

To: Council
Date: 30 January 2023
Report of: Head of Business Improvement
Title of Report: Disciplinary Procedure

Summary and recommendations	
Purpose of report:	To approve the Disciplinary Procedure
Key decision:	No
Cabinet Member:	Councillor Nigel Chapman, Cabinet Member for Citizen Focussed Services
Corporate Priority:	None
Policy Framework:	None

Recommendation(s): That Council resolves to:	
1	Agree the Disciplinary Procedure and Guidance with immediate effect;
2.	Confirm whether the involvement of an elected member as an observer in disciplinary appeal hearings is removed and the Constitution be amended accordingly or is retained at the employee's consent;
3.	Authorise the Head of Business Improvement or their designated deputy to make revisions to the Disciplinary Procedure as required to correct any clerical errors or comply with changes to law;
4.	Authorise the Head of Business Improvement or their designated deputy to make minor revisions to the Disciplinary Guidance to ensure that it continues to be fit for purpose.

Appendices	
Appendix 1	Disciplinary Procedure
Appendix 2	Disciplinary Guidance
Appendix 3	Risk Register
Appendix 4	Equalities Impact Assessment

Introduction and background

1. There has been a full review of the Council's Disciplinary Policy and Procedure, which has been in place for ten years. An updated Disciplinary Procedure and separate guidance have been agreed and are presented for approval.

Disciplinary Procedure and Guidance

2. The documentation has been reformatted to have one procedure document and one guidance document. These replace a single policy and procedure document and three separate supporting documents on conducting investigations, disciplinary meetings and appeal meetings.
3. The new procedure details all of the core policy elements of the disciplinary procedure including constitutional requirements. The guidance is a comprehensive step by step guide on process to inform both employees and managers.
4. Feedback received from managers and trade union representatives has been taken into account in developing the new Disciplinary Procedure and separate guidance.
5. The new documentation is intended to be more user friendly and takes account of changes in working practices. It is also in line with ACAS (Arbitration, Conciliation and Advisory Service) guidance on disciplinary procedures.
6. The procedure has been simplified by enabling line managers to undertake investigations whenever appropriate, instead of having two separate roles of Commissioning Manager and Investigating Officer. The appeals process has also been simplified.
7. The informal process has been strengthened to encourage more use of early informal intervention to prevent unnecessary escalation of cases.
8. Trade Unions have agreed all of the proposed changes with the exception of elected member involvement in appeal hearings against dismissal.
9. The current documentation indicates that a Councillor must always be present to observe appeal hearings against dismissal, although the Constitution wording is that they may be invited to observe the meeting. Management wish to remove this requirement from the procedure and amend the Constitution to reflect. The reasons for this are that this is not an effective use of an elected member's time as this is non-participative role. Presence at the meeting could also create future obligations for the elected member as they may be required to attend an employment tribunal hearing as a witness. The Unions are, however, opposed to this change as they consider it provides impartiality and wish to retain the option for an elected member to observe meetings at the employee's request.
10. The proposed changes do not affect the constitutional rules in relation the disciplinary procedures for staff in certain senior officer roles.
11. Training on the new procedure will be provided to managers.
12. The Head of Business Improvement or their delegated deputy will only make changes to the Disciplinary Procedure if they are necessary to correct any clerical errors or to comply with changes in law. The approval of Council will be sought for any other changes, after consultation with Unions.
13. The Head of Business Improvement, or their delegated deputy may, however, make minor changes to the Guidance. Such changes will be to ensure that the

practical steps which underpin the Procedure continue to be fit for purpose as working practices evolve and change, including any changes to law. Unions will be consulted on changes as appropriate.

Financial implications

- 14. By having a legally compliant policy the risk of any financial compensation claims is minimised.

Legal issues

- 15. The Disciplinary Procedure forms part of the terms and conditions of employment for Council employees. By having legally compliant policies the risk of any legal challenge is minimised. Under employment legislation there is a requirement to provide employees with information about the disciplinary procedure.

Level of risk

- 16. A completed Risk Register is attached at appendix 3. The revised policy will ensure that the Council complies with its legal requirements and the supporting procedure/guidance will ensure consistency. The absence of the policy would increase the risk of legal action against the Council with associated financial and employee relations considerations.

Equalities impact

A completed Equalities Impact Assessment at Appendix 4.

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Background Papers: None

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