

Agenda item: **Title of meeting: Employment Committee****Date of meeting: 15 September 2015****Subject: HR policy changes****Report by: Jon Bell, Director of HR, Legal and Procurement****Wards affected: N/A****Key decision:** No**Full Council decision:** No**1. Purpose of report**

The purpose of the report is to advise Members about proposed changes to HR policies.

**2. Recommendations**

Members are recommended to:

- i. Adopt the new Appeal policy (Appendix 1) and note consequent amendments to other associated policies.
- ii. Note that the Director of HR, Legal and Procurement will update all other policies to reflect new job roles created by latest senior management restructure (in particular removing references to Heads of Service and Strategic Directors).
- iii. Note that the 2<sup>nd</sup> appeal stage in the grievance section of the Formal Action policy will be removed.
- iv. Note the different composition of dismissal panels (excluding schools and probationary dismissals) as detailed in the report.
- v. Change the requirement in the Flexible Retirement policy from a permanent reduction in salary of at least 50% to a permanent reduction in salary of at least 20%. Achieved through either a reduction in hours or band of post or a combination of these.
- vi. Adopt the revised Organisational Change and Redundancy policy and procedure and note that the qualifying criteria for redeployment support would increase from 1 year to 2 years' continuous local government service.

### **3. Background**

- 3.1. The council must continually review its HR policies to ensure that they are fit for purpose and adequately reflect the changing shape of the organisation. In particular, the recent senior management restructure has necessitated a number of changes to policies, as detailed in the sections below. Changes are also proposed to the Flexible Retirement Policy and the rules relating to the redeployment of staff.
- 3.2. Whilst there is no requirement for Employment Committee to approve routine changes to HR policies, it is important for Members to maintain oversight of significant workforce matters, which includes the suitability of the Council's overall policy framework.
- 3.3. Trades Unions have been consulted about the proposed policy changes through the Joint Officer and Staff Forum (JOSF) and have been provided with details of the changes and invited to provide comments. Staff groups have also been consulted in accordance with the established protocol.
- 3.4. All HR policies are available to managers and staff via the "PolicyHub" system, or through alternative arrangements for the minority of staff who cannot access the system.
- 3.5. Changes to policies have due regard to the ACAS code of practice, and to the agreed "PLAN" principles for HR policies (i.e. that they should be Proportionate, Lawful, Accountable and Necessary).

### **4. Changes to Senior Management Structure**

HR Policies make numerous references to "Head of Service" and "Strategic Director". These policies will be updated to reflect the removal of these roles from the council's senior management structure. Where this results in a fundamental change to the policy (e.g. by changing the levels of escalation), the changes are detailed in the sections below.

### **5. Appeal policy**

- 5.1. A number of policies (namely Formal Action, Managing Absence, Ill health retirement and redundancy dismissal, Flexible Working, Flexible Retirement and Career Break) contain a procedure for making an appeal. For simplicity and consistency, it has been decided to remove the separate appeal procedures from the individual policies and replace them with a single Appeal Policy (Appendix 1).
- 5.2. Currently, appeals are generally heard (wherever possible) by a person senior in authority to the person who made the initial decision. The Council's new flatter

structure means that this current process will become more difficult and therefore the changes are proposed in order to counteract this.

- 5.3. Except for an appeal against dismissal, it is deemed appropriate to hear an appeal at the same level of management as the initial decision maker (or above) as long as those hearing the appeal have the ability to challenge the original decision, have the authority to override the original decision (where necessary), and have had no prior involvement in the case.

## **6. Formal Action - Grievance**

The Grievance Policy currently allows for 2 stages of appeal in addition to the formal hearing of the grievance. This is felt to be excessive, and in practice, having 2 appeal stages is rarely valuable in resolving grievances. Given the flatter senior management structure, there is also limited scope to form panels for the 2<sup>nd</sup> appeal stage. Therefore, it is proposed to remove the 2<sup>nd</sup> appeal stage, and so make grievance appeals consistent with other appeals within the Appeal Policy. The policy also emphasises the importance of seeking informal resolution of grievances, and also the possibility of using mediation.

## **7. Formal Action - Authority to take action**

- 7.1. The Formal Action Policy prescribes the appropriate level of management to undertake disciplinary hearings and appeals. Following the senior management restructure (and the removal of the posts of Strategic Director and Head of Service) it has been necessary to revise this policy.
- 7.2. For a hearing where the maximum sanction possible is a first written warning, the hearing can now comprise of 2 people rather than 3.
- 7.3. Where the maximum sanction possible could be dismissal, the hearing panel will comprise a Director, another senior officer and an HR officer.
- 7.4. The Employee Appeal Panel (EAP), for an appeal against a dismissal, will be composed of the Deputy Chief Executive (where possible), a Director and an HR officer, or 2 Directors and an HR officer. Panel members will have had no previous involvement in the case.
- 7.5. Separate arrangements exist for schools staff and those on probationary periods.

## **8. Flexible Retirement**

The current Flexible Retirement Policy states that an employee can only take flexible retirement if they reduce their salary (either by reducing hours or band of post) by at least 50%. This is felt to limit the number of people for whom flexible retirement is a viable option. It is therefore recommended that the Flexible

Retirement policy be amended to require a reduction in salary of at least 20%. Members should note that flexible retirement is primarily aimed at those employees who are already entitled to access their full pension. Where a pension strain cost will arise (generally for employees between 55 and 60 years of age), approval will only be given if a robust business case exists.

## **9. Organisational Change and Redundancy**

The Organisational Change and Redundancy Policy currently provides for redeployment rights and support to be given to those employees who have at least 1 years' continuous local government service (as defined by The Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999 (as amended). This is inconsistent with other employment rights (e.g. the right to claim unfair dismissal) which accrue after 2 years of employment. Also, given the limited availability of redeployment opportunities, it makes sense to target these towards those "at risk" staff with greater lengths of service. Therefore, it is proposed that redeployment rights and support are also provided after 2 years' continuous service.

## **10. Reasons for recommendations**

The recommendations are made to ensure that all of the HR policies reflect the new senior management structure and to ensure that employment issues continue to be managed with a transparent and consistent approach.

## **11. Equality impact assessment (EIA)**

A preliminary EIA has been completed and a full EIA is not required.

## **12. Legal implications**

The contents of this report and the proposed policy amendments are reflective of the current statutory and common law positions. In addition, the proposed policy amendments are consistent with the relevant ACAS Codes and clearly evidence that the Authority is promoting a fair and transparent approach to dealing with staff issues, the proposed changes are needful and proportionate. Whilst any policy is challengeable, the current amendments do provide a clear point of reference and mitigate against challenge within either the Employment Tribunal or Court environments.

## **13. Finance comments**

There are no financial implications arising directly from the recommendations in this report.

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Signed by:

**Appendices:**

Appendix 1 - Proposed new Appeal policy

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

<b>Title of document</b>	<b>Location</b>
ACAS Code of Practice on Disciplinary and Grievance procedures	<a href="http://www.acas.org.uk/media/pdf/f/m/Acas-Code-of-Practice-1-on-disciplinary-and-grievance-procedures.pdf">http://www.acas.org.uk/media/pdf/f/m/Acas-Code-of-Practice-1-on-disciplinary-and-grievance-procedures.pdf</a>