

SOLIHULL METROPOLITAN BOROUGH COUNCIL

Probation Policy

This policy sets out the terms of agreement reached by those participating in the Council's Consultation and Negotiating Framework.

SMBC can provide information in a range of different ways, for example via the use of audio tape, summarising large documents, interpretation, translation and British Sign Language interpreting services.

If you require this information in an alternative format or need assistance because English is not your first language, please contact your nominated Human Resources Advisor in the first instance for further support.

PROBATION POLICY

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Prepared by: P Sharma – Human Resources

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| Version | Date | Summary of changes |
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| 3 | January 2012 | Policy created following consultation |
| 3.1 | May 2018 | GDPR compliant (added wording to page 5 and appeal form). |
| 3.2 | November 2020 | Amendments made to complaint section – removal of references to grievance procedure and changed to new resolution procedure. |
| 4.0 | October 2022 | Policy refreshed in line with Smarter Ways of Working and Hybrid Working. Additions to Principles section regarding different scenarios. New starters' requirement to serve a probation period clarified. |

Probation Policy

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1. Purpose

A successful introduction to a new job is fundamental to the creation of a productive and positive working relationship between an Employer and Employee. This policy determines the process and principles to be adopted during the first six months in a new role (the Probation Period) at the Council/School.

The Policy places the onus on both the line manager and employee to productively participate in the process. It is aimed at setting up new employees for success as they become more familiar with the expectations of the Council/School.

2. Scope

The information in this policy covers all employees who have a contract of employment with Solihull MBC (including school-based employees) but specifically excludes contractors, agency workers or supply staff. The terms in this policy also do not apply to employees who have been assimilated or successful in obtaining an alternative role through a restructure or who have joined the Authority following a TUPE transfer. Furthermore, employees who have been appointed to a different role, been awarded a regrade of their post or promoted internally will not be subject to a probationary period unless their first probationary period is incomplete by the point of transfer.

Schools may choose to accept Solihull MBC's policy in consideration of NJC employees and alongside the ECT (Early Career Teachers) programme for Teachers.

Specific requirements in addition to the conditions stipulated in this policy may apply during the initial monitoring period within the first year of employment in certain positions such as centrally managed Teachers or Newly Qualified Social Workers.

NB Whilst excluded from scope in relation to this policy, some teaching staff will have line management responsibility for non-teaching staff. These Headteachers/Teachers should be given training in the application of the policy where appropriate.

The policy covers the following areas:

- Performance (against role requirements and targets/objectives)
- Conduct and behaviours (including the fulfilment of contractual requirements)
- Compliance with Policies and Procedures (including any local arrangements)
- Attendance
-

3. Principles

1. Upon commencing employment with the Council, all new employees (within the scope of the definition above) will be required to serve a probation period of six months and complete this successfully, including those with previous local government service who joined directly from another local authority. The probationary period is designed to support all employees in confirming their suitability for the position they have been recruited to, help them settle into the Council and understand its core values and key objectives by appreciating the standards it seeks to uphold as an organisation.
2. This policy sets out clear responsibilities for all parties in the employment relationship for the purpose of providing clarity and guidance. A carefully managed probationary period provides an opportunity for an employee to learn how to perform effectively in their position. Employees should understand how they are required to achieve the behavioural standards the Council expects and how their work performance will be assessed during their probationary period.
3. Line managers are responsible for ensuring newly appointed employees are aware of their responsibilities; are provided with the necessary training and support; and are given regular feedback throughout the probation period.
4. Employees are expected to work collaboratively with their line manager to familiarise themselves with the behavioural standards expected and requirements associated with their role in order to develop sufficiently and perform to the best of their ability.
5. An appraisal of the employee's skills and behavioural competencies should be linked to agreed PDRF objectives and measured against SMART targets (specific, measurable, achievable, realistic and timebound) thereby determining their suitability after using objective criteria.
6. Concerns regarding performance should be raised as early as possible to give maximum opportunity for the employee to rectify any problems and respond to support and encouragement. Line managers should not wait until a review meeting to highlight any emerging or ongoing issues. One to ones should be arranged as well to evaluate the employee's development, with guidance and support offered to direct the employee towards the expected levels of performance.
7. If, during the probationary period, it can be ascertained that the employee provided a false impression of their qualifications, skills, experience or any other information on their application form or during the selection process the Council may instigate formal proceedings to address the situation, the outcome of which could be dismissal from the Authority.

8. The Council will provide employees with a full opportunity to attain the necessary level of performance required. If, however, the line manager believes there is clear evidence to illustrate that the employee will be unable to reach the desired standards and would not benefit from further training or support, they should contact their Human Resources Advisor to establish if the circumstances warrant possibly terminating the employee's contract before the end of the designated probationary period.
9. In circumstances involving a long-term sickness absence, maternity leave or other form of parental leave, the probationary period may need to be postponed and resume upon the employee's return to work, though a formal meeting may not be required to confirm the arrangements.
10. Unpaid leave will not count towards the probation period. A period of unauthorised absence will be treated as a disciplinary matter and the employee will receive the appropriate deduction in pay after being duly informed in writing.
11. An employee's probationary period will last for the length of their employment contract if this is less than six months. If the contract is extended, the probationary period will continue in accordance with the terms set out in this policy.
12. An agency worker will be required to complete the Council's probation process if they secure a role to become employed by the Authority.
13. Any performance or conduct issues that arise after an employee's six-month probationary period has been successfully completed will be addressed under the Capability or Disciplinary policy.
14. Although employees should receive necessary training where appropriate, it is acknowledged that certain professionals and senior employees need to fulfil the requirements of their role quickly in order to meet service needs.
15. Reasonable adjustments will be accepted and accommodated to support an employee with a disability with the facilitation of the probationary process. One example could be the appropriateness in certain circumstances to allow an alternative companion to assist and support an employee during formal meetings. Guidance should be sought from HR on this issue.

4. Responsibilities

Employee

- To understand the objectives of the probation period and to reach agreed targets by set deadlines.

- To seek clarification around any features of the role they are unsure of and to raise any developing concerns with their line manager in order to work towards a successful completion of the probationary period.
- To engage with training and support put in place, and input to regular reviews with their own opinions on how they are progressing.
- To be attentive to and respond to feedback in order to achieve any required improvement identified.
- To comply with all reasonable requests, including attendance at review meetings.

Line Manager/Headteacher/Member of Governing Body

- To follow the Induction Guidelines to put in place a structured plan to ensure a successful start at the Council/School.
- To provide clarity on what is expected throughout the probation period, including key milestones, alongside continuous feedback and support. To ensure that the standards and objectives set are in the context of the Performance Development and Review Framework.
- To conduct review meetings during the probation period in line with this policy.
- To respond promptly to any issues, concerns or deterioration in performance/conduct and seek advice from HR if necessary.
- To update HR when the probation period has been successfully completed.

Human Resources

- To respond promptly to requests for advice or guidance from line managers.
- To advise on policy interpretation and implementation as appropriate to determine the policy is being applied appropriately.
- To participate in any meetings as required under this policy.

Recognised Trade Union Representative or Nominated Work Colleague

- To advise an employee throughout the process and assist during any formal meetings arranged to review the probation period where requested.

- To participate in policy development.

5. Data Protection

The Council/School processes any personal data collected during the probationary period in accordance with its data protection policy. Any data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of operating the probationary period. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's data protection policy. It may also constitute a disciplinary offence, which will be dealt with under the organisation's disciplinary policy.

6. Requirements During Probation Meetings

A probationary meeting may take place in person or remotely via video conferencing. It is acceptable to conduct a meeting remotely if: the employee has access to and is comfortable using the technology being adopted; and the employee's representative and all other relevant parties are able to join the hearing.

Audio or visual recordings of proceedings by the employee or their representative are not acceptable at any stage of this process. The employee, or any person acting on their behalf, is not permitted to covertly record any informal or formal meeting held by the Council. Any breach of this provision may lead to disciplinary action against the employee, up to and including dismissal. This is on the basis that we expect employees to be open and honest and to treat colleagues with dignity and respect, and making secret recordings undermines trust between individuals. Anyone making such recordings in contravention of this would also be personally responsible for any breach of Data Protection legislation. There is a potential that the use of non-covert audio recording devices may be allowed as a reasonable adjustment to accommodate a health condition or disability where previously deemed appropriate by Occupational Health or an employee's GP/Medical Practitioner; this will be with the express consent of everyone present. Please also refer to the Council's [Video Conferencing guidance](#) and [Electronic Communications Policy and Guidance](#).

7. Procedure

The requirement to serve a probation period of six months is explicitly stated in the contract of employment and new starter documentation. Line Managers should complete the [Corporate Induction Checklist](#) detailed on the *intranet for all new starters including the requirement to undertake successfully any designated mandatory training and development within the probation period.

New starters also have access to hybrid working arrangements if and when agreed by the line manager. An in-person induction may be more beneficial for the employee in terms of developing relationships with other team-members and familiarising themselves with the requirements of their role. The line manager will determine the most appropriate working pattern with the employee.

*(A copy is available on the schools extranet for guidance for Headteachers.)

Regular review meetings should take place throughout the probation period, as a guideline, at the following intervals:

- 6 weeks
- 12 weeks
- 18 weeks
- 24 weeks

Additional review meetings may be conducted with employees in specific roles – Newly Qualified Social Workers or centrally-managed Teachers, for example. The requirements will be determined by the relevant professional body.

More frequent reviews may be appropriate in certain circumstances (e.g. where there is a cause for concern).

Meetings held during the probationary period to review progress should be development-focussed using the standard documentation available on the intranet/extranet.

The final meeting to review the employee's performance must be held on or before the end of the agreed probationary period.

A clear record should be made of each review meeting. A copy of the record should be passed to the employee and the original retained by the line manager.

Line managers should ensure that new employees are clear on their objectives and responsibilities, and what the standards of achievement are (both in terms of performance and conduct). These should be recorded and shared.

It is helpful for employees to understand how their role fits into the overall departmental/school and organisational objectives so they are motivated to perform and achieve.

Where managers feel additional input is needed (e.g. training or personal development) they should seek assistance from either their HR Advisor or the Organisational Development Team.

Where serious concerns are apparent (e.g. a significant shortfall in performance, misconduct issues or a high level of absence) line managers should refer to the section "How to Handle Concerns or Issues During Probation" in this document. Any concerns must be recorded and shared with the employee. Appropriate action plans must be put in place to support an improvement in the required area.

8. Successful Probation – Next Steps

When an employee has successfully completed their probation period it shall be appropriate to review their pay within the Performance and Development Review Framework. This will depend upon their start date. **Employees who**

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joined between 1st October and 31st March, will have a formal assessment after being in post for six months and any performance increments will be effective from the date of their 6-month anniversary. New employees who start outside of these dates will fit in with the normal timescales of the Performance and Development Review Framework.

The HR Pay and Admin Team should be informed of the probation outcome via the completion of the Probationary Period Review Form. Subsequent arrangements will be made to confirm the employee's appointment in writing.

9. How to Handle Concerns or Issues During Probation

Concerns and issues should be handled promptly and appropriate training and support needs to be given to the employee to rectify any issues. The line manager needs to ensure the employee understands where improvements need to be made so any shortfalls can be appropriately addressed.

Line managers should seek advice and support as appropriate from HR or Organisational Development. Wherever possible issues should be resolved informally with the appropriate feedback and support being put in place.

In the event that concerns have not been satisfactorily resolved after support and training have been provided, or an issue of misconduct occurs, it may be appropriate to consider extending the probation period for no longer than three months.

The probation review process outlined below should be followed (unless there are exceptional reasons why this cannot happen – in this case Human Resources should be consulted). This is separate from the regular reviews referred to earlier in this policy.

10. Probation Review Process

The following process is compliant with statutory provisions and ACAS guidelines and should be followed where:

- A manager clearly has serious concerns about an employee's capability during the probation period and following the implementation of a development plan offering appropriate support and training an employee has failed to adequately improve; or
- A conduct issue arises which brings into question whether the probation period should continue.

Specialist advice or professional input from external bodies may be required to guide managers in determining the extent of necessary support measures that can be provided to ensure an employee is handed sufficient opportunities to demonstrate the standards and behaviours relevant to their role, however the Council should not be delayed unreasonably in accessing appropriate information.

Raising Concerns with the Employee

- The employee should be made aware of the areas of concern at the earliest opportunity. This should be in a meeting where the concerns are discussed and evidence is put forward.
- The employee should be encouraged to put forward their own point of view and any mitigating circumstances that may be affecting their performance, attendance or conduct.
- Where the manager is subsequently not prepared to confirm a successful probation period the employee will be notified that a Probation Review Meeting will be arranged.

11. Extending the Probation Period

Six months should be an adequate period of time to effectively assess an employee's suitability for the role. It is therefore only in exceptional circumstances that an extension (of no more than 3 months) should be contemplated. The following are examples of when this may be appropriate:

- After highlighting concerns and following a period of development there is a realistic chance that the employee will reach the required standards by the end of an extended probation period. This would have to be evidenced by an improvement that has already been demonstrated.
- Some unforeseen absence or issue has interrupted the probation period. Examples of this may be an extended absence from work, a period of suspension, or the lack of necessary support or training.
- Where a line manager finds it necessary to extend the probationary period this should be discussed with the employee and the reasons for the extension made clear, together with clear objectives and timescales. For further guidance on extending the probation period please refer to your HR Advisor.

12. Setting up a Probation Review Meeting

The employee should receive at least 5 working days' notice prior to the Probation Review Meeting in writing. The information should be emailed securely wherever possible. This letter should also include the following:

- documentary evidence to support the decision to call a Probation Review Meeting;
- a copy of the Probation policy;

- an explanation of the right to be represented by either a Trade Union representative or work-based colleague; or
- possible outcomes from a probation review meeting, such as:
 - Continuation of the probation period if a review meeting is arranged to determine if the probation period should end early; An extension of the probation period;
 - Termination of employment (with notice); or
 - Termination of employment (without notice – only in the event gross misconduct is evident).

It may be appropriate to ask the employee to refrain from attending work (whilst receiving contractual pay and benefits) for the time between being notified of the meeting and the meeting itself. Whilst this does not pre-empt the outcome of the meeting, it gives the employee an opportunity to prepare themselves. Line managers should seek guidance from HR on this point.

Conducting a Probation Review Meeting

- To ensure impartiality, the employee's line manager's manager or another nominated and approved senior figure should hear a Probation Review Meeting and be supported by a HR Advisor. For school-based staff, because termination of employment is a possible outcome, a member of the Governing Body should also be present (who should not be a member of staff). It is possible for the Governing Body to delegate the responsibilities of chairing the meeting to the Headteacher. Any rationale and decision-making in this respect should be fully documented.
- A Probation Review Meeting should take place in a private setting, with sufficient time allowed for full consideration of all the evidence and adjournments if necessary.
- Where a valid reason is given, in advance of a Probation Review Meeting, the meeting may be rescheduled once (within 5 working days of the original meeting date). In some circumstances it may be appropriate to hold the Probation Review Meeting in the absence of the employee (e.g. in cases of unauthorised absence) – please refer to the section "Absence from or Requests to Postpone Meetings".
- The outcome of a Probation Review Meeting should be confirmed in writing normally within 5 working days of the meeting. The employee's right of appeal in the event of an unsuccessful outcome should be set out, explaining timescales and to whom an appeal should be sent.
- Where the outcome of the meeting is the termination of employment with contractual notice it may be appropriate to make a payment in lieu of notice. The line manager will be responsible for notifying HR and Payroll of the arrangements, including details around any outstanding annual

leave, and ensuring any Council equipment is returned.

13. Appeals Procedure

Any appeal must be submitted within 5 working days of receiving written confirmation of the decision. The grounds for appeal must be clearly set out in writing and the employee needs to outline if the appeal is based on: possible procedural unfairness (an irregularity in the process that the employee perceives has been applied); factual inaccuracies that the employee believes do not support the decision reached; or if the employee feels the action taken for the reasons stated is disproportionate if potential mitigating circumstances have been put forward.

A manager more senior to the manager hearing the case, who has had no previous material involvement in the case, should hear appeals. For Schools, a member of the Governing Body, who has not previously been involved in the case, should hear appeals.

Appeals should normally be heard within 15 working days of receipt of the written notification.

Employees have the right to be represented at an appeal meeting by a Trade Union representative or a work-based colleague.

The appeal hearing should be structured to ensure all relevant information is fully considered and allow for adjournments if necessary.

Outcomes following the hearing could be to reject the appeal, uphold the appeal or approve a transfer to an alternative position. If the appeal is successful, an extension of no longer than three months, if appropriate, may be offered to allow the employee a sufficient period of time to overcome any shortcomings that have been apparent. An agreed transfer to an alternative position can only be assigned to a single, specified role that is available at the time and will be contingent upon the successful completion of another probationary period that will commence from the start date of the new post. Employment cannot be created for this purpose and the role cannot be obtained from the Redeployment Register.

The outcome should be confirmed in writing, making it clear there is no further internal right of appeal if the appeal cannot be upheld. This should be sent within 5 working days of the hearing.

The form contained within this policy should be used for appeals against the outcome of a probation review (Appendix 1).

14. Absence From or Requests to Postpone Meetings

Where an employee presents a valid reason for non-attendance at a scheduled

Probation Review Meeting it may be appropriate depending upon the circumstances to reschedule the meeting. Advice should be sought from HR in these situations. Examples of valid reasons may be:

- Non availability of Representative
- Certificated Sickness Absence
- Pre-booked leave

This is not an exhaustive list.

Where an employee fails to give a valid reason for non-attendance, or does not turn up for a review meeting, it may be appropriate to conduct the meeting in their absence. This would be in exceptional cases and the opportunity to either present the case in writing, or via a representative, should be offered to the employee in a letter prior to the meeting taking place wherever this is possible. Clearly this would not be possible in the event of a failure to turn up for the meeting.

15. Absence During the Probation Period

Employees who experience ill health during their probation will be offered support and, where appropriate, Occupational Health guidance.

Where an employee's attendance is a cause for concern this may trigger a Probation Review Meeting, dependent upon a number of factors, and in the circumstances it may be appropriate to:

- Obtain appropriate Occupational Health advice
- Extend the probation period to give a further opportunity to demonstrate the required standards (as per the guidance outlined previously concerning the extension of the probation period)
- Determine whether the employee has cooperated with policies and requirements (e.g. reporting absence, provision of medical certificates)

In circumstances where an employee's absence is ongoing and there is no likelihood of a return to work at a point within the probation period to enable them to demonstrate the required standards, a Probation Review Meeting may be scheduled.

If the employee is not well enough to attend a meeting the opportunity to either send a written submission or a nominated representative to present the case on their behalf exists, as outlined earlier in this policy.

16. Handling Complaints Submitted During Probation

If an employee has a complaint during the probation process, this should be dealt with locally at the earliest possible opportunity, by following the [Resolution](#)

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[policy](#) (or the School's agreed grievance policy) . In many cases, this may resolve the issue. If this approach is not successful, or if the employee feels unable to take steps to resolve the issue themselves, then they should inform their manager of the situation as soon as possible. The manager should then seek to agree a course of action with the employee to resolve the complaint.

Wherever possible, resolution will be sought through informal means. Where attempts to resolve matters informally are unsuccessful, it may be appropriate to commence the formal stage of the Resolution policy. Any formal complaint received in writing during the probation period should be treated seriously and investigated thoroughly with the outcome being communicated to the employee. Depending on the circumstances involved, it may be necessary to pause the probationary process temporarily while the issues are appropriately investigated. Equally, the case may be transferred to another manager so the probationary period can continue.

Complaints Regarding Probation Review Process

If there is a clear connection between a complaint received and any issues concerning performance or conduct, which have become the subject of the probation review process, consideration should be given to resolving the complaint before commencing the probation review process.

Complaints should be investigated by a suitably trained Investigating Officer.

Once the employee has submitted a written complaint, an investigation will commence. It may be appropriate to hold a meeting with the complainant to seek further clarification prior to initiating an investigation. Once the investigation is complete the employee should be informed of the conclusions in a meeting where they have the opportunity to be represented by either a Trade Union representative or work-based colleague.

Resolution Meeting

A resolution meeting should be heard by the employee's line manager's manager (or Headteacher) or a different manager if the line manager is involved in the employee's complaint.

A resolution meeting should take place, with sufficient time allowed for full consideration of all the evidence and adjournments if necessary.

The outcome of the resolution meeting should be confirmed in writing within 5 working days of the meeting. The outcome should set out the employee's right of appeal against any decision made, explaining timescales and to whom an appeal should be sent. More details can be found in the Resolution policy.

Appeal Process

Should a written appeal against a resolution outcome be received, a meeting will

be convened and conducted by a manager who is more senior than the manager/headteacher hearing the complaint (and who should not have played any previous material part in the process).

The outcome of the appeal meeting should be confirmed in writing within 5 working days of the meeting. It should be made clear that there is no further internal right of appeal in the event of an unsuccessful outcome.

Further details can be found in the Resolution policy.

17. Employee Assistance Programme

SMBC offers all employees access to the Employee Assistance Programme (EAP). This is an employee benefit designed to help employees to deal with personal and professional problems which could be affecting their home or work life, health or general wellbeing. The programme is run by an organisation called Health Assured.

This is a confidential facility that will provide information, expert advice and structured counselling by telephone 24 hours a day, 7 days a week. The service gives employees a place to turn to for support any time of day or night, 365 days a year.

To use the confidential service you can contact the freephone number 0800 028 0199, the email facility on their website or via the instant web chat facility via the website www.healthassuredeap.co.uk using the following login details:

Username: Solihull

Password: MBC

There is also 'My Healthy Advantage' Mobile App and an Online Health & Wellbeing Portal which offers employees access to online webinars, factsheets and tailored programmes online, allowing them access to support independently, or alongside their counselling support. The My Healthy Advantage' app provides an enhanced set of wellbeing tools and features designed to improve your mental and physical health by using personal metrics to set goals and achievements. It is available on the Apple Store and Google Play store and you will need to use the employer code which is **MHA109491**.

The EAP helpline is also available to line managers to offer support when dealing with challenging managerial situations. Their advisors do not advise on HR policies and procedures but can provide a facilitative and supportive space to help assist them with complicated or difficult issues. Some managers may want to rehearse a conversation, talk through how their own issues are impinging on a work problem or voice concern about their ability or confidence to manage a workplace conflict or difficulty. To use the service, managers can contact the freephone number **0800 028 0199**.

18. Appeal Template

APPENDIX 1

Solihull Metropolitan Borough Council Appeal against Outcome of Probation Review Meeting

I wish to submit an appeal against the outcome of a Probation Review Meeting

DATA PROTECTION FAIR PROCESSING NOTICE

All information supplied on this form may be held and used as detailed:

The form is sent to the Chairperson of the School Governing Body or a nominated Senior Manager and retained until the appeal process has been exhausted. A copy of the form will also be shared with Human Resources to ensure the appeal process is correctly followed, and with members of the independent appeal panel (SMBC senior employees/school governors) as part of a confidential 'bundle' of evidence heard at an appeal meeting, or to an Employment Tribunal and legal representatives should a case progress that far.

The information you provide may also be shared with third parties of professional bodies such as the Disclosure & Barring Service, the Department for Education, or the Health and Care Professions Council should there be a need for the Council/school to make a referral.

For further information about how we use your information please refer to the Council's Data Protection Policy on the [Intranet](#) / School's [Extranet](#) and Privacy Statement on www.solihull.gov.uk.

PERSONAL DETAILS

| | |
|--|--|
| Your Name: | |
| Your Job Title: | |
| Your Contact Address: | |
| Your Contact Telephone No: | |
| Union/ Nominated Representative (if known) | |

DETAILS OF ACTION TAKEN

| | |
|--|--|
| Type of Action taken: (e.g. dismissal etc) | |
| Name of Line Manager/ Headteacher/ Chair taking decision | |
| Date of receipt of written decision | |

GROUNDS OF APPEAL. Please provide further detail for your grounds of appeal
(continue on another sheet if necessary)

Grounds for appeal (continued)

Your Signature: _____ **Print Name:** _____

Date of Signature: _____

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