

EMPLOYMENT AND APPEALS COMMITTEE

16 March 2016

HR POLICIES**Report of the Director for Resources**

Strategic Aim:	Delivering Services within the Medium Term Financial Plan	
Exempt Information	No	
Cabinet Member(s) Responsible:	Mr T C King, Leader and Portfolio Holder for Places (Development and Economy) and Resources	
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Ward Councillors		

DECISION RECOMMENDATIONS

That Employment and Appeals Committee:

1. Consider and approve the Restructure Policy (Appendix 1)
2. Consider and approve the Disciplinary Policy (Appendix 2)

1 PURPOSE OF THE REPORT

- 1.1 To seek approval for updated HR policies with regard to (a) Restructure Policy and (b) Disciplinary Policy.

2 RESTRUCTURE POLICY

- 2.1 The Restructure Policy underwent a detailed review in 2013. Since that time it has supported the delivery of service reviews for example in - Democratic Services and Corporate Support, TUPE transfer of parts of Rutland Adult Learning Service to Peterborough College, Human Resources, Environmental Services, People Services.
- 2.2 Service reviews and restructure processes by their nature can be complex and time consuming but the procedure has served us well; a more flexible approach to the use of 'suitable alternative vacancies' has been advantageous and enabled us to avoid 'at risk of redundancy processes' in some cases by acquiring a redeployment opportunity for an employee who otherwise would be redundant.

2.3 This particular review/update has been to address:

- Clarity of the delegation of authority for compulsory redundancies; employment procedure rules provide that any dismissal below the level of deputy chief officer is a decision for the Head of Paid service, and Members can take no part in that decision (except for appeals) – this has therefore been amended to state that ‘any proposal for compulsory redundancy contained in the proposal must in due course be submitted to the Chief Executive for approval’.
- Confirmation that the relevant Director will ensure the necessary approvals are obtained prior to commencing consultation. The policy does not prescribe what the approval process has to be as this will depend on the scale of the proposal changes/impact on policy/impact on the budget and therefore appropriate delegations and terms of reference.
- Inclusion of the use of offering ‘suitable alternative vacancies’. Paras 2.2.1(g) and 2.2.5.
- For consistency, the current paragraph which refers to approval of voluntary redundancy has been amended to approval by the Chief Executive rather than approval by the relevant Director. Also includes reference to consideration of the loss of skills/experience and cost associated with redundancy and early release of pension benefit.
- Refresh of the appeals process relating to a request by an employee to be slotted/partially amended into another post – this is a two stage process in line with the appeal against a slotting/partial amend.

3 DISCIPLINARY POLICY

3.1 The Disciplinary Policy was reviewed in 2012 and approved by Members in 2013. Since that period there have been 14 warnings given, 1 dismissal, and a further 8 investigations that either became resolved or were not taken to formal disciplinary.

3.2 Having an effective Disciplinary policy and procedure is fundamental to managing the Council’s risk and exposure for tribunal claims which can be very costly - in 2014-15 the average successful claim at tribunal in the UK was £12,362 and the maximum award was £238,000.

3.3 All conduct and disciplinary issues are managed with the support of an HR Adviser through a case management process and with monthly case reviews with our employment law advisers, EEF. Cases that are likely to result in dismissal or are assessed as high risk in terms of potential challenge or claim, are more regularly reviewed through specialist legal advice (EEF). The Council has not received any tribunal claims in 2015-16.

3.4 The purpose of the review and updates to the policy are to address:

- The role of a Commissioning Officer – in the 2013 policy this was defined as an additional role to the role of the line manager, investigating officer and disciplining officer. For a small authority, this additional role can be difficult to

resource for all cases and is not part of the ACAS Code of practice - a tribunal is concerned that a fair and objective investigation has taken place. It is therefore recommended that we remove this role and re-inforce that line managers can proceed with disciplinary cases within their teams. For more complex cases and those that may result in dismissal and where it is considered that a further degree of impartiality is required, we could still assign this role to an independent manager in such cases.

- As above, tribunals will always determine whether a fair and objective investigation has taken place – this is crucial for cases that result in dismissal. However, for lower level cases eg. Timekeeping, an investigation by an independent Investigating Officer, in most cases, is unlikely to add anything further to the procedure. In all cases there will be a separation of roles between someone undertaking an investigation and the individual conducting or making decisions at a disciplinary hearing.
- Levels of warning – the levels of warning in the 2013 policy is not common with other disciplinary procedures nor the ACAS code. It is therefore recommended that a 'Formal' level be removed and we therefore have – Written Warning (on file for 6 months) and Final Written Warning (on file for 12 months). These levels are all above the informal stage which remains ie. manager's ability to give an informal warning for lower levels of conduct.

4 CONSULTATION

- 4.1 These specific policies require consultation with the recognised Trade Unions – this has taken place with Unison and UCU.
- 4.2 In addition, input to the Disciplinary Procedure has been provided by our legal advisers (EEF) and we have reviewed guidance and codes of practice produced by ACAS. Employment Tribunals are legally required to take the ACAS Code of Practice into account when considering relevant cases; they can adjust any awards made in relevant cases by up to 25 per cent for unreasonable failure to comply with any provisions of the code

5 ALTERNATIVE OPTIONS

- 5.1 As outlined in paragraphs 2.2 and 3.2, these two specific policies provide clear and important frameworks that serve to protect and manage a level of risk and exposure through employee challenge and potential employment tribunal claims. The policies as presented are considered to be in line with the public/private sector and represent robust procedures for Rutland Council.
- 5.2 The absence of such policies would remove clarity and consistency in the application of conduct/disciplinary issues and service reviews/restructures that could result in claims for unfair dismissal or discrimination resulting in lengthy and costly defence in court.

6 FINANCIAL IMPLICATIONS

- 6.1 Whilst there are no significant costs associated with the management and implementation of these policies, failure to follow them will presents risks at employment tribunal which could be costly (average costs of tribunal claims

identified in para 3.2) plus the additional cost of management time and legal fees.

7 LEGAL AND GOVERNANCE CONSIDERATIONS

- 7.1 The Council must be compliant with relevant employment law and regulations and in addition, employment tribunals will consider actions in relation to the ACAS Code of Practice for disciplinary issues.
- 7.2 Delegated authority in relation to organisational decisions is defined in the Council's Constitution – both policies are aligned with this framework.

8 EQUALITY IMPACT ASSESSMENT

- 8.1 An Equality Impact Assessment (EqIA) has been completed. No adverse or other significant issues were found. A copy of the EqIA can be obtained from the Report's Contact Officers.

9 COMMUNITY SAFETY IMPLICATIONS

- 9.1 There are no Community Safety implications arising from this report.

10 HEALTH AND WELLBEING IMPLICATIONS

- 10.1 There are no specific Health and Wellbeing implications to these two particular policies but the Council has an overall duty of care to its employees which means taking all steps which are reasonably possible to ensure the health, safety and wellbeing. Clear and fair policies and procedures can also be a key factor in building trust and reinforcing commitment to our staff and help improve staff retention, productivity and performance and greater employee engagement.

11 ORGANISATIONAL IMPLICATIONS

- 11.1 Consultation has taken place with the recognised Trade Unions as required.
- 11.2 Briefings will be provided to managers to ensure they are aware of the updated policies.

12 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 12.1 Once approved by Employment and Appeals Committee, the Council will communicate these policies to all staff and ensure copies of the Policies are available on the Council's intranet.
- 12.2 The Human Resources team will carry out briefings with Line Managers to ensure they are aware of the policies.

13 BACKGROUND PAPERS

- 13.1 There are no additional background papers to the report.

14 APPENDICES

Appendix A – Restructure Policy

Appendix B – Disciplinary Policy

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.