

REPORT OF DIRECTOR OF PEOPLE

A.1 REVISED PROBATIONARY PROCEDURE REPORT

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

The purpose of this report is to record the Officer Decision of the Director of People to approve and implement the revised Probationary Procedure, including a reduction in the standard probationary period from six months to three months, in response to forthcoming changes introduced by the Employment Rights Act 2025. The decision is made under delegated authority, following consultation with the Head of Paid Service and the Chair of the Human Resources and Council Tax Committee, in accordance with the Council's constitutional requirements.

EXECUTIVE SUMMARY

The Employment Rights Act 2025 became law on 18 December 2025. The Act introduces additions and amendments to existing UK employment legislation, including the Employment Rights Act 1996, with changes being implemented during 2026 and 2027.

A key change within the Act is the reduction in the qualifying period for protection against ordinary unfair dismissal from two years' continuous service to six months' service. The Government intends to commence this package of unfair dismissal changes on 1 January 2027. The key changes include:

- the qualifying period for ordinary unfair dismissal protection will reduce from two years' continuous service to six months' service.
- the statutory cap on compensatory awards for unfair dismissal will be removed.

In practice, any employee who joins the Council on 1 July 2026 will have completed six months' continuous service by 1 January 2027. Under the Government's intended commencement approach, employees who already have six months' service or more on that date will gain protection against ordinary unfair dismissal immediately. As the Council's current Probationary Procedure provides for a six-month probationary period, this creates a risk that an employee could acquire the right to claim ordinary unfair dismissal at the same time as, or before, a final probationary decision is made where the required standard has not been met.

The Council has an established approach as a fair and supportive employer, with probationary arrangements designed to provide employees with clear expectations, timely feedback and appropriate support during the early stages of employment. The revised Probationary Procedure builds on this existing approach by reducing the current standard probationary period from six months to three months. This will support a clearer and more structured approach to early employment, ensuring that new employees understand the standards expected of them, receive timely guidance and support, and have any concerns addressed at an early stage. For employees who are meeting the required standards, the revised approach enables earlier confirmation of employment and reduces the period of uncertainty associated with probation. Where further time is needed, the procedure will continue to allow for probation to be extended where appropriate. This approach supports both employees and managers by

promoting fair, consistent and well-documented decision-making before an employee reaches six months' service.

In line with the Council's Constitution, operational employment policy and procedure changes required to ensure compliance with legislation and recognised good practice may be implemented through officer delegation. The revised Probationary Procedure is therefore being approved by the Director of People under delegated authority, following consultation with the Head of Paid Service and the Chair of the Human Resources and Council Tax Committee, in accordance with the Council's constitutional requirements, and will be published as an Officer Decision.

RECOMMENDATIONS

In accordance with the Council's Constitution and the relevant Scheme of Delegation to Officers, the Director of People makes the following Officer Decision:

- a) Following consultation with the Head of Paid Service and the Chair of the Human Resources and Council Tax Committee, and in accordance with the Council's constitutional requirements, to approve the revised Probationary Procedure attached at Appendix A, including the reduction of the standard probationary period from six months to three months, with provision for extensions where appropriate.**
- b) To authorise the implementation of the revised Probationary Procedure and the associated communication and guidance arrangements necessary to support its introduction.**
- c) To keep the implementation and effectiveness of the revised Probationary Procedure under review as further provisions of the Employment Rights Act 2025 are brought into force and to make any consequential amendments required, in accordance with the Director of People's delegated authority.**

REASON(S) FOR THE DECISION

The reduction in the qualifying period for unfair dismissal from two years to six months increases the need for the Council to manage probationary periods promptly, fairly and consistently.

Reducing the standard probationary period from six months to three months will build on the Council's existing fair and supportive employment practices by providing earlier confirmation of employment for employees who are meeting the required standards, while continuing to promote timely feedback, support and development discussions during the early stages of employment. The revised procedure retains the ability to extend probation where additional time is required to support an employee or assess their suitability for the role.

The revised approach is not intended to change the Council's commitment to treating employees fairly. Instead, it strengthens the existing framework by ensuring that employment-related matters continue to be identified and addressed at an earlier stage, with appropriate support, feedback and documentation in place. This supports a positive early employment experience, reduces the risk of avoidable employment disputes and associated costs, and

maintains a fair and supportive process for employees. It will also ensure that the Council's arrangements remain aligned with emerging employment legislation and with developing practice across neighbouring authorities as Local Government Reorganisation progresses.

This approach is consistent with discussions taking place across neighbouring authorities in response to the anticipated legislative changes.

ALTERNATIVE OPTIONS CONSIDERED

The option of retaining the current six-month probationary period was considered. This was not recommended because it would leave limited time to identify any concerns, provide appropriate support and development, extend probation where necessary, and reach a fair and informed decision before an employee acquires the proposed six-month qualifying period for ordinary unfair dismissal protection. In addition, employees who are meeting the required standards would remain in a probationary period for longer than necessary.

The option of deferring implementation until closer to the commencement of the legislation was also considered. This was not recommended because employees appointed from 1 July 2026 onwards may have six months' service by 1 January 2027. Early adoption provides greater certainty for employees and managers, enables the Council to embed the revised arrangements in advance of the legislative changes, and supports a proactive approach to workforce management and legal compliance.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

A revised Corporate Plan and Vision were approved by Full Council at its meeting on 28 November 2023. One of the six included themes is Financial Sustainability and Openness, with a commitment to continue to deliver effective services and get things done whilst looking after the public purse; that means carefully planning what we do, managing capacity and prioritising what we focus our time, money and assets on.

The proposals in this report align with:

The Council's Our Vision (Corporate Plan) 2024/28 priorities of:

- Working with partners to improve quality of life
- Raising aspirations and creating opportunities

By supporting our employees, many of whom are also residents, we contribute positively to both workforce wellbeing and the wider community.

Tendring District Council's People Strategy 2024 – 2029 by ensuring that:

- The organisation complies with the legislative and best practice requirements for employment;
- Managers are appropriately knowledgeable and skilled in people management in addition to their professional expertise;
- Human Resources and Organisational Development practitioners are appropriately skilled and qualified to provide professional advice and guidance on operational and strategic development and practice.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

The Council must ensure compliance with current and emerging employment legislation, including the Employment Rights Act 1996, the Equality Act 2010 and the Employment Rights Act 2025. The Employment Rights Act 2025 became law on 18 December 2025 and introduces additions and amendments to existing employment legislation, with implementation taking place during 2026 and 2027.

Section 25 of the Employment Rights Act 2025 reduces the qualifying period for protection against ordinary unfair dismissal from two years' continuous service to six months' service. The Government intends to commence the unfair dismissal package on 1 January 2027. The Act also removes the statutory cap on compensatory awards for unfair dismissal and reduces the qualifying period for the right to request written reasons for dismissal from two years to six months.

It should be noted that certain employment protections already apply from the start of employment, including protection against automatically unfair dismissal in specified circumstances and protection from discrimination under the Equality Act 2010.

The revised Probationary Procedure must be applied fairly and consistently, alongside the employee's contract of employment, statutory notice requirements, the Council's employment policies and relevant principles of fair employment practice. Managers must ensure that decisions are evidence-based, appropriately documented, and take account of any relevant obligations under the Equality Act 2010, including reasonable adjustments and matters connected to protected characteristics.

The revised probationary period does not displace the need for fair, reasonable and evidence-based decision-making, particularly where an employee has or may shortly acquire statutory unfair dismissal protection.

The Human Resources and Council Tax Committee has responsibility for decision-making on key Human Resource and Personnel issues not reserved to Council or delegated to officers, as set out in Appendix 1 to Part 3 of the Council's Constitution. Part 3 of the Constitution also provides for matters to be determined by officers where they fall within the relevant Scheme of Delegation.

This decision concerns an operational employment procedure change required to ensure compliance with forthcoming legislation and recognised good practice. The Director of People holds delegated authority to implement changes to Human Resources policies and procedures where appropriate, in consultation with the Head of Paid Service. In addition, consultation with the Chair of the Human Resources and Council Tax Committee provides appropriate Member awareness and assurance prior to publication of the Officer Decision. On that basis, and following the required consultation, the revised Probationary Procedure is being approved by the Director of People under delegated authority and in accordance with the Council's constitutional requirements.

FINANCE AND OTHER RESOURCE IMPLICATIONS

There are no direct budgetary implications arising from adoption of the revised procedure. However, timely and legally compliant management of probationary periods will help mitigate the risk of employment disputes, tribunal claims, legal costs, management time and reputational impact.

USE OF RESOURCES AND VALUE FOR MONEY

The implementation of the revised Probationary Procedure is not expected to require additional financial or staffing resources.

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	There are no direct financial implications arising from the introduction of the revised Probationary Procedure. The change supports financial sustainability by reducing the risk of avoidable employment disputes, tribunal claims and associated costs arising from non-compliance or delayed decision-making.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Ensuring full compliance with current and emerging employment legislation is a key element of the Council's governance arrangements, supporting informed decision-making, effective risk management and the proper discharge of its responsibilities as an employer.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The revised Probationary Procedure supports economy, efficiency and effectiveness by promoting timely probation reviews, early feedback and support for employees, and consistent evidence-based decision-making by managers. This will help ensure that employment issues are addressed promptly and fairly, reducing avoidable management time, delay and potential dispute.

MILESTONES AND DELIVERY

- a) Consultation with Unison Local Branch Executive.
- b) Management Team considered the revised approach on 7 July 2026.
- c) Officer Decision by the Director of People, under delegated authority and following consultation with the Head of Paid Service and the Chair of the Human Resources and Council Tax Committee, in accordance with the Council's constitutional requirements.
- d) Publication of the Officer Decision and revised Probationary Procedure.
- e) Communication of the revised procedure and supporting guidance to managers and employees.
- f) Implementation of the revised Probationary Procedure.

ASSOCIATED RISKS AND MITIGATION

Failure to update the Council's probationary arrangements in response to the Employment Rights Act 2025 may expose the Council to an increased risk of employment disputes, tribunal claims and associated financial and reputational consequences. This risk will be mitigated through early adoption of the revised procedure, clear guidance to managers, timely probation reviews, constructive feedback and support for employees, consideration of reasonable adjustments where required, and evidence-based decision-making. This builds on the Council's

existing approach as a fair and supportive employer and ensures that employees continue to be treated fairly, supported appropriately and given clear opportunities to understand and meet the standards required of their role, while also managing legal and financial risk responsibly.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The local union branch executive has been consulted on the proposed revision to the Council's Probationary Procedure and feedback has been considered as part of the development of the revised procedure. Consultation has also been undertaken with the Head of Paid Service and the Chair of the Human Resources and Council Tax Committee before the Officer Decision was finalised and published. The revised procedure will be communicated to managers and employees to support consistent application and timely decision-making.

EQUALITIES

Section 149 of the Equality Act 2010 creates the public sector equality duty, which requires that when the Council makes decisions it must have regard to the need to:

- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act.
- b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- c) Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- d) The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

The Council is committed to being an inclusive, fair and supportive employer and ensuring that its policies and procedures reflect this. Probationary decisions must be based on clear evidence relating to performance, conduct, attendance, capability and suitability for the role. Managers must consider any relevant Equality Act 2010 obligations before making decisions to extend probation or terminate employment, including reasonable adjustments for disabled employees and matters connected to pregnancy, maternity or any other protected characteristic. The probationary process should also be used to identify any support needs or reasonable adjustments at the earliest opportunity, so that employees are given a fair opportunity to succeed in their role.

SOCIAL VALUE CONSIDERATIONS

Social Value is defined through the Public Services (Social Value) Act 2012 and requires all public sector organisations (and their suppliers) to look beyond the financial cost of a contract and consider how the services they commission and procure might improve the economic, social and environmental well-being of an area.

The Council seeks to lead by example as a major local employer. This includes following recognised best practice and ensuring full compliance with legislation.

The Council is also an Anchor organisation. Anchor organisations are usually large organisations which are local to place and have the leverage to maximise social value through their role as workplace developers, employers and procurers, their core business (for example health and education) and the linkages they have to the place they operate.

IMPLICATIONS RELATED TO DEVOLUTION AND/OR LOCAL GOVERNMENT REORGANISATION

As the Council prepares for Local Government Reorganisation, it is important that employment policies, procedures and workforce practices remain compliant with current and emerging employment legislation. The Employment Rights Act 2025 introduces significant changes to employment protections during 2026 and 2027, including the reduction in the qualifying period for ordinary unfair dismissal.

Maintaining legislative compliance will help protect the Council from avoidable legal, financial and reputational risk, support effective workforce planning during transition, and provide employees with confidence that change is being managed fairly, transparently and in line with statutory obligations and recognised best practice.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2050

This report has no direct implication on the Council's aspiration to be net zero by 2050.

OTHER RELEVANT IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder	Not applicable.
Health Inequalities	Employment is known to be a significant factor supporting the health of individuals. The Council is a major employer in the area contributing to the wider determinants of health and wellbeing.
Subsidy Control (the requirements of the Subsidy Control Act 2022 and the related Statutory Guidance)	This report does not involve the provision of financial assistance or confer any economic advantage to external organisations; therefore, subsidy control considerations are not applicable in this instance.
Area or Ward affected	Not applicable.

ANY OTHER RELEVANT INFORMATION

Published reference material is listed in Part 3.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Council's current Probationary Procedure provides for a standard six-month probationary period for new employees. This has historically allowed managers sufficient time to assess an employee's suitability for the role, including conduct, capability, attendance, performance and overall suitability within the organisation. However, the Employment Rights Act 2025 changes the employment law framework within which probationary periods operate, particularly through the reduction in the qualifying period for ordinary unfair dismissal from two years' continuous service to six months' service. The Government intends to commence these unfair dismissal changes on 1 January 2027.

This timing is particularly important as any employee who commences employment with the Council on 1 July 2026 will have accrued six months' continuous service by 1 January 2027. Under the Government's intended commencement approach, employees with six months'

service or more on that date will gain protection against ordinary unfair dismissal immediately. As a result, employees appointed from this point onwards may benefit from the new statutory protection at the same time as the current six-month probationary period would ordinarily conclude.

In light of these changes, retaining a six-month probationary period would provide limited opportunity for the Council to identify and address performance or conduct concerns, allow for any reasonable support or improvement period, and still make a final decision before the employee reaches the new statutory qualifying period. The revised procedure therefore reduces the standard probationary period to three months, with the option to extend where appropriate, so that managers can take earlier, structured and well-documented decisions regarding an employee's suitability for continued employment.

The revision builds on the Council's existing approach as a fair and supportive employer by strengthening early employment management, ensuring expectations are clear from the outset, reviews are undertaken in a timely manner, and any concerns continue to be addressed promptly, fairly and supportively. It will also enable employees who are meeting the required standards to have their employment confirmed earlier, while allowing additional support and time to be provided where an extension to probation is appropriate. In line with the Council's delegated arrangements, the revised procedure has been progressed through an Officer Decision by the Director of People, following consultation with the Head of Paid Service and the Chair of the Human Resources and Council Tax Committee, in accordance with the Council's constitutional requirements. This will support compliance with the new legislative requirements, reduce the risk of avoidable employment disputes, and ensure the Council's people management practices remain robust, consistent, supportive and aligned with developing practice across neighbouring authorities as Local Government Reorganisation progresses.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

There are no previous specific decisions relating to this revised Probationary Procedure. However, previous Human Resources and Council Tax Committee reports have recognised the need for the Director of People to make necessary and consequential amendments to People policies and procedures to ensure ongoing legal compliance, including changes arising from the Employment Rights Act 2025.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

- Employment Rights Act 2025
- Employment Rights Act 1996
- Equality Act 2010
- Relevant GOV.UK guidance on the Employment Rights Act 2025 unfair dismissal reforms

APPENDICES

A. Appendix A – Probationary Procedure

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