

## CABINET

20 SEPTEMBER 2011

<b>Title:</b> Human Resources Policies and Procedures – Disciplinary Procedure	
<b>Report of the Cabinet Member for Customer Services and Human Resources</b>	
Open report	<b>For Decision</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
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<b>Accountable Divisional Director:</b> Martin Rayson, Divisional Director, Human Resources and Organisational Development	
<b>Accountable Director:</b> Tracie Evans, Corporate Director of Finance and Resources	
<b>Summary:</b>  The Human Resources Service is carrying out a review of key employment policies and procedures to bring them in line with the latest employment legislation and best practice.  The Disciplinary Procedure and Rules have been updated to comply with recent case law. The Procedure was subject to extensive consultation with managers and trade unions and their comments and feedback taken into account in the final document attached at Appendix A.  The Procedure was considered by the Employee Joint Consultative Committee at its meeting on 6 June 2011 and recommended to Cabinet for approval.	
<b>Recommendation(s)</b>  The Cabinet is recommended to agree the Disciplinary Procedure as set out at Appendix A.	
<b>Reason(s)</b> Effective people policies contribute to the Council's policy objective of being a "well-run organisation".	

### 1. Introduction and Proposal

- 1.1 The Human Resources Service is carrying out a review of key employment policies and procedures, in consultation with managers and trade unions.
- 1.2 The Disciplinary Procedure closely follows the ACAS guidance and Code of Practice, and has been updated to comply with recent case law to allow in

exceptional cases, for legal representation at formal hearings and appeals; this will only apply where:

- the potential outcome may determine the outcome in other proceedings e.g. where there is no further stage in the process that results in the employee being barred from future employment; or
- it is agreed as a reasonable adjustment for a disabled employee

1.3 The Disciplinary Procedure sets out both the manager's and employee's personal responsibility for their own behaviour and for ensuring that they comply with the arrangements; this includes the manager's responsibility to:

- ensure employees are made aware of the standards expected
- notify the employee of any concerns about unsatisfactory conduct and/or behaviour;
- try and resolve minor issues informally with the employee through informal discussion and advice; and

1.4 The Disciplinary Rules, which are included as an appendix to the Procedure, have been reviewed to ensure that they fully comply with the Equality Act, and data and information security requirements etc, including the use of social networking sites.

1.5 There are no changes to the actual procedural arrangements or adverse impact for any groups of employees; the arrangements are objective, fair and easier to follow. The application of these will be monitored closely to ensure that these are applied fairly and consistently across the Council and in departments.

## **2. Financial Implications**

Implications verified by: Tracie Evans, Corporate Director

2.1 The emphasis on managers setting standards and trying to resolve minor issues informally where possible, should lead to a reduction in the amount of time spent on formal disciplinary matters and potentially, in the number that escalate to become Employment Tribunal (ET) cases. Currently any costs associated with ET's are funded from existing budgets and therefore any reduction in these cases will result in less being spent on such activities.

2.2 At this stage it is difficult to assess what the full financial benefits of these new arrangements would be until the Procedure has been fully implemented and been in operation for a period of time. Officers will therefore monitor the new arrangements and report back accordingly on the quantitative benefits that have arisen. Disciplinary matters are resource intensive and a "simple" case could take 25 hours to investigate and resolve; there were 86 disciplinary cases in 2009/10 so any reduction in these should produce significant savings over time.

## **3. Legal Implications**

Implications verified by: Doreen Reeves, Group Manager, Legal Services

3.1 By virtue of S 98 of the Employment Act 1996, employers are required to show the reason for a dismissal and that they have acted reasonably in treating that reason

as a sufficient reason for dismissal. The Disciplinary Procedure sets out the standard to be followed in accordance with legislation, case law and the ACAS Revised Code of Practice 2009 which will be taken into account by the tribunal when determining whether a dismissal is fair or unfair.

- 3.2 Any decision to dismiss has to be in accordance with the Council's Scheme of Delegation or sub-delegated authority.

#### **4. Other Implications**

- 4.1 **Risk Management** – The Disciplinary Procedures follow ACAS guidance, employment legislation and “best practice” and as such should help reduce the number of tribunal claims by encouraging workplace resolution of issues in a more efficient way.
- 4.2 **Staffing Issues** – The trade unions (and staff support networks) have been consulted on the proposals and their comments and feedback taken into account in the final documents; they will be consulted on the arrangements for communicating and implementing these if agreed.
- 4.3 **Customer Impact** - The Policy has been subject to an Equality Impact Assessment and no issues have been identified. The emphasis in the policy is on the disciplinary procedures being applied fairly and equitably.

#### **Background Papers Used in the Preparation of the Report:**

None

#### **List of appendices:**

Appendix A – Disciplinary Procedure