



**General Purposes Committee  
13 September 2012**

**Report from Director of  
Finance and Corporate Services**

Wards affected:  
ALL

**Disciplinary Policy**

**1.0 Summary**

- 1.1 This report provides details of the proposed changes to the Council's Disciplinary Policy. The Policy has been updated in accordance with recent changes in practice, procedure and caselaw and it is in line with the general changes to the Council's HR Policy Framework.

**2.0 Recommendations**

- 2.1 General Purposes Committee is asked to agree the draft policy with effect from 1<sup>st</sup> October 2012 to coincide with the introduction of the new employment contract for all employees and other HR policy developments.
- 2.2 The Committee is asked to accept the recommendation that the Staff Appeal Sub-Committee's jurisdiction be as set out in the attached proposed policy.
- 2.3 Alternatively, the Committee is asked to agree that the Assistant Director, People and Development draft an amendment to the Policy to reflect the proposed change in process in respect of implementing the decisions of the Staff Appeal Sub-Committee as set out at paragraph 3.4 of this report.

**3.0 Detail**

- 3.1 The Council continually reviews its HR policy framework to ensure that the policies which are in use to govern the relationship between the Council and its staff represent current modern HR practice. The law relating to discipline and misconduct is constantly changing as a result of caselaw and legislative change. It is therefore important to ensure that the policies which the Council use are constantly reviewed against those changes to ensure that the

decision making framework for dealing with matters of staff discipline are taken within the context of modern and current practice.

3.2 The proposed policy has been drafted to make the disciplinary process more streamlined and user friendly for managers that are required to take disciplinary action. The policy sets out the key principles for dealing with misconduct and the general expectations that the Council has as an employer which requires high standards of conduct and probity.

3.3 The key points to note in the new policy are as follows:

- The number of sanctions has been increased to include relegation to a lower salary scale, withholding a salary increment, and transfer or demotion to a different post. The increase in the range of sanctions allow managers a greater flexibility to deal with breaches of discipline other than the use of a simple warning and dismissal system. The warning system is maintained as this does reflect current ACAS guidance and general good practice but the increase of sanctions is considered to give managers greater responsiveness to proven misconduct.
- The procedural stages of the policy are less prescriptive than previously set out to enable managers to deal proportionately and flexibly with issues of misconduct that may arise. The procedural stages which used to be prescriptively described have been streamlined which allows the disciplinary process to be dealt with proportionately and more efficiently.
- In light of operational experience it is proposed that it will be a requirement that a record of all investigatory meetings and disciplinary hearings will be made and a further requirement that such records are confirmed as accurate by the employee. This is to ensure that the crucial investigation stage of any disciplinary process is recorded as fully and accurately as possible. It also ensures that any decision based on the findings of an investigation would be considered fair in the event of a challenge
- The policy introduces a dismissal approval process which requires that all dismissal decisions will be signed off by the Assistant Director of People and Development or the Head of People Services. This element of the policy has been introduced to ensure that any decision to dismiss is taken is in line with the Council's policy framework and also ensures that consistency is achieved in the dismissal decisions that are taken. This process helps assure that the Council's position in any legal case challenging a dismissal can be more successfully defended.
- It is proposed the Staff Appeal Sub-Committee is retained. However, to bring the Committee's jurisdiction in line with the Staff Appeal's Appointments Committee it is proposed that the Staff Appeal Sub-Committee jurisdiction is to hear only appeals against dismissals from Assistant Directors and above. Members will be aware that Assistant Director appointments and above are made by a Member Committee and officers consider that obtaining parity with the Staff Appeal Sub-

Committee reflects the member involvement in the employment decisions of senior staff. Appeals against dismissal for staff below Assistant Director will be heard by senior officers in the same way as dismissals for all other reasons such as absence, capability and redundancy.

- 3.4 In the event that members do not wish to create parity between the jurisdiction of the appointment with the appointment committee, officers would propose a further change. Experience has demonstrated that when an appeal is upheld and a decision to re-employ a member of staff is made, there can be practical operational difficulty in implementing that decision. For example, reinstating an employee into their previous role where relationships have been damaged is often counterproductive. Also, if a decision to reemploy an individual into a similar or suitable role is made, it is often not practicable to identify such a position. On this basis, officers would suggest that when an appeal is successful, the decision on how to implement that decision in practice is referred to the Assistant Director of the People and Development to take a view in conjunction with the relevant Director. This enables the Assistant Director of the People and Development to consider what the best course of action would be taking into account all of the relevant circumstances and all the suitable available vacancies that may be in existence at the relevant time.

#### **4.0 Implementation date**

- 4.1 It is recommended that the policy becomes live on 1<sup>st</sup> October 2012 to coincide with the introduction of the new core contract. A communications plan has been developed to support the roll out of the policy and guidance for managers to support implementation of the new Policy.

#### **5.0 Financial Implications**

- 5.1 There are no specific financial implications in relation to the proposed policy.

#### **6.0 Legal Implications**

- 6.1 The proposed policy is in line with the ACAS Code of Guidance on disciplinary procedures, legislations and case law in the area of misconduct in the workplace. The changes in the policy are as a result of operational experience gained through litigation and the on-going monitoring of the effectiveness of the Policy. The Council has a good record in defending claims in the Employment Tribunal and has achieved this by continually responding to lessons learnt by the litigation process. The proposed policy incorporates changes based on such lessons and as such represent a legally formal policy development.

The policy also is compliant with the provisions of various legislation dealing with the establishment of disciplinary processes and dismissals for misconduct.

- 6.2 The policy is non-contractual and may be amended or withdrawn by Brent at any time.

## **7.0 Diversity Implications**

- 7.1 The policy itself is applicable to all staff and as such does not present any diversity implications. Disciplinary action taken against staff is, in accordance with the Council's equality duties, continually monitored to ensure that issues of diversity are fully monitored.

## **8.0 Staffing/Accommodation Implications**

- 8.1 The body of this report involves staffing implications and there are no implications in addition to those otherwise set out.

### **Background Papers**

Draft Disciplinary Policy is appended to this report.

### **Contact Officer**

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