

## **SPECIAL POLICY AND RESOURCES SCRUTINY COMMITTEE – 15TH FEBRUARY 2010**

**SUBJECT: REVIEW OF CORE PERSONNEL PROCEDURES**

**REPORT BY: DIRECTOR OF CORPORATE SERVICES**

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### **1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to provide Elected Members with feedback as a result of the deferment of the Core Personnel Policies at the Policy and Resources Scrutiny Committee held on 19th January 2010 (attached as Appendix 4) and to take on board further representations from the trade unions. These representations were presented to Corporate Management Team for further consideration.

### **2. SUMMARY**

- 2.1 A number of amendments have been made to the procedures as a result of the feedback received from both Elected Members and trade union representatives. This report provides the responses to the areas raised by both groups and the amendments that have been made to the procedures.

### **3. LINKS TO STRATEGY**

- 3.1 The new procedures link to the People Management Strategy and therefore to all other strategies, including all equality strategies, policies and procedures, that rely on employees to deliver the strategy and service provision.

### **4. THE REPORT**

- 4.1 Elected Members will remember that the revised core procedures, i.e. the Disciplinary Procedure, the Grievance Procedure and the Managing Sickness Absence Procedure, were considered by the Policy and Resources Scrutiny Committee on 19th January 2010 and they were deferred to a Special Policy and Resources Scrutiny Committee in order that the views of Elected Members expressed at that time and the trade unions could be further considered.
- 4.2 These views have now been further considered and this report outlines the amendments that have been made to the procedures as a result of the feedback.
- 4.3 Both Elected Members and the trade unions raised issues with paragraph 4.9 of the earlier report, which also relates to points 4.62 to 4.66 of the earlier report. It has been agreed to amend the trigger points to read

*'Three periods of absence (the total days must be a minimum of four for the trigger to take effect.'*

This has satisfied the trade unions' concerns over employees being 'counselled' after potentially just three days of absence, three periods of absence of one day each.

- 4.4 Allied to the issue of the trigger points was the fact that the trade unions did not like the term 'counselling' being used for the informal part of the procedure as they felt that this was too formal for this stage of the procedure. As a result the procedure has been amended and the term 'Informal Absence Review Meeting' will be used to describe this type of meeting. This is to emphasise that this is a supportive process specifically to deal with matters at an early stage and therefore avoiding the need for formal action. However, even though the meeting is part of the informal procedure, there is no doubt that the absence is being reviewed. Employees at a later date will not be able to claim that they were not aware that their absences were being reviewed.
- 4.5 A further issue raised by both trade unions (UNISON and GMB) and Elected Members, paragraph 4.12 in the previous report, in the revised Disciplinary Procedure was the fact that an employee's penalty could be increased on appeal. It has been agreed that this will be removed from the procedure on the basis that the trade unions have given assurances that they will act responsibly and only advise their members to appeal where there is a genuine case and the likelihood of a decision being overturned. It has been agreed that management will review this on an annual basis and if there is any evidence to the contrary then this sanction may be reinstated at a later date.
- 4.6 The procedure has been written on the basis that all appeals will be rehearings to allow for the fact that penalties could go up on appeal. Now that this option has been removed, there is no requirement for all appeals to be rehearings and as such, in the majority of cases, appeals should be reviews rather than rehearings. The only time that an appeal should be rehearing is where new evidence has come to light and as a result the whole case should be reheard. This will be amended in the procedure to accommodate this change.
- 4.7 Elected Members during the previous meeting raised an issue around the withholding of an increment from an employee where there were issues around the employee's job performance. The practicalities of dealing with this issue will be addressed during the discussions that are to take place during the introduction of the Managing Underperformance procedure. However, it should be noted that the NJC Terms and Conditions for Local Government employees (the 'Green Book') does allow for increments to be withheld if an employee's performance is not of a satisfactory standard.
- 4.8 In the report presented to the previous Policy and Resources Scrutiny meeting on 19<sup>th</sup> January 2010, the arrangements for undergoing a review of an employee's suspension were explained. At that meeting Elected Members felt that the review of the suspension should not be undertaken by the Head of Human Resources and Organisation Development alone and requested that the Head of Legal Services/Council Monitoring Officer should also take part in the review process. This has been incorporated into the revised procedure.
- 4.9 A further issue raised by the trade unions was their objection to suspension without pay as a sanction as an alternative to dismissal. Although the ACAS Code allows for employees to be placed on suspension without pay as a sanction, this proposal has been removed from the procedure.
- 4.10 A further issue raised by the trade unions was the definition that was used in the Grievance Procedure of bullying. There is no statutory definition of bullying and the one that was used in the procedure is that used by the Chartered Institute of Personnel and Development. It has been agreed that an alternative definition will be considered.
- 4.11 The trade unions have been informed of these amendments to the procedures and have not raised any further issues. Therefore, subject to any further comments from Elected Members, the procedures will continue with the consultation process and progress to the next available Cabinet meeting for final approval.
- 4.12 The amended procedures have been attached as Appendices.

## **5. FINANCIAL IMPLICATIONS**

- 5.1 There are financial implications in terms of the time that will be required to brief employees on the changes between the current and revised procedures.
- 5.2 In addition there are financial implications in terms of the provision of mediation under the revised Grievance Procedure. These will be either in terms of the training required for our current employees or the provision of an external mediator.
- 5.3 However, it is envisaged that the costs mentioned in 5.1 and 5.2 will be offset by the streamlining of the process thus reducing the length of time that is spent by Officers across the Council dealing with disciplinary and grievance matters.
- 5.4 As the revised Disciplinary Procedure is also to be used to manage short term sickness absence cases in a more streamlined manner, it is envisaged that again Officer time will be reduced in dealing with these cases and with more stringent and streamlined management of absences there is potential for a corresponding reduction in the number of days sickness absence taken by employees.

## **6. PERSONNEL IMPLICATIONS**

- 6.1 There are personnel implications for the training of Officers in the revised procedures but also the introduction of mediation. This will be offset by a reduction in the time spent on dealing with disciplinary, grievance and managing sickness absence cases.

## **7. CONSULTATIONS**

- 7.1 Corporate Management Team  
Head of Human Resources and Organisation Development  
Corporate HR Manager  
Council's recognised trade unions

## **8. RECOMMENDATIONS**

- 8.1 The procedures are accepted in their amended form and that they should progress on to Cabinet for final approval.

## **9. REASONS FOR THE RECOMMENDATIONS**

- 9.1 The new procedures
- Take account of recent legislative changes, which must be implemented by the Council.
  - Take on board operational issues that have been highlighted as being problematic in the current procedures.
  - Take into account feedback from Employment Tribunal cases that have been lodged against the Council.
  - Streamline the processes to be used thus reducing the amount of time spent on dealing with discipline and grievance issues across the Council.
  - Focus all employees' attention on the management of sickness absence, which must be undertaken in a consistent manner across all Directorates.

all of which reduce the risk that the Council faces in terms of litigation from employees.

- 9.2 Officer time will be reduced when dealing with discipline, grievance and managing sickness absence cases, which allows for a more effective use of the Council's resources.
- 9.3 A more structured approach to the management of sickness absence should also reduce the sickness absence levels amongst employees, which will also result in a more effective use of resources.

## **10. STATUTORY POWER**

- 10.1 Local Government Act 1972  
Local Government Act 2000  
Employment Act 2008

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### Background Papers:

ACAS Code of Practice on Discipline and Grievance  
ACAS Guidance on the Code of Practice  
Caerphilly County Borough Council Disciplinary Procedure  
Caerphilly County Borough Council Grievance Procedure  
Caerphilly County Borough Council Managing Attendance Procedure  
Local Government Employers' Employment Relations Advisory Bulletin Number 548 – February 2009  
Various law bulletin updates and professional journals  
Report to Policy & Resources Scrutiny Committee – 19th January 2010

### Appendices:

Appendix 1 Draft Disciplinary Procedure  
Appendix 2 Draft Grievance Procedure  
Appendix 3 Draft Managing Sickness Absence Procedure