

REPORT OF THE HUMAN RESOURCES MANAGER

GENERAL PURPOSES COMMITTEE – 26 MARCH 2009

**DISCIPLINARY & GRIEVANCE POLICY AND PROCEDURE**

**Recommendation**

<i>To adopt the new Disciplinary and Grievance policies and the Investigation Procedure Guidelines.</i>
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Contact Officer: Jane Hemingway, extension 2023.

Reasons why a decision is required

1. The Employment Act 2008 will repeal the statutory dispute resolution procedures on 1 April 2009, replacing them in entirety with a new procedures based on the ACAS Code of Practice for Disciplinary and Grievance Procedures. The Council is therefore required to update its disciplinary and Grievance policies and procedures to ensure compliance with the new legislation.

Option available to the Council

2. (a) To reject the new policies and procedures and retain the current versions, exposing the Council to the risk of non-compliance with employment legislation and the possibility of employee's subjected to the procedures to make a claim to the Employment Tribunal as a result;
- (b) To adopt the new policies and procedures to ensure compliance with employment law and provide managers and staff with clearly defined guidance to mitigate the risk of Tribunal claims.

Information to be considered in taking the decision

3. If discipline and grievance issues are settled at an early stage, the are normally less time consuming and less likely to damage working relationships. Robust disciplinary and grievance policies allow employers and employees to manage issues quickly and appropriately and should provide the standard for reasonable behaviour.
4. Whilst failure to follow the ACAS Code of Practice does not in itself make an employee or organisation liable to Tribunal proceedings, it will allow a Tribunal to increase an award to an employee by up to 25% for unreasonable failure to comply. The Code of Practice states that employers and employees should do all they can to resolve disciplinary and grievance issues in the workplace and that recourse to an Employment Tribunal should only be a last resort.
5. Many potential disciplinary and grievance issues can be resolved informally and the new Code places greater emphasis on informal meetings and mediation. The Code of Practice therefore sets out the basic requirements of fairness in most cases and the new policies and procedures have been drafted accordingly.

### The Scheme

8. The two new policies and procedures have been drafted in accordance with the Code of Practice to ensure managers and employees comply with employment legislation and to facilitate a more informal approach to resolving disciplinary and grievance issues.
9. Greater Human Resources involvement has been built into the process to ensure both managers and staff are supported from the outset. The level of managers who can sit on hearings has also been reviewed to allow issues to be dealt with swiftly. The policies do allow however for the HR Manager to appoint an alternative manager to the investigation or hearing to ensure fairness and that an appropriately trained and experienced manager is appointed.
10. The policies and procedures will also be supported with a programme of training which has been trialled on Corporate Management Team.
11. The Code of Practice does not give guidance on investigation procedures, so a specific procedure, in keeping with best practice, has been developed to support both managers and staff and to ensure the principles of natural justice are applied in all cases.

### Background Papers

ACAS Code of Practice on Disciplinary and Grievance Procedures  
Discipline and Grievances at Work; ACAS Guidance

### Resource Implications

Should non-compliant policies be retained, there is the potential for Tribunal claims to be brought against the Council which would have a financial implication as well as on officer time. Introduction of the new policies will need to be supported by a specific training programme, but this can be offset against the risk of poorly managed discipline and grievance issues.

### Consultation Statement

In developing these policies, guidance has been taken from ACAS and Xperthr. The proposals have also been discussed with the Trade Unions and welcomed by the Joint Staff Consultative Forum and CMT. In drafting the policies, consideration was also given to the policies of Shepway District Council, Canterbury City Council and Thanet District Council in light of the shared services agenda.

### Attachments

- Appendix 1 – Disciplinary Policy and Procedure
- Appendix 2 – Grievance Policy and Procedure
- Appendix 3 – Investigation Guidance.

AMANDA NICHOLLS  
Human Resources Manager

The officer to whom reference should be made concerning inspection of the background papers is the Senior Human Resources Officer, White Cliffs Business Park, Dover, Kent CT16 3PJ. Telephone: (01304) 821199, Extension 2023.