

## **PILOT OF EARLY RESOLUTION PROCEDURE AND PROPOSAL TO REPLACE THE GRIEVANCE PROCEDURE WITH A RESOLUTION PROCEDURE**

### **Purpose**

1. The purpose of this report is to outline to Staffing Policy Committee a proposal to pilot an early resolution procedure for staff and plans to replace the grievance procedure with a resolution procedure.

### **Background**

2. Representatives from the HR, occupational health (OH) and legal team have met to discuss concerns about the effectiveness and impact of the current grievance procedure and have been looking at possible new approaches of resolving disputes, developing constructive relationships and encouraging positive conversations at work.
3. Below are the most common general problems with grievance procedures<sup>1</sup>
  - Traditional grievance procedures do little to resolve disputes. Drawing on a quasi-legal structure, they are inherently formal and profoundly adversarial.
  - They are reactive and are often used at a late stage of a conflict rather than at an early stage.
  - They polarise the parties and cause positions to harden
  - The parties don't have control over the process, or the outcome.
  - They rarely identify the root cause of a conflict.
  - Opportunities for learning and systemic or cultural change are impeded or lost.
  - They reinforce the idea that someone else is responsible for the cause of the problem, and someone else is responsible for fixing the problem.
  - They impede creativity and innovation, which are critical to business success and economic growth.
  - They are often counter-intuitive - they don't offer a common-sense approach to dispute resolution.
  - They lack empathy.
  - They create a dysfunctional 'grievance culture'.
4. Current problems with the grievance procedure experienced at the council include:
  - It is not an uncommon response for an employee, when faced either with a source of conflict (usually with their manager) or a formal procedure (grievance or improving work performance), to report sickness absence and cite workplace stress. Any such absence has costs and service implications. The absence will rarely resolve the issue as the employee eventually has to return to the same environment.
  - It is not uncommon for an employee to tactically miss OH appointments to delay management procedures. This can be indicative of a lack of confidence in the procedure.

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<sup>1</sup> TCM Model Resolution Policy by David Liddle February 2015

- Managers are sometimes tempted to 'medicalise' cases of conflict. By referring an employee to OH with 'stress' they can deflect the need to apply good management or to use other more suitable methods of resolution to address sources of conflict.
- The current procedure is formal and inflexible, and grievances often take longer than they should have. Invitation letters must be issued, dates of meetings set based on the diary coordination of multiple attendees and the availability of a suitable meeting room. This can mean meeting dates are delayed far beyond an ideal timescale.
- The grievance process itself can be adversarial. The onus often seems set on establishing the guilt or otherwise of the accused party rather than achieving a resolution.
- Grievances can have very wide-reaching implications in terms of cost and support mechanisms required to be put in place.
- Calls received to the confidential employee wellbeing helpline are typically dealt with by signposting to services. The tool most commonly used in situations like this is the corporate employee well-being risk assessment procedure. Whilst this process is designed to instigate a conversation between the employee and the manager, it is less likely to bear fruit if the relationship between the two is part of the problem. As a regular feature of calls to the helpline is some form of conflict with the manager, an alternative tool may be useful.
- The most recent staff survey results show that most directorates had around 15-20% of responders report that work had had a negative impact upon their health over the last year. This will reflect in absence costs, low morale, reduced productivity and staff turnover.
- Whilst staff absence figures often get the headlines, the hidden cost comes from presenteeism. This is where staff continue at work (often with stress related symptoms) and perform to a low level.<sup>2</sup>

### **Main considerations**

5. There is substantial evidence that suggests that the council should be investigating the option to replace the current grievance policy with a resolution procedure, increasing use of formal mediation at an early stage and putting in place an internal early resolution procedure.
6. Whilst work is now taking place to develop a new resolution procedure it is proposed that we pilot the introduction of an internal early resolution process so that the results can be analysed to understand the impact of this approach, before rolling it out.
7. The early resolution procedure pilot would be available either before a grievance is raised, or as part of the informal grievance procedure, and would be entirely voluntary. This will provide an opportunity for staff to take part in a process led by a facilitator, which is designed to promote communication and increased understanding between staff. The aim is to improve individual relationships, team unity and wellbeing for individuals and the wider team. At all times, employees would have a choice whether to use the early resolution procedure or the formal policy and procedure. It is a flexible informal process and is designed to suit the needs of the people involved.
8. It is proposed the early resolution procedure pilot runs on a small scale for a period of 6 months and is led by a staff member who is an accredited and experienced mediator. Referrals to the pilot will be made via HR, OH and the Employee Wellbeing Helpline.

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<sup>2</sup> Two useful articles on the topic and giving indicative costs  
<https://www.highspeedtraining.co.uk/hub/the-cost-of-presenteeism/>  
<https://www.cipd.co.uk/about/media/press/020518-health-wellbeing-survey>

There will be regular reviews during this period. See appendix A for a flowchart of the procedure and appendix B for staff guidance.

9. To establish and evaluate whether the early resolution procedure has positive benefits staff who take part will be asked to complete a simple feedback form to find out:
  - How did staff find the overall process?
  - Was it helpful, if so, how?
  - If it was not helpful, staff views as to why?
  - Any ways staff consider the process could be improved
  - What effect has it had on the situation?
  
10. The potential benefits of an early resolution procedure and the replacement of our grievance policy with a resolution procedure include:
  - Being able to link the dispute resolution with Wiltshire's vision to create stronger communities, and with our employer promise to empower our people to be innovative and collaborative with a 'can do' approach to conflict in the workplace.
  - Demonstrating that the council recognises that a positive working environment and good working relationships have a positive impact on employee well-being and engagement.
  - Maintaining and improving positive working environment which can lead to better performance, improved employee retention and reduced stress-related sickness absence.
  - Promoting positive and constructive behaviours in the workplace.
  - A reduction of the amount of time HR and other professionals spend on grievance case management.
  - Supports the council to transition from a 'grievance culture' to a 'resolution culture'.
  - Provides a process for staff and managers to work together and resolve disputes and conflicts constructively and speedily recognising that conflict in the workplace is normal and, in many cases, inevitable.

### **Environmental Impact of the proposal**

11. None

### **Equalities impact of the proposal**

12. The early resolution procedure will be offered to all staff during the pilot and if successful a policy will be written and will be equality impact assessed.

### **Risk Assessment**

13. Long running staff disputes and grievances carry risks including:
  - Adverse impact on health and wellbeing of those involved and teams in which they work and often lasting damages to the parties.
  - Cost and service implications arising from the absence of staff who report sickness when faced with a source of conflict, grievance or disciplinary procedure.
  - Significant time and costs for HR, OH, the individuals and teams involved in conflict and grievances
  
14. The purpose of the early resolution procedure is to reduce these risks. However, on the basis of this limited pilot there is a small risk that the process could make matters worse.

The pilot will be reviewed on an ongoing basis and steps will be taken to minimise any risks which come to light and if the pilot is unsuccessful the existing processes can still be used.

### **Financial Implications of the proposal**

15. The initial trial will be provided with existing resources in legal services, OH and HR.

### **Conclusions**

16. The pilot of the early resolution procedure will run for 6 months initially from September 2019. Meanwhile work will be ongoing with developing a new resolution procedure to replace the current grievance procedure, and this will be brought to Staffing Policy Committee in due course.

### **Recommendations**

17. It is recommended that Staffing Policy Committee approve:

- i. The introduction of a pilot for an early resolution procedure and to receive an update in due course on how the pilot is progressing.
- ii. Work to develop a new resolution procedure to replace the current grievance procedure.

**Joanne Pitt**  
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#### *Report Authors*

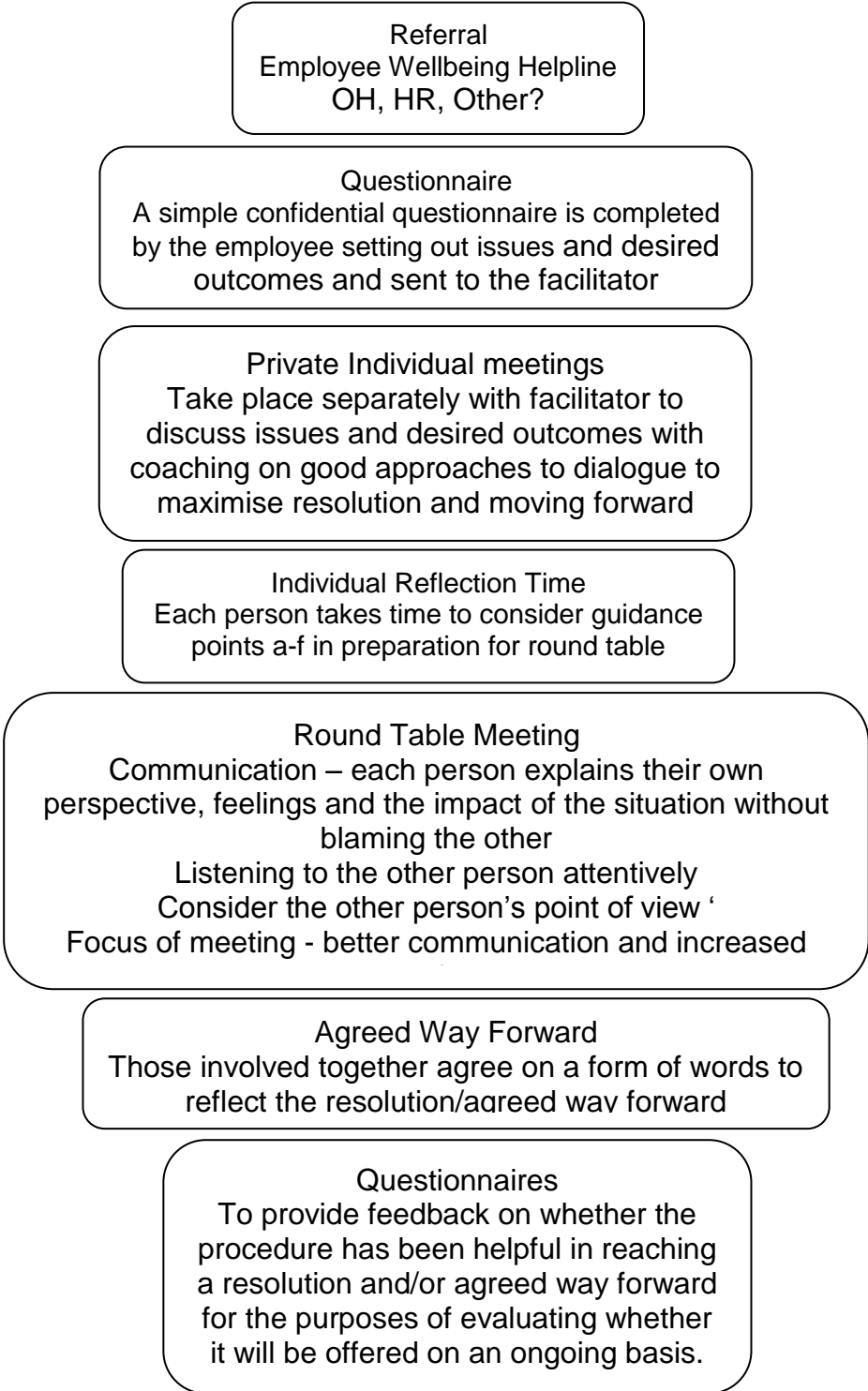
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### Appendix A - Early Resolution Procedure Flowchart

The early resolution procedure is a voluntary informal process. It is an opportunity for staff to take part in a process led by an early resolution facilitator which is designed to promote communication and increased understanding between staff. The aim is to improve individual relationships, team unity and wellbeing for

Staff member wishes to take steps  
to improve relationship(s), team

individuals and the wider team. At all times, employees have a choice whether to use the early resolution procedure or formal policies and procedures. This is a flexible informal process and can be designed to suit the needs of the people involved. The flowchart below gives an outline of the procedure.



## Appendix B - Early Resolution Procedure Pilot Staff Guidance

### 1. Introduction

The early resolution procedure is a voluntary informal confidential process which is being piloted. It is an opportunity for staff to take part in a process led by an early resolution facilitator which is designed to promote communication and increased understanding between staff. The aim is to improve individual relationships, team unity and wellbeing for individuals and the wider team. At all times, employees have a choice whether to use the early resolution procedure or formal policies and procedures. This is a flexible informal process and can be designed to suit the needs of the people involved.

2. **Referrals** to take part in the pilot will be made via the Employee Wellbeing Helpline, OH and HR.

### 3. Initial Meeting with Early Resolution Facilitator

- Between individual staff member and facilitator
- An opportunity to discuss issues between staff members, work relationships, team unity and wellbeing, the desired outcomes and the best way to have a dialogue with another member of staff to find a solution jointly.

### 4. Reflection Time

- After the initial meeting and before the round table meeting.
- Time for staff to individually consider and reflect on points a-f below, in preparation for the round table meeting.
- The round table meeting will take place on another day as soon as is convenient to both members of staff, the facilitator [and if appropriate the line manager]

### 5. Round Table Meeting

- a) sharing perspectives: staff will each have an opportunity to explain how they have personally felt and the impact of the behaviour or disagreement upon them. Words can be used by an individual to explain how it has been for them from their perspective without blaming the other person.

For example, "When this happened I felt ..." (rather than ... you did .... this or that ... and I think you are ...)

- b) listening: each person shares their perspective while the other person listens carefully without interrupting.
- c) consider how it might be for the other person, as if you were standing in their shoes so to speak.
- d) requests: a person may wish to make a request an apology to help them feel better about something which happened or going forward for an approach or style of working which would promote a positive way of working together.
- e) apology – this is a two-way process. If something has upset one person, they may wish to request an apology for something specific which would make them feel better. Equally, staff can reflect on whether they consider it would be helpful and appropriate to offer an apology and if so, what they would be willing to offer?

- f) the focus of the meeting is to share and consider what will help to rebuild the trust and working relationship between the individuals and/or the wider team. All individuals have unique positive strengths and characteristics. Staff can take time to think about what they do value about the other person. They may not know the ways in which they are valued. Letting each other know how they are valued and appreciated can start to rebuild working relationships.
6. This is an offer for individual members of staff who would like to take part in an early resolution procedure where the aim is to promote and improve relationships between individuals, team unity and well-being.
  7. An early resolution restorative conversation is a flexible informal process and can be designed to suit the needs of the people involved.
  8. The process is confidential which means the facilitator and staff will keep information shared during 1:1 meeting and round table meetings confidential, except where staff involved agree on a way forward and a form of wording which they are happy can be shared. The only exception is if one person discloses information which gives rise to a concern that immediate serious harm is likely to occur, in which case the facilitator may need to take appropriate steps to refer the matter to OH/HR.
  9. Staff taking part in the process will be asked to complete a simple feedback form, so we can evaluate whether it is a positive benefit which should be made available more widely. Results from the evaluation will be anonymised and personal details will not be shared.

To make enquiries about taking part in the early resolution procedure pilot, please contact Charlotte May [charlotte.may@wiltshire.gov.uk](mailto:charlotte.may@wiltshire.gov.uk) or call 01225 713065.