

# Policy and Sustainability Committee

10am, Tuesday, 12<sup>th</sup> March 2024

## Employment Policies – HR Assurance Statement

Executive/routine  
Wards

Routine

### 1. Recommendations

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- 1.1 To note that the Council HR/employment policies and guidance which have been reviewed in the last year. Concluding this work addressed the policy-related recommendations from the Independent Inquiry and Whistleblowing Culture Review reported to the City of Edinburgh Council on 28 October 2021.
- 1.2 To note that the commitment to complete a programme of policy review and approval for 2024/25.

# Report

## Employee policies – HR Assurance Statement

### 2. Executive Summary

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- 1.1 This report confirms the employment or Human Resources (HR) policies, which have been developed, consulted on and approved by Policy and Sustainability Committee in the last 12 months.
- 1.2 This work concluded the remaining work that was required in response to the Independent Inquiry and Whistleblowing Culture Review.
- 1.3 The report also outlines a proposed programme of employment policy work for 2024/25 based on legislative requirements, Council motions and as part of a regular review cycle.

### 3. Background

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- 1.4 Council policies are key governance tools. They help realise the Council's, vision, values, pledges, and outcomes. They are critical to the Council's operations, ensuring that statutory and regulatory obligations are met in an efficient and accountable manner which underpins our culture.
- 1.5 HR policies are reviewed as and when a change to the existing policy deems this necessary, primarily as a result of: changes to legislation or statute; agreement of new national terms and conditions of service or Government Policy; organisational change; or resulting from changes agreed through Trade Union Consultation.
- 1.6 The Policy and Strategy Committee agreed the approach detailed above, for HR policies, on 5 December 2017.
- 1.7 As part of the findings from the Independent Inquiry and Whistleblowing Culture Review ("Inquiry and Review"), several employment policy recommendations were made including an overarching recommendation to review all conduct related employment policies to determine how these could be consolidated and clarified to aid compliance and investigation in future.
- 1.8 12 employment policies were identified as falling under the remit of 'conduct-related' with six of these being concluded in 2022-23.

## 4. Main report

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- 4.1 A critical element of our People Strategy is to ensure that our employment policies are fit for purpose, that they support our culture, reflect best practice and meet our legal obligations.

### **Work to date.**

- 4.2 In the period since the last policy assurance report to this committee (March 2023), policy development activity has ramped up in response to the Inquiry and Review and to conclude the remaining policy reviews with and a programme of review being established seeking to conclude mid-2023.
- 4.3 The following policies and guidance have been reviewed, revised and approved at Policy and Sustainability Committee in the last 12 months including those in response to the Inquiry and Review:
- 4.4 **Alcohol & Drugs Policy**
- 4.5 While the underlying principles of the existing Alcohol, Drugs and Substance Misuse Policy remained fit for purpose, as good practice and due to the age of the policy, we undertook to review it through the lens of the Inquiry and Review recommendations.
- 4.6 Following a benchmarking exercise, review, and qualitative stakeholder feedback of the policy, it was felt that no significant amendments to existing procedures were necessary in relation to the management of such cases. However, it was agreed that amendments to style, tone and language were required, in line with current approach to policy development at the Council. In addition to this, to better support the colleague experience, it was agreed that it would be aligned with our Wellbeing Strategy in which we promote employee wellbeing initiatives as well as measures to prevent, reduce and supportively manage problems such as alcohol or drug dependency. This intention has been adopted into the policy where we encourage managers to interact and signpost colleagues to a variety of supportive agencies.
- 4.7 The policy and supporting documentation have been redesigned so that the structure is more concise, and clearer for users to follow. The policy sets out the guiding principles for handling dependency concerns, while the user guide outlines in detail the procedural guidance for both managers and colleagues.
- 4.8 The new Policy acknowledges the role of the manager in supporting colleagues who are experiencing dependency problems; however, it also places an emphasis on colleagues to investigate wellbeing opportunities to enable them to look after their own mental and physical health.
- 4.9 This Policy sets out a commitment to provide support and raise awareness of the signs of dependency problems with a view to highlighting the importance of being a supportive employer. This Policy is aimed at promoting a culture where the approach is preventative, where open and honest conversations are encouraged so that the signs can be identified, and dependency problems can be effectively mitigated against as much as possible. It does however also highlight that where breaches occur, these will be taken seriously and may be managed in line with the Council's Disciplinary Policy.
- 4.10 The Policy was approved by Policy & Sustainability Committee on 23 May 2023. It was launched in July 2023 in conjunction with Alcohol Awareness Week.
- 4.11 **Grievance and Avoidance of Bullying and Harassment policies.**

- 4.12 The Council had two policies to manage employee complaints: Grievance and Avoidance of Bullying and Harassment. Both policies focus on early intervention as part of the informal stage, escalating to a formal complaint where it cannot be resolved locally.
- 4.13 Due to the similarities in these policies, it was agreed to review these collectively. These policies included:
- Grievance Procedure for Local Government Employees
  - Grievance Procedure for Teaching Staff
  - Personnel Appeals Committee for Grievances
  - Avoidance of Bullying and Harassment.
- 4.14 Whilst the underlying principles of all these policies aligned with the ACAS Code of Practice, we undertook to review them through the lens of the Inquiry and Review recommendations, as well as seeking to improve the employee journey.
- 4.15 We also took into consideration the overarching employment policy recommendation following the Inquiry and Review which was:
- “That a full review of all Council policies relating to staff conduct is undertaken to determine how these could be **consolidated and clarified to aid compliance and investigation in future.**”*
- 4.16 Feedback gathered during the policy engagement process suggested that complaints handled under these processes were not always clear cut and often resulted in colleagues raising similar concerns under multiple policies and processes at the same time. This can often lead to delays in process as well as putting additional pressure on employees who are required to attend multiple meetings under the different policies to seek a resolution.
- 4.17 On this basis, it was proposed that a new consolidated Grievance Policy would be created to manage and consider all employee complaints to ensure one employee journey and improve oversight and investigation.
- 4.18 Some of the key feedback was not specifically on the policy content but how it is implemented by management. It was highlighted that there is a need for managers to recognise grievances at an early stage and address these promptly and clearly explaining the reasoning behind this. Investing time at the informal stage to manage concerns and hear colleagues’ concerns will mitigate lengthy formal processes and is what management should focus on.
- 4.19 The revised policies seek to focus on Early Resolution conversations, with managers responding to and engaging with colleagues as soon as concerns are raised. These discussions should be **outcome-focussed** to address issues quickly, locally, and informally. Where concerns cannot be resolved at an Informal Stage or where the nature of the complaint is so serious, then the matter is escalated to a more formal process.
- 4.20 Part of the feedback we received from our engagement sessions was in relation to timescales. The new policy outlines the timescales which should be followed, and

regular updates should be provided through the process, however where there are unexpected delays the responsibility lies with the Nominated Officer to ensure all parties are informed of the delays, the reasons for this as well as providing revised timescales.

- 4.21 Accountability was also important to colleagues - ensuring processes are being followed and people being held to account when they are not, as well as ensuring those responsible for taking forward recommendations or next steps follow through. To ensure this policy is successful, we need to ensure the support and messaging to managers is clear and consistent in aiming to resolve grievances and holds managers to account where there may be a lack of action.
- 4.22 The final stage of all grievances is that colleagues can appeal the decision of the Nominated Officer. For teaching staff, the appeals stage is clearly articulated in the Scottish Negotiating Committee for Teachers (SNCT) and our new policy reflects this requirement. For LG colleagues, all appeals will be considered by Personnel Appeals Committee (PAC). It was agreed to trial this approach for 18 months to monitor timescales and capacity within PAC to respond appropriately to appeals.
- 4.23 Finally, we also took the opportunity to review the supporting guidance for the Personnel Appeals Committee. Currently there are two separate documents which outline the same process: one for discipline and one for grievances. We have sought to streamline this into one document for ease of reference. This process has been agreed by Committee Services.
- 4.24 The new Policy was approved by Policy & Sustainability Committee on 22 August 2023, and launched in October 2023 along with the Speak Up Supporters and our 'Conversations First' approach.
- 4.25 **Protecting Colleagues from Unacceptable Behaviours policy.**
- 4.26 The Council previously had a Violence at Work Policy which outlined its commitment that all our people are entitled to work in a safe environment where they are fully supported when faced with unacceptable behaviour from any other person however that unacceptable behaviour occurs. It considered any harassment including sexual and racial harassment, violence or aggressive behaviour directed at our colleagues as unacceptable. The policy focussed on service user on employee violence only.
- 4.27 The policy approached this subject matter through a Health & Safety preventative approach of risk assessments and role specific training needs but also outlined how to manage and report any incidents which occur.

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- 4.28 A working group was established of representatives from across the directorates to review this policy. Through this review another policy was identified that should be considered in the same context. The Managing Customer Contact in a Fair and Positive Manner Policy was a service-led policy which outlined how the Council will manage actions by service users / customers that result in unreasonable demands on our services or unreasonable behaviour towards our colleagues. The policy also provided a framework in dealing with situations where actions become unacceptable as they involve abuse of our colleagues, stop us doing our work or providing a service to others.
- 4.29 The proposal from the working group was to consolidate these policies into a new Protecting Colleagues from Unacceptable Behaviours Policy which will be supported by a dedicated user guide on prevention and management of incidents.
- 4.30 The new policy outlines the Council's commitment to keeping our colleagues safe in the workplace, that no form of violence, aggression, bullying or harassment is acceptable and encouraging people to speak up. It focusses on service user on employee incidents as well as employee on employee incidents. Underpinned by Our Behaviours, the policy seeks to support the culture change within the organisation by raising awareness of these topics, outlining unacceptable behaviours, and providing managers with the tools to address issues and support colleagues.
- 4.31 The new Policy was approved by Policy & Sustainability Committee on 22 August 2023, and launched in September 2023. We continue to work with the service areas to raise awareness of behaviours, encouraging colleagues to speak up and take a conversations first approach.

### **Current work**

#### **4.32 Special Leave Policy**

- 4.33 In 2024, legislation will be introduced which provides additional time off for carers. In addition to this, a Council motion has requested that an Employee Volunteering Policy is developed that would give colleagues one day paid leave per annum to volunteer. It has been agreed that these new leave types will be incorporated into our Special Leave Policy.
- 4.34 To ensure we are meeting good practice, our legislative requirements as well as enhancing our employee experience and offering, we have undertaken a full review of the Special Leave Policy.
- 4.35 The policy is being considered at Policy & Sustainability Committee in March for approval to allow us to meet the April deadline for the introduction of leave for carers.

#### **4.36 Chief Officer Disciplinary Policy**

- 4.37 The current Disciplinary for Heads of Service Policy outlines how misconduct of senior officers will be managed and addressed within the Council; however, it does not include misconduct by the Chief Executive.
- 4.38 In March 2022, Policy & Sustainability Committee approved the adoption of the Scottish Joint Negotiating Committee (SJNC) Model Framework (the “Gold Book”) into practice in situations where misconduct by the Chief Executive occurs, this framework outlines the protocols to follow in cases of potential misconduct as well as appropriate delegation of responsibilities.
- 4.39 To streamline the policy landscape for Chief Officers in terms of discipline, it was agreed to review the arrangements and bring together the two processes into one new policy.
- 4.40 The new Chief Officer Disciplinary Policy aligns the process with the ACAS Code of Practice on Disciplinary Procedures as well as taking into account the Scottish Joint Negotiating Committee (SJNC) for Chief Officials Scheme of Salaries and Conditions of Service for Chief Officials (the “Gold Book”). It also aligns the process with the Council’s Behaviours and policies relating to conduct, such as the Employee Code of Conduct and Disciplinary Code.
- 4.41 It also outlines an informal resolution stage for Chief Officers including the Chief Executive as well as the separate formal stages for both Chief Officers and the Chief Executive respectively.
- 4.42 The new Policy also outlines the process that will be followed where the Chief Executive is unable to take part in the process for example if (but not limited to) a conflict of interest occurs.
- 4.43 There is clarification of the appeal process and notes that appeals from Chief Officials and the Chief Executive are to be made to the Personnel Appeals Committee (PAC) and the decision of PAC is final.
- 4.44 Where the conduct issue concerns a Chief Official and the Chief Executive cannot take part in the process, the Chief Official’s right of appeal is to the SJNC and the decision of the SJNC is final.
- 4.45 The new Policy is being considered by Policy & Sustainability Committee in March for approval.
- 4.46 Employee Code of Conduct
- 4.47 Following publication of the Edinburgh Tram Inquiry Report in September 2023, a response to the report was considered by Full Council on 14 December 2023.

One of the recommendations from the response was to review the Employee Code of Conduct to ensure it was clear on the expectations from colleagues with respect to honesty.

- 4.48 The definition of Honesty within the Code of Conduct has been updated to clarify and strengthen aspects related to officer candour.
- 4.49 The revised Code is being considered by Policy & Sustainability Committee in March for approval.
- 4.50 Family Leave Policy
- 4.51 The Family Leave policies of Maternity, Adoption and Partner Support were last reviewed in 2016 with the introduction of Shared Parental Leave.
- 4.52 In 2025, new legislation is being introduced which provides additional rights for new parents. The Neonatal Care (Leave and Pay) Act 2023 provides parents with a right to 12 weeks' leave and pay when their baby requires neonatal care in addition to the existing parental leave entitlements.
- 4.53 With a line of sight to the new legislation, we have sought to review the Family Leave policies to seek to streamline and provide clear guidance to colleagues on the variety of leave options available to them.
- 4.54 We are currently consulting with the Trade Unions and aim to have the policy for Policy & Sustainability Committee approval in May.

## **Upcoming Work Programme**

- 4.55 **Legislative**
- 4.56 Our Flexible Work Options Policy outlines the process to follow where colleagues submit a flexible working request which may result in a contractual change. The right to request flexible working is a statutory right, and new legislation is coming into force in summer 2024 which enhances this right. We will be required to review this policy to ensure it meets these new requirements.
- 4.57 Council Motion
  - In May 2023, an amendment was made to a paper at Policy & Sustainability Committee on Harassment policies within the Council to:



*“Confirm that a separate gender informed sexual harassment policy, with appropriate training and toolkits, is expected to be put in place within two years and requests that an update of progress towards that goal is provide to [P&S Committee] within 12 months.”*

- 4.58 Work will commence on the policy in terms of development, research and engagement upon conclusion of the policy work to respond to our legislative deadlines. Initial conversations have taken place with Close the Gap, who developed Equally Safe at Work to understand the support they can provide to organisations in developing a robust, gender-informed policy. This support can take the form of templates, benchmarking, peer reviewing which will be available to the Council when we make our application for accreditation.

## **5. Next Steps.**

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- 5.1 A programme for the policy review, consultation and approval has been drafted and shared with our Trade Unions through the Partnership At Work Forum.
- 5.2 The priority for 2024-25 is to meet our legislative deadlines for Special Leave and Flexible Work Options and then we will progress with our regular review cycle.
- 5.3 Due to school holidays, consultation with the Trade Unions has to be paused over July and August, and we will take this time to continue development on the other identified policies for consultation to commence in September.
- 5.4 A revised policy review programme for 2025-26 will be developed by the end of this year.

## **6. Financial impact**

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- 6.1 There is no direct financial impact arising from this report.

## **7. Equality and Poverty Impact**

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- 7.1 None

## **8. Climate and Nature Emergency Implications**

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- 8.1 None

## **9. Risk, policy, compliance, governance and community impact**

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- 9.1 Consultation was undertaken, where appropriate, with recognised trades unions as part of the Council's Working Together Protocol and local collective consultation arrangements concerning employment policies.

## **10. Background reading/external references**

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- 10.1 None

## **11. Appendices**

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- 11.1 None