

Policy and Sustainability Committee

10.00am, Tuesday 21 March, 2023

Employment Policies - HR Assurance Statement

Item number	
Executive/routine	Routine
Wards	
Council Commitments	

1. Recommendations

- 1.1 To note the Council's HR/employment policies and guidance which have been reviewed in the last year.
- 1.2 To note the commitment to complete a programme of HR policy review and approval for 2023/24, taking into account the recommendations from the Independent Inquiry and Whistleblowing Culture Review reported to the City of Edinburgh Council on 28 October 2021.

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Employment Policies – HR Assurance Statement

2. Executive Summary

- 2.1 This report confirms the Human Resources (HR)/employment policies, which have been developed, consulted on and approved by Policy and Sustainability Committee in the last 12 months.
- 2.2 In addition, this report outlines the remaining policy work required in response to the Independent Inquiry and Whistleblowing Culture Review as well as outlining a proposed programme of policy review for 2023/24.

3. Background

- 3.1 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.
- 3.2 HR policies are reviewed as and when a change to the existing policy deems this necessary, primarily because 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.
- 3.3 The then Policy and Strategy Committee agreed the approach detailed above for HR policies on 5 December 2017.
- 3.4 As part of the findings from the Independent Inquiry and Whistleblowing Culture Review ("Inquiry and Review"), several HR/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.

4. Main report

- 4.1 A key element of our People Strategy is to ensure that our HR/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 (November 2021), policy development activity has ramped up in response to the Inquiry and Review. 12 employment policies were identified as falling under the remit of 'conduct-related' and a programme of review was established seeking to conclude mid-2023.
- 4.3 It should be highlighted however that capacity across key stakeholder groups to engage with this has been limited due to the need to prioritise resumption of service delivery and colleague wellbeing following Covid-19, ongoing guidance for employees in response to evolving national and local Government guidance and organisational change.
- 4.4 Despite this, 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:

4.5 Domestic Abuse Policy

The Domestic Abuse Policy was approved by Committee in March 2022 and launched in June 2022. The new Policy ensures that every employee who is experiencing or has experienced domestic abuse can raise the issue, knowing that we will treat the matter effectively, sympathetically and confidentially as appropriate. The Policy also covers the approach the Council will take where there are concerns that an employee may be the perpetrator of domestic abuse.

- 4.6 In addition to the development of the Policy, a pathway for learning was created to ensure the right people have the right training to support and deal with domestic abuse effectively and in line with best practice. This included the requirement for essential training for all colleagues and elected members.
- 4.7 This Policy also addressed six of the recommendations from the Inquiry & Review specifically that it put in place a clear process for recording and reporting cases of Domestic Abuse, colleague training including mandatory learning for managers, and covers situations which occur out with working hours and location.

4.8 Disciplinary Policies

Across last year, three disciplinary policies and the associated Appeals policy were revised in line with the Inquiry and Review recommendations. This included:

- Disciplinary for Local Government Employees
- Disciplinary for Teaching Staff
- Personnel Appeals Committee for Disciplinary
- Chief Executive and Chief Officer Disciplinary

- 4.9 Although the Disciplinary Policy for Local Government Employees had been updated in 2020, we nonetheless undertook a light touch review to ensure it was still in line with good practice. The Disciplinary Policy for Teaching Staff was last reviewed in 2004, so a fuller review was required to bring it into alignment with the style, tone and language of our other employment policies as well as to bring consistency with the other disciplinary policy.
- 4.10 The policy and supporting documents were redesigned so that the structure is more concise, and clearer for users to follow. The policy sets out the guiding principles for handling conduct concerns, while the user guide outlines in detail the procedural guidance for both managers and colleagues.
- 4.11 Recommendations from the Inquiry and Review included a requirement for Nominated Officers and Investigation Officers to declare any conflicts of interest prior to the commencement of a formal process. Both Disciplinary policies have been updated to reflect this requirement, and further information as well as a link to the declaration form have been included in the accompanying user guides.
- 4.12 A similar approach of a refresh and rebrand was taken for the Personnel Appeals Committee for Disciplinary cases. It was also evident within this policy that there was an opportunity to make procedural improvements at several points of the existing process, which included providing more clarity for colleagues on timescales as well as who were the main contacts.
- 4.13 All policies and supporting documents are compliant with the Scottish Negotiating Council for Teachers (SNCT) and broad principles and recommended practice set out in the ACAS Code of Practice surrounding Disciplinary and Grievance.
- 4.14 These policies were approved by Committee in August 2022 and launched in October 2022. We also launched a new disciplinary e-learning module for all colleagues including teaching staff for the first time.
- 4.15 Through the Inquiry and Review, it was identified that there were some gaps within the existing Heads of Department Disciplinary policy in that it did not cover all circumstances. Specifically, it did not adequately deal with a situation where the Chief Executive, is unable, for any reason (for example conflict of interest) to take a decision or be part of a process in relation to any matter falling to be dealt with under that policy. In such circumstances the power vested in them was not able to be delegated and the matter will accordingly require to be dealt with by Elected Members.
- 4.16 To mitigate this, it was proposed that the Council adopt the Gold Book. The Scottish Joint Negotiating Council (SJNC) developed the Gold Book in relation to Chief Executive Officers in 2014. The Gold Book itself details actions which require to be taken in certain circumstances and authority requires to be delegated in this regard should the policy or any part of it require to be invoked in any way.
- 4.17 It also outlines clear processes to be followed where an allegation is made against the Chief Executive.

- 4.18 This policy was approved by Committee in March 2022, before being formally approved by Council over the summer. It was launched alongside the other disciplinary policies in October 2022.
- 4.19 **Special Leave Policy & Bicycle Policy**
While out with the scope of the Inquiry and Review, small updates were made to the Special Leave Policy and a decision was taken to step down the Bicycle Policy.
- 4.20 The Special Leave Policy was updated to reflect a legislative change in parental bereavement and continues to outline the Council's provisions for Special Leave available to all employees. In addition, we have signposted to provisions available to colleagues who are going through gender reassignment.
- 4.21 The Bicycle Policy has been established in 1997 and outlined the mechanisms which would encourage employees to use a bicycle for travel to and from work and for short journeys on Council business. This was deemed no longer fit for purpose and had been superseded by the Business Travel Guidance and other individual initiatives for colleagues. As such, a decision was taken to step it down, as the advice and guidance was covered elsewhere, and this sought to consolidate the policy landscape for colleagues.
- 4.22 **Code of Conduct**
In addition to the overarching Inquiry and Review recommendation in relation to conduct-related policies, there were also a number of specific recommendations requiring the Council to put in place policies or practices to manage personal relationships between employees which could result in a potential conflict of interest.
- 4.23 As the key guide to employee behaviour and standards within the Council as well as existing practices on Conflicts of Interest, the Employee Code of Conduct has been reviewed and refreshed taking into consideration the recommendations of the Inquiry and Review.
- 4.24 The main changes to the revised Code were a new layout, consistency in format and content, the introduction of the Council's new Behaviours and supporting user guides describing the 'how' for colleagues
- 4.25 The new Code also addressed four of the Inquiry and Review recommendations specifically that it puts in place a new process for declaring relationships within the workplace, ensures they are recorded on an individual's HR record as well as linking to the appropriate external policies in relation to disciplinary and domestic abuse.
- 4.26 The Code was approved by Committee in January 2023 and will be launched in conjunction with our new Organisational Purpose and Key Behaviours by summer 2023.
- 4.27 **Time Off for Trade Union Representatives Policy**
Again, while out with the scope of the Inquiry and Review, each of the policies being reviewed as part of this work will be the subject of collective bargaining with our Trade Unions. To ensure that employee relations within the Council were fully

supported during this period of policy development, we undertook to refresh the existing facility time agreement.

- 4.28 In addition to this, earlier in 2022, it was agreed by Corporate Leadership Team to include teaching unions within funded facility time for representatives which was not reflected in the previous agreement.
- 4.29 The review sought to streamline a lengthy document into a more user-friendly version, which aligned with the style, tone and language of our other employment policies. We also created a supporting user guide which provides more detail and clarity on the expectations and requirements for all those involved e.g., Trade Unions, Representatives and their line managers as well as HR. This includes the requirement to notify management and HR of new representatives, as well as monitoring data for statutory reporting.
- 4.30 The Policy was approved by Committee in January 2023, and we are working with the Trade Unions to launch it within the coming weeks.

Upcoming work programme

4.31 Inquiry and Review

There remain four outstanding policy areas within the Inquiry and Review. Trade Union capacity, timeliness and partnership working will be key to ensuring these are concluded in 2023. These areas are:

- Whistleblowing – this work has been led by our Legal Team in consultation with Safecall, Pinsent Mason and our Trade Unions. The aim is to take the new Whistleblowing Policy for approval by Committee in March 2023.
- Alcohol and Drugs Policy – we are currently in consultation with Trade Unions in this refreshed policy which focusses on support for colleagues with an alcohol or drugs dependency as well as guidance for managers in identifying and supporting colleagues seek this support. It will be considered by Committee in June 2023.
- Grievance & Avoidance of Bullying and Harassment – these are currently two policies and processes for dealing with employee complaints. In line with the recommendation from the Inquiry and Review, the proposal is to consolidate these into one policy and process to manage all employee concerns. This will provide one point of contact and journey for colleagues. It is proposed that consultation on this new policy will commence in March, and if successfully concluded will be considered by Committee in June 2023.

- Violence At Work – work between HR and H&S had commenced on revising this policy pre-covid and was then put on hold. This work has now recommenced and proposes renaming the policy to ‘Protecting Our Workforce’, considering all types of violence, aggression, bullying and harassment colleagues may experience in the course of their employment, what preventative measures and mitigations the Council has in place to protect colleagues, and on the occasion where it occurs how we will manage such situations. The aim is to have this considered by Committee in late summer.

4.32 **People Strategy Policies**

In 2022, we also undertook an exercise to list all employment policies, guidance and information documents available to colleagues. These were then prioritised for review based on policy age. As a result, it was highlighted that a number of policies or information on the Council’s intranet had not been reviewed for many years and while the principles underpinning these documents may still be relevant, the language used, and processes and systems cited were very outdated. A programme of work has commenced to review the intranet content.

4.33 In addition to this, a number of external factors have influenced our decision to review other existing policies. These include:

- Flexible Work Options – This policy outlines the process to follow where colleagues submit a flexible working request which may result in a contractual change. Decisions and outputs from the Our Future Work Project may result in changes to the policy in terms of ways of working. The policy is also due for a review having been originally written in 2014.
- Family focussed policies – Work commenced prior to the pandemic on reviewing the Maternity, Partner Support, Adoption and Shared Parental Leave policies to link in with the work of Your Pay and Benefits. The early proposals were to enhance our offer to colleagues. We intend to pick this work back up again as there is upcoming legislation regarding neo-natal care we would like to include, as well as additional support for colleagues who go through surrogacy or experience a miscarriage.
- Special Leave policy – As a result of our work on the family focussed policies, we are likely to proposed enhanced leave options to support colleagues and where approved will incorporate this into the Special Leave Policy. In addition to this, a motion has been put forward by Cllr Bandel to introduce Volunteer Leave for colleagues.

5. **Next Steps**

5.1 The priority for 2023-24 is to conclude the Inquiry and Review work programme. Trade Union consultation has already commenced on some of these policies, and to ensure capacity for review and engagement, these will be staggered over the first 6 months of this year.

- 5.2 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.
- 5.3 A revised policy review programme for 2024-25 will be developed by the end of this year.

6. Financial impact

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

7. Stakeholder/Community Impact

- 7.1 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.

8. Background reading/external references

- 8.1 None

9. Appendices

- 9.1 None