

Disciplinary, Grievance and Improving Work Performance policies

Purpose

1. The purpose of the report is to seek approval for 3 updated policies as part of the policy framework for effective performance management (performance, conflict and conduct), recognising that this is a necessary condition for a High Performing Culture (HPC):
 - Discipline
 - Grievance
 - Improving Work Performance (IWP)

Background

2. The IWP and grievance policy were last reviewed in 2016 and the disciplinary policy in 2010. There have been only minor process / procedure updates since then as necessary.
3. The review of these policies now reflects the organisational context within which the council is operating. The launch of Our Identity and the HPC workstream (which is part of the Organisational Recovery Programme) are key strands which have influenced the changes. The approach to HR policies is that they are consistent; accessible and user friendly; supporting and enabling the organisation to effectively manage performance and conduct concerns.
4. In discussions with HR Advisory and Senior HR managers, the concerns fed back from managers in relation to the grievance procedure (reported to Heads of Service in June 2021) also apply to the disciplinary and IWP policies, in that they are:
 - Complex
 - Take too long to complete
 - Time consuming
 - Overly prescriptive
 - Adversarial
 - Not always felt to be positive for people involved
 - Ineffective in resolving complaints – behaviours don't change
5. This creates barriers for managers to effectively manage performance and conduct and results in issues either not being dealt with at all or done so ineffectively, which not only impacts those directly involved but other staff indirectly. This is not in the interests of the council or staff.
6. Over the last few months' representatives from Strategic HR & OD and HR Advisory have been discussing how to constructively and usefully revise these policies. They are part of the Performance and Task Management Group (sub group of the HPC workstream), which includes input from L&D.

Main considerations and specific amendments proposed

7. General revisions across the 3 policies have been made so that they are clearer, shorter, easier to follow and implement. In all documents this has resulted in a decrease in page numbers from double to single figures. This streamlining has been achieved by:
 - Making the content more succinct and focused, including reference to other relevant policies and guides rather than duplicating unnecessary detail e.g. Appeals policy, Right to be Accompanied guide.
 - Stylistic and layout revisions - procedural steps and flow have been improved.
 - Separate subheadings e.g. 'when does it apply/when does it not apply/ main points' have been subsumed into the section "Scope and General Principles."
 - Limiting the number of links within the document – these often become out of date/corrupted over time and potentially cause unnecessary distractions and information overload for users.
 - Applying consistency in procedure where appropriate to do so e.g. time for response, submission of additional documents.

Specific updates to each policy

8. Disciplinary
 - Examples of misconduct now shown as an appendix to the main policy.
 - Addition of specific reference to dealing with safeguarding issues.
 - Sanctions – the term of live warnings is increased –Written Warning from 6 to 12 months. Final Written Warning from 12 to 18 months. This better supports the required outcome of sustained improvement which underpins effective performance management. It also makes the process more efficient, should issues need to be readdressed.
 - Sanctions –further clarification within the definitions and that the issuing of these does not have to be sequential as this will depend on the individual circumstances.
9. Grievance
 - Resolving matters informally/Mediated Resolution is strongly encouraged, where appropriate.
 - This approach encourages early reflection and consideration of the substance and outcome of complaints, promoting discussion as to whether a formal grievance is an appropriate route.
 - There is no requirement for a clarification meeting at the initial formal stage, this simplifies the approach, better ensures prompt action and achieves the aim to hold a grievance hearing within 5 working days.
 - Removed reference to complaints older than 'three months' potentially being out of time. Decisions will be case by case.
10. IWP
 - Reference to dealing with matters informally is retained but with clarity that this sits outside of the policy, allowing the policy to focus on the formal stages. Informal performance discussions are part of normal BAU work discussions

- Monitoring and review periods are not specified. There is flexibility for case by case decisions given the individuality of each case. HR Advisory will oversee to ensure consistency.
 - Ill health retirement is not an option at the final stage. Such matters will, more appropriately, revert to the sickness absence policy at an earlier stage.
 - Ability to re-invoke the procedure if performance again becomes unsatisfactory.
 - In line with the disciplinary procedure, any warnings issued are live for either 12 or 18 months.
 - Notice periods for invites to meetings are aligned with disciplinary and grievance policies of 5 days' notice and 2 days prior for submissions.
11. The policies continue to conform to the ACAS Code and guidance, relevant legislation and good practice

Reason for changes to the policy

12. An early resolution (Mediated Resolution) approach was developed to manage interpersonal conflict and complaints in April 2021, since this time work to embed this approach has continued.
13. The impetus for this was, in part, due to concerns about the effectiveness and impact of the current grievance procedure.
14. The grievance procedure is part of a suite of policies that enable managers to manage the performance and conduct of employees effectively, and this suite includes IWP and disciplinary. To ensure consistency across this suite of policies, ensuring they promote the council's EPIC values and enable a HPC, it is necessary to update all three together.
15. The proposed changes align with the HPC ambition; improve clarity on how issues are managed and supported at the Council.
16. This includes more emphasis on proactive management of issues by managers' with support from HR Advisory.

Environmental impact of the proposal

17. It is anticipated that these policies will have a neutral environmental impact.

Equalities impact of the proposal

18. These policies will be taken to an equality impact assessment panel on the 19th January and all comments from that panel will be considered against this policy.

Risk Assessment

19. Potential failure to address manager and staff frustrations with the policies could result in a demotivated workforce and issues not being resolved.
20. The current culture of complaints within the council is perpetuated by the inflexible nature of the formal procedures for managing complaints, performance and conduct.

21. Not to have policies which better fit our organisation aspirations is likely to create a risk to the success of 'Our Identity', in particular *High Performance Culture* and *Our Values*. At an operational level this translates into removing unnecessary complexity so that the process is easier for staff and managers to understand and apply.
22. These risks will partly be mitigated by promoting Mediation Resolution through the Grievance Procedure and emphasising informal resolution. More generally, through simplifying all the policies, these will more effectively empower our managers to be effective, further promoting the culture of responsibility, trust and respect.

Financial Implications of the proposal

23. There will be potential costs savings as the policies support effective management of issues and avoid problems escalating beyond the Council.
24. While an exact monetary value can't be determined, there will undoubtedly be cost savings related to time, service delivery, and absence.

Recommendations

25. It is recommended that Staffing Policy Committee confirm their agreement to the updates to the Disciplinary, Grievance and IWP policies.

Joanne Pitt
Director HR&OD

Report Author: Frances Longmore, HR Policy Officer.