

**/Scoping Pro Forma**

<b>Section</b>	Human Resources	<b>Officer responsible for the screening/scoping</b>	Lucy Marchington, Acting HR Partner		
<b>Name of Policy to be assessed</b>	Guidance on conducting workplace investigations	<b>Date of Assessment</b>	14/07/2009	<b>Is this a proposed new or existing policy/procedure/practice?</b>	New
<b>1. Briefly describe the aims, objectives and purpose of the policy/procedure/practice?</b>	Guidance for use by managers and employees involved in internal workplace investigations arising out of allegations of misconduct, gross misconduct or poor performance.				
<b>2. Are there any associated or specific objectives of the policy/procedure/practice? Please explain.</b>	<p>The purpose of the guidance is to ensure that:</p> <ul style="list-style-type: none"> <li>• A fair and consistent approach for conducting investigations is adopted throughout the Council in line with employment legislation and good practice</li> <li>• Misconduct or performance issues are investigated sufficiently and fairly and that any findings are supported by relevant evidence</li> <li>• All parties involved in investigations are treated fairly, with empathy and that any individual under investigation is given the opportunity of a fair hearing</li> <li>• Investigations carried out are robust and able to withstand scrutiny, if required, at a disciplinary hearing, grievance hearing, appeal hearing or employment tribunal</li> </ul>				
<b>3. Who is intended to benefit from this policy and in what way?</b>	<p>The 'customers' of Guildford BC who should be reassured that there are effective procedures in place to ensure that negative behaviours are investigated thoroughly.</p> <p>Employees in their being aware that any allegations made against them, or by them, will be investigated thoroughly, fairly, promptly and consistently.</p>				

Line management in having available guidance to assist them in investigating allegations of misconduct, gross misconduct or poor performance.

The Council as a whole through the support that the guidance provides in ensuring the professionalism and effective performance of staff.

<b>4. What outcomes are wanted from this policy/procedures/practice?</b>	A consistent and fair approach to conducting workplace investigations which will assist in the resolution of grievances and disciplinaries and reduce the risk of further action against the Council such as employment tribunal claims.		
<b>5. What factors/forces could contribute/detract from the outcomes?</b>	A lack of awareness/understanding of the guidance on the part of line managers and/or staff.  Inconsistent and unfair/unreasonable application of the guidance.  Failure by managers to follow/use the guidance		
<b>6. Who are the main stakeholders in relation to the policy?</b>	Employees and line management	<b>7. Who implements the policy, and who is responsible for the policy?</b>	Implementation of the guidance rests with line managers with advice and support available from HR. HR is responsible for the guidance.
<b>8. Are there concerns that the policy <u>could</u> have a differential impact on racial groups?</b>	<b>Y</b>	<b>N</b>	<p>The guidance has been written in line with good practice from expert organisations such as CIPD and ACAS as well as using the knowledge and experience of those involved in managing investigations, disciplinaries and grievances.</p> <p>An investigation is a fact finding process that doesn't result, in itself, in punitive measures against an individual. A punitive measure will only potentially occur if the investigation results in a disciplinary hearing at which stage the employee has a right of representation at any hearings and the right of appeal against the outcome.</p> <p>There is potential for a negative impact on race/ethnicity grounds through the improper application of the guidance such as specific individuals being targeted for investigations however this is offset by the requirement of the guidance for employees to be supplied with details of allegations made against them from the outset.</p>

		<p>The guidance goes further, stipulating that investigations must be carried out by managers who are independent to the issue under investigation and to have had no previous involvement with the case. This reduces the risk of bias.</p> <p>Investigating managers will have received training from HR in carrying out objective and fair investigations and HR will support throughout to ensure this is adhered to.</p> <p>Further protection for individuals against being persistently investigated would be found in the Local Bullying &amp; Harassment Procedure and/or Grievance Policy/Procedure.</p> <p>There is specific reference in the guidance to ensure that appropriate adjustments will be made for a person who does not have English as a first language to enable them to participate fully in the investigation process.</p>
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<p><b>What existing evidence (either presumed or otherwise) do you have for this?</b></p>	<p>There is no evidence that investigations that have been conducted in the past, have resulted in unfair application on rounds of race/ethnicity. To provide evidence in the future, the new guidance states that future investigations will be monitored by the equality profile of employees who are the subject of investigations to seek to identify trends and to confirm whether or not there is a race bias in the application of the policy.</p>	
<p><b>9. Are there concerns that the policy <u>could</u> have a differential impact due to gender?</b></p>	<p><b>Y</b></p>	<p><b>N</b></p> <p>The guidance has been written in line with good practice from expert organisations such as CIPD and ACAS as well as using the knowledge and experience of those involved in managing investigations, disciplinaries and grievances.</p> <p>An investigation is a fact finding process that doesn't result, in itself, in punitive measures against an individual. A punitive measure will only potentially occur if the investigation results in a disciplinary hearing at which stage the employee has a right of representation at any hearings and the right of appeal against the outcome.</p> <p>There is potential for a negative impact on grounds of gender through the improper application of the guidance such as specific individuals being targeted for investigations however this is offset by the requirement of the guidance for employees to be supplied with details of allegations made against them from the outset.</p> <p>The guidance goes further, stipulating that investigations must be carried out by managers who are independent to the issue under investigation and to have had no previous involvement with the case. This reduces the risk of bias.</p> <p>Investigating managers will have received training from HR in carrying out objective and fair investigations and HR will support throughout to ensure this is adhered to.</p>

			Further protection for individuals against being persistently investigated would be found in the Local Bullying & Harassment Procedure and/or Grievance Policy/Procedure.
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<p><b>What existing evidence (either presumed or otherwise) do you have for this?</b></p>	<p>There is no evidence that investigations that have been conducted in the past, have resulted in unfair application on rounds of gender. To provide evidence in the future, the new guidance states that future investigations will be monitored by the equality profile of employees who are the subject of investigations to seek to identify trends and to confirm whether or not there is a <b>race</b> bias in the application of the policy.</p>	
<p><b>10. Are there concerns that the policy <u>could</u> have a differential impact due to disability?</b></p>	<p><b>Y</b></p>	<p><b>N</b></p> <p>The guidance has been written in line with good practice from expert organisations such as CIPD and ACAS as well as using the knowledge and experience of those involved in managing investigations, disciplinaries and grievances.</p> <p>An investigation is a fact finding process that doesn't result, in itself, in punitive measures against an individual. A punitive measure will only potentially occur if the investigation results in a disciplinary hearing at which stage the employee has a right of representation at any hearings and the right of appeal against the outcome.</p> <p>There is potential for a negative impact on disability grounds through the improper application of the guidance such as specific individuals being targeted for investigations however this is offset by the requirement of the guidance for employees to be supplied with details of allegations made against them from the outset.</p> <p>The guidance goes further, stipulating that investigations must be carried out by managers who are independent to the issue under investigation and to have had no previous involvement with the case. This reduces the risk of bias.</p> <p>Investigating managers will have received training from HR in carrying out objective and fair investigations and HR will support throughout to ensure this is adhered to.</p> <p>Further protection for individuals against being persistently investigated would</p>

		<p>be found in the Local Bullying &amp; Harassment Procedure and/or Grievance Policy/Procedure.</p> <p>There is specific reference in the guidance to ensure that appropriate adjustments will be made to accommodate the needs of employees with disabilities as per the Disability Discrimination Act 2004 (amended Disability Discrimination Act 1995) as well as for those employees who have difficulty reading or writing English.</p> <p>Where necessary, signers, interpreters and translators will be provided to ensure accurate information is obtained from the employee under investigation and any witnesses. For employees who have vision impairment investigatory meetings can be tape recorded, if required, and a copy of the tape cassette given to the employee.</p>
<p><b>What existing evidence (either presumed or otherwise) do you have for this?</b></p>		<p>There is no evidence that investigations that have been conducted in the past, have resulted in unfair application on grounds of disability. To provide evidence in the future, the new guidance states that future investigations will be monitored by the equality profile of employees who are the subject of investigations to seek to identify trends and to confirm whether or not there is a <b>race</b> bias in the application of the policy.</p>



<p><b>11. Are there concerns that the policy <u>could</u> have a differential impact due to sexual orientation?</b></p>	<p><b>Y</b></p>	<p><b>N</b></p>	<p>The guidance has been written in line with good practice from expert organisations such as CIPD and ACAS as well as using the knowledge and experience of those involved in managing investigations, disciplinaries and grievances.</p> <p>An investigation is a fact finding process that doesn't result, in itself, in punitive measures against an individual. A punitive measure will only potentially occur if the investigation results in a disciplinary hearing at which stage the employee has a right of representation at any hearings and the right of appeal against the outcome.</p> <p>There is potential for a negative impact on grounds of sexual orientation through the improper application of the guidance such as specific individuals being targeted for investigations however this is offset by the requirement of the guidance for employees to be supplied with details of allegations made against them from the outset.</p> <p>The guidance goes further, stipulating that investigations must be carried out by managers who are independent to the issue under investigation and to have had no previous involvement with the case. This reduces the risk of bias.</p> <p>Investigating managers will have received training from HR in carrying out objective and fair investigations and HR will support throughout to ensure this is adhered to.</p> <p>Further protection for individuals against being persistently investigated would be found in the Local Bullying &amp; Harassment Procedure and/or Grievance Policy/Procedure.</p>
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<p><b>What existing evidence (either presumed or otherwise) do you have for this?</b></p>	<p>There is no evidence that investigations that have been conducted in the past, have resulted in unfair application on the grounds of sexual orientation. To provide evidence in the future, the new guidance states that future investigations will be monitored by the equality profile of employees who are the subject of investigations to seek to identify trends and to confirm whether or not there is a <b>race</b> bias in the application of the policy.</p>	
<p><b>12. Are there concerns that the policy <u>could</u> have a differential impact due to their age?</b></p>	<p><b>Y</b></p>	<p><b>N</b></p> <p>The guidance has been written in line with suggestions for good practice from expert organisations such as CIPD and ACAS as well as using the knowledge and experience of those involved in conducting investigations and handling discipline and grievance issues.</p> <p>An investigation is a fact finding process that doesn't result, in itself, in punitive measures against an individual. A punitive measure will only potentially occur if the investigation results in a disciplinary hearing at which stage the employee has a right of representation at any hearings and the right of appeal against the outcome.</p> <p>There is potential for a negative impact on the grounds of age through the improper application of the guidance such as specific individuals being targeted for investigations however this is offset by the requirement of the guidance for employees to be supplied with details of allegations made against them from the outset.</p> <p>This is further offset by the stipulation in the guidance that investigations are carried out by managers who are independent to the matter being investigated and have no previous involvement with the case. Investigating managers will have received training from HR in carrying out objective and fair investigations and HR will support throughout to ensure this is adhered to.</p> <p>Further protection for individuals against being persistently investigated would be found in the Local Bullying &amp; Harassment Procedure and/or Grievance</p>

		Policy/Procedure.
<b>What existing evidence (either presumed or otherwise) do you have for this?</b>	There is no evidence that investigations that have been conducted in the past, have resulted in unfair application on grounds of age. To provide evidence in the future, the new guidance states that future investigations will be monitored by the equality profile of employees who are the subject of investigations to seek to identify trends and to confirm whether or not there is a <b>race</b> bias in the application of the policy.	

<p><b>13. Are there concerns that the policy <u>could</u> have a differential impact due to their religious belief?</b></p>	<p>Y</p>	<p><del>N</del></p> <p>The guidance has been written in line with good practice from expert organisations such as CIPD and ACAS as well as using the knowledge and experience of those involved in managing investigations, disciplinaries and grievances.</p> <p>An investigation is a fact finding process that doesn't result, in itself, in punitive measures against an individual. A punitive measure will only potentially occur if the investigation results in a disciplinary hearing at which stage the employee has a right of representation at any hearings and the right of appeal against the outcome.</p> <p>There is potential for a negative impact on the grounds of religious belief through the improper application of the guidance such as specific individuals being targeted for investigations however this is offset by the requirement of the guidance for employees to be supplied with details of allegations made against them from the outset.</p> <p>The guidance goes further, stipulating that investigations must be carried out by managers who are independent to the issue under investigation and to have had no previous involvement with the case. This reduces the risk of bias.</p> <p>Investigating managers will have received training from HR in carrying out objective and fair investigations and HR will support throughout to ensure this is adhered to.</p> <p>Further protection for individuals against being persistently investigated would be found in the Local Bullying &amp; Harassment Procedure and/or Grievance Policy/Procedure.</p>
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<p><b>What existing evidence (either presumed or otherwise) do you have for this?</b></p>	<p>There is no evidence that investigations that have been conducted in the past, have resulted in unfair application on grounds of religious belief. To provide evidence in the future, the new guidance states that future investigations will be monitored by the equality profile of employees who are the subject of investigations to seek to identify trends and to confirm whether or not there is a <b>race</b> bias in the application of the policy.</p>
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<p><b>14. Are there concerns that the policy <u>could</u> have a differential impact due to them having dependants/caring responsibilities?</b></p>	<p>¥</p>	<p>N</p>	<p>The guidance has been written in line with good practice from expert organisations such as CIPD and ACAS as well as using the knowledge and experience of those involved in managing investigations, disciplinaries and grievances.</p> <p>An investigation is a fact finding process that doesn't result, in itself, in punitive measures against an individual. A punitive measure will only potentially occur if the investigation results in a disciplinary hearing at which stage the employee has a right of representation at any hearings and the right of appeal against the outcome.</p> <p>There is potential for a negative impact on the grounds of having dependants/caring responsibilities through the improper application of the guidance such as specific individuals being targeted for investigations however this is offset by the requirement of the guidance for employees to be supplied with details of allegations made against them from the outset.</p> <p>The guidance goes further, stipulating that investigations must be carried out by managers who are independent to the issue under investigation and to have had no previous involvement with the case. This reduces the risk of bias.</p> <p>Investigating managers will have received training from HR in carrying out objective and fair investigations and HR will support throughout to ensure this is adhered to.</p> <p>Further protection for individuals against being persistently investigated would be found in the Local Bullying &amp; Harassment Procedure and/or Grievance Policy/Procedure.</p>
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**What existing evidence (either presumed or otherwise) do you have for this?**

There is no evidence that investigations that have been conducted in the past, have resulted in unfair application on grounds of dependants/caring responsibilities. To provide evidence in the future, the new guidance states that future investigations will be monitored by the equality profile of employees who are the subject of investigations to seek to identify trends and to confirm whether or not there is a **race** bias in the application of the policy.

<p><b>15. Are there concerns that the policy <u>could</u> have a differential impact due to them have an offending past?</b></p>	<p><b>Y</b></p>	<p><b>N</b></p>	<p>The guidance has been written in line with good practice from expert organisations such as CIPD and ACAS as well as using the knowledge and experience of those involved in managing investigations, disciplinaries and grievances.</p> <p>An investigation is a fact finding process that doesn't result, in itself, in punitive measures against an individual. A punitive measure will only potentially occur if the investigation results in a disciplinary hearing at which stage the employee has a right of representation at any hearings and the right of appeal against the outcome.</p> <p>There is potential for a negative impact on those with an offending past through the improper application of the guidance such as specific individuals being targeted for investigations however this is offset by the requirement of the guidance for employees to be supplied with details of allegations made against them from the outset.</p> <p>The guidance goes further, stipulating that investigations must be carried out by managers who are independent to the issue under investigation and to have had no previous involvement with the case. This reduces the risk of bias.</p> <p>Investigating managers will have received training from HR in carrying out objective and fair investigations and HR will support throughout to ensure this is adhered to.</p> <p>Further protection for individuals against being persistently investigated would be found in the Local Bullying &amp; Harassment Procedure and/or Grievance Policy/Procedure.</p>
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**What existing evidence (either presumed or otherwise) do you have for this?**

There is no evidence that investigations that have been conducted in the past, have resulted in unfair application due to them have an offending past. To provide evidence in the future, the new guidance states that future investigations will be monitored by the equality profile of employees who are the subject of investigations to seek to identify trends and to confirm whether or not there is a **race** bias in the application of the policy.

Generally the Council does not monitor ex-offenders, except those that occupy 'safeguarding' posts, and to do so would be to deny that, generally, convictions become spent over time and should not, therefore, form part of the employee's personal record. It is not practicable, therefore, to monitor those who raise grievances for whether they have an ex-offending past.

<p><b>16. Are there concerns that the policy <u>could</u> have a differential impact due to them being Transgender or transsexual?</b></p>	<p>¥</p>	<p>N</p>	<p>The guidance has been written in line with good practice from expert organisations such as CIPD and ACAS as well as using the knowledge and experience of those involved in managing investigations, disciplinaries and grievances.</p> <p>An investigation is a fact finding process that doesn't result, in itself, in punitive measures against an individual. A punitive measure will only potentially occur if the investigation results in a disciplinary hearing at which stage the employee has a right of representation at any hearings and the right of appeal against the outcome.</p> <p>There is potential for a negative impact due to them being transgender or transsexual through the improper application of the guidance such as specific individuals being targeted for investigations however this is offset by the requirement of the guidance for employees to be supplied with details of allegations made against them from the outset.</p> <p>The guidance goes further, stipulating that investigations must be carried out by managers who are independent to the issue under investigation and to have had no previous involvement with the case. This reduces the risk of bias.</p> <p>Investigating managers will have received training from HR in carrying out objective and fair investigations and HR will support throughout to ensure this is adhered to.</p> <p>Further protection for individuals against being persistently investigated would be found in the Local Bullying &amp; Harassment Procedure and/or Grievance Policy/Procedure.</p>
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<p><b>What existing evidence (either presumed or otherwise) do you have for this?</b></p>	<p>There is no evidence that investigations that have been conducted in the past, have resulted in unfair application due to them being transgender or transsexual. To provide evidence in the future, the new guidance states that future investigations will be monitored by the equality profile of employees who are the subject of investigations to seek to identify trends and to confirm whether or not there is a <b>race</b> bias in the application of the policy.</p> <p>To provide evidence in the future, the Council is introducing monitoring of staff who are transgender and the revised policy states that future grievance cases will be monitored by the equality profile of the grievant to seek to identify trends and to confirm whether or not there is a 'transgender' bias in the application of the policy.</p>	
<p><b>17. Could the differential impact identified in 8-16 amount to there being the potential for adverse impact in this policy/procedure/practice?</b></p>	<p>Y</p>	<p>N</p> <p>Generally 'no' given the protections that exists in the guidance and associated policies and procedures. The new investigations guidance requires that those who are the subject of investigations are monitored for their equality profile to seek to identify whether or not there are unintended differential impacts in the application of this policy.</p>
<p><b>18. Can this adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or any other reason?</b></p>	<p>Y</p>	<p>N</p> <p>??</p>
<p><b>Business improvement</b></p> <p><b>19. Is there any concern that there are unmet needs in relation to any of the above groups?</b></p>	<p>Y</p>	<p>N</p>

<p><b>20. Does differential impact or unmet need cut across the equality strands (e.g. elder BME groups)?</b></p>	<p>¥</p>	<p>N</p>	<p>The absence of any clear evidence of existing differential impacts and the desire to start equality monitoring of those who are the subject of an investigation would address any circumstances in which a differential impact can apply to an employee on more than one equality ground.</p>		
<p><b>21. If yes, should the full EIA be conducted jointly with another service area/contractor/partner/agency?</b></p>	<p>¥</p>	<p>N</p>	<p>Not relevant</p>		
<p><b>22. Is there a missed opportunity to improve your business in relation to any of the policies, procedures or practices to promote racial, gender, disability, age, sexual orientation, religion or belief equality?</b></p>	<p>¥</p>	<p>N</p>	<p>The recurring theme of improving the equality monitoring of cases, which has to start with the Council improving the equality monitoring of its staff would help to determine the extent to which this would be achievable.</p> <p>Equality monitoring of the investigations would improve the Council's knowledge and understanding of whether this policy does or does not generate a differential impact(s).</p>		
<p><b>23. Should the policy proceed to a full equality impact assessment?</b></p>	<p>¥</p>	<p>N</p>		<p><b>Yes</b></p>	<p><b>No</b></p>
<p><b>24. If No, are there any changes required to the policy to improve it around the equality agenda?</b></p>			<p>Extending the equality monitoring of existing staff and monitor those who pass through these procedures to help to identify unexplained differential impacts</p>		

**Signed  
(completing officer)**

**Date July 2009**

**Signed  
(Head of Section)**

**Date**

**Countersigned  
(HR representative)**

**Date July 2009.**