

EAST AYRSHIRE COUNCIL

CABINET – 17 JUNE 2009

LOCAL GOVERNMENT EMPLOYEES, CRAFT EMPLOYEES AND CHIEF OFFICERS

REVISED EMPLOYMENT POLICIES

Report by Depute Chief Executive/Executive Director of Corporate Support

1. PURPOSE OF REPORT

- 1.1 The purpose of the report is to seek Cabinet's approval to proposed changes to the Council's Disciplinary Policy and Procedures and the Grievance Procedure.

2. BACKGROUND

- 2.1 The Council's Disciplinary Policy and Procedures and Grievance Procedure were last updated by Cabinet at meetings on 5 September 2007 and 21 November 2007 respectively.
- 2.2 As part of the ongoing annual review of these Policies, changes have been required to be made to take account of the Employment Act 2008 and the new ACAS Guide on Discipline in the Workplace.
- 2.3 The Disciplinary Policy and Procedures and the Grievance Procedure are applicable to Local Government Employees, Craft Operatives, the Chief Executive and Chief Officers. **They do not apply to Teaching Staff who have their own Disciplinary and Grievance Procedures.**
- 2.4 Copies of the revised Disciplinary Policy and Procedures and Grievance Procedure are available in the Members' Information Point and the Members' Portal.

3. DISCIPLINARY POLICY AND PROCEDURES - PROPOSED CHANGES

- 3.1 The documentation has been updated to reflect that:
- any reference to Personnel Services has been replaced by Human Resources;
 - the Statutory Dismissal Procedures have been deleted; (paragraph 2.2)
 - any employee who makes an allegation shall not form part of the Investigation Team but shall be interviewed as a witness in any investigation; (paragraph 3.3)
 - at a Disciplinary Hearing, consideration should also be given for the provision of appropriate support to be in place where necessary e.g. an interpreter or signer if there are understanding or language difficulties; responsible person/carer if interviewing

children and/or adults with learning disabilities etc. This person will require to be in attendance in addition to the employee's representative; (paragraph 14)

- at a Disciplinary Hearing when the employee is in attendance then their representative does not have the right to answer questions on the employee's behalf; (paragraph 15)
- further clarification has been given on the process where the disciplinary panel consider that redeployment to an alternative post is the most appropriate course of disciplinary action; (paragraph 16)
- where an employee is persistently unable or unwilling to attend a Disciplinary Hearing without good cause, a decision should be made on the evidence available at that time; (paragraph 16)
- the decision of a Disciplinary Hearing can include one or more of the examples of disciplinary action detailed in paragraph 16 of the Policy and Procedures; (paragraph 16)
- in accordance with the ACAS Guide on Discipline in the Workplace, all letters inviting employees to a Disciplinary Hearing will now state the possible consequences arising from the Hearing i.e. Unsatisfactory Conduct or Gross Misconduct.
- As a result of the Improvement Agenda to re-focus Building and Works, Service specific examples of unsatisfactory conduct and gross misconduct have been developed which will be incorporated into the revised Disciplinary Policy and Procedures documentation. These will assist in making all employees aware of the standards expected of them. However, this will not mean that similar offences will always call for the same disciplinary action as each case must be looked at on its own merits and any relevant circumstances taken into account.

4. GRIEVANCE PROCEDURE – PROPOSED CHANGES

4.1 The documentation has been updated to reflect that:

- any reference to Personnel Services has been replaced by Human Resources;
- every effort will be made to adhere to the timescales; (paragraph 1.11)
- the reference to former employees being able to raise a grievance has been deleted; (paragraph 2.1)
- grievances can also be raised about matters not entirely within the Council's control such as client or customer relationships e.g. where an employee is working on another employer's site. These will be treated in the same way as grievances within the Council with the relevant Manager investigating as far as possible and taking action if required; (paragraph 2.2)

- grievances related to an employee's individual tiered pension contribution rate in terms of the Local Government Pension Scheme will be excluded from the Grievance Procedure as there is a separate process established for dealing with these appeals; (paragraph 3.4)
- at Stage 2 level, Head of Service, the Hearing should be adjourned if any new facts come to light or if a further investigation is required and reconvened when the further investigation is complete; (paragraph 5.2)
- the timescale for advising the employee of the outcome of their Stage 2 grievance has been increased from 3 working days to 5 working days; (paragraph 5.2)
- at Stage 3 level, Head of Human Resources, the timescale for advising the employee of the outcome of their grievance has been increased from 3 working days to 5 working days; (paragraph 5.3)
- at Stage 4 level, Appeals Panel, the timescale for the employee to formally pursue their grievance to this level has been increased from 5 working days to 10 working days; (paragraph 5.4)
- the timescale for the Appeals Panel to normally hold an Appeals Hearing has been increased from 10 working days to 15 working days. (paragraph 5.4)

5. FINANCIAL IMPLICATIONS

- 5.1** Any additional costs arising from the proposed changes to the above Employment Policies will be contained within existing budgets.

6. CORPORATE MANAGEMENT TEAM

- 6.1** The Corporate Management Team has considered and approved the content of this report.

7. POLICY/LEGAL IMPLICATIONS

- 7.1** The proposed changes will ensure that the Council continues to meet its legislative requirements as an employer. The proposals meet the pursuit of continuous improvement and best value and the guiding principles of the Community Plan.

8. TRADE UNIONS

- 8.1** The proposed changes have been agreed with the Trade Unions.

9. RECOMMENDATIONS

- 9.1** Cabinet is recommended to approve the above changes to the Council's Disciplinary Policy and Procedures and the Grievance Procedure.

Elizabeth Morton
Depute Chief Executive/Executive Director of Corporate Support
29 May 2009

LIST OF BACKGROUND PAPERS

1. Report on Revised Disciplinary Policy and Procedures by the Depute Chief Executive/Executive Director of Corporate Support to Cabinet of 5 September 2007.
2. Report on Revised Grievance Procedure by the Depute Chief Executive/Executive Director of Corporate Support to Cabinet of 21 November 2007.
3. ACAS Code of Practice on Disciplinary and Grievances in the Workplace.

Any person wishing further information should contact Martin Rose, Head of Human Resources (Telephone 01563 576092).