

Disciplinary and Grievance Policy Update

Councillor Richard Cox, Cabinet Member for Human Resources

Date: 23 November 2023

Agenda Item:

Contact Officer: Christie Tims, Assistant Director Operations Regulation and Enforcement and Sam Mills, Strategic HR Manager

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Key Decision? No

Local Ward N/A

Members



EMPLOYMENT COMMITTEE

1. Executive Summary

- 1.1 To inform the Committee of the review of the councils Disciplinary and Grievance policy to ensure fair and consistent treatment of all our employees.
- 1.2 To provide an updated policy based on that review and the ACAS code of practice issued under section 199 of the Trade Union and Labour Relations (Consolidation) Act and the Officers' Code of Conduct.
- 1.3 To approve adoption and publication of the updated Disciplinary and Grievance Policy to employees.

2. Recommendations

- 2.1 It is recommended committee approves the contents of the updated Disciplinary and Grievance Policy as set out in **Appendix A**
- 2.2 The committee delegate authority to the Assistant Director Operations, Regulation & Enforcement in consultation with the Chair of this committee, to update and republish the Disciplinary and Grievance policy in respect of wider application across the council managing employee performance/conduct and the process and procedures to follow.

3. Background

- 3.1 In 2022 it was noted that the existing Discipline and Grievance Policy was due for review and a working party was formed from Unison branch, HR and managers who used the policy to assess its effectiveness. Following work of this group a number of recommendations were made to sharpen its focus and improve operation in all settings.
- 3.2 The Disciplinary and Grievance Policy (attached at **Appendix A**) sets out the revised approach in ensuring that all employees can understand the standards of conduct and behaviour expected from them and the consequences of continued failure to meet these standards. It provides a fair and transparent way to deal promptly and respectfully with difficulties that may arise as part of managing the working relationship.
- 3.3 The Policy forms a key part of the contract of employment with the Council and applies equally to all full / part time employees including casuals, except the Chief Executive, the Chief Financial Officer (Section 151 Officer) or the Monitoring Officer who are covered by different statutory procedures. It does not apply to LWMTS staff who have separate policies.

- 3.4 Managing poor performance for reasons of health or capability are dealt with under different policies and procedures.
- 3.5 As a responsible employer it is in the council's best interests to resolve issues quickly avoiding the need for formal disciplinary action wherever possible. In supporting of our managers, who are responsible for communicating the required standards of conduct to the Council's employees, and for managing the procedure appropriately, the following improvements have been made:
- An easier to read document for managers with emphasis that disciplinary issues must be handled in a timely manner
 - Clarification on who conducts the investigation and of roles - who appoints the investigating officer, the Chair of a disciplinary and who hears the appeal, to reflect the new structure and provide effective oversight.
 - Agreed outcomes – clarified the need for approval from higher level management before being progressed to formal stages, if appropriate, recognising all cases are different and will be considered on its own individual merits.
 - Informal stage – how managers should be dealing with initial instances informally where ever possible.
 - Added in the equalities statement in applying the policy.
 - Added in the informal approach can be followed up with a note on file for 6 months.
 - Provided examples of misconduct to include failure/refusal to complete statutory requests.

Alternative Options	1. None, all policies will be reviewed regularly and in line with any relevant changes in legislation / good practice guidance.
Consultation	1. The changes within this policy have been considered by Leadership Team, Employment Liaison Committee and has involved the council's recognised union and workforce representatives in determining these recommendations.
Financial Implications	1. It is the responsibility of the appointed officers to ensure robust policies exist to mitigate the risks associated with the workforce and ensure that there is no financial impact that could place an additional cost burden on the council.
Approved by Section 151 Officer	Yes/no*
Legal Implications	<p>1. In discharging our responsibilities as a fair and transparent employer failing to make the necessary policy improvements in our application of processes and procedures could result in unnecessary litigation procedures that would carry a financial implication for the council.</p> <p>2. The revised policy is also in line with the ACAS code of practice issued under section 199 of the Trade Union and Labour Relations (Consolidation) Act</p>
Approved by Monitoring Officer	Yes
Contribution to the Delivery of the	1. In being a council that is transparent and accountable our workforce is key to delivery of our ambitions within our strategic plan, therefore in being a

Strategic Plan	leading employer within the area, it is our aim to ensure our policies are reflective of the kind of workforce we want in terms of performance, behaviours and conduct.
Equality, Diversity and Human Rights Implications	<ol style="list-style-type: none"> 1. We have a Public Sector Equality Duty (PSED) to have due regard of the need to eliminate unlawful discrimination, harassment, victimisation, and any other conduct prohibited by the act. 2. As part of this, we have included reference in this policy to the equalities statement in striving to deliver equality across the protected characteristics.
EIA logged by Equalities Officer	Yes* Updated EIA in place.
Crime & Safety Issues	1. NONE
Data assessment	1. NONE
Environmental Impact (including Climate Change and Biodiversity).	1. NONE
GDPR / Privacy Impact Assessment	1. NONE

	Risk Description & Risk Owner	Original Score (RYG)	How We Manage It	Current Score (RYG)
A	The policy fails to deal effectively with current case law on disciplinary and grievance matters	State if risk (pre mitigation/management) is Yellow (material) or the Likelihood Yellow and Impact Assessment Yellow	Regular reviews and due regard has been given to legislation, case law, ACAS guidance and good practice in respect of this update	State if risk (post risk mitigation/management) is Green (tolerable) as determined by the Likelihood Green and Impact Assessment Green
B	Managers fails to adopt the new policy	Yellow (material) or the Likelihood Yellow and Impact Assessment Yellow	Managers have been engaged in the review and it has been drafted to support effective use by managers. Where appropriate additional support for new managers and training will be provided to those manager who have not yet already received it.	Green (tolerable) as determined by the Likelihood Green and Impact Assessment Green
C	Employees lack a clear understanding of the expectations placed on them	Yellow (material) or the Likelihood Yellow and Impact Assessment Yellow	Employees are provided copies of relevant policies and the Code of Conduct upon appointment and at regular intervals. Regular reminders and communications are sent out and managers discuss these at 1-2-1s.	Green (tolerable) as determined by the Likelihood Green and Impact Assessment Green

	Background documents
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	Appendix A Disciplinary and Grievance Policy updated May 2023
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	Appendix B Previous Policy
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	Appendix C Code of Conduct
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	Relevant web links
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	Equality statements (lichfielddc.gov.uk)
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