party harassment** occurs where an employee is harassed due to gender reassignment by third parties such as clients or customers. The employer should take steps to protect the employee from such third-party harassment. An employee who is subject to third-party harassment must report this to their line manager. The line manager will work with the harassed employee to take action to protect the employee. All of the agreed actions will be documented on the third-party harassment form.

Law Relating to this Document

Leading statutory authority

Human Rights Act 1998
Data Protection Act 1998
Gender Recognition Act 2004
Equality Act 2010

NORTH WARWICKSHIRE BOROUGH COUNCIL REFERENCE GUIDE TO LEAVE

TYPE/REQUIREMENT OF LEAVE	AMOUNT OF LEAVE	APPROVAL PROCESS	COMMENTS
Flexi Time/Flexible Working	Leave will be granted in line with the this policy	Line Manager to Approve	
Medical, Dental and Hospital Appointments	<p>Routine appointments should, where possible, be made outside of normal working hours. Where possible flexi time should be used.</p> <p>Eg a referral from a GP, check ups etc. Where someone has to have treatment that lasts longer than half a day and he or she are unable to make the time up they should by mutual agreement with their manager take longer than the current flexi period to make their time up or when unfit to work on that day should book sick leave. Where an employee has a cluster of appointments by mutual agreement they will be allowed to take longer to make the time up. This could be up to 3 months depending on the circumstances.</p> <p>Employees using flexi time to take time out for hospital appointments only need to take the hours that they need for the appointment. Eg they can leave work and return, come in later or leave early depending on the time of their appointment. They need to inform their line manager of what they need to do to attend the appointment.</p> <p>In circumstances where the employee cannot</p>	Line Manager to approve	<p>Where an appointment results in treatment or the issue of a sick note this will be covered by the Managing Attendance Policy</p> <p>Eg a blood test at a hospital for an employee who can't work flexibly, the employee would need to agree the paid time off with their manager</p>

	<p>work within the rules of the flexi/flexible working policy, the line manager must authorise their time off and agree the time to be paid to attend the appointment. Employees must give as much notice as possible of appointments.</p> <p>Where treatment forms part of an agreed phased return eg someone has been absent and they have to go for cardio treatment once per week, this maybe agreed as part of the phased return for them to attend and would be built into their rehabilitation</p> <p>Part 2, 7.7, green book - Paid time off will be granted for the purpose of cancer screening</p>		
Annual Leave/Bank Holidays	Leave will be given in line with this policy	Line Manager to approve	
Compassionate Leave	Leave will be given in line with this policy	Line Manager to approve	
Inclement Weather	Leave will be given in line with this policy	Line Manager to approve	
Interviews	Leave will be given in line with this policy	Line Manager to approve	
Infertility Treatment	Leave will be given in line with this policy	Line Manager to approve	
Transsexual & Gender Reassignment	Leave will be given in line with this policy	Line Manager to approve	
Cosmetic Surgery	Leave will be given in line with this policy	Line Manager to approve	
Other Elective Surgery	Leave will be given in line with this policy	Line Manager to approve	

Carer's Leave	Leave will be given in line with this policy	Line Manager to approve	
<p>Special Leave:</p> <ul style="list-style-type: none"> ▪ Blood Donation ▪ Bone Marrow Donation, Orqan and Tissue Donation ▪ Blind and partially Sighted Employees • Miscarriage or Still Birth (prior to 24th week of pregnancy) • Dependency/ Emergency Leave 	<p>Paid leave for up to 4 sessions in a rolling year, a maximum of 1 hour per session Paid leave for up to 5 days in a rolling year</p> <p>Necessary paid time off to attend the training of a new guide dog</p> <p>Paid leave for up to 5 days in any one request dependent on the individual's needs and in addition to any sickness absence taken</p> <p>These are given in line with statute. (unpaid leave. Number of days granted will be dependant on the circumstances)</p>	<p>Line Manager to approve Line Manager to approve</p> <p>Line Manager to approve</p> <p>Line Manager to approve</p>	<p>If the procedure results in unanticipated complications this will be covered by the Attendance Management Policy</p> <p>Miscarriage or Still Birth after the 24th week of pregnancy is covered in maternity and paternity leave</p> <p>Please consult with HR. Employees may if they wish and with agreement make their time up.</p>
<p>Planned Parental Leave:</p> <ul style="list-style-type: none"> • Antenatal Care • Maternity Leave • Adoption Leave • Paternity Leave • Maternity Support Leave • Parental Leave • Shared Parental Leave 	<p>These are given in line with statute, the green book and the Council's policies</p>		<p>An employee who qualifies for both the provision of paternity leave and maternity support leave by meeting the specified criteria will receive 1 week at full pay (as per Green Book) and 1 week at Statutory Paternity Pay. Please consult with HR</p>

<p>Religious Observance</p>	<p>Where appropriate, Annual Leave should be taken for religious holidays or festivals.</p> <p>Time required for the purpose of observing prayer times will be given consideration, but shall be in the employee's own time.</p>	<p>Line Manager to approve</p> <p>Assistant Director, DCE, ACE to approve following referral from line manager</p>	
<p>Public Duties:</p> <ul style="list-style-type: none"> ▪ Called to be a witness at court or tribunal ▪ Called to Jury Service ▪ Magisterial and Justice of the Peace Duties ▪ Election Duties ▪ Services Leave ▪ Reservist Mobilisation <p>A Member of</p>	<p>Paid Leave up to 5 days in a rolling year</p> <p>Leave is given as required. Paid leave for up to 10 days in a rolling year</p> <p>Necessary Paid Leave</p> <p>Non Regular Forces - Paid leave for up to 10 days for Annual Instruction. Civil Defence - Paid leave for up to 5 days for Annual Instruction. Requests for Voluntary Mobilisation and call-ups for Compulsory Mobilisation will be given consideration.</p> <p>Paid leave for up to 5 days in total in a rolling year</p>	<p>Line Manager to approve</p> <p>Line Manager to approve</p> <p>Assistant Director, DCE, ACE to approve</p> <p>Assistant Director, DCE, ACE to approve</p>	<p>Consult with HR</p> <p>Where the Public Body is not mentioned, the Assistant Director/Head of Service will consult with HR</p>

<ul style="list-style-type: none"> ▪ A local authority ▪ A police authority ▪ Any statutory tribunal ▪ A health authority ▪ A primary care trust ▪ A governing body of an educational establishment 		Line Manager to approve	
Examination and study leave	Leave will be granted in line with the Council's Post Entry/Training Policy	Line Manager to approve	
Sickness Absence	Refer to Attendance Management Policy		Consult with HR
Unpaid Leave	All requests for leave without pay will be given consideration	Assistant Director, DCE, ACE to approve	To ensure consistency across the Authority please consult with HR before making a decision
Time off in lieu	These are hours recorded on the timesheet that are in excess of the 16 hours flexi time allowed in a period. This may be accrued in special circumstances to meet a business need. This has to be agreed in advance of the accrual.	Line Manager to approve	As this is compensatory time off for additional hours worked it should be taken within 3 months. Where there is a business reason eg the busy period is not over this may be extended to 6 months. The time off is booked in the same way as annual leave. It can be carried from one leave year to the next if it meets the 3 month rule
Unauthorised Leave	Any unauthorised leave shall be without pay and		Consult with HR

	will be considered a breach of contract, which may result in disciplinary action.		
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Management of Contractors Policy

Reviewed March 2015



North Warwickshire
Borough Council

POLICY STATEMENT

1. General Statement

Scope: This policy applies to any person who engages the use of a contractor on behalf of North Warwickshire Borough Council (NWBC).

Introduction: It is a contractor's responsibility to be aware of and comply with relevant health and safety legislation. NWBC has a duty to ensure that contractors are suitably competent to undertake the work required.

The risks of not adequately managing contractors are numerous - there is a risk to the health and safety of the Council's employees, customers, and members of the public; a risk to disruption of the Council's business and to its reputation; as well as a risk to the contractor themselves. Good communications on health and safety matters is essential for safe working by contractors and avoiding adverse impacts on other site activities

Protection of Children and Vulnerable Adults

Where the Borough Council is engaging contractors who may come into contact with children and / or vulnerable adults, the Responsible Officer must obtain written notification that the contractors and / or its sub-contractors:

- Operate a Safer Recruitment Policy
- Have carried out any and all required checks on those individuals who may come into contact with children and / or vulnerable adults. These checks must include a Barred List check, where appropriate

Where contractors, sub-contractors and their employees are undertaking work where children and / or vulnerable adults may be present, the Responsible Officer must determine if they will be engaged in a Regulated Activity, in order to establish those checks that are required. The key questions to consider to ascertain whether or not checks are required are:

- Does the activity provide the opportunity for contact with children and / or vulnerable adults?
- Is the activity carried out regularly or frequently (once a week or more or on more than three days in a 30 day period)?

If the answers to these questions are "yes", a DBS check must be undertaken.

Contractors, sub-contractors and their employees who have access to children and / or vulnerable adults where a DBS check is not required must be supervised at all times when the opportunity for such access exists.

When employing a self-employed contractor, the Borough Council will obtain a DBS check on their behalf, because they are not able to make an application themselves directly to the DBS. The Human Resources Section will administer this process.

The Responsible Officer should always check the identity of contractors, sub-contractors and their employees on arrival to undertake their work.

Definitions: A contractor is anyone who provides a service or goods to the Council whether on a temporary or permanent basis. This includes self-employed persons.

Exceptions: For the purpose of this policy the following types of contractors are

excluded: trainers; guest speakers; emergency services personnel. However, they will fall under the scope of other polices.

2. Responsibilities

The Chief Executive has overall responsibility for Health & Safety within NWBC. The Deputy Chief Executive, the Assistant Chief Executives and the Assistant Directors also hold specific responsibilities throughout the Council and assist in ensuring that the policy is implemented as appropriate.

3. Legislation and Guidance

Regulation 11 of the Management of Health and Safety at Work Regulations 1999 requires that we co-operate with and co-ordinate other employers who share our workplace, to ensure compliance with health and safety law. This duty applies equally to the contracting organisation as to NWBC.

Use of contractors is governed by a variety of safety legislation, including (but not restricted to) –

The Health & Safety at Work Act 1974.

The Occupiers Liability Acts 1984.

The Electricity at Work Regulations 1989.

The Gas Safety (Installation and Use) regulations 1998

The Management of Health & Safety at Work Regulations 1999.

The Construction, Design and Management Regulations 2007

The Control of Substances Hazardous to Health Regulations 2002.

The Regulatory Reform (Fire safety) Order 2005.

The Work at Height Regulations 2005.

The Control of Asbestos Regulations 2013.

The Health & Safety Executive (HSE) publish useful guidance booklets which are specific to control of contractors IND 368 and HSG159.

In relation to construction work, NWBC is also subject to specific legal requirements under the Construction (Design and Management) Regulations 2007 (CDM). These cover most repair and redecoration works and require that in addition to checking the competence of appointed contractors, NWBC:

- Ensure there are suitable management arrangements for the project including the provision of welfare facilities for use by the contractors
- Allow sufficient time and resources for all stages of the project; and
- Provide pre-construction information to designers and contractors.

The CDM also place additional duties on use where a project is likely to exceed 30 working days or 500 person days of construction and is therefore notifiable to the Health & Safety Executive (HSE)

Anywhere under the control of a Permit to Work scheme must be adhered to.

4. Risk Reduction

The Officer responsible for engaging the contractor must ensure he/she is suitable and competent, preferably belonging to a relevant trade association, and where required, appropriately licensed or registered. Throughout the contract period the Responsible Officer will monitor the standard of the contractor's work and the progress made.

It is also the duty of the Responsible Officer to ensure that all relevant safety

measures are taken not only to protect the contractors but all persons who may come into contact with NWBC and its undertakings. NWBC has a duty to ensure that these activities do not alter the conditions or impede the provision of a safe place of work for staff, customers and members of the public.

The Responsible Officer must also ensure that the following areas are addressed:

- (a) Risks arising from the work of NWBC:
 - (i) All potential hazards to the contractor arising from the work of NWBC are considered prior to a contractor commencing work. Depending on the nature of the risks, a specific risk assessment may need to be carried out.
 - (ii) Hazards are eliminated where practicable, or the contractor is notified of the hazards and of any relevant control measures prior to commencing work
 - (iii) The contractor is notified of relevant procedures adopted within the Council to which he/she must adhere.
 - (iv) It is not generally good practice to lend contractors equipment belonging to NWBC, but if this is unavoidable, it must be in good condition, adequately serviced or maintained and the responsible officer satisfied that the contractor can use it safely.

Appendix A (page 3) gives a list of hazards that may need to be considered. This list is not exhaustive as there may well be other site specific hazards to consider.

- (b) Risks arising from the work of the contractor
 - (iv) The contractor may introduce health and safety hazards which could affect the Council or the Council's business. Whenever a contractor is undertaking work on NWBC premises, a method statement must be provided by them before the onset of work. This must be checked by the officer responsible to ensure that it adequately addresses the health and safety risks, particularly those notified to him/her by NWBC.

Exceptions to this applies to emergency or unforeseeable work, or circumstances in which it is unreasonable for the above to take place. In these cases, due care must be taken to engage competent contractors.

The officer will not be expected to have detailed knowledge or understanding of the contractor's business, but must be satisfied that the method statement submitted by the contractor seems reasonable. Further guidance is given in Appendix B (page 4); the Lead Officer for Health & Safety, the HR Officer can also be consulted for advice.

Where a contractor carries out regular and repeated work of the same type for the Council, for example, servicing contract - a method statement will only need to be supplied when initially engaging the contractor; there is no need to supply it for each visit unless there is a change to their working practice which could introduce health and safety hazards to the Council.

- (v) Where there is more than one contractor working on a NWBC site at any one time, the Responsible Officer must check the method statements of all the

contractors and ensure that the work that they do does not interfere with, or introduce hazards to the others.

(vi) Where it has been identified that the contractor will introduce hazards to NWBC, the Responsible Officer must either take steps to minimise these hazards or isolate the contractor working area to avoid any interface with NWBC employees, customers or members of the public.

(vii) Sub contractors have the same responsibilities as contractors. The sub contractor may use equipment provided by the contractor and may be working under the supervision of the contractor.

(c) Contractors working out of hours

Any contractor who will require access to a NWBC site outside of normal working hours should make arrangements with the relevant Responsible Officer to gain access to the site. Consideration must be given to accompanying the contractor whilst he/she is carrying out the work.

(d) Suppliers of goods

A supplier of goods to NWBC must comply with the relevant safety legislation and the goods meet any relevant British or European Standards. This particularly, but not exclusively, applies to the supply of chemicals, machinery, personal protective equipment and safety signs.

Appendix A

Information for Contractors:
Hazards and procedures arising out of the work of NWBC

Location: _____

Contractor Name: _____

Responsible Officer Name: _____

Hazard or Procedure	Location	Details	Action for contractor to take
<i>EXAMPLE: Fire alarm</i>	<i>Council House (entire building)</i>	<i>Fire alarm sounds every Wednesday morning at 10 am</i>	<i>No action unless alarm does not stop after several seconds in which case follow the fire procedure</i>
Issue important contact telephone numbers			
Access/egress <i>(specify if contractor will need to provide own access equipment)</i>			
Accident/near miss reporting procedure Explain first aid procedure			
Alarm testing			
Asbestos present in the building			
Biological hazards e.g. <i>hepatitis, leptospirosis.</i>			
Chemical hazards			
Electrical hazards e.g. <i>electrical systems, overhead/underground power cables</i>			
Electrical procedures <i>(portable electrical equipment to be appropriately maintained)</i>			
Fire procedure			
Manual handling			
Noise hazard areas			
Restricted/unauthorised areas			
Signing In procedure			
Site specific procedures <i>(including permits to work that may be required)</i>			
Smoking policy			

Vehicle movements on site			
Work of other contractors on site			
Other			

I confirm that I have received the information as detailed above, and understand that I should refer to the Responsible Officer for any further information

Signed.....

Date.....

**Information from Contractors:
Checking Method Statements**

A method statement is a formal written system of work to be provided by a contractor prior to commencing work. It should be written by the contractor and easily understood, containing the following features:

- written in a logical sequence of events;
- identification of problems and their solutions (including those identified by the Council);
- the techniques to be used should be explained;
- there must be details of the arrangements planned for the protection of contractor's employees, the Council employees and any other person who may be affected by the planned work;
- information about the plant, equipment and substances to be used, highlighting any associated risks and precautions;
- details of any necessary programming of work e.g. timing of deliveries, issue of permits-to-work, out of hours work;
- any procedures to ensure compliance with specific legislation e.g. concerning asbestos, substances hazardous to health or the use of electrical equipment;
- details of any relevant site features, layout and access;
- the emergency procedures that may be appropriate.

The contractor and Responsible Officer should discuss the safety precautions and agree the method statement. An on-going exchange of information must be maintained throughout the contract to ensure that changes and unforeseen problems are dealt with appropriately.

Agenda Item No 6

Special Sub- Group

9 March 2015

**Report of the Assistant Director
(Finance and Human Resources)**

**The Inclusion of Overtime in
Holiday Pay**

1 Summary

- 1.1 This report advises members of the background to including overtime in holiday pay. The recommendations have been consulted on by senior managers and the trade unions.

Recommendation to the Sub-Group

To agree to include overtime in holiday pay as set out in paragraph 8.1.

2 Introduction

- 2.1 Recent legal cases which have been considered by the Employment Appeals Tribunal state that pay for non-guaranteed overtime, which employees are required to work, and which is regularly required, should be included in holiday pay. This only relates to the 20 days' leave guaranteed by European law. It does not apply to the eight additional days' leave that UK law gives workers or to any leave on top of that, such as contractual annual leave agreed with the employer.
- 2.2 A West Midlands District Council contested a case at tribunal, where the claimants argued that because there was a contractual obligation to undertake standby and that it was regular and predictable it was therefore a 'Regular' element of pay for normal working and should therefore be included in holiday pay. The Council lost the case. The same council also had a claim relating to "Voluntary Overtime" which was withdrawn and "settled out of court".
- 2.3 At a recent regional employment event, it was clear that there was limited guidance for Councils on this matter due to existing local agreements within each individual Council. It was highly unlikely that there would be comprehensive guidance issued in the near future.

3 Categories of Overtime and Other Regular Payments

- 3.1 Contractual Overtime – this is where there is a contractual obligation for the employer to offer overtime and the employee is obliged to undertake the overtime. Within North Warwickshire, Refuse Drivers would fall into this category.
- 3.2 Non-Guaranteed Overtime – this is where the employer is not obliged to offer overtime, but when offered, the employee is obliged to undertake the overtime. An example of this is Call Out arrangements.
- 3.3 Voluntary Overtime – this occurs where the employer is not obliged to offer overtime and the employee is not obliged to undertake the overtime, for example, Refuse Loaders.
- 3.4 The rulings also included other regular payments which should be included in the payment for annual leave, for example Standby Allowance.

4 **Current NWBC Practices and Processes**

- 4.1 Current NWBC practice relating to the payment of overtime has been reviewed in light of the recent tribunal decisions, to assess if any action needs to be taken by the Council. The assessment is set out below.
- 4.2 Employees who undertake “Contractual Overtime” continue to receive such payments whilst on annual leave. **No action required.**
- 4.3 Employees who undertake “Non-Guaranteed Overtime” do not receive any payment for this whilst on annual leave, nor do they receive any “holiday enhancement”. **Non-guaranteed overtime has to be included in Working Time Directive holiday pay.**
- 4.4 Employees who undertake “Voluntary Overtime” do not receive any payment for this whilst on Annual Leave, nor do they receive any “holiday enhancement”. **No clear decision on Voluntary Overtime has been made, however if this is regular it will need to be included in Working Time Directive holiday pay.**
- 4.5 Casual Workers receive holiday pay pro rata for all hours worked which the manager calculates every 3 months. **No action to be taken, however it may be useful to show the payment separate on the Employees’ Payslip.**
- 4.6 Employees who are involved in Standby Arrangements do not receive such payments whilst on Annual Leave nor do they receive any “holiday enhancement”. **Regular standby payments have to be included in Working Time Directive holiday pay.**

5 **Options**

- 5.1 Doing nothing is not an option; however there is no clear consensus across West Midlands Councils on how to implement the decision.
- 5.2 In considering the possible options for the Council, it has been noted that NWBC has very little ad hoc overtime; it is on the whole regular and intrinsic to the work being undertaken. Standby is the only other regular payment not included in holiday pay. It is also noted that the ruling only relates to the 20 days' leave guaranteed by European law which includes Bank Holidays and extra statutory days.
- 5.3 Two options for implementation are:
- a) To periodically calculate payments. This would require holidays to be managed through the payroll and would have a resource implication both for managers and finance staff. Holiday pay would differ depending on whether the employee was taking their first 20 days leave, or the remaining leave. There would also need to be an assessment of whether the overtime is regular. This would require additional monitoring systems to be put in place.
 - b) To pay an enhancement (ie rolled up holiday pay) at the time the hours are worked. This would be the most straightforward option administratively and could be done within current resources. This would be applied to all staff working overtime. The regularity of overtime would not be assessed, but this is expected to have little impact due to small amount of ad hoc overtime worked.

6 Recommendation

- 6.1 To minimize the work involved, it is recommended that an enhancement (option b) is used.

7 Report Implications

7.1 Finance and Value for Money Implications

- 7.1.1 The enhancement would amount to 7.67% (4 weeks divided by 52.14 weeks in a year = 7.67%). Ongoing costs have been calculated using current overtime budgets based on the minimum 20 days.

	Overtime	Standby	Total
2015/16	19,980	830	20,810
2016/17	20,380	830	21,210
2017/18	20,790	830	21,620

Costs would be split between the General Fund and the Housing Revenue Account, with around 79% borne by the General Fund and 21% by the HRA. In 2015/16 this would equate to costs of £15,840 in the General Fund and £4,970 in the HRA.

7.2 Human Resources Implications

7.2.1 As detailed in the report

7.3 Equalities Implications

... 7.3.1 Attached as Appendix A.

7.4 Risk Management Implications

7.4.1 The implementation of this payment will ensure that the Council is complying with the ruling and is paying employees appropriately. Non payment would expose the Council to claims under the unlawful deduction of wages.

The Contact Officer for this report is Janis McCulloch (719236).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

Equality Impact Assessment Summary Sheet

Please complete the following table summarised from the equality impact assessment form. This should be completed and attached to relevant Board reports.

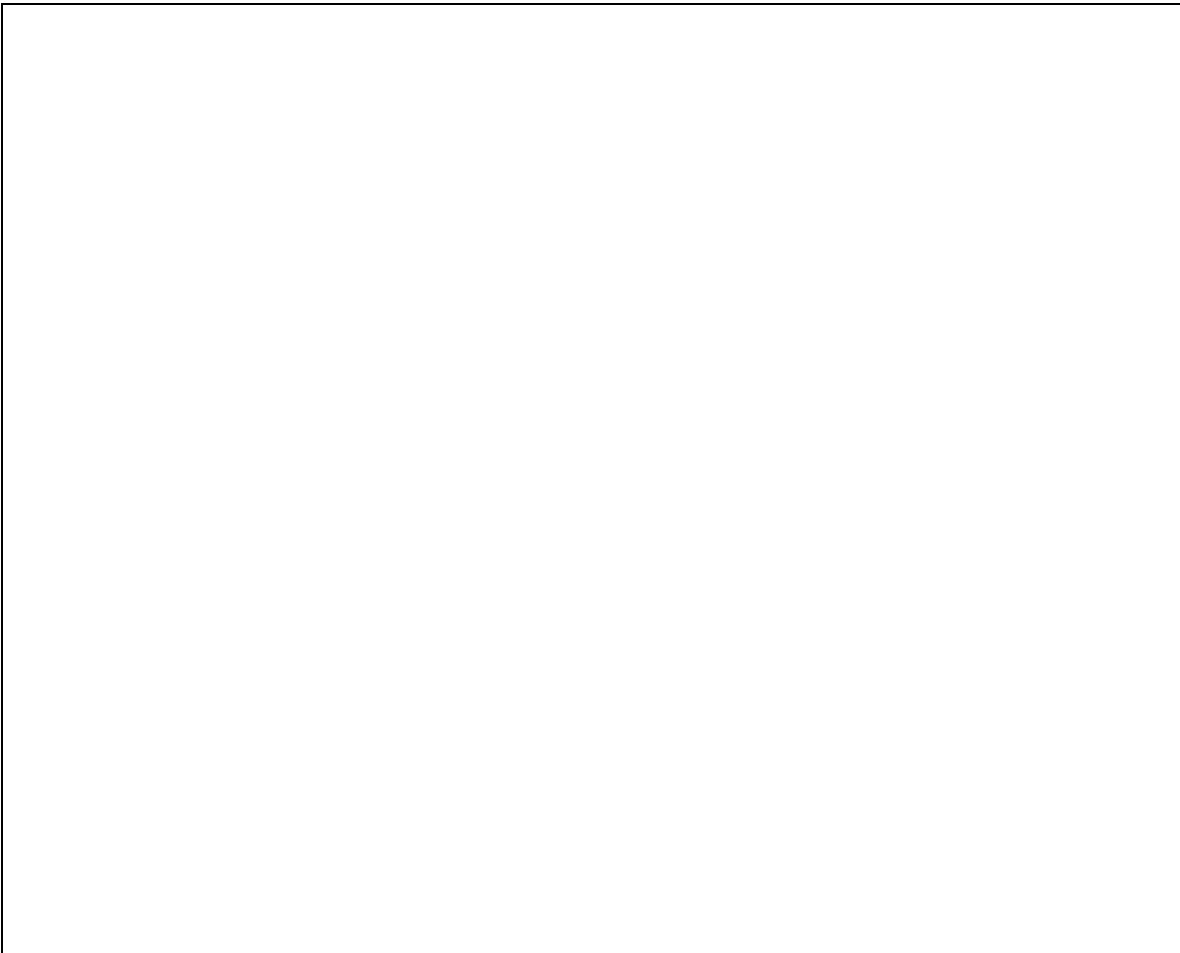
Name of Policy Procedure/Service	Payment of Holiday Pay on Overtime worked for the 20 days guaranteed by European law
Officer Responsible for assessment	Janis McCulloch

Does this policy /procedure /service have any differential impact on the following equality groups /people

- (a) Is there a positive impact on any of the equality target groups or contribute to promoting equal opportunities and improve relations or:
- (b) could there be a negative impact on any of the equality target groups i.e. disadvantage them in any way

Equality Group	Positive impact	Negative impact	Reasons/Comments
Racial	X		Whenever overtime is worked the payment will be made
Gender	X		Whenever overtime is worked the payment will be made
Disabled people	X		Whenever overtime is worked the payment will be made
Gay, Lesbian and Bisexual people	X		Whenever overtime is worked the payment will be made
Older/Younger people	X		Whenever overtime is worked the payment will be made
Religion and Beliefs	X		Whenever overtime is worked the payment will be made
People having dependents caring responsibilities	X		Whenever overtime is worked the payment will be made
People having an offending past	X		Whenever overtime is worked the payment will be made
Transgender people	X		Whenever overtime is worked the payment will be made

If you have answered **No** to any of the above please give your reasons below



This document needs no further action

Agenda Item No 7

Special Sub-Group

9 March 2015

**Report of the
Assistant Director
(Finance and Human Resources)**

Reference Policy and Procedure

1 Summary

- 1.1 This report advises Members of the background to the new policy on giving references for current and former employees and recommends the adoption of the Reference Policy and Procedure for the Council. The policy has been consulted on by senior managers and the trade unions.

Recommendation to the Sub-Group

To adopt the Reference Policy and Procedure, attached at Appendix A.

2 Introduction

- 2.1 It is normal practice for the Council to provide references for current or former employees, who are seeking new jobs. However in the light of recent legal developments, the practice around giving references has been reviewed.

3 Considerations

- 3.1 Under the Data Protection Act (DPA), the DPA's first principle is that data must be processed in a manner both lawful and fair. There has been recent case law where organisations have had to defend legal challenges from employees or former employees against references they have given.
- 3.2 In the most recent case *AB v A Chief Constable* [2014] EWHC 1965 HC, the High Court found in favour of the claimant and ruled that the reference provided was unfair. The outcome was that the organisation was found to have breached the Data Protection Act 1998 which means that the claimant would have had a right to compensation as the actions of the Chief Constable had been deemed to cause substantial damage and distress to the claimant.
- 3.3 When dealing with references it is therefore safer to have a policy and procedure that ensures that the information given is standard and both lawful and fair. It should include a disclaimer of responsibility for its contents. Deviating from the policy may increase the risk of a claim from either the proposed employer or the employee/former employee.

3.4 This Reference Policy and Procedure has been written to ensure a standard approach by the Council. The policy and procedure is attached at Appendix A.

4 Report Implications

4.1 Human Resources Implications

4.1.1 As Detailed in the report

4.2 Equalities Implications

4.2.1 Attached as Appendix B

4.3 Risk Management Implications

4.3.1 Attached at Appendix C.

4.4 Links to Council's Priorities

4.4.1 The use of this policy will reduce the risk of inconsistencies. Proper management of employee issues through policies contributes to the Council's priority relating to the maintenance of a balanced budget.

The Contact Officer for this report is Janis McCulloch (719236).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

Equality Impact Assessment Summary Sheet

Please complete the following table summarised from the equality impact assessment form. This should be completed and attached to relevant Board reports.

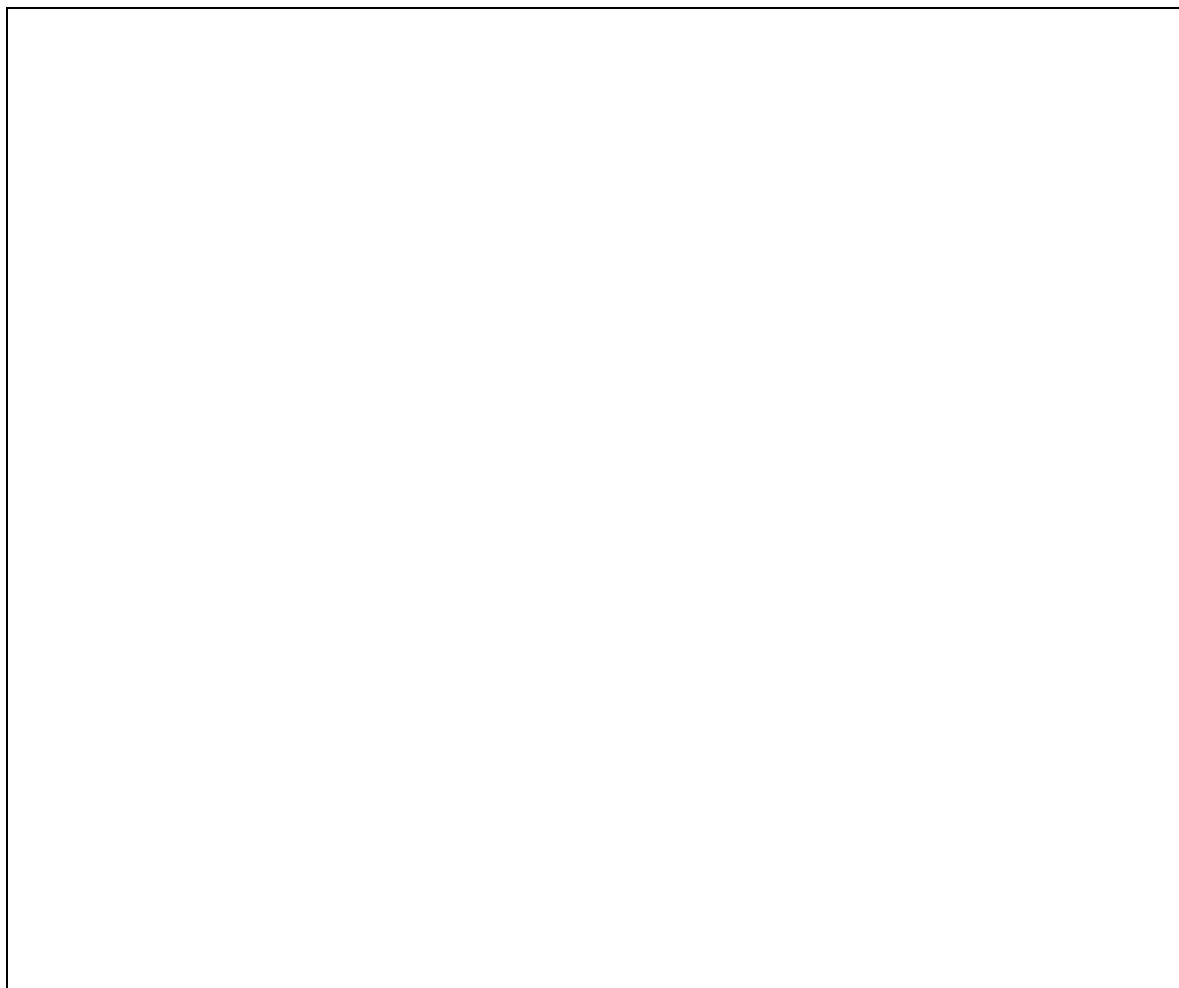
Name of Policy Procedure/Service	Reference Policy and Procedure
Officer Responsible for assessment	Janis McCulloch

Does this policy /procedure /service have any differential impact on the following equality groups /people

- (a) Is there a positive impact on any of the equality target groups or contribute to promoting equal opportunities and improve relations or:
- (b) could there be a negative impact on any of the equality target groups i.e. disadvantage them in any way

Equality Group	Positive impact	Negative impact	Reasons/Comments
Racial	yes		All reference requests will be responded to in line with the policy.
Gender	yes		All reference requests will be responded to in line with the policy.
Disabled people	yes		All reference requests will be responded to in line with the policy.
Gay, Lesbian and Bisexual people	yes		All reference requests will be responded to in line with the policy.
Older/Younger people	yes		All reference requests will be responded to in line with the policy.
Religion and Beliefs	yes		All reference requests will be responded to in line with the policy.
People having dependents caring responsibilities	yes		All reference requests will be responded to in line with the policy.
People having an offending past	yes		All reference requests will be responded to in line with the policy.
Transgender people	yes		All reference requests will be responded to in line with the policy.

If you have answered **No** to any of the above please give your reasons below

A large, empty rectangular box with a thin black border, intended for the user to provide reasons for their 'No' answer to any of the preceding questions.

This document needs no further action

APPENDIX C

Risk Management Form

**NORTH WARWICKSHIRE
BOROUGH COUNCIL**

Division Finance & HR

Cost Centre or Service

Risk Ref	Risk: Title/Description	Consequence	Likelihood (5 = high, 1 = low)	Impact (5 = high, 1 = low)	Gross Risk Rating	Responsible Officer	Existing Control Procedures	Likelihood (5 = high, 1 = low)	Impact (5 = high, 1 = low)	Net Risk Rating
	Reference Policy and Procedure not in place	Risk of litigation from either the prospective employer or the employee	3	4	12	Janis McCulloch	New policy implemented	1	4	4
Risk Ref	Options for additional / replacement control procedure						Cost Resources	Likelihood (5 = high, 1 = low)	Impact (5 = high, 1 = low)	Net Risk Rating

Completed By: Janis McCulloch

Date: 6 February 2015

Reference Policy and Procedure

February 2015



North Warwickshire
Borough Council

1 Introduction

- 1.1 This policy is designed to assist employees who receive a reference request for a former or current employee. Any reference provided on behalf of the Council must be truthful, accurate, and fair and must not give a misleading impression. Any false or misleading information provided on a reference may constitute both disciplinary and criminal offences.

2 Receiving a request for a reference

- 2.1 It is the Council's policy that when requested for a reference for a former or current employee this may be given only by the employee's line manager or, in his/her absence, a senior manager or the HR department. No other person in the Council is permitted to provide a written or verbal reference about current or former employees. Any requests for a reference should be passed to the employee's line manager or, in his/her absence, a senior manager or the HR department.
- 2.2 Where an employee provides a reference in a personal capacity for a colleague, the employee must make it clear that such a reference is personal and not on behalf of the Council. This includes recommendations on social media such as LinkedIn.

3 Providing the information requested

- 3.1 The individual dealing with the reference request should ensure that the individual to whom the request for the reference relates has given his/her consent for a reference to be provided. If the person dealing with the request has any doubts about whether or not the individual has given his/her consent, he/she must contact the individual to check whether or not he/she wants a reference to be provided.
- 3.2 Any references provided must be typed on headed paper. The reference should state that it is the Council's policy to respond to requests for information in a standard format.
- 3.3 The only factual information that may be provided is:
- the dates of the employee's employment with the Council;
 - the employee's job title;
 - a short description of the employee's key job duties and level of responsibility;
 - whether or not the individual held responsibility for staff, money, equipment, computer operations, etc;

- any jobs that the employee held within the Council prior to the job held at the date of termination (or the current job), and for how long he/she performed these jobs;
- whether or not any disciplinary warnings have been issued to the employee during the last 12 months or, if the reference is for a former employee, in the 12 months prior to his/her leaving the Council;
- where the employee has left the Council, the reason for termination of employment, for example resignation, redundancy, or the expiry of a temporary contract.

3.4 The individual providing the reference must not provide personal opinions about the individual's performance or conduct. It is the responsibility of the author of the reference to ensure that the information provided is true, accurate, fair and not misleading.

3.5 A disclaimer should be included in the reference making it clear that, while the information provided is, to the best of the Council's knowledge, completely accurate, the Council cannot accept any liability for decisions based on it.

3.6 Once completed, all references should be checked by the HR department, which will forward the reference to the prospective employer.

3.7 The reference must be marked "private and confidential" and "for the addressee only". It should be sent by post to the prospective employer, rather than by email, to maintain confidentiality.

4 Individual requests to see the reference

4.1 The author of the reference may allow the employee to see the draft reference before it is provided to the prospective employer, but this is not obligatory.

5 Dealing with enquiries raised by the prospective employer

5.1 If the author of the reference receives an enquiry from the prospective employer for clarification of information given in the reference, the author must ensure that he/she does not go beyond the content of the reference in the information provided. Any such enquiry should, where possible, be dealt with in writing to avoid any subsequent confusion. If the enquiry is dealt with over the telephone, a written record of the information provided must be made at the time of the conversation.

6 Retaining a copy of the reference

6.1 The HR department should retain a copy of the reference and written record of any subsequent enquiries securely for 12 months. Thereafter, the reference should be disposed of securely.

Agenda Item No 8

Special Sub-Group

9 March 2015

**Report of the
Assistant Director
(Leisure and Community Development)**

**Development of New
Indoor Leisure Facilities
in Coleshill**

1 Summary

- 1.1 This report updates the Sub-Group on progress in respect of the development of new indoor leisure facilities in Coleshill, most particularly in respect of the capital finance implications of the project.

Recommendation to the Sub-Group

That the Sub-Group notes and comments upon the development and financial implications of the new indoor community leisure facilities at The Coleshill School.

2 Consultation

- 2.1 The Chairman, Vice-Chairman and Opposition Spokesperson for the Special Sub-Group, the Community and Environment and Resources Boards, the Safer Communities Sub-Committee, Members with responsibility for Health, Well-being and Leisure and Young People and Coleshill Ward Members have all had an opportunity to comment on the content of this report. Any comments received will be reported verbally to the Sub-Group.

3 Background and Update on Progress

- 3.1 As the Sub-Group is aware, the construction of new indoor community leisure facilities commenced on site at The Coleshill School in early November 2013. The construction programme was originally scheduled for completion on 31 October 2014, but the building was formally handed to the Borough Council a week early, on 24 October. The 12 months Contract Defects Date expires on 24 October 2015.
- 3.2 Subsequent to the opening of the facility to the public, on 17 November 2014, and to The School a day later, a small number of teething problems have come to light, which is an inevitable phase in the development, settling and operation of a major new building. A small number of design issues were identified to the Sub-group at its meeting held in December 2014, most of which have now been resolved by Wates Construction, including the introduction of privacy screens into two of the female changing rooms. As previously reported, it was perhaps also inevitable that car parking would be raised as a matter of concern by some customers. The opening months of operation have been very busy and the on-site car park has been full on a

number of peak period occasions, most notably on a Monday and Tuesday evening, when some customers are resorting to parking on Packington Lane. To date no complaints have been received from local residents. Nevertheless, potential options are being discussed with neighbouring schools in the hope that a solution can be found to the problem.

- 3.3 The Leisure Centre, of course, is a dual-use facility, in that it is being used by The Coleshill School during the day, during term-times, as well as by the wider local community at all times. The early indications are that this arrangement is working well. The facility is a significant improvement to those “enjoyed” by The School in recent years and, as such, is welcomed by students and staff alike. Again, a small number of relatively minor operational problems have occurred, for example in the co-ordination of respective fire plan arrangements, and these are being resolved as they arise. A more significant problem in relation to the cleaning of the Leisure Centre has also been addressed. To ensure that communication is effective and that both partners are satisfied with the implementation of the approved Joint Use Agreement monthly meetings are now being held between School and Leisure Centre staff.

4 Update on Progress – Financial Position

- 4.1 The Sub-Group is aware that the capital funding available for the project was £4,301,366, including £2,815,000 from the Borough Council, with the balance being made up of valuable contributions from the Education Funding Agency and England Squash and Racketball. Account also needed to be taken of the requirement to fund £154,000 of fees attributable to the project, thereby leaving a sum of £4,147,366 available to support project delivery (including all contingencies and provision for fitness equipment and furniture and fittings, etc.).

- 4.2 Wates Construction was required to provide its Target Cost and Actual Cost forecasts on a monthly basis. The Project Manager, who very carefully scrutinised all costs on behalf of the Borough Council, was required to produce a monthly Funding Position Statement a week thereafter. Wates Construction submitted its fourteenth and final project invoice in November 2014, subsequent to which the Project Manager undertook the very sizeable task of scrutinising and verifying the Final Account for the project. Within his previous Financial Position Statement, the Project Manager had predicted an overspend of approximately £29,500. Despite the need to instruct Wates Construction to undertake a number of minor works post practical completion, it was reported to the Sub-group in December 2014 that any overspend would be less than that predicted by the Project Manager in his last Statement. It is, therefore, pleasing to be able to report, further to receipt of his verification of the Final Account, initially on 10 February, but further clarified on 13 February 2015, that the project was delivered within budget, by £2,088. A Funding Position Statement is attached at Appendix A.

- 4.3 The final invoice to the contractor has been paid and a last invoice is in the process of being issued to The Coleshill School in order to ensure that the full sum of grant aid is drawn down from the Education Funding Agency. The School is also being invoiced for the works that it required to a retaining wall

towards the end of the construction phase. The £25,000 grant from England Squash and Racketball has been received in full.

5 Update on Progress – Other Matters

- 5.1 As reported, the Leisure Centre opened to the public on 17 November. The initial feedback from customers and School students and staff has been extremely positive. It is also pleasing to be able to report that there has been a steady rise in membership numbers subsequent to the opening of the facility. Indeed, at 20 February 2015 the Leisure Centre had 682 direct debit members, compared to 304 at the corresponding time in February 2014. It had 361 members at the end of the month (September 2014) prior to opening the new facility. Visits to the fitness suite totalled 3998 in January 2015, which was just over 1000 more than in January 2014. There have also been approximately 3600 class attendances from the point of opening the new site to 20 February 2015, as opposed to 2000 attendances in the same period last year.
- 5.2 Construction of the Leisure Centre represents the end of the first phase in the delivery of new indoor recreational provision in Coleshill. Borough Council and School staff now have a responsibility to ensure that the facility effectively and efficiently meets the demands of their respective and shared communities long into the future. Nevertheless, it is important to acknowledge that the development of the new Leisure Centre was undertaken with the positive co-operation of all project partners, that it was delivered ahead of schedule, within budget and that it provides a high quality dual-use facility for the people of the Borough. It is felt that its provision can be viewed as a success by both the Authority and The School, as well as by Wates Construction and its partners. The task now is to ensure that the Centre continues to play a positive and sustainable role in the inclusive development of the health, well-being and growth of the local community.

6 Report Implications

6.1 Finance and Value for Money Implications

- 6.1.1 In addition to those previously reported to the Sub-Group, the headline financial implications associated with the construction of the new Coleshill Leisure Centre are detailed in section 4 above and within the appendix to this report.

6.2 Safer Communities Implications

- 6.2.1 The provision of good quality leisure facilities and services has profound and positive implications for the development of safer communities and a reduction in the likelihood of criminal and / or anti-social behaviour.

6.3 Legal and Human Rights Implications

- 6.3.1 The new Leisure Centre will have direct and positive implications for the Authority's ability to meet the requirements of Equalities and other legislation

and on its determination to enhance access to good quality services for the local community.

6.4 Environment and Sustainability Implications

6.4.1 The investment of resources in the new Leisure Centre will enable the Council to maintain and enhance the quality, consistency and sustainability of its indoor leisure provision in Coleshill. The services provided through the new leisure facility will make a positive and lasting impact on individual and collective quality of life within North Warwickshire.

6.5 Health, Well-being and Leisure Implications

6.5.1 Leisure facilities have a positive impact on the health and well-being of individuals and communities through the provision of opportunities for formal and informal recreation and by contributing to an enhanced quality of life in the Borough. The project is also compliant with, and helps to deliver against, the priorities identified in the Warwickshire Health and Well-being Strategy and the supporting Joint Strategic Needs Assessment.

6.6 Human Resources Implications

6.6.1 There is no immediate human resource implication arising directly from this report.

6.7 Risk Management Implications

6.7.1 The condition and future replacement of Coleshill Leisure Centre have been the subject of a detailed risk assessment, a copy of which was presented to the Community and Environment Board in July 2012.

6.8 Equalities Implications

6.8.1 The scheme to replace Coleshill Leisure Centre has been designed to positively impact on the corporate priority to protect and provide access to Council services. An Equality and Impact Needs Assessment (EINA) has been carried out and was presented to the Community and Environment Board at its meeting held in July 2012.

6.9 Links to Council's Priorities

6.9.1 The undertaking to replace Coleshill Leisure Centre has positive and direct links to the following corporate priorities:

- Public service
- Crime and disorder
- Access to services
- Consultation and communication
- Health and well-being

6.9.2 The provision of the new Leisure Centre at The Coleshill School has positive implications for the Sustainable Community Strategy priorities to:

- Raise aspirations, educational attainment and skills
- Develop healthier communities

- Improve access to services

The Contact Officer for this report is Simon Powell (719352).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date
1	Wates Construction	Client Meeting Report 2	January 2014
2	Coventry City Council	Clerk of Works Report 2	January 2014
3	Coventry City Council	Client Meeting Notes (16 January 2014)	January 2014
4	Coventry City Council	Client Meeting Notes (26 February 2014)	Feb 2014
5	Wates Construction	Client Meeting Report 4	March 2014
6	Wates Construction	Client Meeting Report 5	April 2014
7	Wates Construction	Client Meeting Report 6	May 2014
8	Wates Construction	Client Meeting Report 7	June 2014
9	Wates Construction	Client Meeting Report 8	July 2014
10	Wates Construction	Client Meeting Report 9	August 2014
11	Coventry City Council	Clerk of Works Report 9	August 2014
12	Wates Construction	Client Meeting Report 10	Sept 2014
13	Coventry City Council	Clerk of Works Report 10	Sept 2014
14	Wates Construction	Client Meeting Report 11	Oct 2014
15	Coventry City Council	Clerk of Works Report 11	Oct 2014
16	Wates Construction	Lessons Learned Notes	Nov 2014
17	Coventry City Council	Funding Position Statement	Feb 2015

New Coleshill Leisure Centre - Funding Position

APPENDIX A

	£	£	£
<u>Available Funding</u>			
NWBC Capital Receipts	1,850,000.00		
NWBC Approved Prudential Borrowing	965,000.00		
Sport England	-		
England Squash & Racketball	25,000.00		
School cont. to retaining wall	8,318.72		
EFA - adjusted for cabling	<u>1,460,781.00</u>		4,309,099.72
LESS			
<u>NWBC - Other Costs</u>			
Planning Fees	13,422.00		
Planning discharge fees / Amendments			
Building Regulation Fees	1,811.00		
(Osbornes) CDM-C Fee	5,250.00		
Clerk of Works Fee @1% of £3.5m	35,000.00		
(Cov CC) PM Fees @ 2% of £3.5m	<u>70,000.00</u>	125,483.00	
The Coleshill School - other costs			
Misc.	4,875.00		
Legal Fees	<u>23,000.00</u>	27,875.00	
Reserve for NWBC FF&E			
Fitness Equipment	162,651.06		
Loose FF&E	<u>162,651.06</u>	162,651.06	316,009.06
FUNDING BALANCE			<u>3,993,090.66</u>
Cost of Sports Centre			
Wates Target Cost Option C	3,094,157.27		
Design Fees & Surveys	included		
Compensation Events (risks/variations)	<u>86,853.96</u>		
Wates Final Total Target Cost Forecast	3,991,011.24		
Wates Final Total Actual Cost Forecast	3,990,227.64		
Difference to share (TC - AC)	783.60		
Contractors Share @ 50%	391.80		
FINAL COST F/C (AC + Contractors Share)	3,990,619.44		3,990,619.44
FUNDING POSITION - underspent			<u>2,471.22</u>
<u>Other Potential Costs</u>			
Compensation Events (adjustment)	382.87		
CEQ's - committed	-		
Early Warnings	-		
	<u>382.87</u>		<u>382.87</u>
CURRENT FORECAST FUNDING POSITION			2,088.35 SURPLUS