



## Hinckley & Bosworth Borough Council

Forward timetable of consultation and decision making

Ethical Governance and Personnel Committee 22 November 2023

Wards affected: All wards

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### **Revision of Disciplinary and Grievance Policy and introduction of a new Capability Policy**

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Report of Director (Corporate & Streetscene Services).

#### **1. Purpose of report**

1.1 To present for approval the following HR policies:

- Updated Disciplinary Policy and Procedure **Appendix 1**
- Updated Grievance Policy and Procedure (to include bullying and harassment complaints) **Appendix 2**
- Capability Policy and Procedure **Appendix 3**

#### **2. Recommendation**

1.2 That the policies are approved.

#### **3. Background to the report**

- 3.1 A comprehensive review of three policies relating to the management of conduct and performance of staff has been undertaken. Whilst there have been no major legislative changes regarding employment law to drive this review, there has been a requirement for more detailed procedures to underpin each policy to guide our managers.
- 3.2 There have been varying types of issues that have historically arisen during the management of employment cases, which at the time, were dealt with using HR advice and guidance. However, had there been further detailed guidance available, then these issues could have been dealt with by managers with limited support (i.e. how to deal with counter grievances when a grievance is live). Considering the variety of such issues these have now been collated and incorporated into the procedure for each policy. Having

detailed procedures means that in practice, managers and employees follow a specific detailed approach when dealing with employment issues. This will ensure consistency and fairness in the management approach across the organisation and avoid employment risk at tribunal.

3.3 As part of the review, all three policies have been updated with a similar structure and format that strategically complement each other. It has also provided opportunity to align to other HR policies that have been introduced over recent years.

3.3 The key changes for each policy are set out below:

### **Disciplinary Policy and Procedure**

- Introducing a standalone disciplinary policy and detailed procedure (as previously the Disciplinary and Grievance Policy were merged as one document).
- Changing the lower levels of disciplinary sanctions which have been reduced and brought in line with recent case law (removing verbal warning as these are no longer used). Timelines have also been added to the policy to ensure consistent sanctions across the organisation. There are now five types of sanctions that can be imposed:
  - First written warning – usually active for 6 months.
  - Final written warning – usually active for 12 months.
  - Dismissal with notice – if there is further misconduct after receiving a final written warning
  - Dismissal without notice (gross misconduct cases only)
  - Action Short of Dismissal – the manager may consider an alternative action to dismissal (such as options including redeployment or demotion)
- The process for suspension has detailed guidance for managers when determining a suspension and the key staff who can make that decision. It also recommends that cases of suspension to be reviewed at fortnightly intervals by the manager.
- There is a dedicated section outlining examples of gross misconduct which now align to the Officer code of conduct which was approved in 2021.

### **Grievance Policy and Procedure**

- Introducing a standalone grievance policy and detailed procedure (as previously the Disciplinary and Grievance Policy were merged as one document).
- Removing the council's separate current Bullying and Harassment Procedure (which is out of date) and merging this policy within the revised Grievance Policy
- The grievance policy includes an appendix on bullying and harassment complaints which has been updated to reflect changes in language and recent changes in modern working (i.e. social media).

- Both grievance and bullying and harassment complaints will now follow the same grievance procedure to ensure consistency when dealing with complaints.
- The bullying and harassment appendix has also been updated to include third party harassment to raise awareness of the risk to the council. This is unacceptable behaviour directed at an employee by a third party (such as customers, suppliers, contractors, agency staff, member of the public).
- The grievance policy also has further guidance relating to special circumstances, such as: counter grievances, overlapping grievance and disciplinary cases.

### **Capability Policy and Procedure**

- Introducing a new capability policy and detailed procedure – the council historically followed ACAS guidance then reverting to a disciplinary process to manage formal performance issues.
- This standalone procedure now manages employee performance from informal monitoring up to a disciplinary dismissal.
- The detailed procedures provide guidelines on improvement plans and timescales to keep managers on track.
- Managing performance is one of the hardest areas to pursue therefore the policy sets out detailed support for managers where the case is complex - such as the cause of the under-performance relates to the employee's disability, or work-related stress, or how to manage performance if a counter complaint is raised.

3.4 Following approval refresher training will be arranged for all managers in relation to conduct, performance and handling grievances.

### **4. Exemptions in accordance with the Access to Information procedure rules**

4.1 The report to be taken in open session.

### **5. Financial implications [DW]**

5.1 None

### **6. Legal implications [MR]**

6.1 Set out in the report.

### **7. Corporate Plan implications**

7.1 The introduction of HR policy and procedure meets the Corporate Plan aims 'People' – recognise diversity.

### **8. Consultation**

8.1 The policies have been subject to consultation with staff and the trade unions.

## **9. Risk implications**

- 9.1 It is the council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.
- 9.3 The following significant risks associated with this report/decisions were identified from this assessment:

None.

## **10. Knowing your community – equality and rural implications**

- 10.1 The council's commitment to equality of opportunity will be observed during the operation of all three policies and procedures.

## **11. Climate implications**

- 11.1 N/A

## **12. Corporate implications**

- 12.1 By submitting this report, the report author has taken the following into account:
- Community safety implications
  - Environmental implications
  - ICT implications
  - Asset management implications
  - Procurement implications
  - Human resources implications
  - Planning implications
  - Data protection implications
  - Voluntary sector

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Background papers: none.

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