

**Report for:** Staffing and Remuneration Committee – 21 February 2023

**Title:** HR Policy Review – Disciplinary Policy, Grievance Policy, and Sabbatical Policy

**Report authorised by:** Jess Crowe, Director of Culture, Strategy, and Engagement

**Lead Officer:** Dan Paul, Chief People Officer

**Ward(s) affected:** N/a

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

### **1. Describe the issue under consideration**

The report outlines the content of one new HR policy – Sabbatical Policy and two revised policies, the Grievance Policy and the Disciplinary Policy.

### **2. Cabinet Member Introduction**

Not applicable.

### **3. Recommendations**

The Staffing and Remuneration Committee is asked:

- 3.1. To approve the Grievance Policy, as set out in Appendix A to the report.
- 3.2. To approve the Disciplinary Policy, as set out in Appendix B to the report.
- 3.3. To approve the Sabbatical Policy, as set out in Appendix C to the report.

### **4. Reason for decision**

The policies are brought to the Staffing and Remuneration Committee in line with the HR policy review schedule previously agreed with members. They have undergone extensive consultation with the trade unions, the employee network groups, and the views of a group of business managers have been sought. The views of each group have been included in the final versions attached at Appendices A–C.

### **5. Alternative Options Considered**

Not applicable.

### **6. Background information**

#### **Sabbatical Policy**

- 6.1. The Sabbatical Policy is a new policy, introduced for the first time. The aim of the policy is to enable employees to have a healthy work/life balance by taking time out from their career with Haringey with no detriment on their return. A sabbatical may be applied for only once every five years and a maximum of three applications will be considered from an employee during the course of their employment.
- 6.2. Sabbatical leave may be between 3 and 12 months long and only those who meet the criteria can be considered. Criteria include having completed two years continuous service with Haringey; have a clear disciplinary record with no documented management concerns and have shown good attendance.
- 6.3. A sabbatical may be used to enable the employee to travel; to take up some full time study or to care for dependents. If an employee wishes to take up paid employment during a sabbatical then prior approval must be obtained from their Head of Service. Employment that is considered to be similar to the employee's substantive post will not be approved.
- 6.4. Applications for sabbatical are considered by the employee's Head of Service and if an application is rejected, clear reasons must be given in writing. The employee has the right of appeal to an Assistant Director and their decision is final.

### **Disciplinary Policy**

- 6.5. This is an update to the existing policy that was last reviewed in December 2018. The majority of amendments are included as points of clarification and to ensure best practice rather than significant policy changes. These improvements are summarised below:
- 6.6. It has been formalised that where the use of an external investigator is required, possibly due to the need for specialist skills or experience in a particular area, that they would be required to sign a standardised Data Sharing Agreement. The agreement has been drawn up in consultation with Legal Services and is fully GDPR compliant.
- 6.7. The default position is that investigation meetings and hearings with the person under investigation should be held face to face rather than virtually. However, we appreciate that on occasions in order to avoid delays that it may be necessary, and with the agreement of both sides, to hold a meeting virtually, particularly during an investigation. HR will provide support and guidance to employees who may not be familiar with meeting in this way to enable them to participate fully.
- 6.8. Under the existing policy, an employee is entitled to have a trade union representative with them during a suspension meeting. The proposal is to amend this so that where the circumstances demand, a suspension meeting can be held without a trade union rep being present. It is also proposed that the decision to suspend be amended from an Assistant Director to a Head of Service. The safeguards that will be put into this process will be that the manager must

complete and submit to HR a detailed risk assessment detailing the reasons for the request. If the request is agreed by the Head of Employment Transformation & Reward or by the Chief People Officer, the suspension will be agreed. However, there are strict guidelines on what can and cannot be discussed during the suspension meeting and for consistency, each manager will be given a script that must be followed during the meeting. A copy of this has been provided to the Trade Unions. There was broad agreement to this proposal as safeguards are in place to protect vulnerable employees.

- 6.9. The role of witnesses in a disciplinary hearing is often crucial and clarification has been made in the policy that each witness, from either side, must submit a witness statement in advance of the hearing. This information will allow each side to adequately prepare relevant questions, and understand the evidence they will be providing, and in some cases, e.g. for character witnesses, the statement may be sufficient and the Chair of the Panel may decide that it is not necessary for the character witness to attend in person.
- 6.10. A recording has been made of hearings and kept in line with retention schedules. The policy change makes this the default. A copy of the transcript will be provided to the employee. An external company is used to transcribe the recording, and these are all kept securely and within data protection guidelines. The new policy will allow the employee not to agree to a recording providing that at least 2 working days' notice is given. This will allow the relevant department to source a note taker for the meeting. The new policy will ensure that the notes made from investigation meetings (or transcript of recordings of the meetings) by the investigator will also be given to the employee for completeness as appendices to the report. The policy will provide clarification where an employee has asked for a personal copy of the recording made (whether audio or visual if the meeting was held on Teams). As there are GDPR concerns in not being able to redact information relating to other employees or witnesses and as the Council has no control over the use of the recordings, it is proposed that where a transcript is disputed that the employee be given the opportunity to visit a council office with their representative to hear / view the recording but not to be given a copy.

### **Grievance Policy**

- 6.11. The revisions made to the existing policy, that was last reviewed in September 2019, are made mainly to clarify existing points and not to include new areas. As with the Disciplinary Policy, the revisions proposed are mainly to clarify existing areas and ensure consistency and best practice. These improvements are summarised below:
- 6.12. There have been queries raised regarding whether or not an agency worker can raise a grievance. This point will be clarified so that workers may raise issues under the Dignity at Work policy (which complies with the Equality Act 2010) but not under the Grievance Policy as this is for employees only. Similarly, when an employee raises a grievance against an agency worker a shorter process will be followed and managed by the agency who are the employer.

- 6.13. Any grievances raised must be dealt with quickly and efficiently. Mediation can be a quick way to enable employees to raise their issue and for both sides to be helped to come to a suitable agreement between themselves without the need for a formal process. The use of mediation will be highlighted in the new policy. If both parties agree, a copy of the agreement may be placed on the casefile, it will be the responsibility of the line manager to ensure that any actions agreed are followed up. A review period will be introduced to enable this to take place.
- 6.14. One issue that required clarification is the status of the final report. On occasions, the investigator may make recommendations that have wider service implications and scope than the original grievance. In such cases, the Head of Service will be notified only of the wider concerns and will be expected to follow through on the recommendations made where appropriate. These concerns will be redacted from the final report or kept separate from the final report given to the employee.
- 6.15. The definition of a grievance and the definition of whistleblowing will be clarified to help clarify which policy should be used.

## **7. Statutory Officer Comments**

### **7.1. Finance**

There are no direct financial implications arising from the new Sabbatical Policy and the revised Grievance and Disciplinary policies presented in this report.

### **7.2. Legal**

The Head of Legal and Governance has been consulted in the preparation of this report.

With regards to revised Grievance and Disciplinary policies, Section 3 of the Employment Rights Act 1996 imposes a legal obligation on employers to provide details of disciplinary and grievance procedures to new employees in their written statement of employment. (Statement of employment particulars). Employment policies also apply to existing council employees. The Council therefore should have policies which are up to date, reflects good practice, and comply with the ACAS statutory Code of Practice which the revised policies does.

Whilst the Sabbatical policy does not raise any immediate legal issues, the Eligibility criteria set out in paragraph 4(iii) of the Policy must be applied in a manner that does not give rise to discrimination if the reasons for an employee's "unsatisfactory attendance record" is because of a disability or something arising in consequence of that employee's disability. Section 13 of the Equality Act 2010 ("the Act") prohibits direct discrimination against a person because of a person's disability. Under section 15 of the Act, it is illegal to discriminate against a disabled person because of something arising in consequence of that person's disability and the discriminator cannot show that the treatment is a proportionate means of achieving a legitimate aim.

## **8. Use of Appendices**

Appendix A: Grievance Policy  
Appendix B: Disciplinary Policy  
Appendix C: Sabbatical Policy

## **9. Local Government (Access to Information) Act 1985**

Not applicable.