

Report for: Staffing & Remuneration Committee, 17 December 2018

Title: Review of Council Grievance Policy

Report authorised by : Mark Rudd, Assistant Director for Corporate Resources

Lead Officer: Ian Morgan, Reward Strategy Manager

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:**

1 Describe the issue under consideration

As part of the Council's requirement to conduct a rolling review of all HR policies, Members are asked to consider the revised Grievance Policy (attached as Appendix 1) and Practice Notes (attached as Appendix 2). The policy is set out in the new format at the last meeting of the Committee on Monday, 1st October 2018.

2 Cabinet Member Introduction

Not applicable.

3 Recommendations

3.1 That the Committee approve the new Grievance Policy and Practice Notes ready for implementation with effect from 1st January 2019. A series of training sessions and workshops is planned for both HR staff and line managers during January to update them on the changes.

3.2 That the Assistant Director for Corporate Resources be delegated the power to make minor changes to the policy and practice notes without the need to refer back to Committee.

4 Reason for Decision

The policy currently in use was introduced in 2012. As a key policy it is important to take on board the lessons learned from six years of operation and have a policy that more accurately reflects the organisational changes which have taken place, and captures current thinking with regard to good HR practice.

5 Alternative options considered

The rolling review of HR policy is a requirement of the Internal Audit recommendations.

6 Background information

6.1 The policy covers all current employees other than teachers directly employed by the Council and all staff appointed by schools operating under local management

of schools, which have their own procedure. Ex-employees with a grievance should use the Council's Complaints Procedure.

- 6.2 Staff who have raised a grievance before 1st January 2019 will be dealt with using the current policy until the conclusion or resolution of their case. Grievances raised on or after 1st January 2019 will be dealt with under the new policy and practice.
- 6.3 The key changes that have been incorporated include
- a) revision of the Grievance Form to simplify it. The form is used across the organisation and it was felt that the current form could be made more accessible for those in non-office based roles.
 - b) The new form now clarifies that a grievance is related to an issue not to a person.
 - c) The informal stage is now Stage 1 of the process. This change aims to encourage a constructive dialogue between the employee and their manager as the first course of action.
 - d) There are three stages to the process, Stage 1 - informal steps, Stage 2 – the formal procedure and Stage 3 - appeal. Appeals will be heard by two senior managers, one from HR and one from a directorate outside the employee's own.
 - e) Mediation can be used at any stage of the process as long as both sides agree and agree that this is the route most likely to lead to a speedy and satisfactory resolution of the issue.
 - f) A pool of internal investigators will be maintained to conduct investigations at Stage 2 if this is necessary.

As now, staff have the right to be accompanied to a meeting at any stage of the process.

- 6.4 Deleting the second stage of the current policy was considered necessary as this is neither a separate stage nor an appeal. Its purpose is to review the decision made at the first stage before the employee progresses to the third stage the formal appeal stage. The removal of this ambiguous stage has the support of trade unions as it serves no specific purpose, it causes a delay in bringing the grievance to a conclusion and is out of step with current ACAS guidelines.

As an informal stage is not part of the current policy, staff with a legitimate grievance make it formal immediately. As a result, the number of formal grievances being dealt with is disproportionate to the size of the organisation. Including an informal stage as Stage 1 of the process will streamline the process making it quicker for the grievance to be concluded quickly and is in line with ACAS recommendations.

- 6.5 The governance process that has been followed has included the input of HR Advisers, HR Business Partners, the trade unions and staff in legal services. The

draft policy and practice notes have been considered at Corporate IR and by members of Corporate Board. The final version which is attached reflects the contribution of the key groups and has their support.

7 Contribution to strategic outcomes

Not applicable.

8 Statutory Officers' comments

8.1 Chief Finance Officer

There are no direct financial implications arising from this report. The revised Grievance Policy and procedures as implemented will be contained and managed within the existing HR resources and the relevant services' revenue budgets.

8.2 Assistant Director of Corporate Governance

The Assistant Director of Corporate Governance has been consulted in the preparation of this report and makes the following comments:

Legal Services have been involved in the drafting of the Grievance Policy and Grievance Policy Practice Notes. The proposals follow the ACAS Code of Practice on Disciplinary and Grievance Procedures of March 2015 which replaced the 2009 ACAS Code.

A failure to follow the Code does not, in itself, make a person or organisation liable to proceedings. However, employment tribunals will take the Code into account when considering relevant cases. Tribunals will also be able to adjust any awards made in relevant case by up to 25 per cent for unreasonable failure to comply with any provision of the Code. This means that if the tribunal feels that an employer has unreasonably failed to follow the guidance set out in the Code they can increase any award they have made by up to 25 per cent. Conversely, if they feel that an employee has unreasonably failed to follow the guidance set out in the Code they can reduce any award they have made by up to 25 per cent.

The ACAS guide on Discipline and grievances at work (August 2017) has also been considered. Unlike the Code the employment tribunals are not required to have regard to the ACAS guidance booklet. However, it provides more detailed advice and guidance for employers and employees. The updated grievance policy and practice notes follow the ACAS guide.

9 Use of Appendices

Appendix 1 - Grievance Policy

Appendix 2 - Grievance Policy Practice Notes

10 Local government (Access to Information) Act 1985

Not applicable. .