

Employment Committee

Meeting to be held on 7 September 2022

Electoral Division affected: None

Revised Disciplinary Policies and Procedures (Appendix 'A' refers)

Contact for further information:

Deborah Barrow, Tel: (01772) 535805, Head of Service Human Resources,
Deborah.Barrow@lancashire.gov.uk

Brief Summary

The council's Disciplinary Policy and Procedure has been reviewed as part of the HR policy review programme. A revised draft has been produced, which is modernised, streamlined, continues to be legally compliant and align with the council's improvement journey, culture, and values.

Recommendation

The Employment Committee are asked to approve the revised Disciplinary Policy and Procedure, set out at Appendix 'A'.

Detail

In undertaking its HR policy review programme, the council has a clear set of principles to ensure our HR policies going forward are:

- Modernised – that they align to the values and priorities of the council.
- Straightforward – in terms of the tone and language used, and that clear steps and processes are set out within them.
- Take account of best practice – that through our networks and research that they are benchmarked against those of other high performing organisations.
- Take account of fairness and accountability – that they set expectations to both employees and managers.
- Legally compliant – that they comply with current employment regulations, along with Acas Codes of Practice and national conditions of service, where applicable.
- Embedded and impactful – that our policies and procedures are understood by all, applied where appropriate, and that managers are equipped to make judgements and decisions. Successful delivery of this will also support the development of the council's performance management culture.



The priorities for the HR policy review programme cover three proposed groups, the first of which form what are considered to be the council's core HR policies and procedures that are most used by our employees and managers. These core policies and procedures have clear impacts on overall performance management, productivity and behaviours within the workplace and have therefore been categorised within the first group of policies to be reviewed. The Disciplinary Policy and Procedure is part of the core group to be reviewed.

Revised Disciplinary Policy and Procedure

The revised disciplinary policy recognises the importance of having a fair and equitable policy in relation to conduct matters. Maintaining and promoting high standards of behaviour ensures the council's values and code of conduct are embedded.

Overall, the council has a committed and dedicated workforce, however on occasion standards of behaviour may fall below what is expected and this could constitute misconduct. Therefore, the updated policy has been developed to ensure that employees are aware of the steps that will be taken in the event of a potential misconduct issue. This policy is aligned to the Acas Code of Practice. In addition, there are proposed changes to the management of disciplinary matters to create efficiencies in the process, and to provide flexibility to deal with misconduct issues in the most appropriate way depending on the circumstances.

The proposed changes are set out below:

- Terminology and language modernised – for example Senior Designated Officer / Designated Officer titles replaced with 'hearing chair' with descriptors.
- Definition section added to provide clarity on the difference between issues with an individual's skill or ability as opposed to a wilful or negligent act, or a breach in standards, where the capability procedure should be applied.
- Executive Directors and Director of Public Health are no longer referenced in exceptions of the application of policy.
- Principles updated, including that no employee will be dismissed for a first breach unless it is considered to be gross misconduct.
- Informal stage added to policy, to highlight the benefit of early intervention by management as part of business-as-usual management discussions.
- Preliminary enquiries section added to provide managers scope to make initial enquiries in relation to potential misconduct issues before deciding whether to pursue the matter further.
- Option for management to issue a standards and expectations letter to confirm informal discussions surrounding misconduct.
- In the event of a serious matter, management have the option to send employees home for up to two working days (on full pay) to enable them to determine the best course of action, allowing further thinking time before a formal suspension decision is potentially made.
- Reference to alternatives to suspension added to provide more options to management to avoid the need for suspension from work – including alternative duties or temporary redeployment.



- Employees involved in the process are asked to return their witness statement within five working days to ensure that the disciplinary procedure progresses in a timely manner.
- All participants are asked to confirm that they have read and understood the report and statements before attending the hearing, to avoid unnecessary repetition within the hearing itself.
- Rewording of section relating to disciplinary sanctions and that in exceptional circumstances expired warnings may be referred to, and in all cases where expired warnings or dismissals relate to safeguarding.
- Other procedural matters section added including:
 - Sickness absence during the disciplinary process - to outline the reporting protocol and that suspension would be brought to an end in the event sickness absence is reported (if applicable).
 - Safeguarding – to outline our obligations as a council to follow safeguarding procedures where necessary.
 - Resignation during the disciplinary process – to highlight that a disciplinary procedure may continue during an employee's notice period. To describe the process that will be undertaken following the end of employment in the event a disciplinary procedure needs to be concluded due to safeguarding requirements.
 - Criminal matters (including fraud) – to outline the potential requirement to inform the police where the misconduct is potentially a criminal matter, and the procedure to follow under these circumstances.
 - Misconduct issues outside of the workplace – to highlight that where misconduct happens outside of work, there may be an impact of the alleged offence on the employment relationship.
 - Malicious or vexatious allegations – to ensure clarity that employees found to be making a malicious or vexatious allegation may be subject to disciplinary action.
 - Grievances – to outline the process to be followed in the event a grievance is raised in the midst of a disciplinary procedure. Where the issues are intrinsically linked it may be appropriate for the points to be addressed in the disciplinary process, alternatively consideration will be made to pausing the disciplinary matter whilst the complaint is addressed.
 - Confidentiality – to highlight the need to maintain confidentiality throughout the disciplinary procedure, and that absolute confidentiality cannot be guaranteed in disciplinary proceedings as Courts and Employment Tribunals may order the disclosure of documents, irrespective of whether or not they are confidential.
 - Disability / underlying health conditions – to ensure that employees with disabilities or underlying conditions are aware that appropriate support mechanisms will be accommodated wherever practicable at any stage of the process for any participant involved.

Consultations

The revised draft Disciplinary Policy and Procedure has been shared with the recognised trade unions, through the Joint Negotiating and Consultative Forum, who have noted the proposed changes. Formal consultation with the recognised trade



unions has been very positive overall and raised no issues, and they support the principle of providing management options in order to manage a misconduct issue in a proportionate and fair way. They also welcome the provision of further guidance for employees / managers and felt that the policy was clear and an improvement on the existing policy.

Implications:

This item has the following implications, as indicated:

Risk management

The council is legally required to ensure that its Disciplinary Policy and Procedure complies with current employment legislation. Ensuring that the language and tone is clear, straightforward and understandable, should enable employees and managers to understand the processes to be followed in relation to disciplinary matters.

Financial

There are no financial implications to the revised policy and procedure.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact/Directorate/Tel
-------	------	-------------------------

None

Reason for inclusion in Part II, if appropriate

N/A

