Rotherham Metropolitan Borough Council

Public Report
Staffing Committee

Committee Name and Date of Committee Meeting
Staffing Committee– 30 November 2026

Report Title
Probation Policy 2026

Is this a Key Decision and has it been included on the Forward Plan?
No

Executive Director Approving Submission of the Report
Judith Badger, Executive Director of Corporate Services

Report Author(s)
Amy Leech, Head of Human Resources (Policy & Operations)
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Ward(s) Affected
None

Report Summary
This report outlines proposed changes to the Council's Probation Policy to reflect upcoming legislative changes and strengthen probation management arrangements. The revised policy will support consistent decision-making, effective performance management and compliance with employment legislation.

Recommendations
That Staffing Committee approve the revised Probation Policy attached at Appendix 1.

List of Appendices Included
Appendix 1 Amended Probation Policy 2026

Background Papers
Current Probation Policy.
Revised Probation Policy 2026.
Equality Impact Assessment.
Employment Rights Act 2025.
Consultation feedback from recognised Trade Unions.

Consideration by any other Council Committee, Scrutiny or Advisory Panel
No

Council Approval Required
No

Exempt from the Press and Public
No

Probation Policy

1. Background

1.1 The Council's current Probation Policy was revised in 2025 and provides for a six-month probationary period with formal review points at one, three and six months, together with the ability to extend probation where appropriate.

1.2 The Employment Rights Act 2025 introduces a significant change to employment protections by reducing the qualifying period for ordinary unfair dismissal claims from two years' continuous service to six months with effect from 1 January 2027. Employees who have attained six months' service by that date will benefit from the new protections.

1.3 Whilst probationary employees can still be dismissed where there is a fair reason and a reasonable process has been followed, the proposed legislation significantly reduces the period available for managers to assess performance, conduct, attendance and overall suitability before statutory employment protections apply.

1.4 Revisions to the current policy are necessary to ensure that it remains fit for purpose, legally compliant and operationally effective within the new legislative framework.

1.5 The key reasons for the proposed revisions are:

Legislative Change
The Council's current probation arrangements are aligned to a position where ordinary unfair dismissal rights arise after two years of service. The reduction of this qualifying period to six months means that the current process would conclude at the point employees gain statutory protection.

1.6 **Employment Risk**
The existing procedure creates a risk that probation decisions could be delayed beyond the point at which statutory protection is acquired, resulting in increased procedural complexity, greater employment relations risk and potential exposure to Employment Tribunal claims.

1.7 **Workforce Management**
Probation remains an important mechanism for assessing employee suitability, capability, attendance and conduct during the early stages of employment. The Council requires a process that provides managers with sufficient time to identify concerns and take appropriate action whilst maintaining fairness and consistency.

1.8 **Organisational Readiness**
A revised policy will allow the Council to implement strengthened management oversight, earlier intervention where concerns arise, improved training and clearer guidance for managers before the legislative changes take effect.

1.9 **Consultation Requirements**

As the proposed changes affect an existing employment policy and have implications for employees joining the organisation, formal consultation has been undertaken with recognised Trade Unions and other relevant stakeholders.

The consultation process ensured:

- That employee representatives were fully informed of the legislative changes driving the review.
- An opportunity for feedback on the proposed amendments was provided.
- Consideration of any alternative suggestions or mitigating measures.
- Support for transparency and partnership working.
- That any revised procedure is fair, practical and capable of consistent application across the organisation.

2. Options considered and recommended proposal

2.1 Option 1: Maintain the Existing Policy

Under this option the Council would retain the current six-month probation process without significant amendment.

Advantages

- No requirement to amend policy or undertake additional manager training.
- Familiar process for managers and employees.

Disadvantages

- Probation decisions may be taken at or after the point employees acquire unfair dismissal protection.
- Increased employment relations and litigation risk.
- Policy would not reflect the changed legislative environment.

Conclusion: This option does not adequately address the risks arising from the Employment Rights Act changes and is **not recommended**.

2.2 Option 2: Remove Probation Periods

Under this option the Council would remove formal probation and manage concerns through induction processes, supervision, performance management and employee relations procedures.

Advantages

- Simplified policy framework.
- Greater consistency with ongoing performance management arrangements.

Disadvantages

- Removes an established mechanism for assessing suitability during the early stages of employment.

- Increased reliance on formal capability and conduct procedures.
- Greater management resource and training requirements.
- Reduces flexibility in managing new starters.

Conclusion: This option would remove an effective workforce management tool and is **not recommended**.

2.3 **Option 3: Retain and Amend the Existing Six-Month Policy**

Under this option the Council would retain a six-month probation period but strengthen review arrangements and require formal decisions before six months' service is reached.

Advantages

- Retains an established process.
- Strengthens management oversight.
- Provides additional guidance and support for managers.

Disadvantages

- Limited flexibility if concerns arise late in the probation period.
- Appeals may extend beyond six months' service.
- Does not fully mitigate risks associated with delays in decision making.

Conclusion: Whilst offering some improvements, this option does not provide sufficient flexibility within the reduced legislative timeframe and is therefore **not recommended**.

Option 4: Introduce a Shortened Probation Period (Recommended)

2.4 Under this option the Council would reduce the standard probation period from six months to four months, with provision to extend up to five months where additional assessment is required.

Proposed changes include:

- Four-month probation period.
- Formal documented review at three months.
- Final probation review at month four.
- Decisions regarding confirmation, extension or dismissal taken before completion of four months' service.
- Limited extension period where justified.
- Stronger appeal arrangements.
- Increased HR oversight of probation extensions and dismissals.
- Enhanced manager guidance and training.

Reasons for the Recommended Option

Option 4 is recommended because it provides the most balanced and proportionate response to the forthcoming legislative changes.

Specifically, it:

- Ensures employment decisions are concluded well before employees reach the six-month unfair dismissal qualification point.

- Reduces organisational and legal risk.
- Retains a structured and recognised mechanism for assessing employee suitability.
- Provides managers with a clear framework for identifying and addressing concerns at an earlier stage.
- Supports consistency and fairness in decision making.
- Strengthens governance through increased HR oversight and enhanced appeal arrangements.
- Maintains flexibility through a limited extension period where additional assessment is required.
- Aligns the Council's approach with emerging practice being considered by other local authorities.

2.5 As this is a determination of employee terms and conditions, this is not delegated within the formal Sub-Scheme of Delegation to the Executive Director of Corporate Services and therefore the decision can only be taken by Staffing Committee.

3. Consultation on Proposal

3.1 Consultation has taken place with the recognised Trade Unions and the relevant Cabinet Member, who have confirmed support for the proposed revisions.

4. Timetable and Accountability for Implementing this Decision

4.1 The changes to the Employment Rights Act 2025 covering qualifying periods are scheduled to take effect on 1 January 2027.

5. Financial and Procurement Advice and Implications

5.1 There are no direct financial implications arising from the details contained in this report.

5.2 There are no direct procurement implications arising from the details contained in this report.

6. Legal Advice and Implications

6.1 The proposed amendments have been developed in response to the changes introduced through the Employment Rights Act 2025, which will reduce the qualifying period for ordinary unfair dismissal claims to six months' continuous service from 1 January 2027. The revised probation arrangements seek to ensure that employment decisions relating to suitability, capability, conduct and attendance are reached before employees acquire statutory protection.

6.2 The reduction in qualifying service requirements does not remove the Council's obligation to comply with all statutory employment protections which apply from the commencement of employment. Whilst employees within their probation period may have reduced employment protections, the Council must continue to ensure that all decisions are lawful, reasonable, evidence-

based and procedurally fair. The Council must also comply with obligations under the Equality Act 2010 and ensure that probationary processes do not result in discrimination, harassment or victimisation of employees with protected characteristics.

7. Human Resources Advice and Implications

7.1 The proposed changes will require a manager communication, guidance and training to ensure consistent application of the revised probation arrangements across the Council.

7.2 HR will provide advice and support to managers throughout the probation process, particularly where extensions, concerns regarding performance or attendance, or recommendations for dismissal are being considered. The introduction of increased HR oversight will support consistency of decision-making and reduce organisational risk.

7.3 The revised process may require managers to undertake probation reviews earlier and more proactively than under the current arrangements. This will place additional emphasis on effective induction, supervision, objective setting and timely record keeping.

7.4 Workforce data relating to probation outcomes will be monitored to identify any emerging equality impacts, trends or inconsistencies in application across services.

8. Implications for Children and Young People and Vulnerable Adults

8.1 There are no implications for children and young people or vulnerable adults.

9. Equalities and Human Rights Advice and Implications

9.1 In making any decision the Committee is required to have due regard to its ities duties and with respect to the Equality Act 2010, section 149, of the public sector duty:

a) eliminating discrimination, harassment, victimisation and eliminate any other conduct that is prohibited by or under the Act

b) advancing equality of opportunity between people who share a protected characteristic and people who do not share it

c) fostering good relations between people who share a relevant protected characteristic and people who do not share it.

9.2 An Equality Impact Assessment has been undertaken. No significant adverse impacts have been identified. However, the Council will continue to monitor the application and outcomes of the revised probation policy and will ensure that reasonable adjustments and individual circumstances are appropriately considered.

10. Implications for CO_2 Emissions and Climate Change

10.1 There is no impact on emissions.

11. Implications for Partners

11.1 There is no impact on partners.

12. Risks and Mitigation

12.1 The revised probation policy presents risks relating to the timely and consistent completion of probation reviews, potential employee relations issues, and the possibility of legal challenges where decisions are not appropriately evidenced or applied. These risks will be mitigated through clear guidance, manager training, standardised documentation, HR oversight, regular review meetings, and ongoing monitoring to ensure the policy is applied fairly, consistently and in accordance with employment and equality legislation. Extensions to probation will remain available where additional time is needed to make an informed and proportionate decision.

Accountable Officer
Lynsey Linton, Service Director, Human Resources and Organisational Development.

Approvals obtained on behalf of:

	Name	Date
Chief Executive		Click here to enter a date.
Executive Director of Corporate Services (S.151 Officer)	Judith Badger	19/11/26
Service Director of Legal Services (Monitoring Officer)	Phillip Horsfield	19/11/26
Service Director of Human Resources (if appropriate)	Lynsey Linton	28/10/26
Head of Human Resources (if appropriate)	Amy Leech	28/10/26
The Executive Director with responsibility for this report	Judith Badger, Executive Director of Corporate Services	19/11/26
Consultation undertaken with the relevant Cabinet Member	Cabinet Member for Finance and Community Safety - Councillor Alam	03/11/26

Report Author: Amy Leech, Head of HR (Policy and Operations)

This report is published on the Council's website.