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To: Councillor Allan, Convener; Councillor Houghton, Vice Convener; and Councillors Allard, Cameron, Copland, Delaney, Graham, Macdonald and Reynolds.

Trade Union Advisers: Carole Thorpe and Ron Constable (EIS); Mike Middleton and Brenda Murdoch (GMB); Sid Sandison and Thomas Whyte (SSTA); Kenny Luke and Alison Robertson (UNISON); Joe Craig and Mishelle Gray (UNITE); and Rob Stephen and 1 vacancy (VOICE).

Town House,
ABERDEEN, 26 April 2018

STAFF GOVERNANCE COMMITTEE

The Members of the **STAFF GOVERNANCE COMMITTEE** are requested to meet in **Committee Room 2 - Town House** on **FRIDAY, 4 MAY 2018 at 2.00 pm.**

FRASER BELL
CHIEF OFFICER - GOVERNANCE

B U S I N E S S

DETERMINATION OF URGENT BUSINESS

1.1 There are no items at this time

DETERMINATION OF EXEMPT BUSINESS

2.1 Members are requested to determine that any exempt business be considered with the press and public excluded

DECLARATIONS OF INTEREST

3.1 Members are requested to declare any interests (Pages 5 - 6)

REQUESTS FOR DEPUTATION

4.1 None at this time

MINUTE OF PREVIOUS MEETING

5.1 Minute of Previous Meeting - None

COMMITTEE PLANNER

6.1 Committee Business Planner (Pages 7 - 10)

NOTICES OF MOTION

7.1 There are no items under this heading

REFERRALS FROM COUNCIL, COMMITTEES AND SUB COMMITTEES

8.1 There are no items under this heading

PARTNERSHIP APPROACH ARRANGEMENTS

9.1 Trade Union Consultation Protocol - RES/18/009 (Pages 11 - 24)

STAFF GOVERNANCE STANDARDS

10.1 There are no items under this heading

WORKFORCE STRATEGY

11.1 There are no items under this heading

COUNCIL POLICIES AFFECTING STAFF

12.1 Revised Equal Pay Policy - RES/18/013 (Pages 25 - 38)

12.2 Review of the Managing Substance Misuse Policy - RES/18/012 (Pages 39 - 58)

HEALTH, SAFETY & WELLBEING OF STAFF

- 13.1 Sickness Absence Update - RES/18/014 (Pages 59 - 64)
- 13.2 Employee Assistance Scheme Quarterly Report - GOV/18/013 (Pages 65 - 74)
- 13.3 Employee Assistance Scheme Annual Report - GOV/18/008 (Pages 75 - 84)

ESTABLISHING AND PROMOTING VALUES FOR THE ORGANISATION

- 14.1 There are no items under this heading

EMPLOYEE APPEALS AND DISPUTES

- 15.1 Appeals Sub Committee Procedure - GOV/18/006 (Pages 85 - 96)

EXEMPT / CONFIDENTIAL BUSINESS

- 16.1 There are no items under this heading

EHRIsAs related to reports on this agenda can be viewed at
[Equality and Human Rights Impact Assessments](#)

Website Address: www.aberdeencity.gov.uk

Should you require any further information about this agenda, please contact Stephanie Dunsmuir, tel 01224 522503 or email sdunsmuir@aberdeencity.gov.uk

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Agenda Item 3.1

You must consider at the earliest stage possible whether you have an interest to declare in relation to any matter which is to be considered. You should consider whether reports for meetings raise any issue of declaration of interest. Your declaration of interest must be made under the standing item on the agenda, however if you do identify the need for a declaration of interest only when a particular matter is being discussed then you must declare the interest as soon as you realise it is necessary. The following wording may be helpful for you in making your declaration.

I declare an interest in item (x) for the following reasons

For example, I know the applicant / I am a member of the Board of X / I am employed by...
and I will therefore withdraw from the meeting room during any discussion and voting on that item.

OR

I have considered whether I require to declare an interest in item (x) for the following reasons however, having applied the objective test, I consider that my interest is so remote / insignificant that it does not require me to remove myself from consideration of the item.

OR

I declare an interest in item (x) for the following reasons however I consider that a specific exclusion applies as my interest is as a member of xxxx, which is

- (a) a devolved public body as defined in Schedule 3 to the Act;
- (b) a public body established by enactment or in pursuance of statutory powers or by the authority of statute or a statutory scheme;
- (c) a body with whom there is in force an agreement which has been made in pursuance of Section 19 of the Enterprise and New Towns (Scotland) Act 1990 by Scottish Enterprise or Highlands and Islands Enterprise for the discharge by that body of any of the functions of Scottish Enterprise or, as the case may be, Highlands and Islands Enterprise; or
- (d) a body being a company:-
 - i. established wholly or mainly for the purpose of providing services to the Councillor's local authority; and
 - ii. which has entered into a contractual arrangement with that local authority for the supply of goods and/or services to that local authority.

OR

I declare an interest in item (x) for the following reasons.....and although the body is covered by a specific exclusion, the matter before the Committee is one that is quasi-judicial / regulatory in nature where the body I am a member of:

- is applying for a licence, a consent or an approval
- is making an objection or representation
- has a material interest concerning a licence consent or approval
- is the subject of a statutory order of a regulatory nature made or proposed to be made by the local authority.... and I will therefore withdraw from the meeting room during any discussion and voting on that item.

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STAFF GOVERNANCE COMMITTEE BUSINESS PLANNER								
The Business Planner details the reports which have been instructed by the Committee as well as reports which the Functions expect to be submitting for the calendar year.								
Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	If delayed, removed, transferred or withdrawn, enter either D, R, T or W	Explanation if delayed, removed, transferred or withdrawn
04 May 2018								
Review of the Managing Substance Misuse Policy	This policy is concerned with further refining the processes involved when dealing with substance misuse cases. It also has the aim of updating the policy to reflect recent changes in legislation and support.	On agenda	Keith Tennant	People and Organisation	Resources	4.1 and Purpose 6	D	Was delayed from F,P&R on 1/2/18
Revised Equal Pay Policy	This report is concerned with seeking authority from Committee for a revised Equal Pay policy. This policy was due a review under the rolling programme of HR policy reviews. The document has been updated to reflect current organisational arrangements for ensuring equal pay, with changes including the extension of its scope to cover equal pay in relation to the various protected characteristics (not just gender) and the incorporation of the Council's most up-to-date equal pay statement.	On agenda	Keith Tennant	People and Organisation	Resources	4.1, 4.2 and Purpose 6	D	Was delayed from F,P&R on 1/2/18 as Council's Transformation process was taking precedence at the moment with regard to employment related matters
Trade Union Consultation Protocol	Joint Consultative Committee 20/2/18 agreed to request that the Staff Governance Committee consider the development of an agreed process/protocol for the handling of Trade Union responses to consultation.	On agenda	Keith Tennant	People and Organisation	Governance	1.1 and Purpose 1		
Appeals Sub Committee Procedure	To seek approval of the Appeals Sub Committee procedure	On agenda	Elaine Falconer	Governance	Governance	7		
Absence Updates	To update Committee on absence rates for ACC.	On agenda	Neil Yacamini	People and Organisation	Resources	5.3		
Employee Assistance Scheme Quarterly Report	To present the quarterly employee assistance service report.	On agenda	Mary Agnew	Governance	Governance	5.2		
Employee Assistance Scheme Annual Report	To present the annual Employee Assistance Programme Annual report	On agenda	Mary Agnew	Governance	Governance	5.2		
29 June 2018								
Directorate Health and Safety Improvement Plan Annual Report	CHSC 25 Aug, article 24 Directorate Health and Safety Improvement Plans (i) That the Directorate Health and Safety Improvement Plans Annual Report would be reported to its meeting in June.		Mary Agnew	Governance	Governance	Purpose 8		
Annual Corporate Health and Safety Report	To present the annual Corporate Health and Safety report.		Mary Agnew	Governance	Governance	5.2		

Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	If delayed, removed, transferred or withdrawn, enter either D, R, T or W	Explanation if delayed, removed, transferred or withdrawn
Health and Safety Quarterly Report	To present the quarterly health and safety report - will include Record of Health & Wellbeing Events as appendix		Mary Agnew	Governance	Governance	5.2		
Corporate Health and Safety Improvement Plan Annual Report	CHSC 25 Aug, article 23 Corporate Health and Safety Improvement Plan (i) That the Corporate Health and Safety Improvement Plan Annual Report would be reported to its meeting in June		Mary Agnew	Governance	Governance	Purpose 8		
Professional Standards for Staff Governance across Integrated Children and Family Services	To note the professional standards required for staff working in the integrated children and families service and the professional development framework that underpins it.		Eleanor Sheppard	Integrated Children's and Family Services	Operations	4.1		
Occupational Health Quarterly Report	To present the quarterly occupational health report.		Mary Agnew	Governance	Governance	5.2		
Occupational Health Annual Report	To present the annual Occupational Health Report		Mary Agnew	Governance	Governance	5.2	D	Full information not available in time for May Committee when it was originally intended to report
Supporting Attendance and Wellbeing policy	To seek approval of new Policy to replace the replace the Maximising Attendance policy.		Vikki Lawrie	People and Organisation	Resources	4.1		
Annual Function Health and Safety Reports	To provide oversight of the specific functions health and safety - single function H&S report to be submitted each quarter.			Relevant Director	Relevant Function	5.2		
Corporate Health and Safety Policy	May be submitted following discussion at CMT		Mary Agnew	Governance	Governance	Purpose 6		
		31 August 2018						
Revised Behavioural Framework	The report will either report progress towards a revised behavioural framework for the organisation or will present the framework itself		Dorothy Morrison/ Martin Wyllie	People and Organisation	Governance	6.1		
Health and Safety Quarterly Report	To present the quarterly health and safety report - will include Record of Health & Wellbeing Events as appendix		Mary Agnew	Governance	Governance	5.2		

Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	If delayed, removed, transferred or withdrawn, enter either D, R, T or W	Explanation if delayed, removed, transferred or withdrawn
Employee Assistance Scheme Quarterly Report	To present the quarterly employee assistance programme report.		Mary Agnew	Governance	Governance	5.2		
Occupational Health Quarterly Report	To present the quarterly occupational health report.		Mary Agnew	Governance	Governance	5.2		
Revised Absence Management Policy	The report seeks approval of the revised Absence Management Policy.			People and Organisation	Governance	GD 7.1		
Development of Models for Civic Leadership and Engagement	To consider models for Civic Leadership and Engagement		Derek McGowan	Early Intervention and Community Empowerment	Customer			
		02 November 2018						
Health and Safety Quarterly Report	To present the quarterly health and safety report - will include Record of Health & Wellbeing Events as appendix		Mary Agnew	Governance	Governance	5.2		
Employee Assistance Programme Quarterly Report	To present the quarterly employee assistance programme report.		Mary Agnew	Governance	Governance	5.2		
Occupational Health Quarterly Report	To present the quarterly occupational health report.		Mary Agnew	Governance	Governance	5.2		
Annual Function Health and Safety Reports	To provide oversight of the specific functions health and safety - single function H&S report to be submitted each quarter.			Relevant Director	Relevant Function	5.2		
		15 February 2019						
		29 March 2019						
Health and Safety Quarterly Report	To present the quarterly health and safety report - will include Record of Health & Wellbeing Events as appendix		Mary Agnew	Governance	Governance	5.2		
Employee Assistance Scheme Quarterly Report	To present the quarterly employee assistance programme report.		Mary Agnew	Governance	Governance	5.2		

Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference	If delayed, removed, transferred or withdrawn, enter either D, R, T or W	Explanation if delayed, removed, transferred or withdrawn
Occupational Health Quarterly Report	To present the quarterly occupational health report.		Mary Agnew	Governance	Governance	5.2		
Annual Function Health and Safety Reports	To provide oversight of the specific functions health and safety - single function H&S report to be submitted each quarter.			Relevant Director	Relevant Function	5.2		
		April 2019 Onwards						
Travel Policy	To present the reviewed Travel Policy for approval	To be reported September 2019	TBC	Finance	Resources	4.1		
Occupational Health Contract	Finance, Policy and Resources Committee 6/12/17- The Committee agreed to delegate authority to the Interim Head of Human Resources following consultation with the Head of Commercial and Procurement Services, to undertake a tender process for the procurement of a contract for the provision of occupational health services for an initial duration of 3 years, with the option to extend for a further period up to 24 months; and to report back a future meeting of this committee with appropriate recommendations.	This contract will be included in the workplan reported to SCC. Recommended for removal on this basis	Mary Agnew	Governance	Governance	GD 8	R	Recommended for removal from SGC planner - To be reported as part of the workplan to SCC
Annual Committee Effectiveness Report	To present the annual effectiveness report for the Committee.	May-19	Stephanie Dunsmuir	Governance	Governance	GD 7.4		

ABERDEEN CITY COUNCIL

COMMITTEE	Staff Governance
DATE	4 May 2018
REPORT TITLE	Trade Union Consultation Protocol
REPORT NUMBER	RES/18/009
DIRECTOR	Steve Whyte
CHIEF OFFICER	Morven Spalding
REPORT AUTHOR	Keith Tennant
TERMS OF REFERENCE	Purpose of Committee 1 Remit of Committee 1 (1.1)

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to refer a request of the Local Government Employees Joint Consultative Committee to the Staff Governance Committee concerning a consultation issue raised by the trades unions and to ask Committee to instruct the interim Head of HR to re-communicate the existing Trade Union Consultation Protocol.

2. RECOMMENDATION

- 2.1 That the Committee instruct the interim Head of HR to re-communicate the existing Trade Union Consultation Protocol to Council managers (and the recognised trades unions) and request that this is applied in respect of consultations with the unions going forward, (which would include attaching trade union consultation responses to Committee reports at the request of the unions).

3. BACKGROUND

- 3.1 At the Local Government Employees Joint Consultative Committee on 20 February 2018 an issue was raised concerning the EIS response to the 2nd Tier Target Operating Model (TOM) consultation process. The item was submitted by the EIS with the details covered in paragraphs 3.2 to 3.5 below.
- 3.2 The trade unions had been invited to submit a written consultation about the TOM Tier 2 proposals. The EIS had submitted their response and received a written reply from the Chief Executive.
- 3.3 The EIS had understood that their response was to be included in the papers for the full Council meeting to debate the proposals. The Council papers had a statement which indicated that all written responses were attached.

- 3.4 The EIS stated that they had attempted to access the paper and to view other submissions but these did not appear to be present. There had been a summary that used some of the points that were raised from the written submission. They indicated that the contents of the summary were not discussed or agreed with them.
- 3.3 They also stated that they had attempted to find out why their response was not attached but had not received a satisfactory explanation as to why elected members did not have the full EIS response.
- 3.4 The EIS indicated that the purpose of tabling the item at the Joint Consultative Committee was to raise trade union concerns that their consultation responses were not made available to Councillors.
- 3.5 The EIS stated their view that that there should be an open discussion to consider future protocol to ensure that trade union views on a consultation are made available to elected members. They added that without such a protocol and in light of their experience, it would leave the trades unions in the position of having to make their views known directly to each Councillor.
- 3.6 In response at the Joint Consultative Committee, the management representative had indicated that it was regretted that the EIS felt aggrieved and explained that the stakeholder consultation responses from agencies, partners, trade unions and staff had been voluminous and that by summarising responses and providing officer commentary within the report, a consistent approach had been taken across all submissions.
- 3.7 It had also been explained that there had been synergies between the responses from trade unions, in particular, and therefore common issues had been drawn together and presented in a summarised form in the already lengthy report submitted to full Council. It was indicated that going forward; full consultation responses would be included with reports being submitted to members for consideration.
- 3.8 The Joint Consultative Committee had resolved to request the Staff Governance Committee to consider the development of an agreed process/protocol for the handling of trade union responses to consultation.
- 3.9 The Staff Governance Committee should be aware, however, that there is already a written Trade Union Consultation Protocol and that this has existed for a number of years (see document attached to this report).
- 3.10 The Protocol was originally developed to make sure that the Council had an organisational-wide consultation framework and set of principles in place as part of its transparent and open way of working.
- 3.11 It sets out how the Council will consult with the trades unions and what it will consult on. It applies to consultations with all recognised unions and was developed in consultation with them to ensure consistency of approach. It does indicate that where the trades unions disagree with final proposals and wish to provide written comments, these comments should be appended to

the relevant report.

- 3.12 In light of the above and the fact that a consultation protocol already exists (which covers the point raised by the EIS at the Joint Consultative Committee), the recommendation in this report is for the Consultation Protocol to be re-communicated to managers (and the recognised trades unions) to remind relevant parties of its existence and of the need for it to be applied in respect of consultations with the unions going forward.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications arising from the recommendations of this report.

5. LEGAL IMPLICATIONS

- 5.1 There are no direct legal implications arising from the recommendations of this report.

6. MANAGEMENT OF RISK

	Risk	Low (L), Medium (M), High (H)	Mitigation
Financial	None	N/A	N/A
Legal	None	N/A	N/A
Employee	If the recommendation were not approved the possibility could arise of a trade union concern (that had been raised through a consultation) not being fully taken account of by a Council Committee before a decision were taken on a proposal. This could potentially have a negative implication for employees depending on the nature of the concern.	Low	The recommendation in this report of re-communicating the Protocol should help to ensure that this risk is controlled.
Customer	None	N/A	N/A
Environment	None	N/A	N/A

Technology	None	N/A	N/A
Reputational	None	N/A	N/A

7. OUTCOMES

Local Outcome Improvement Plan Themes	
	Impact of Report
Prosperous Economy	N/A
Prosperous People	N/A
Prosperous Place	N/A
Enabling Technology	N/A

Design Principles of Target Operating Model	
	Impact of Report
Customer Service Design	N/A
Organisational Design	N/A
Governance	This report links to the 'Governance' design principle in that the Consultation Protocol exists to help ensure that there is effective partnership working arrangements in place with the recognised trades unions.
Workforce	It also links to the 'Workforce' design principle in that the Consultation Protocol promotes a transparent and open way of working with the unions so that any employment issues raised, that affect the workforce, are properly considered.
Process Design	N/A
Technology	N/A
Partnerships and Alliances	N/A

8. IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	Not required
Privacy Impact Assessment	Not required
Children's Rights Impact Assessment/Duty of Due Regard	Not required

9. BACKGROUND PAPERS

- 9.1 The minute extract of the Local Government Employees Joint Consultative Committee of 20 February 2018.

10. APPENDICES (if applicable)

- 10.1 Appendix 1 – Consultation Protocol

11. REPORT AUTHOR CONTACT DETAILS

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ABERDEEN

CITY COUNCIL

CONSULTATION PROTOCOL

Issue 5 - April 2013

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- 2. What is consultation?**
- 3. When to consult**
- 4. How long to consult for**
- 5. Who consults**
- 6. How to consult – 3 step process**
 - Step 1 – Triggering consultation**
 - Step 2 – Responding to feedback**
 - Step 3 – Implementing the proposals**
- 7. Overview of consultation process**

1. Introduction

As an organisation that is committed to continually improving its performance, its services to its customers and its decision making, we recognise that our success depends on our commitment to professional, timely and meaningful consultation with our recognised trades unions, as one of our key stakeholders.

Effective consultation is at the heart of smart decision-making and strengthens the relationship between the organisation and its trades unions.

This protocol has been developed to make sure that the Council has an organisation-wide consultation framework and set of principles in place as part of its transparent and open way of working. It sets out how we will consult and what we will consult on. It applies to consultations with all recognised trades unions at both a Service and Corporate level and has been developed in consultation with all recognised trades unions to ensure consistency of approach.

This protocol is designed to complement and amplify (not replace) the consultation requirements set out in the Framework Agreement for Industrial Relations.

2. What is consultation?

Consultation is a 2-way dialogue that allows the trades unions a realistic and timely opportunity to influence decision-making. It may be a one-off exercise or extend over a period of time.

It involves managers

- actively seeking out the views and ideas of trades unions and then taking these views into consideration **before** decisions are made
- providing sufficient information and time to trades unions to enable them to consider the proposals; discuss the proposals and implications with their members; submit their response with suggested alternatives to any of the proposed changes; and receive feedback on their response including carefully explained reasons where views are rejected.

On the basis that some decisions are likely to lead to significant changes in the way we organise, deliver and provide services to our customers, there is a **legal requirement** that consultation in such instances should be carried out “with a view to reaching agreement”. However, consultation does not remove the right of managers to manage – they still must make the final decisions

which may result in not acting on some of the views received where there may be sound and practical reasons for not doing so.

When consulting:

- our communications will be clear, simple and consistent;
- we will be open, honest and factual
- we will use face-to-face communication as much as possible
- we will avoid information overload
- we will listen and act on feedback
- our communications will be timely and relevant

3. When to consult

Consultation will take place with the trades unions when:

- they have a legal entitlement to be consulted
- they can reasonably expect to be consulted because the proposals and policies under consideration would have a significant impact on them and the workforce they represent

While it is not possible to provide a comprehensive list of subjects for consultation, the following gives examples of subjects that are appropriate for consultation:

- reviewing terms and conditions of employment
- new ways of working
- organisational restructuring (including job matching and creation/deletion of posts)
- reductions in the workforce
- staff relocation
- shared services with external partners
- business transfers

These issues may often result in the presentation of a business case or report to CMT and the relevant committee after consultation has been completed.

4. How long to consult for

Consultation will normally allow **a minimum of two weeks** for responses, except where statutory requirements prescribe a set or minimum period that exceeds this (e.g. redundancy consultation – see ***Managing Redundancy Policy***)

By agreement, the consultation timescale may be shorter where there is an urgent business need, or extended in cases where the subject matter is so significant the trades unions in terms of formulating a full response, would

benefit from a longer period to discuss the proposals and implications with their members.

When consulting with all trade unions, due regard will be given to school holiday periods that fall within the consultation period and the consultation period will be adjusted to take account of the school holidays.

Any variation to the normal two week consultation timescale would only apply where there are exceptional circumstances and would be applied in the interests of maintaining effective partnership working and the mutual trust that implies.

5. Who consults

An appropriate manager from the Service concerned will lead the consultation process.

For corporate issues affecting all Council employees, the lead officer is likely to be the Head of Human Resources and Organisational Development, or one of his/her representatives. For example, consultation on new or reviewed HR policies and procedures.

6. How to consult

The 3 keys steps for effective consultation are as follows:

Step 1: Triggering consultation

Step 2: Responding to feedback

Step 3: Implementing the proposals

Step 1 – Triggering consultation

Lead officer prepares a written consultation document setting out the purpose, the proposals and any background and issues to the trades unions with representation rights in the area of the service affected.

This document should include:

- the reasons for the proposals (i.e. the business case). For example, how the proposals will help to improve service performance and delivery or support corporate objectives
- financial implications (e.g. how proposals are to be funded)
- the staffing implications (e.g. training, changes to working practices including any new ways of working, impact on size of the workforce)
- health and safety considerations, including risk management

- any initial feedback from staff or local shop stewards where "sounding out" discussions have taken place (see "Notes" below)
- an outline of any other options that were considered
- a request for written views on the proposals with the consultation start and end dates clearly stated (see Section 4 for timescales). An email and/or online response should be provided
- how it is proposed to take the proposals (with any amendments following consultation) forward (e.g. reporting to Committee). This could include an indicative timetable

Step 1 Notes

Before commencing the consultation process, it is good practice for managers, through team meetings or workshops, to gather some initial thoughts and ideas from local shop stewards and the workforce whose employment is likely to be affected by proposals. This 'testing of the water' could include gathering initial feedback from officers from HR/legal/finance and other relevant managers in the organisation.

This may extend to Elected Members or external partners if they are likely to be affected by the proposals.

The Corporate and Service Union Management Committees can also be useful forums for this purpose.

This does not however constitute 'formal' consultation and count towards the required period for consultation

If electing to start the process by informing trades unions of the proposals face to face, the proposals should then be provided in writing as quickly as possible thereafter

The Lead Officer should keep a record of when the consultation process commenced and communication with the trades unions. The consultation period ends upon the expiry of that 14 day period unless a variation is agreed

Step 2 – Responding to feedback

Lead Officer considers and responds to feedback

This includes:

- arranging, if necessary, any follow up meetings with the trades unions to respond to the issues raised

- responding in writing or by email, including an explanation as to why any comments are not going to be acted upon

Step 3 – Implementing the proposals

Lead Officer prepares and submits business case/report (where a business case/report is required for implementation purposes)

This includes:

- seeking approval for proposals from Service Director after completion of consultation period, taking into account all the information gathered, views expressed and feedback received during consultation
- writing business case/report and submitting it to SMT, CMT or Committee (whichever is appropriate) for approval
- summarising in the business case/report trades unions response/reaction to proposals and the reasons why any alternative proposals have been rejected. Where the trades unions disagree with the final proposals and wish to provide written comments, these comments should be appended.
- If committee approval is required, arrange for business case/report to be placed on next available committee agenda and ensure that it is submitted to Democratic Services by the specified deadline
- at the request of a trades union, attaching to the report their written comments if they disagree with the proposals.

Step 3 Notes

Business cases that include proposals which amend or increase the agreed establishment will require Committee approval. This equally applies to reports that propose creating a new policy, or significant amendments to an existing policy. However, reports that propose "refinements" to existing policies will be dealt with at CMT level without the need for committee approval

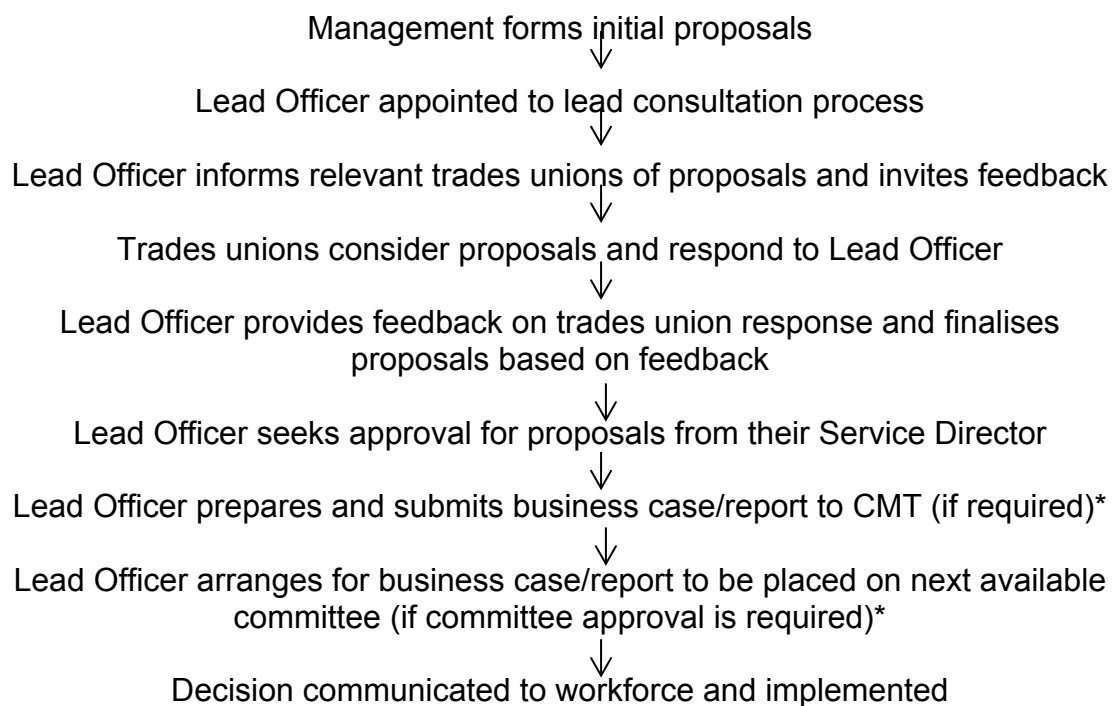
For local arrangements affecting teachers conditions of employment, these need to be agreed by the Local Negotiating Committee for Teachers (LNCT) before they can be presented to the Policy and Strategy Committee (Education) for approval

When targeting the Committee at which to present proposals, cognisance will be taken of

- the time required to consult trades unions and the workforce, which needs to be concluded before a business case or report is prepared for committee

- the need to seek agreement of the proposals at the Local Negotiating Committee for Teachers (LNCT) where they affect teachers conditions of employment
- the date of the "pre-agenda" meeting with Elected Members
- the deadline for submitting papers to Democratic Services (by which time all of the above must have been completed)

7. Overview of Consultation Process



*LNCT agreement will firstly be necessary for local arrangements affecting teachers' conditions of employment

ABERDEEN CITY COUNCIL

COMMITTEE	Staff Governance
DATE	4 May 2018
REPORT TITLE	Equal Pay policy
REPORT NUMBER	RES/18/013
DIRECTOR	Steve Whyte
CHIEF OFFICER	Morven Spalding
REPORT AUTHOR	David Forman and Keith Tennant
TERMS OF REFERENCE	Purpose of Committee 6 Remit of Committee 4 (4.1) and (4.2)

1. PURPOSE OF REPORT

1.1 The purpose of the report is to seek approval for a revised Equal Pay policy.

2. RECOMMENDATION(S)

2.1 That the Committee approves the attached revised Equal Pay policy.

3. BACKGROUND

3.1 The Council is committed to addressing any differences in the pay of employees related to characteristics protected by the Equality Act 2010 and to meeting its legislative responsibilities for providing equal pay. This commitment is stated under the Council's employment equality outcome in the Equality Outcomes and Mainstreaming Report 2017-2021.

3.2 The Equal Pay policy details how the Council will ensure there are no unfair, unjust or unlawful practices that impact on pay and take appropriate remedial action where required. As part of the planned review process for employment related policies, the Equal Pay policy has been updated to reflect current organisational arrangements for providing equal pay.

3.3 The main changes to the document are shown under paragraphs 3.31 to 3.35 below.

3.31 The Council's most up-to-date 'equal pay statement' has been incorporated on pages 3 and 4 of the document (which was also included in the Council's last Equality Outcomes and Mainstreaming Report).

3.32 Two paragraphs under the 'Meeting Objectives' section on page 5 of the document have been removed as they are no longer relevant, both being

related to the pre-implementation of 'Equal Pay and Modernisation' arrangements in the Council (which occurred in 2009).

- 3.33 References in the document to the 'Equal Opportunities Commission' have been updated with the 'Equality and Human Rights Commission' and references to out of date legislative aspects (including the Gender Equality Scheme) have been replaced with reference to the Equality Act 2010 and the public sector equality duties.
- 3.34 The section on occupational segregation on page 4 of the document has been amended to emphasise that single gender dominated jobs can occur in relation to both males and females (with the stated aim being to break down barriers to one gender moving into an area traditionally dominated by the opposite gender).
- 3.35 Reference to the full two day course on Recruitment and Selection have been removed under the section on 'Recruitment Processes' on page 4 of the document to refer just to training on recruitment and selection, with the format of that course having changed.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from the recommendation in this report. However, not approving the recommendation would mean that the Council's Equal Pay policy would not be fully up-to-date which could potentially increase the risk of equal pay claims if managers were not aware of what is expected and practices in relation to pay were applied that ran contrary to the legislation.

5. LEGAL IMPLICATIONS

- 5.1 The Equality Act 2010 requires the Council to ensure equal pay for equal work. Failure to have an up-to-date Equal Pay policy in place could lead to practices being applied in the Council that could result in employees being paid unfairly and put the organisation at risk of legal challenge.

6. MANAGEMENT OF RISK

	Risk	Low (L), Medium (M), High (H)	Mitigation
Financial	Were the Council not to have an up-to-date Equal Pay policy in place, there would be a risk of	Low	Having an up-to-date policy in place will mitigate this risk. Robust job evaluation processes help control the

	managers not being aware of the Council's responsibilities on equal pay and hence practices being applied that could increase the risk of paying unequally in relation to the Equality Act 2010. Failure to comply with the legislation could lead to Employment Tribunal proceedings and potential financial awards against the Council.		risk.
Legal	Were the Council not to have an up-to-date Equal Pay policy in place there is a risk that the requirements of the Equality Act 2010 would not be met, if practices were applied in relation to pay that ran contrary to the legislation.	Low	Having an up-to-date policy in place will mitigate this risk. Robust job evaluation processes help control the risk.
Employee	Were the Council not to have an up-to-date Equal Pay policy in place it could potentially result in practices being applied where employees were not paid equally in accordance with the requirements of the Equality Act 2010, potentially leading to a decrease in morale due to perceived injustice in the workplace. The consequence of this could be a reduction in employee engagement and a subsequent drop in productivity.	Low	Having an up-to-date policy in place will mitigate this risk. Robust job evaluation processes help control the risk.
Customer	There is no identified risk	N/A	N/A

	to the customer		
Environment	There is no identified environmental risk.	N/A	N/A
Technology	There is no identified technological risk.	N/A	N/A
Reputational	Were the Council found to be applying practices that were in breach of equal pay legislation, reputational damage could result.	Low	Having an up-to-date policy in place will mitigate this risk. Robust job evaluation processes help control the risk.

7. OUTCOMES

Local Outcome Improvement Plan Themes	
	Impact of Report
Prosperous Economy	Applying good practices in relation to pay are an important factor in employee engagement. With levels of employee engagement linked to productivity and resource efficiency, having an up-to-date equal pay policy should assist the Council in delivering services as cost effectively as it can. Given the role that the Council plays in fostering an environment where the local economy can thrive, having an engaged workforce delivering efficient cost effective services is a key element of achieving this.
Prosperous People	N/A
Prosperous Place	N/A
Enabling Technology	N/A

Design Principles of Target Operating Model	
	Impact of Report
Customer Service Design	N/A
Organisational Design	N/A
Governance	Links to the 'Governance' design principle in that the policy helps ensure the organisation is legislatively compliant.
Workforce	Links to the 'Workforce' design principle in that the policy helps to promote equality in the workplace.

Process Design	N/A
Technology	N/A
Partnerships and Alliances	N/A

8. IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	Full EHRIA required
Privacy Impact Assessment	Not required
Duty of Due Regard / Fairer Scotland Duty	Not applicable

9. BACKGROUND PAPERS

None

10. APPENDICES

10.1 Appendix 1 – Draft Revised Equal Pay Policy

11. REPORT AUTHOR CONTACT DETAILS

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ABERDEEN
CITY COUNCIL

EQUAL PAY

POLICY & STATEMENT

Approved by the Staff Governance Committee on xxx

Contents

Section 1: Equal Pay Policy

Section 2: Equal Pay Statement

- Context
- Statement

Section 3: Review

SECTION 1: EQUAL PAY POLICY

The Council is committed to the principle of equal pay for all employees. It aims to eliminate any bias in its pay systems, understanding that equal pay is a legal right under domestic law.

It is in the interest of the Council to ensure fair and just pay systems. It is important that employees have confidence in the process of eliminating bias. In this respect the Council is committed to working with recognised trades unions to ensure the provision of equal pay.

The Council believes that in eliminating any unlawful bias in its pay system it is sending a positive message to both staff and customers. It makes good business sense to have a fair, transparent reward system and it helps to control costs. It is recognised that avoiding unfair discrimination will improve morale and enhance efficiency.

OBJECTIVES ARE TO:

- Eliminate any unfair, unjust or unlawful practices that impact on pay, and
- Take appropriate remedial action.
- Conduct equal pay reviews in line with Equality and Human Rights Commission (EHRC) guidance.
- Plan, develop and implement actions together with recognised trade unions
- Provide training and guidance for those involved in pay assessment
- Inform employees of how pay assessment works in practice and how their own pay is determined
- Monitor pay statistics annually.
- Work with recognised trades unions to deliver equal pay across the workforce we employ.

EQUAL PAY STATEMENT

The Equal Pay Statement provides detail and explanation about how policy objectives will be achieved.

SECTION 2: EQUAL PAY STATEMENT

CONTEXT

The Council employs people across a wide range of services, functions and disciplines. It recognises national collective bargaining for four distinct groups of employees, namely:

- Scottish Joint Council for Local Government Employees (SJC)
- Scottish Negotiating Committee for Teachers (SNCT)
- SJC for Building & Civil Engineering Operatives, Engineering Craftsmen, and Electricians & Plumbers (Craft Operatives)
- Joint Negotiating Committee for Chief Officials of Local Authorities (Scotland) (JNC)

In respect of the above four groups there are elements of pay which are subject to local determination and others that are determined nationally. This Equal Pay Statement deals with the issues that the Council can determine locally.

STATEMENT

The Council is committed to addressing any differences between the pay of employees that are related to characteristics protected by the Equality Act 2010 and to meeting responsibilities for equal pay. This will be done through the application of a fair and non discriminatory job evaluation scheme and the adoption of fair and transparent terms and conditions of service. This does not apply to Chief Officers who have separate arrangements.

For Craft Operatives and Teachers, pay is determined by the nationally negotiated pay award process.

It is recognised that genuine intentions alone are not enough to put equal pay into practice. There is a legal framework which imposes certain obligations on employers to prevent discrimination in the workplace and in service delivery. In addition, equality of opportunity is one of the key principles of the Council.

The Council has in place an equal pay and modernisation programme, which has been subject to an Equality Impact Assessment and full consultation, which provides employees with a pay system and a set of terms and conditions that are reflective of a modern organisation.

To meet its public sector equality duties, as prescribed in the Equality Act 2010, Aberdeen City Council has set objectives in key priority areas. Occupational Segregation (where an occupation is dominated by a group that shares a protected characteristic, usually gender) has been identified as one of these key priorities and the Council aims to ensure that all protected characteristics are represented at all levels of the workforce and in all areas of work. Another priority area in the pursuit of eliminating bias is to eradicate any unequal employment practices and promote equality in the workplace. The Council will work in partnership with employees and trade unions to meet and, where possible, exceed its moral and legal obligations.

Causes of the Pay Gap

Developing pay systems that are free from bias is only part of what an employer can do to close the pay gap. The Council strives to be a leading employer in developing and delivering a scheme of terms and conditions which are family friendly and flexible where service requirements permit. The Council has a wide range of flexible working arrangements and we will continue to keep these under review.

- **Occupational Segregation** - In terms of occupational segregation, the Council will continue to monitor the vertical and horizontal issues. In some respects more can be done to seek to break down barriers for employees moving into what have been previously viewed as single gender dominated jobs.

Vertical occupational segregation will continue to be monitored to see if “glass ceilings” can be identified and understand the barriers with a view to removing them.

- **Recruitment Processes** - The Council will continue to ensure all jobs are as widely advertised as possible and that job profiles for use in the selection process realistically reflect the requirements of those jobs. It has developed significant guidance including specific training on recruitment and selection to assist with ensuring recruitment decisions are free from any form of discrimination.

- **Long-Hours Culture** – There is overwhelming evidence that long hours can be harmful to employees’ health and productivity. The concept of “presenteeism” can also be viewed as a barrier for employees looking for promotion or development. The Council supports flexible working arrangements where customer focus and service delivery is not compromised. The emphasis in this area will be on smarter ways of working.
- **Access to Training** – There are comprehensive training and development opportunities for all staff. The Council will seek to ensure that those in part-time or lower paid occupations have the same opportunities to access training in order to develop their skills and behaviours.

Meeting Objectives

The EHRC recommend that specific details are provided to demonstrate how an employer will meet its objectives.

- Equal Pay is specifically identified as part of the Council’s equal pay and modernisation agenda. Regular discussions have been, and continue to be, held with the recognised trade union representatives to ensure that a shared approach is taken to the continued implementation of the agenda.
- For those working in promoted Teaching posts, the nationally determined job sizing toolkit has been adopted and continues to be applied by the Council.
- Full training has been provided for all involved in the operation of the job evaluation schemes.
- An Appeals Procedure arising from job evaluation is proposed as a part of the process
- The Council will monitor and report on gender pay statistics annually.

SECTION 3: REVIEW

REVIEW

The Equal Pay Policy and Statement will be monitored, and reviewed every 3 years. Any changes will be put in place following normal consultation arrangements.

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ABERDEEN CITY COUNCIL

COMMITTEE	Staff Governance
DATE	4 May 2018
REPORT TITLE	Managing Substance Misuse policy
REPORT NUMBER	RES/18/012
DIRECTOR	Steve Whyte
CHIEF OFFICER	Morven Spalding
REPORT AUTHOR	David Forman and Keith Tennant
TERMS OF REFERENCE	Purpose of Committee 6 Remit of Committee 4 (4.1)

1. PURPOSE OF REPORT

- 1.1 The purpose of the report is to seek approval for a revised Managing Substance Misuse policy.

2. RECOMMENDATION

- 2.1 That the Committee approves the attached revised Managing Substance Misuse policy.

3. BACKGROUND

- 3.1 The Managing Substance Misuse Policy and Procedure was reviewed under the rolling programme of HR policy reviews in order to bring it up-to-date with best employment practice.
- 3.2 As part of the review, engagement was undertaken with various parties in the organisation, including the HR policy focus group, in order to elicit views on the operation of the current policy and on what changes might be required to it. A legislative review was also undertaken to identify any changes in law that might impact on the policy. In addition, benchmarking was carried out with other relevant organisations to identify any best practice in relation to the management of substance misuse issues.
- 3.3 The review also took account of the criteria under the 'Healthy Working Lives' accreditation in relation to what should be contained in a substance misuse employment policy, to help ensure maintenance of the Council's silver award.

- 3.4 It was identified from the review that a number of changes were required to the policy. The main changes to the policy document are shown under paragraphs 3.41 to 3.57 below.
- 3.41 Where there was mention in the policy of 'alcohol/substance abuse' this has been replaced with 'substance misuse', being an inclusive and up-to-date term.
- 3.42 A section on 'Other Considerations' has been added (on page 4) containing two bullet points that were previously under 'core principles', including what should occur where an employee is identified as being in possession of an illegal substance in the workplace, and stating that it is unacceptable for employees to consume alcohol or illegal substances during working time.
- 3.43 In the 'Definition' section (on pages 4-5) reference is now made to the Psychoactive Substances Act 2016 and there has been an extension of the list of substances covered by the policy to incorporate all intoxicants, legal or otherwise.
- 3.44 There has been an addition to the Prescribed Medication section (on page 5) stating that, where employees have declared the use of a medication that may affect their ability to work, management must ensure that measures are put in place to allow the employee to work safely. It also includes details of the potential consequence for an employee (where an incident occurs) of not informing their management of prescribed medication use that may affect their ability to carry out their day to day duties.
- 3.45 A section has been added under 'Supporting Provisions' (on pages 9-10) in relation to those employees who voluntarily identify themselves as possibly having a substance misuse problem. It indicates that these employees may not be subject to any Council procedure (discipline, attendance or performance) at the time but will receive similar support to those who are referred through the management or disciplinary routes. The details of supporting provisions are shown.
- 3.46 One of the supporting provisions under the management and disciplinary referral routes (on pages 8-9) has been amended, to make it clear that where an employee is unable to continue in their substantive post reasonable efforts will be made to identify an alternative post.
- 3.47 In the 'Managers' sub section in the 'Organisational Responsibilities' section (on page 6), the responsibility for managers to maintain employee confidentiality in relation to substance misuse is now explicit in the policy.
- 3.48 In the 'Employees' sub section in the 'Organisational Responsibilities' section (on pages 6-7), the responsibility for employees to be free of the detrimental effects of substances has been clarified and extended to both employee performance and behaviour.
- 3.49 Also in the 'Employees' sub section in the 'Organisational Responsibilities' section, the information relating to intoxicating substances and their capacity

to remain in the system has been removed, this detail not being required in the policy.

- 3.50 In Section 2: Managing Substance Misuse procedure, the sections on Management and Disciplinary referral (on pages 7-8) have been expanded on, to detail the consequences of not accepting the support provided or where no underlying problem has been found.
- 3.51 Where an employee is considered under the policy through a disciplinary referral (on page 8), the process has been amended stating that disciplinary cases should be dealt with following receipt of the occupational health assessment report, where a substance misuse issue has been identified which has contributed to the conduct issue, rather than being adjourned until after the employee has undergone a treatment/support programme. The section on Disciplinary Action (on page 11) has also been updated to reflect this.
- 3.52 A section on Relapse and how it should be dealt with has been added (on pages 10-11). Employees should only be permitted one instance of relapse and if a further instance arises they will normally be managed under the appropriate Council policy/procedure.
- 3.53 Also under Relapse (on pages 10-11), a bullet point has been included covering cases where an employee has been relapse free for a period of 12 months or more from initial occupational health assessment, with the substance misuse problem being regarded as resolved after this time for the purposes of the policy.
- 3.54 In the Section on Capability (on page 12) details of the process for undertaking a capability hearing have been moved to the guidance notes.
- 3.55 The list of drugs tested for has been updated to reflect current practice (on page 12).
- 3.56 The appendices to the current policy, including the flow chart of the processes, the template support agreement and the general information on identifying alcohol and substance misuse etc., have been removed from the policy and will now only be part of the guidance accompanying the policy.
- 3.57 Where there was mention of a recovery programme, this has been amended to support programme.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from the recommendations of this report.

5. LEGAL IMPLICATIONS

- 5.1 There was one legislative change taken account of in the review of this policy, namely the introduction of the Psychoactive Substances Act 2016 which had the effect of making the production and supply of so called former 'legal highs' illegal. The list of substances covered by the policy was extended to incorporate all intoxicants, legal or otherwise.

6. MANAGEMENT OF RISK

	Risk	Low (L), Medium (M), High (H)	Mitigation
Financial	None	N/A	N/A
Legal	If the revised policy were not approved then account would not be taken of the legislative change relating to substances; namely the introduction of the Psychoactive Substances Act 2016 (with the list of substances covered by the policy extended to incorporate all intoxicants, legal or otherwise).	Low	The approval of the revised policy will mitigate this risk.
Employee	If the revised policy which reflects current best practice and is legislatively up-to-date were not approved, it may mean that the management of future employee substance misuse issues may be undertaken less effectively which could affect employee wellbeing and morale.	Low	The approval of the revised policy should help to mitigate this risk.
Customer	If the revised policy were not approved, this may mean that the	Low	The approval of the revised policy should help to mitigate

	management of future employee substance misuse issues may be undertaken less effectively and could affect employee wellbeing and morale. This could have a knock on effect in relation to the service some employees provide to customers of the Council.		this risk.
Environment	There is no identified environmental risk.	N/A	N/A
Technology	There is no identified technological risk.	N/A	N/A
Reputational	There is no identified reputational risk.	N/A	N/A

7. OUTCOMES

Local Outcome Improvement Plan Themes	
	Impact of Report
Prosperous Economy	Applying good employment practices are important in maintaining employee morale and engagement. With levels of employee engagement linked to productivity and resource efficiency, having an up-to-date Managing Substance Misuse policy should assist the Council in delivering services as cost effectively as it can. Given the role that the Council plays in fostering an environment where the local economy can thrive, having an engaged workforce delivering efficient cost effective services is a key element of achieving this.
Prosperous People	N/A
Prosperous Place	N/A
Enabling Technology	N/A

Design Principles of Target Operating Model	
	Impact of Report
Customer Service Design	N/A

Organisational Design	N/A
Governance	Links to the 'Governance' design principle in that the revised policy helps ensure the organisation is legislatively up-to-date.
Workforce	Links to the 'Workforce' design principle in that the policy, which incorporates up-to-date best practice in addressing substance misuse issues, contributes to the culture the Council is aiming to provide.
Process Design	N/A
Technology	N/A
Partnerships and Alliances	N/A

8. IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	Full EHRIA required
Privacy Impact Assessment	Not required
Duty of Due Regard / Fairer Scotland Duty	Not applicable

9. BACKGROUND PAPERS

CIPD Survey Report – Managing Drug and Alcohol Misuse at Work
HSE Drug Misuse at Work - a guide for employers
ACAS Health, Work and Wellbeing booklet
Healthy Working Lives Alcohol & Drugs Policy Assessment Tool

10. APPENDICES

Appendix 1 – Draft Managing Substance Misuse Policy

11. REPORT AUTHOR CONTACT DETAILS

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ABERDEEN CITY COUNCIL



ABERDEEN
CITY COUNCIL

MANAGING SUBSTANCE MISUSE

POLICY AND PROCEDURE

Approved by the Staff Governance Committee (tbc)

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SECTION 1: POLICY STATEMENT

Introduction

The Council recognises the need to manage the effects of substance misuse problems in the workplace and will make every effort to ensure that such problems do not adversely affect service delivery and/or the health, safety and welfare of employees and/or the public. Employees must ensure that, whilst at work, they are free of the effects of substances. It is recognised that substance misuse problems may arise which have an effect on an employee's behaviour and/or ability to perform their duties. The Council will make every reasonable effort to help and support employees in such circumstances with encouragement given to seek appropriate treatment that will allow them to return to an acceptable standard of performance and/or behaviour. Likewise, the Council is committed to assisting managers to recognise and effectively deal with substance misuse problems in the workplace. An employee who refuses advice or assistance or discontinues an identified treatment/support programme before its conclusion will normally be subject to the appropriate Council procedure for managing conduct, attendance or work performance where their conduct, attendance or work performance continues to be unacceptable.

Scope

This policy is concerned with the effects of substance misuse in the workplace and applies to all employees. Others undertaking work for or on behalf of the Council, but not employed by the Council, e.g. agency/casual/relief workers and contractors are required to adhere to the policy guidelines even though not covered by procedural details.

Core Principles

- The Council will meet its legal obligations under the Health & Safety at Work Act 1974 to ensure the health and safety of its employees and others at work by providing a work environment in which the safety and optimum performance of employees is not adversely affected by the misuse of substances.

- Every reasonable effort will be made to minimise problems arising from the impact of substance misuse on work.
- It is unacceptable to attend for work whilst unfit through substance misuse, and such behaviour will be addressed through the Discipline policy/procedure and may constitute gross misconduct.
- A supportive and constructive approach to managing substance misuse issues will be adopted by the Council while at the same time recognising the need to maintain high service delivery standards.
- All reasonable efforts will be made to support and assist an employee to overcome a substance misuse problem, where the employee acknowledges the problem and demonstrates a willingness to address it.
- Every reasonable effort will be made to address known substance misuse issues promptly, consistently and effectively.
- The confidential nature of any employee's information related to a substance misuse problem will be maintained and will only be disclosed where necessary in the context of any performance, disciplinary or attendance process which may be required.
- Throughout the procedure, special allowance should be made for those employees whose first language is not English or who have difficulty expressing themselves.

Other Considerations

- It is unacceptable for employees to consume alcohol or illegal substances during working time.
- If an employee is identified as being in possession of an illegal substance in the workplace they will be subject to the Discipline policy/procedure and may be reported to the Police. Any person suspected of supplying illegal substances in the workplace will be reported to the Police and will be subject to the Discipline policy/procedure.

Definition

Substance misuse is defined for the purposes of this policy as the intermittent or continual use of substances, legal or otherwise, which causes detriment to the employee's health, social functioning or work performance, and which affects efficiency, productivity, safety, attendance, timekeeping or conduct in the workplace.

For the purpose of this policy, the term 'substance' includes:

- Any illegal substances (as defined in the Misuse of Drugs Act 1971 or the Psychoactive Substances Act 2016);
- Alcohol;
- Prescribed medication;
- Over the counter medication;
- Solvents, i.e. lighter gas refills, aerosols, glues, paint thinners, etc.
- Any plants, chemicals or other substances that have **not** been defined as illegal, and which are used for the purpose of seeking intoxication.

Prescribed Medication

Regardless of whether an employee has a substance misuse problem, where drugs are prescribed by a qualified medical practitioner employees are expected to seek advice from the medical practitioner or pharmacist as to whether these drugs might affect their ability to fully undertake their work duties. If this is the case the employee must notify their manager immediately that they are taking medicine which may cause side effects and impair their ability to undertake their duties safely and effectively.

Where an employee informs management of any medication prescribed that may affect their ability to carry out their work duties, managers should ensure that measures are put in place so that the employee can continue to work in a safe and effective manner.

Where an incident occurs due to the effects of prescribed medication and the employee has failed to notify their manager of the use of this medication, the employee may be subject to the Discipline policy and procedure.

Organisational Responsibilities

As a responsible employer, the Council is aware of its responsibility for the health, safety and welfare of employees and recognises that their wellbeing is important to performance. In view of this it is important that the responsibilities for the management of substance misuse within the workplace are explicit and clearly defined as follows:-

Managers

Line managers and supervisors are responsible, so far as is reasonably practicable, for ensuring the health, safety and welfare at work of all directly reporting employees in their respective service. These responsibilities are detailed in the corporate health and safety policy. In relation to substance misuse these responsibilities also include:

- Actively seeking to maintain a good level of communication with all employees;
- Dealing with those who may have a problem with substance misuse empathetically;
- Ensuring that information relating to an employee's substance misuse and in relation to the application of this policy is treated confidentially;
- Encouraging employees to seek counselling and supporting employees in attending counselling by granting appropriate time off;
- Being aware of the signs of substance misuse (see the accompanying guidance notes to this policy) and the facilities available for employees who may have a problem;
- Taking an objective and non-judgmental approach when meeting with employees;
- Informing the appropriate authorities of suspected illegal drug use or any activity or behaviour over which there are concerns as to its legality.

Employees

All employees have a duty to:

- Co-operate with managers and other employees in dealing with substance misuse issues;

- Declare at an early stage any substance misuse problem when being managed under any of the Council's procedures for managing work performance, conduct or attendance;
- Co-operate with any support and assistance provided by the organisation to address substance misuse;
- Be responsible for their own behaviour and ensure that, whilst at work, their performance and/or behaviour is not detrimentally affected due to the effects of substances;
- Inform a manager/supervisor, in confidence, if they have been prescribed medication or are taking 'over the counter' drugs which may affect their ability to carry out their work in a safe manner;
- Be aware of the symptoms of substance misuse and raise any concerns for an individual with their line manager;
- Attend the occupational health service when required to do so by the Council;
- Not possess, store, buy or sell controlled drugs on the premises or bring the organisation into disrepute by engaging in such activities outside work;
- Familiarise themselves with this policy and comply with its provisions.

SECTION 2: MANAGING SUBSTANCE MISUSE PROCEDURE

A substance misuse problem can come to light in various ways, either by line manager identification, as a result of a formal disciplinary, capability or attendance process, or through the employee raising the matter themselves. A substance misuse problem will be addressed as either a 'management referral', a 'disciplinary referral' or as a 'voluntary referral', depending on how it is identified, with full details of the referral processes and how matters are dealt with contained in the accompanying guidance notes.

1. Management Referral

Where an employee's work performance, attendance or behaviour is regarded as unsatisfactory by their manager and the manager's belief is that substance misuse may be the cause or a contributing factor, the manager will raise their concerns with the individual and, if deemed appropriate, refer the employee to the occupational health service for assessment. On receipt of an occupational health report, the

manager will meet with the employee to discuss the report and then decide on how the matter will be addressed.

If no underlying problem is identified through a management referral, or if a problem is identified and the employee does not comply with or accept identified treatment/support, the appropriate Council procedure will be instigated i.e. Performance or Attendance.

2. Disciplinary Referral

If, during the course of a discipline case, the employee indicates that the underlying cause of their conduct/behaviour is related to substance misuse, the manager undertaking the discipline case will adjourn the disciplinary proceedings (except in the case of alleged gross misconduct or where it is not reasonable to accept that the employee's unacceptable conduct was directly caused by their substance misuse) to allow for referral of the employee to the occupational health service for assessment. The disciplinary process should recommence following receipt of the occupational health report.

If no underlying problem is identified through a disciplinary referral, or if a problem is identified and the employee does not accept support, then substance misuse will not be considered as a mitigating factor in a discipline case. Otherwise, it will be considered as mitigation if relevant to the case and where the employee agrees to accept identified treatment/support for their substance misuse problem.

3. Voluntary Referral

An employee with a substance misuse problem which has not been identified by their manager and which has not yet had an adverse effect on their performance or behaviour at work is encouraged to voluntarily seek help and assistance in overcoming their problem. The employee can either contact the Council's confidential employee counselling service or can approach their line manager, a more senior manager or their trade union representative, who will be able to offer assistance and guidance with regard to their problem. Where brought to management attention, a referral to the Council's Occupational Health service may be considered where appropriate.

Supporting Provisions

Management or Disciplinary Referral

If a problem is identified through the management or disciplinary route the employee will be offered the following support and will be required to sign an agreement outlining the commitment expected of them and the consequences of failing to adhere to the treatment or support programme.

- Access to the confidential counselling service provided by the Council.
- Where treatment involves a full-time absence from work, the employee will be regarded as being on sick leave and will be subject to the normal conditions governing such leave.
- Where the employee requires time off to attend treatment or a support programme during working hours, reasonable paid time off will be granted provided there is full co-operation from the employee in respect of attendance and responsiveness to the programme.
- The employee will, where possible, remain in their post during their period of support/rehabilitation. However, if they are unfit to fulfil their duties, there is an issue relating to health and safety or if their duties conflict with the long term resolution of their substance misuse problem, efforts will be made to identify suitable alternative duties in the interim.

Following treatment, reasonable efforts will be made to ensure that the employee is able to continue in their substantive post.

- Where the employee is unable to continue in their substantive post, but could be considered for suitable alternative work, reasonable efforts should be made to identify an alternative post. If a suitable alternative post is not available and all reasonable efforts to rehabilitate the employee have proved unsuccessful with their standard of work performance, attendance or behaviour remaining a concern the matter may move to a Capability Hearing.

Voluntary Referral

If a problem is voluntarily identified by the employee to their line management out with any performance, disciplinary or attendance process they may be offered the following support:-

- Referral to the Occupational Health service for assessment.
- Access to the confidential counselling service provided by the Council
- Where treatment involves a full-time absence from work, the employee will be regarded as being on sick leave and will be subject to the normal conditions governing such leave.
- Where the employee requires time off to attend a treatment/support programme during working hours, reasonable paid time off may be granted.
- The employee will, where possible, remain in their post during their period of support/rehabilitation. However, if they are temporarily unfit to fulfil their duties or there is an issue relating to health and safety, efforts will be made to identify suitable alternative duties in the interim until they are able to return to their substantive duties.
- During and following treatment, all reasonable efforts will be made to help ensure that the employee is able to continue in their substantive post.

Sources of information for support and help out with the workplace are contained within the guidance notes accompanying this policy. It should be noted that these services can be accessed by any employee and not just those who are being monitored under this policy, with referral to the Occupational Health service being a management decision.

Relapse

- Individuals who have problems with substance misuse may relapse. Where this occurs, in the first instance, consideration should be given to a further referral to Occupational Health for assessment and advice, with the intention to then

continue with support under this policy. However, where there is a further instance(s) of relapse, employees should be managed under the relevant policy or through the capability process, if and where appropriate.

- With relapse most likely to occur in the initial months of a period of rehabilitation, where an employee has been relapse free for a period of 12 months or more from their initial assessment by Occupational Health, the substance misuse issue should be regarded as resolved. If after this 12 month period an employee relapses into substance misuse, for the purposes of their employment this should be regarded as an entirely new episode with the same supporting provisions applying as an entirely new referral.

Disciplinary Action

- In cases of one off incidents where there is no evidence of underlying substance misuse problems the normal disciplinary process will be followed.
- If a substance misuse problem is identified following a disciplinary referral, this will be considered as a possible mitigating factor in a discipline case, where it is relevant to the case and where the employee agrees to accept identified treatment/support for their substance misuse problem.
- Any disciplinary issues should be dealt with following receipt of the occupational health report through applying the Discipline policy/procedure.
- If no underlying problem is identified following a disciplinary referral and/or the employee does not agree to accept identified treatment/support for their substance misuse problem, then substance misuse will not be considered as a mitigating factor in a discipline case.

In cases of alleged gross misconduct, the disciplinary process will continue regardless of whether the employee's apparent actions may be attributed to substance misuse. Also, the disciplinary process will continue as normal if it is not reasonable to accept that the employee's conduct was directly caused by their substance misuse. In each of these situations the employee's misuse problem needs to be dealt with as a separate matter with the offer of assistance and support still made.

Action Other than Disciplinary

If the employee's performance continues to cause concern or if the employee fails to achieve acceptable levels of attendance following the conclusion of a treatment or support programme the Performance or Attendance policy/procedure will be instigated.

Capability

Where the employee is unable to return to their substantive post and a suitable alternative post is not available, a Capability Hearing will be arranged.

Management guidance notes detail the process that should be followed at the hearing.

The employee has the right of appeal against a dismissal decision within 10 days of receipt of written notification.

Testing

The Council may test an employee for substance misuse in the following circumstances:-

- 'With cause', where there is a reasonable suspicion by a manager concerning an employee's possible inappropriate use of substances which is having an adverse effect on their work or has the potential to put themselves, work colleagues, service users or others at risk in terms of health and safety.
- 'Post incident', if it is suspected that substance misuse was a contributory factor to an accident or an incident.
- As part of a support programme. After the initial test the employee may be subject to further random tests within a twelve month period. If these tests show no evidence of use/misuse then the employee will continue to be managed as appropriate. If there is evidence of continued use/misuse, then the employee will be managed under the appropriate Council procedure.

Drugs tested for are as follows;

Alcohol, Amphetamines (including Ecstasy), Barbiturates, Benzodiazepines, Buprenorphine, Cannabis, Cocaine, LSD, Methadone, Methaqualone, Opiates, Phencyclidine and Propoxyphene.

The sample is also checked for creatinine levels which indicate if a sample is too dilute to give an accurate result.

Testing will be carried out only by the Council's occupational health provider. Employees are expected to co-operate if they are requested to undergo a test.

SECTION 3: REVIEW OF THE POLICY

Human Resources will review this policy every 3 years. It will, nevertheless, be subject to continual review and amendment in light of experience of its operation, employment best practice and statutory requirements. Changes will only be made following normal consultation arrangements.

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ABERDEEN CITY COUNCIL

COMMITTEE	Staff Governance
DATE	4 May 2018
REPORT TITLE	Sickness Absence update
REPORT NUMBER	RES/18/014
DIRECTOR	Steve Whyte
CHIEF OFFICER	Morven Spalding
REPORT AUTHOR	Neil Yacamini
TERMS OF REFERENCE	5.3

1. PURPOSE OF REPORT

- 1.1 The report outlines the current sickness rates across the Council and outlines a range of measures to get the figures moving on a downward trend.

2. RECOMMENDATIONS

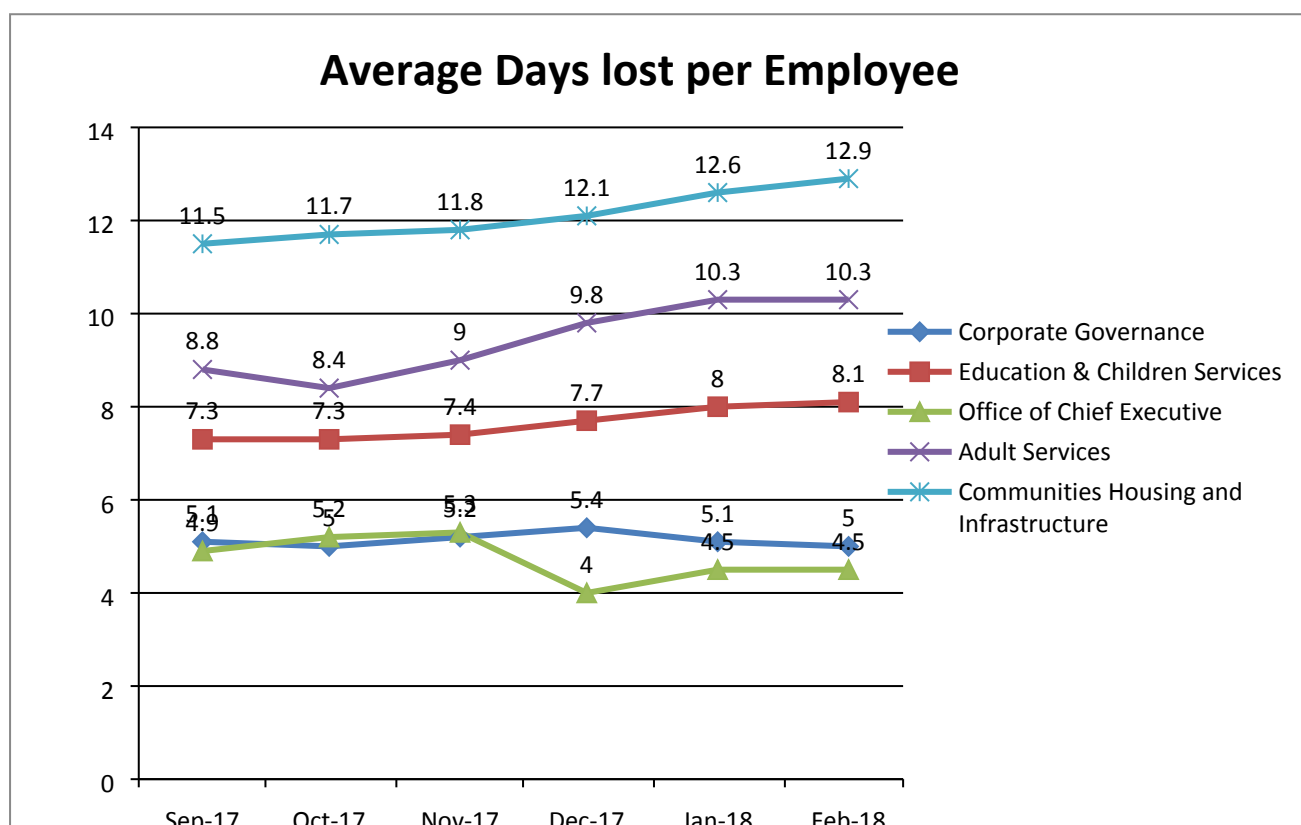
That the Committee:-

- 2.1 note the sickness rates over the past 6 months; and
 2.2 endorse the approaches for reducing sickness absence across the Council.

3. BACKGROUND

- 3.1 This report outlines historical absence information and outlines measures on how absence can be managed more closely by the organisation with the aim of getting the sickness absence figures moving on a downward trend.
- 3.2 In the table below it can be seen that over the past 6 months the sickness rates are showing higher sickness rates in the colder, darker winter months and less sickness in the autumn where daylight is longer. This is not an unusual trend and can be expected. The overall absence days lost per employee currently is 9.7 which has shown an increase in the past three months.

Sickness Rates over the past 6 months



3.3 The table shown below details the breakdown of short term and long term absence across the directorate structure.

Services	DECEMBER		JANUARY		FEBRUARY	
	Short-Term	Long-Term	Short-Term	Long-Term	Short-Term	Long-Term
Corporate Governance	3.1	3.1	3.2	2.6	3.3	2.4
Education & Children Services	3.4	5.4	3.7	5.4	3.8	5.4
Office of Chief Executive	1.5	3.1	2.1	3	2	3.1
Adult Services	4.9	6.3	5.3	6.4	5.3	6.5
CH&I	4.7	9	4.9	9.4	5.1	9.6

3.4 The five main reasons for sickness absence are shown in the table below :-

Reason	December	January	February
Respiratory	395	670	494
Gastrointestinal	232	292	286
Musculoskeletal	100	117	130
Neurological	70	129	119
Psychological	51	67	77

There has been a particular rise in the number of respiratory absences compared with previous months. A rise in these types of absence is not unusual for this time of year although it appears to be a greater increase than in previous years.

- 3.5 In order to manage sickness effectively managers must apply the Maximising Attendance policy. Line Managers need to ensure that
- return to work meetings are held with employees as soon as possible on their return from a period of absence
 - first stage review meetings when employees hit sickness triggers should arranged and held
 - contact should maintained with those off on long term sick
- 3.6 Absence should be reported regularly to the Senior Management Team. This must include exception reporting of areas of the service where the maximising attendance policy is not being consistently applied. In addition sickness absence information should also be reported back to Service Health and Safety Committees on a regular basis.
- 3.7 A further improvement measure is for People and Organisation to work with Services on a monthly basis to ensure long term sickness is being actively managed and to ensure the absence management module within YourHR can be used proactively to identify absences in relation to two of the main causes, musculoskeletal and psychological, and highlight measures such as physiotherapy and the “Time for Talking” Counselling Service which are available for employees.
- 3.8 In addition to the approaches above there are a number of Health and wellbeing activities which are being utilised to support employees in the workplace on a daily, weekly or monthly basis. The programme for these activities is shown below.

Month	Date	Activity	Location
April	26 th April	Pitstop: Sleep (NHS)	4W01 Marischal College
	All Month	Information Campaign: Sleep	Online
May	All Month	Daily Mile / Step Challenge	Everywhere
	All Month	Information Campaign: Physical Activity	Online

June	5 th June 6 th June	Blood Donation	4W01 Marischal College
	14 th June	Pitstop: Carers Awareness (VSA)	3W01 Marischal College
	19 th June	Pitstop: Mental Wellbeing (SAMH)	3W01 Marischal College
EVERY WEEK	Everyday	Alternative Therapies	Marischal College Frederick Street Rosemount
	Every Tuesday	Pilates Classes	3W01 Marischal College
	Every Thursday	Tai Chi Class	3W01 Marischal College
	Every Thursday	Yoga Class	3W01 Marischal College
MONTHLY	Every 2 nd Tuesday	Mindfulness	4W02 Marischal College
	Every 2 nd Wednesday	Onsite Chiropractor Clinic	First Aid Room Marischal College
	Every Last Tuesday	CFine Fruit and Veg Stall	LG Floor Marischal College

4. FINANCIAL IMPLICATIONS

- 4.1 The main financial implications arising from sickness absence are when alternative resources are required for cover purposes.

5. LEGAL IMPLICATIONS

- 5.1 There are no direct legal implications arising from the recommendations of this report.

6. MANAGEMENT OF RISK

	Risk	Low (L), Medium (M), High (H)	Mitigation
Financial	N/A		
Legal	N/A		
Employee	Risk of low morale if colleagues are absent for a period of time	M	Implementation of maximising attendance policy and Occupational Health Contract to minimise absence levels
Customer	Service Delivery may be affected if absence high in customer facing roles	M	Use of peripheral staffing such as agency or overtime if there is a Service delivery risk
Environment	N/A		
Technology	N/A		
Reputational	Risk to Organisations reputation if absence levels are high.	M	Management of absence levels to ensure that they are kept to as low a level as possible.

7. OUTCOMES

Design Principles of Target Operating Model	
	Impact of Report
Workforce	The management of absence levels and the approaches within this report will help to reduce absence levels and to provide support to employees who are absent.

8. IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	Not required
Privacy Impact Assessment	Not required

[Children's Rights Impact Assessment/Duty of Due Regard](#)

Not applicable

9. BACKGROUND PAPERS

N/A

10. APPENDICES (if applicable)

N/A

11. REPORT AUTHOR CONTACT DETAILS

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ABERDEEN CITY COUNCIL

COMMITTEE	Staff Governance
DATE	04 May 2018
REPORT TITLE	EAS January – March 2018
REPORT NUMBER	GOV/18/013
DIRECTOR	N/A
CHIEF OFFICER	Fraser Bell
REPORT AUTHOR	Mary Agnew
TERMS OF REFERENCE	5.2

1. PURPOSE OF REPORT

- 1.1 This report updates the Committee on utilisation of the Employee Assistance Service (EAS) provided by Time for Talking during the 3 month period January – March 2018.

2. RECOMMENDATION(S)

That Committee:

- 2.1 considers the contents of the report;
- 2.2 instructs the Director of Resources to request evidence from Functions on the actions taken to support individuals and address trends (usage and root causes) as detailed in the report; and
- 2.3 recommends that the frequency of the report submission be changed from quarterly to annually.

3. BACKGROUND

- 3.1 Following a joint tender evaluation process with Aberdeenshire Council, Therapeutic Counselling Services Ltd. (Time for Talking) were awarded the Employee Assistance Service contract. The new contract commenced on 01 January 2017 and is for duration of 3 years with the option of extending for a further period of up to 24 months.
- 3.2 This report contains utilisation information on the 3 month reporting period (January – March 2018). A copy of this information has been provided to Directorates for reference and potential action.

Utilisation (January – March 2018)

3.3 A total of 38 referrals were made during October – December 2017, 37 from employees and 1 from a family member. The overall figure is significantly higher than the last reporting period of 28. There was a higher number of referrals relating to Personal Issues (22) compared to Work Related Issues (16). The greatest number of referrals was from Education and Children’s Services (19 compared to 12 in the previous reporting period). This was followed by Communities, Housing & Infrastructure (10 compared to 7 in the previous reporting period).

3.3.1 Of the personal issues 10 out of 22 relate to Personal Stress/Depression/Anxiety/Anger. This accounts for 45% of the personal issue referrals; this is lower than the last reporting period of 63%. Of the Work Related Issues 11 out of the 16 related to Demands (Workload/ Stress/Anxiety). The total figure of 16 is 4 times higher than the previous reporting period. The category Relationships (with colleagues) has increased on the last reporting period over Role (Understanding of).

3.3.2 Overall the provided utilisation information shows an increase on the last reporting period with the related services remaining the same as the last quarter. The Work Related Issues have significantly increased for Demands (Workload/ Stress/Anxiety).

3.4 A person can experience excessive pressure and demands outside work just as much as they can at work. Stress tends to build up over time because of a combination of factors that may not all be work related. Conflicting demands of work and home can cause excessive stress. Problems outside work can affect a person’s ability to perform effectively at work. Stressors at home can affect those at work and vice versa. The “adverse reaction people have to excessive pressures or other types of demand placed on them” can seriously undermine the quality of people’s working lives and, in turn, the effectiveness of the workplace.

Directorate	Number of Staff within Service	% of Staff usage	Number of referrals	Personal Issues	Health/Bereavment	Addiction/Abuse	Relationship/Family Issues	Personal Stress/Depression/Anxiety/Anger	Traumatic Incident	Work Related Issues	Change (Organisational/redundancy)	Demands (Workload/Stress/Anxiety)	Relationships (with colleagues)	Relationships with manager (Bullying/Harassment)	Role (Understanding of)	Support (discipline & grievance)	Control
Adult Health and Social Care Partnership	533	0.94	5		2	0	1	1	0		0	1	0	0	0	0	0
Communities, Housing & Infrastructure	2516	0.40	10		1	0	1	3	0		0	3	1	0	0	1	0
Corporate Governance	711	0.42	3		2	0	1	0	0		0	0	0	0	0	0	0
Education and Children's Services	4253	0.45	19		3	0	1	6	0		0	6	2	0	0	0	1
Office of Chief Executive	71	0.00	0		0	0	0	0	0		0	0	0	0	0	0	0
Foster Carers	0	0.00	0		0	0	0	0	0		0	0	0	0	0	0	0
Elected Members	0	0.00	0		0	0	0	0	0		0	0	0	0	0	0	0
Family Member	0	0.00	1		0	0	0	0	0		0	1	0	0	0	0	0
Total Number of Referrals/C'ling	8084	0.47	38		8	0	4	10	0		0	11	3	0	0	1	1

3.5 The numbers of referrals for the same reporting period (January - March) are similar to last year:

- January – March 2015 33
- January – March 2016 35
- January – March 2017 41
- January – March 2018 38

3.6 The percentage of the Council’s workforce that used the service is detailed below, along with similar sized local authorities’ industry averages for comparison for the reporting period:

Council A – Aberdeen City Council	0.47%
Council B	0.56%
Council C	0.42%
Council D	0.46%

3.8 It is encouraging that both full-time (37) and part-time (1) employees are using the service. Female utilisation has increased (29 from 21) with male utilisation increased (9 from 7) in the last reporting period. The majority of employees are at work (28) compared to those absent from work (10) when receiving support.

	Demographics	Male	Female	Full Time	Part Time		Currently at work	Absent from work
Adult Health and Social Care Partnership		0	4	4	0		3	2
Communities, Housing & Infrastructure		6	4	9	1		7	3
Corporate Governance		0	3	3	0		3	0
Education and Children's Services		2	18	20	0		14	5
Office of Chief Executive		0	0	0	0		0	0
Foster Carers		0	0	0	0		0	0
Elected Members		0	0	0	0		0	0
Family Members		1	0	1	0		1	0
		9	29	37	1		28	10

3.9 All referrals made in this reporting period were self-referrals. The assistance provided was mainly via face to face counselling (23) with a small number of telephone counselling (7). It is noted that there has been an increase in the use of telephone counselling. During the reporting period 1 employee was given additional sessions. A total of 4 additional sessions were given. Employees were made aware of the service via a range of means as detailed in the table below.

3.10 Refreshed advertisement material has been circulated this included a wallet card for all potential users of the service. Posters and leaflets have been circulated for display and “posted” information to raise awareness and advertise the service.

	Assistance Provided	Helpline/Advice Only	No contact from client	Telephone Counselling	Face to face counselling	CBT Counselling Sessions	Live Zilla Counseling sessions	Type of Referral	Management Referral	Self Referral		How Employees heard about Service	Website/Posters/Leaflets	Managers	Colleagues	HR	Wallet Cards
Adult Health and Social Care Partnership		0	1	1	2	0	0		0	4		12	10	8	4	4	
Communities, Housing & Infrastructure		0	1	1	8	0	0		0	10							
Corporate Governance		0	1	1	1	0	0		0	3							
Education and Children's Services		0	4	4	11	1	0		0	20							
Office of Chief Executive		0	0	0	0	0	0		0	0							
Foster Carers		0	0	0	0	0	0		0	0							
Elected Members		0	0	0	0	0	0		0	0							
Family Members		0	0	0	1	0	0		0	1							
		0	7	7	23	1	0		0	38							

3.11 Service users are offered the opportunity to provide feedback on the service via a short questionnaire. One such anonymous questionnaire was completed by a service user in the last reporting period.

Actions

3.12 It is critical that Functions ensure that suitable and sufficient action is being taken to support individuals and address trends (usage and root causes). This includes the application of the Mental Health and Wellbeing in the Workplace Policy and supporting Stress Procedure. This includes but is not limited to:

- Creation and maintenance of a mentally healthy workplace throughout an employee's lifecycle ensuring open and clear two way communication at all levels;
- Completion of risk assessments to assist in identifying, understanding and addressing factors that affect employees' mental health and wellbeing. Functions should be proactively completing Quality of Working Lives (QWL's) Risk assessments for teams (and in some cases individuals) to identify improvement areas as detailed in the Health and Safety Executive (HSE) Management Standards;
- Completion of Line Manager Competency Indicator Tool (HSE) for managers to assess whether they currently have the behaviours identified as effective for preventing and reducing stress at work. This will assist managers reflect on their behaviour and management style and adapt as necessary;
- Analysis of current root causes of service usage, staff absence and implement action to prevent reoccurrence;
- Inclusion of related information, instruction and training requirements in Job Profiles and skills and training matrices. Delivery will improve corporate awareness to identify and promote the mental wellbeing of employees and develop colleagues/managers' skills on how to deal with the issues around mental health and stress effectively.; and
- Active monitoring of workloads through 1-2-1's and team meetings.

- 3.13 The organisation should continue to advertise the service but must not rely on the EAS to address the issues. If no action is taken to address the root causes of issues and related absence the referral utilisation figures will continue to remain the same. Employee absence from work related mental health is in many cases the forerunner of contacting the EAS. Through good management and a proactive approach the utilisation of the service from a work related perspective has the potential to be reduced and corresponding direct and indirect costs.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial consequences resulting from this report. The total contract sum over 5 years is £127,779.25. The award price has been calculated on the expected usage. Through improved management of root causes the level of support required would be less resulting in reduced future tender costs.
- 4.2 An effective EAS service supports individuals with difficulties in their lives; sometimes these problems can affect an individual's ability to function fully at work or at home. This in turn may impact on their health and wellbeing, which may also impact on their productivity, attendance and associated costs. Both direct and indirect costs require to be considered.
- 4.3 The longer an employee is off work the more challenging it becomes to manage their health problems and less likely that they will return to work. Long-term absence is costly. There is mutual benefit if we can proactively support employees in the workplace and help employees avoid long waiting times for, eg counselling or psychological therapy.
- 4.4 Failure to comply with legislation in ensuring a safe and healthy workplace has the potential to result in enforcement action by the Health and Safety Executive (HSE). Such intervention can result in potential prosecution (criminal) equally, employees (civil claims) are more likely to succeed following as successful HSE prosecution. Changes in the Sentencing and Fines Guidance for health and safety non-compliances are resulting in increased financial penalties. Fine starting points are based on an organisation's turnover, as Local Authorities do not have turnover Annual Revenue Budget is deemed to be the equivalent. This amount is then altered depending on the culpability of the organisation and harm factors to employees and members of the public.
- 4.5 There is also the potential for industrial tribunal associated costs.

5. LEGAL IMPLICATIONS

- 5.1 Under the Health and Safety at Work Act 1974 and Management of Health and Safety at Work Regulations 1999 there is a legal requirement to ensure the health safety and welfare at work of our employees. This includes minimising the risk of stress-related illness or injury to employees.

- 5.2 The provision of an EAS is in line with guidance produced by the HSE as one of the measures to control that risk. One person in four in the UK will experience a mental health problem in their lives.
- 5.3 HSE potential prosecution (criminal) can attract fines, imprisonment and remedial orders. There is also the possibility of employee claims (civil). Provision of an EAS can be used as mitigation against potential claims from employees exposed to work related stress.

6. MANAGEMENT OF RISK

- 6.1 The risks with the potential to impact the decision being sought from the Committee are categorised as:

	Risk	Low (L), Medium (M), High (H)	Mitigation
Financial	If no action is taken to support individuals and address trends then the organisation will incur both direct and indirect costs.	M	Implementation of the Mental Health and Wellbeing in the Workplace Policy and supporting Stress Procedure. Effective management and maintenance of a mentally healthy workplace and provision of appropriate support. Review and identification of EAS use and related absence to act on lessons learned. Corporate and individual awareness of mental health in the workplace. Active monitoring of work-loads.
Legal	Non-compliance with legal requirements ensures the health and safety of employees. Poor management of the risks and lack of support has the potential to attract enforcement action (Criminal and Civil) fines and claims.	M	As above. Assessment of risk via stress and QWL's risk assessments with identification and implementation of safe working arrangements. Functions acting on utilisation, trend and root cause information to develop and implement controls to prevent a reoccurrence. Completion of Line

			Manager Competency Indicator Tool (HSE) by line managers acting on feedback. Provision of specialist support / advice.
Employee	Not the right support during challenging times impacting on an employee's personal health and wellbeing. This has the potential to affect their resilience and ability to function at work and with general life events. This can result in employee ill health and related absence. The longer an employee is absent the more likely it will impact on an employee's health and wellbeing and the less likely that they will return to the workplace.	M	As above. Provision of information, instruction and training as identified in Job Profiles, skills and training matrices and in risk assessment. Open and clear two way communication at all levels within the organisation. Non-judgmental and proactive support provided to employees who experience mental health problems. Good self-management of personal wellbeing and resilience.
Customer	Reduced quality of service delivery owing to the lack of resource. No identification of trends and root causes will not address or prevent reoccurrence and not ensure a safe and healthy employee workplace.	M	As above.
Environment	No risk or impact was identified.	-	-
Technology	No risk or impact was identified.	-	-
Reputational	Without ensuring suitable employee support there is a risk of the organisation not being seen as an employer of choice and having recruitment and retention issues.	L	As above.

7. OUTCOMES

Local Outcome Improvement Plan Themes	
	Impact of Report
Prosperous Economy	An EAS assists in having a workforce which is

	healthier, happier and better motivated, which is essential to the sustainability of high quality services. This in turn has a corporate social responsibility ripple effect impacting on the health of the wider community. By taking a proactive approach to health, safety the “public pound” will be used effectively reducing lost resource through direct and indirect costs.
Prosperous People	<p>By reducing the impact of personal issues that an employee may encounter such as stress, bereavement or debt we can substantially reduce the negative impact of such issues on their productivity, efficiency and overall behaviour at work. Through the provision of support, employees’ resilience improves enabling them to deal with life and work challenges more positively. As well as impacting on productivity it also assists in maximising attendance. It is difficult to control outside stressors, but there is a need to take a holistic approach to employee wellbeing. To manage work related stress effectively, we need to recognise the importance and interaction of work and home problems.</p> <p>Employees do not have to be experiencing problems to use the service, as there are many positive benefits of regular engagement for lifestyle guidance. As an engagement tool the provision of the service and associated resources can assist the organisation’s health and wellbeing strategies.</p>
Prosperous Place	With stronger resilience employees, elected members and foster carers would be able to provide better service delivery. There are only positive outcomes to be gained from support colleagues and seeking assurance from Functions that action is being taken to support individuals and address trends in the current changing environment.
Enabling Technology	The use of telephone counselling, instant messaging and website information increases the speed of accessing support.

Design Principles of Target Operating Model	
	Impact of Report
Customer Service Design	No impact
Organisational Design	No impact
Governance	The provision of EAS utilisation figures and trends

	provides an opportunity for the committee to scrutinise the provided management information. It enables what action has been taken by Function responsible line management to support individuals and address trends to be questioned. From the evidence the committee can determine if the level of assurance provided is acceptable in effectively managing health and safety.
Workforce	The report provides the opportunity for the committee to ensure that trends are addressed and the health and safety management system improved. This would reduce the risk of lost resource through for example absence, enforcement action and potential claims. Early address of issues has the potential to reduce impact on employees and the wider community reducing demands on other public sector organisations.
Process Design	This can allow the committee to identify where processes are failing to address health and safety risks and improve wellbeing.
Technology	No impact
Partnerships and Alliances	This allows Trade Unions, elected members and officers to collaborate.

8. IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	Not required
Privacy Impact Assessment	Not required
Children's Rights Impact Assessment/Duty of Due Regard	Not Applicable

9. BACKGROUND PAPERS

Employee Assistance Service – Time for Talking Quarterly review 01 January 2018 – 31 March 2018.

10. APPENDICES (if applicable)

There are no appendices.

11. REPORT AUTHOR CONTACT DETAILS

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ABERDEEN CITY COUNCIL

COMMITTEE	Staff Governance
DATE	04 May 2018
REPORT TITLE	EAS Annual report: April 2017 – March 2018
REPORT NUMBER	GOV/18/008
DIRECTOR	N/A
CHIEF OFFICER	Fraser Bell
REPORT AUTHOR	Mary Agnew
TERMS OF REFERENCE	5.2

1. PURPOSE OF REPORT

- 1.1 This report updates the Committee on utilisation of the Employee Assistance Service (EAS) provided by Time for Talking during the last 12 month period April 2017 – March 2018.

2. RECOMMENDATION(S)

That Committee:

- 2.1 considers the contents of the report; and
- 2.2 instructs the Director of Resources to request evidence from Functions on the actions taken to support individuals and address trends (usage and root causes) as detailed in the report;

3. BACKGROUND

- 3.1 Following a joint tender evaluation process with Aberdeenshire Council, Therapeutic Counselling Services Ltd. (Time for Talking) were awarded the Employee Assistance Service contract. The new contract commenced on 01 January 2017 and is for duration of 3 years with the option of extending for a further period of up to 24 months.
- 3.2 This report contains utilisation information on the 12 month reporting period (April 2017 – March 2018). A copy of this information has been provided to Directorates for reference and potential action.

Utilisation (April 2017 – March 2018)

3.3 A total of 125 referrals were made during the 12 month period comprising: employees (122), Foster carers (1) and family members (2). There was almost three times the number of referrals relating to Personal Issues (94) compared to Work Related Issues (31). In the previous reporting period there was double the number of referrals relating to Personal Issues (88) compared to Work related Issues (48). The greatest number of referrals was from Education and Children's Services (44%) although the greatest % of staff usage was Adult Health and Social Care Partnership. This was also the case for the previous reporting period. Of the Personal issues (58 out of 94) relate to Personal stress/Depression/Anxiety/Anger. This accounts for 61% of such referrals, a reduction from 88% for the last reporting period. Of the work related issues (18 out of 31) relate to Demands (Workload/ Stress/Anxiety) and (6 out of 31) relates to Relationships (with colleagues). For the previous reporting period the two highest Work Related Issues were Demands (Workload/ Stress/Anxiety) (22 out of 48) and Role (understanding of) (20 out of 48).

Directorate	Number of Staff within Service	% of Staff usage	Number of referrals	Personal Issues	Health/Bereavement	Addiction/Abuse	Relationship/Family Issues	Personal Stress/Depression/Anxiety/Anger	Traumatic Incident	Work Related Issues	Change (Organisational/redundancy)	Demands (Workload/Stress/Anxiety)	Relationships (with colleagues)	Relationships with manager (Bullying Harassment)	Role (Understanding of)	Support (discipline & grievance)	Control
Adult Health and Social Care Partnership	533	2.81	15		3	0	1	8	0		0	1	0	0	1	0	1
Communities, Housing & Infrastructure	2516	1.59	40		6	2	4	20	0		0	5	2	0	0	1	0
Corporate Governance	711	1.55	11		2	0	3	6	0		0	0	0	0	0	0	0
Education and Children's Services	4253	1.29	55		7	0	6	23	0		0	11	4	1	2	0	1
Office of Chief Executive	71	1.41	1		0	0	0	1	0		0	0	0	0	0	0	0
Foster Carers	0	0.00	1		0	0	1	0	0		0	0	0	0	0	0	0
Elected Members	0	0.00	0		0	0	0	0	0		0	0	0	0	0	0	0
Family Member	0	0.00	2		0	0	1	0	0		0	1	0	0	0	0	0
Total Number of Referrals/C'ling	8084	1.55	125		18	2	16	58	0		0	18	6	1	3	1	2

3.4 The numbers of referrals for the same reporting period (April 2016 – March 2017) are detailed below:

- April 2015 – March 2016 114
- April 2016 – March 2017 136
- April 2017 – March 2018 125

3.5 Comparison of the industry averages for the reporting period with other similar sized local authorities are as follows:

Council A – Aberdeen City Council	1.55%
Council B	1.71%
Council C	1.41%
Council D	2.35%

3.7 Both full-time (102) and part-time (23) employees are using the service. There has been a decrease in fulltime (119) and an increase in part-time (17) from the last reporting period. The majority of employees have been at work (86) compared to those absent from work (39) when receiving support. This is a reduction in employees from the last reporting period who were absent from work (53).

	Demographics	Male	Female	Full Time	Part Time		Currently at work	Absent from work
Adult Health and Social Care Partnership		1	12	11	2		7	8
Communities, Housing & Infrastructure		16	25	29	12		26	14
Corporate Governance		5	5	9	1		10	1
Education and Children's Services		7	50	49	8		39	16
Office of Chief Executive		0	1	1	0		1	0
Foster Carers		0	1	1	0		1	0
Elected Members		0	0	0	0		0	0
Family Members		1	1	2	0		2	0
		30	95	102	23		86	39

3.8 All referrals made in this reporting period were self-referrals, there were no management referrals. The assistance provided was mainly via face to face counselling (84) along with telephone counselling (19) and use of instant messaging (1). Face to face counselling has reduced (98 compared to 84) and telephone counselling has increased (19 compared to 11) on the last reporting period. During the reporting period 10 employees were given additional sessions, a total of 31 additional sessions were provided. In the previous reporting period only 2 employees were given a total of 6 additional sessions. Employees were made aware of the service via a range of means as detailed in the table below the majority being via Managers (41).

3.9 Refreshed advertisement material has been circulated during this period to highlight the service. This has included a wallet card for all potential users of the service alongside the distribution of posters and leaflets for display and "posted" information on the internet to raise awareness of the available support.

	Assistance Provided	Helpline/Advice Only	No contact from client	Telephone Counselling	Face to face counselling	CBT Counselling Sessions	Live Zilla Counseling sessions	Type of Referral	Management Referral	Self Referral		How Employees heard about Service	Website/Posters/Leaflets	Managers	Colleagues	HR	Wallet Cards
Adult Health and Social Care Partnership		0	1	3	9	0	0		0	13		35	41	27	12	10	
Communities, Housing & Infrastructure		0	8	3	30	0	0		0	41							
Corporate Governance		0	3	1	6	0	0		0	10							
Education and Children's Services		0	8	11	36	1	1		0	57							
Office of Chief Executive		0	0	1	0	0	0		0	1							
Foster Carers		0	0	0	1	0	0		0	1							
Elected Members		0	0	0	0	0	0		0	0							
Family Members		0	0	0	2	0	0		0	2							
		0	20	19	84	1	1		0	125							

3.10 Service users are offered the opportunity to provide feedback on the service via a short questionnaire. A total of 10 such anonymous questionnaires have been completed by service users in the last reporting period.

3.11 In summary from the last reporting period there has been a decrease in usage overall with a significant increase in Personal related issues compared to the last reporting period. The greatest number of referrals and % of employee usage remains the same as the last reporting period. Of the work related issues Demands (Workload/ Stress/Anxiety) again was the highest figure as the previous reporting period followed by Relationships (with colleagues) replacing Role (understanding of). More part-time employees have accessed support and the majority of employees have been at work when making a referral. Face to face counselling has reduced and telephone counselling has increased. The number of employees to whom additional sessions have been provided has increased from the last reporting period.

Actions

3.12 It is critical that Functions ensure that suitable and sufficient action is being taken to support individuals and address trends (usage and root causes). This includes the application of the Mental Health and Wellbeing in the Workplace Policy and supporting Stress Procedure. More detailed actions have been provided in the quarterly report.

3.13 The organisation should continue to advertise the service but must not rely on the EAS to address the issues. If no action is taken to address the root causes of issues and related absence the referral utilisation figures will continue to remain the same. Employee absence from work related mental health is in many cases the forerunner of contacting the EAS. Through good management and a proactive approach the utilisation of the service from a work related perspective has the potential to be reduced and corresponding direct and indirect costs.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial consequences resulting from this report. The total contract sum over 5 years is £127,779.25. The award price has been calculated on the expected usage. Through improved management of root causes the level of support required would be less resulting in reduced future tender costs.
- 4.2 An effective EAS service supports individuals with difficulties in their lives; sometimes these problems can affect an individual's ability to function fully at work or at home. This in turn may impact on their health and wellbeing, which may also impact on their productivity, attendance and associated costs. Both direct and indirect costs require to be considered.
- 4.3 The longer an employee is off work the more challenging it becomes to manage their health problems and less likely that they will return to work. Long-term absence is costly. There is mutual benefit if we can proactively support employees in the workplace and help employees avoid long waiting times for, eg counselling or psychological therapy.
- 4.4 Failure to comply with legislation in ensuring a safe and healthy workplace has the potential to result in enforcement action by the Health and Safety Executive (HSE). Such intervention can result in potential prosecution (criminal) equally, employees (civil claims) are more likely to succeed following as successful HSE prosecution. Changes in the Sentencing and Fines Guidance for health and safety non-compliances are resulting in increased financial penalties. Fine starting points are based on an organisation's turnover, as Local Authorities do not have turnover Annual Revenue Budget is deemed to be the equivalent. This amount is then altered depending on the culpability of the organisation and harm factors to employees and members of the public.
- 4.5 There is also the potential for industrial tribunal associated costs.

5. LEGAL IMPLICATIONS

- 5.1 Under the Health and Safety at Work Act 1974 and Management of Health and Safety at Work Regulations 1999 there is a legal requirement to ensure the health safety and welfare at work of our employees. This includes minimising the risk of stress-related illness or injury to employees.
- 5.2 The provision of an EAS is in line with guidance produced by the HSE as one of the measures to control that risk. One person in four in the UK will experience a mental health problem in their lives.
- 5.3 HSE potential prosecution (criminal) can attract fines, imprisonment and remedial orders. There is also the possibility of employee claims (civil). Provision of an EAS can be used as mitigation against potential claims from employees exposed to work related stress.

6. MANAGEMENT OF RISK

6.1 The risks with the potential to impact the decision being sought from the Committee are categorised as:

	Risk	Low (L), Medium (M), High (H)	Mitigation
Financial	If no action is taken to support individuals and address trends then the organisation will incur both direct and indirect costs.	M	Implementation of the Mental Health and Wellbeing in the Workplace Policy and supporting Stress Procedure. Effective management and maintenance of a mentally healthy workplace and provision of appropriate support. Review and identification of EAS use and related absence to act on lessons learned. Corporate and individual awareness of mental health in the workplace. Active monitoring of work-loads.
Legal	Non-compliance with legal requirements ensures the health and safety of employees. Poor management of the risks and lack of support has the potential to attract enforcement action (Criminal and Civil) fines and claims.	M	As above. Assessment of risk via stress and QWL's risk assessments with identification and implementation of safe working arrangements. Functions acting on utilisation, trend and root cause information to develop and implement controls to prevent a reoccurrence. Completion of Line Manager Competency Indicator Tool (HSE) by line managers acting on feedback. Provision of specialist support / advice.
Employee	Not the right support during challenging times impacting on an employee's personal health and wellbeing. This has the potential to affect their	M	As above. Provision of information, instruction and training as identified in Job Profiles, skills and

	resilience and ability to function at work and with general life events. This can result in employee ill health and related absence. The longer an employee is absent the more likely it will impact on an employee's health and wellbeing and the less likely that they will return to the workplace.		training matrices and in risk assessment. Open and clear two way communication at all levels within the organisation. Non-judgmental and proactive support provided to employees who experience mental health problems. Good self-management of personal wellbeing and resilience.
Customer	Reduced quality of service delivery owing to the lack of resource. No identification of trends and root causes will not address or prevent reoccurrence and not ensure a safe and healthy employee workplace.	M	As above.
Environment	No risk or impact was identified.	-	-
Technology	No risk or impact was identified.	-	-
Reputational	Without ensuring suitable employee support there is a risk of the organisation not being seen as an employer of choice and having recruitment and retention issues.	L	As above.

7. OUTCOMES

Local Outcome Improvement Plan Themes	
	Impact of Report
Prosperous Economy	An EAS assists in having a workforce which is healthier, happier and better motivated, which is essential to the sustainability of high quality services. This in turn has a corporate social responsibility ripple effect impacting on the health of the wider community. By taking a proactive approach to health, safety and wellbeing the "public pound" will be used effectively reducing lost resource through direct and indirect costs.
Prosperous People	By reducing the impact of personal issues that an employee may encounter such as stress, bereavement or debt we can substantially reduce the negative impact of such issues on their

	<p>productivity, efficiency and overall behaviour at work. Through the provision of support, employees' resilience improves enabling them to deal with life and work challenges more positively. As well as impacting on productivity it also assists in maximising attendance. It is difficult to control outside stressors, but there is a need to take a holistic approach to employee wellbeing. To manage work related stress effectively, we need to recognise the importance and interaction of work and home problems.</p> <p>Employees do not have to be experiencing problems to use the service, as there are many positive benefits of regular engagement for lifestyle guidance. As an engagement tool the provision of the service and associated resources can assist the organisation's health and wellbeing strategies.</p>
Prosperous Place	With stronger resilience employees, elected members and foster carers would be able to provide better service delivery. There are only positive outcomes to be gained from support colleagues and seeking assurance from Functions that action is being taken to support individuals and address trends in the current changing environment.
Enabling Technology	The use of telephone counselling, instant messaging and website information increases the speed of accessing support.

Design Principles of Target Operating Model	
	Impact of Report
Customer Service Design	No impact
Organisational Design	No impact
Governance	The provision of annual EAS utilisation figures and trends provides an opportunity for the committee to scrutinise the provided management information. It enables what action has been taken by Function responsible line management to support individuals and address trends to be questioned, to ensure that it is suitable and sufficient. From the evidence the committee can determine if the level of assurance provided is acceptable in effectively managing health, safety and wellbeing.
Workforce	The report provides the opportunity for the committee to ensure that trends are addressed and the health and safety management system improved. This would reduce the risk of lost

	resource through for example absence, enforcement action and potential claims. Early address of issues has the potential to reduce impact on employees and the wider community reducing demands on other public sector organisations.
Process Design	This can allow the committee to identify where processes are failing to address health and safety risks and improve wellbeing.
Technology	No impact
Partnerships and Alliances	This allows Trade Unions, elected members and officers to collaborate

8. IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	Not required
Privacy Impact Assessment	Not required
Children's Rights Impact Assessment/Duty of Due Regard	Not Applicable

9. BACKGROUND PAPERS

Employee Assistance Service – Time for Talking Annual review 01 April 2017 – 31 March 2018.

10. APPENDICES (if applicable)

There are no appendices.

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ABERDEEN CITY COUNCIL

COMMITTEE	Staff Governance Committee
DATE	4 May 2018
REPORT TITLE	Appeals Sub Committee Procedure
REPORT NUMBER	GOV/18/006
DIRECTOR	Fraser Bell
CHIEF OFFICER	Fraser Bell
REPORT AUTHOR	Elaine Falconer
TERMS OF REFERENCE	Remit of Committee – 7

1. PURPOSE OF REPORT

- 1.1 The purpose of this Report is to agree a procedure for the operation of the Appeals Sub Committee in respect of appeals by staff against dismissal or final written warning where the right of appeal exists and to determine disputes notified by Trade Unions in accordance with the Council's disputes resolution procedures.

2. RECOMMENDATIONS

That the Committee:-

- 2.1 Approves the Appeals Sub Committee procedure appended to this Report as Appendix 1.
- 2.2 Agree that all appeals to the Appeals Sub Committee intimated after 4 May 2018 will be processed in accordance with this Appeals Sub Committee procedure.
- 2.3 Instruct the interim Chief Officer – People and Organisation to notify management and the Trade Unions of the procedure.

3. BACKGROUND

- 3.1 As part of the Governance Review process, the Appeals Committee procedure, approved by the Appeals Committee on 27 August 2014 and revised by that Committee with respect to Member training on 24 September 2014, has been reviewed to meet the requirements of the Appeals Sub Committee.

- 3.2 The Appeals Sub Committee procedure appended to this Report at Appendix 1 is designed to streamline the current process by removing the need for completion of various forms and documents, with a view to ensuring appeals are dealt with as speedily as possible whilst also providing a clear structure around procedural and administrative requirements.
- 3.3 The main changes to the procedure are the removal of the need for a Form 1 and Form 2 so that an appeal will commence on submission of a letter by the Appellant to the Committee Clerk to the Appeals Sub Committee and Management's case will normally comprise an Investigation Report and Outcome letter. In order to simplify the procedure, the requirement for a joint statement of agreed facts and agreed list of joint documents has also been removed. The parties are merely required to submit to the Sub Committee Clerk a list of witnesses and one copy of any document which they wish the Committee to consider. The Sub Committee Clerk will ensure there is no duplication in the papers to be circulated to the Sub Committee.
- 3.4 There is no provision in the new procedure for a preliminary hearing to take place. It is envisaged that any preliminary points can be dealt with at the start of the substantive hearing. In particular there is no provision for a preliminary hearing to determine whether the appeal should take the form of a review or a re-hearing. This is in light of recent case law which provides that ultimately what is relevant is the overall fairness of the procedure, in particular the 'thoroughness and the open-mindedness of the decision-maker' and not just whether an appeal has taken the form of a rehearing rather than a review as had been the earlier received wisdom. The informal mediation process prior to the Appeal hearing has been retained.
- 3.5 It is recognised that an Appellant can feel intimidated appearing before a Council Committee in difficult personal circumstances. In terms of the new procedure, the Appeals Sub Committee will comprise at most 5 members drawn from the pool of membership of the Staff Governance Committee and the quorum shall be 3 members. All members in the pool of the Appeals Sub Committee shall be required to undertake training prior to hearing an appeal and to undertake refresher training annually. This is to ensure that all members participating in Appeal Sub Committee hearings will have received adequate, up-to-date training to support them in fulfilling their role on the Sub Committee.
- 3.6 In developing the new procedure regard has been had firstly to the principles contained in the Advisory, Conciliation and Arbitration Service (ACAS) Code of Practice on Disciplinary and Grievance procedures and associated Guidance. Secondly, consideration has been given to concerns expressed by Members and others as to the over-complication and over-formality of the appeal hearing and perceived inequality of arms between the Appellant and Management who have always been represented by Legal Officers. Under the new procedure, in individual employee appeals, Management may be accompanied by a Human Resources Adviser whilst an Appellant may be accompanied by a Trade Union Official or another Council employee. Either side may seek an adjustment of the process on a case by case basis to enable all parties to participate as fully as possible in the process.

- 3.7. The procedure for considering Trade Union disputes remains similar to the existing process but is now contained in the one document. Informal consultation has taken place with the recognised Trade Unions and has informed the content of the procedure.
- 3.8. It is envisaged that the new procedure will improve the experience of all Members and Staff involved in Appeal hearings.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from the recommendations of this report.

5. LEGAL IMPLICATIONS

- 5.1 There are no direct legal implications arising from the recommendations of this Report.

6. MANAGEMENT OF RISK

	Risk	Low (L), Medium (M), High (H)	Mitigation
Financial	None	N/A	N/A
Legal	None	N/A	N/A
Employee	The opportunity to appeal against a disciplinary decision is essential to natural justice and a fair procedure essential to a fair dismissal.	Low	The recommendation in this report should help to ensure that this risk is controlled.
Customer	None	N/A	N/A
Environment	None	N/A	N/A
Technology	None	N/A	N/A
Reputational	None	N/A	N/A

7. OUTCOMES

Design Principles of Target Operating Model	
	Impact of Report
Customer Service Design	N/A
Organisational Design	N/A
Governance	This report links to the 'Governance' design principles of transparency, in making the decision-making process clear; being inclusive, in allowing all stakeholders to be heard; and being flexible, in not incurring any disadvantage to stakeholders because of delays.
Workforce	This Report also links to the 'Workforce' design principle in that any individual or collective employment issue raised, is fairly and properly considered.
Process Design	The Appeal Sub Committee procedure is designed to make the process fit for the needs of the Council's employees.
Technology	N/A
Partnerships and Alliances	N/A

8. IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	No action required.
Privacy Impact Assessment	Not required
Children's Rights Impact Assessment/Duty of Due Regard	Not required

9. BACKGROUND PAPERS

ACAS Code of Practice on Disciplinary and Grievance Procedures

10. APPENDICES (if applicable)

Appendix 1 – Appeals Sub Committee - Procedure

11. REPORT AUTHOR CONTACT DETAILS

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Appendix 1

Appeals Sub Committee – Procedure

1. Introduction

- 1.1 The Council will operate an Appeals Sub Committee to hear appeals made in accordance with the Council's Human Resources Policies and Procedures. The Sub Committee will determine individual appeals by employees and industrial dispute(s) raised by a recognised Trade Union of the Council, in accordance with the Council's Dispute Resolution Procedure.

2. Composition and Training of Appeals Sub Committee

- 2.1 The Appeals Sub Committee will comprise 5 members drawn from the pool of membership of the Staff Governance Committee.
- 2.2 The quorum shall be 3 members.
- 2.3 The Clerk to the Sub Committee will select the five elected members from the pool having regard to availability and will seek to secure one Member per Political Group.
- 2.4 The Convenor of the Appeals Sub Committee will be the Convenor of the Staff Governance Committee or, if unavailable, appointed at the start of the hearing for the purposes of the individual appeal.
- 2.5 All members in the pool of the Appeals Sub Committee shall be required to undertake training prior to hearing an appeal and to undertake refresher training annually.

PART A – Individual Appeals

3. Pre-hearing procedure

- 3.1 An appeal shall be lodged with the Committee Clerk to the Appeals Sub Committee within 10 working days of receipt of the decision being appealed against. Unless exceptional circumstances exist, any appeal submitted outwith this timescale will not be processed. The Convenor will determine whether any exceptional circumstances exist.
- 3.2 Within 5 working days of receipt of the appeal, the Sub Committee Clerk shall notify the relevant manager of the appeal and both parties of the date for the hearing.
- 3.3 The Sub Committee Clerk will also notify the Chief Officer- People and Organisation who will appoint an HR officer with no previous involvement in the case to facilitate informal mediation. Nothing said by either party in the course of informal mediation shall be referred to or discussed at the appeal hearing if mediation is unsuccessful. Mediation will not affect the timetable for the hearing.
- 3.4 Not less than 10 working days before the Appeal hearing, the parties shall submit to the Sub Committee Clerk a list of witnesses and one copy of any document which they wish the Committee to consider.

3.5 If either party considers that the process should be adjusted in any way, for example, to enable a disabled individual to participate fully in the hearing, they should submit a request for an adjustment to the Sub Committee Clerk no later than 10 days before the hearing. The Convenor will determine whether the request should be granted and the Sub Committee Clerk will issue that decision to all parties prior to the date of the hearing

4. Appeal Hearing

4.1 An appeal hearing will be heard within 12 weeks of a letter of appeal being submitted by the Appellant, however, this may be varied by mutual agreement. Where parties cannot agree, the Convenor will determine whether the hearing is postponed.

4.2 Attendees

4.2.1 The Appellant may be accompanied by a trade union official or another Council employee.

4.2.2 The Management Officer who is presenting the case, may be accompanied by a Human Resources officer.

4.2.3 Legal and Human Resources officers will be present to provide advice to the Committee as required.

4.3 Role of Sub Committee

4.3.1 The role of the Appeals Sub Committee is to review the fairness of decisions of Officers of the Council. It will not re-hear the submissions with a view to making a fresh decision. The Appeals Sub-Committee will only decide whether the Officer's decision was fair and reasonable in the circumstances, and, if not, what decision is appropriate. The range of decisions available to the Appeals Sub Committee are detailed in paragraph 5.7.2.

4.3.2 Points for consideration by the Appeals Sub Committee can include the following:-

- a) Appropriateness of the penalty in the circumstances, including due regard to the Council's policies and procedures;
- b) Extenuating circumstances;
- c) Procedural matters;
- d) Any new evidence which may have a bearing on the original decision that has come to light since the final management hearing;
- e) The precedent that an individual decision might make for other cases;
- f) Compliance with legislative requirements.

5.1 Order of Hearing

5.2 Preliminary points

5.2.1 Management Officer invited by the Convenor to raise any preliminary matters for consideration by the Appeals Sub Committee. Appellant provided opportunity to respond to any matters raised.

- 5.2.2 Appellant invited by the Convener to raise any preliminary matters for consideration by the Appeals Sub Committee. Management Officer provided opportunity to respond to any matters raised.
- 5.2.3 Both parties may be asked to withdraw for the Sub Committee to deliberate on preliminary matters in private.
- 5.2.4 Both parties recalled and advised of outcome of Appeals Sub Committee deliberations on preliminary matters.

5.3 Management presents case

- 5.3.1 The Management Officer will put forward his/her facts and considerations, including calling witnesses, that resulted in the decision to dismiss/issue a final written warning or other decision in the presence of the Appellant and his/her companion.
- 5.3.2 The Appellant will have the opportunity to ask questions of the Management Officer and witnesses.
- 5.3.3 The members of the Appeals Sub Committee will then have the opportunity to ask questions of the Management Officer and witnesses.
- 5.3.4 Witnesses may normally only be entitled to be present when giving evidence and shall be capable of recall for further clarification.

5.4 Appellant presents case

- 5.4.1 The Appellant, will put his/her case, including calling witnesses, in the presence of the Management Officer.
- 5.4.2 The Management Officer will have the opportunity to ask questions of the Appellant and witnesses.
- 5.4.3 The members of the Appeals Sub Committee will then have the opportunity to ask questions of the Appellant and witnesses.
- 5.44 Witnesses may normally only be entitled to be present when giving evidence and shall be capable of recall for further clarification.

5.5 HR/Legal Clarification

- 5.5.1 The HR and Legal Advisers to the Sub-Committee may in their role as advisers put points of clarity to the Management Officer or the Appellant and highlight relevant points of procedure or provide guidance throughout the appeal hearing.

5.6 Summing Up

- 5.6.1 The Management Officer will have the opportunity, if s/he wishes, to sum up her/his case.

- 5.6.2 The Appellant will have the opportunity, if s/he wishes, to sum up her/his case.
- 5.6.3 The Management Officer and the Appellant and her/his companion, will then leave the appeal hearing.

5.7 Conclusion/Deliberations

- 5.7.1 The Appeals Sub Committee with the support of the advisers to the Sub Committee will then deliberate in private, only recalling the parties if necessary to obtain clarification or further information. If this is the case, both parties shall be present and allowed to comment on the point of clarification or further information.
- 5.7.2 The Appeals Sub Committee is authorised to revoke, confirm or to vary the decision being appealed against.

5.8. Decision

Once the Sub Committee has reached its decision, it will normally recall the parties and issue its decision in the presence of the parties. Where the decision has been unanimous then this will be declared by the Convener. Where there has been a division on the decision, the Committee will replicate the vote (the original decision is a binding decision), which will be undertaken by roll-call. The decision of the Sub Committee will be confirmed in writing to both parties within 5 working days.

PART B – Trade Unions

6. Formal Dispute Hearing

- 6.1 A dispute hearing will be heard as soon as is practicably possible after the submission of Form 1 to the Sub Committee Clerk by a recognised Trade Union of the Council.
- 6.2 Within 5 working days of receipt of Form 1, the Sub Committee Clerk shall notify the Director and relevant Chief Officer of the appeal. Form 2 will be completed by the Corporate Director/Chief Officer and submitted to the Sub Committee Clerk within 10 working days. Within 5 working days of receipt of Form 2, the Sub Committee Clerk will intimate Form 2 to the Union representative and advise both parties of the date for the hearing.
- 6.3 The role of the Appeals Sub Committee is to review the remedy sought by the Trade Union(s). The Sub Committee will only decide whether the decision(s) taken by Management that gave rise to the dispute were reasonable in the circumstances and, if not, what decision is appropriate. The range of decisions available to the Appeals Sub Committee is detailed in paragraph 6.6.

6.4 Attendees

- 6.4.1 Those entitled (but not required) to be present at the Hearing shall be
- representatives of the employees concerned and the Union representatives (a maximum of four);
 - representatives of management and management's legal representative (a maximum of four, including the Chief Officer).

6.4.2 Legal and Human Resources officers will be present to provide advice to the Committee as required.

6.5 Order of hearing

The Hearing shall take the following format:

6.5.1 Either side may raise any preliminary points, and the Sub Committee's decision thereon will be final.

6.5.2 The Union representative (normally one only) shall be permitted to address the Sub Committee on the substance of the appeal. The Convenor may exercise his/her discretion to allow more than one representative to address the Committee.

6.5.3 Members of the Sub Committee will be allowed to ask questions of the Union representative.

6.5.4 The Sub Committee's Advisers will be allowed to ask questions of the Union representative for the purposes of clarification only.

6.5.5 The Management side representative (normally one only) shall be permitted to address the Sub Committee on the substance of the appeal. The Convenor may exercise his/her discretion to allow more than one representative to address the Committee.

6.5.6 Members of the Sub Committee will be allowed to ask questions of the Management representative.

6.5.7 The Sub Committee's Advisers will be allowed to ask questions of the Management representative for the purposes of clarification only.

6.5.8 Parties will withdraw to enable the Sub Committee to deliberate in private, but the Sub Committee may require any party to answer further questions (in which case both parties will be present when the questions are asked and answered, and the other party, to whom the questions were not addressed, will be allowed the opportunity to comment if necessary).

6.6 Conclusions/Deliberations

6.6.1 The Sub Committee is authorised to

- Uphold the Dispute in full
 - ❖ This is to agree with the position of the Trades Union(s) bringing the dispute and to instruct management/officers to deliver the remedy requested to resolve the dispute.
- Uphold the Dispute in part
 - ❖ This is to agree partially with the position of the Trade Union(s). In this outcome the Appeals Sub-Committee has the authority to determine what, if any, part of the remedy requested should be applied to resolve the dispute.
- the Dispute is NOT upheld

- ❖ In a situation where the position of the Trade Union(s) is NOT upheld, the position of management is confirmed. This does not preclude further discussions taking place between Management and the Trade Union(s) regarding ways to resolve any ongoing industrial dispute.

6.7 Decision

- 6.7.1 Once the Sub Committee has reached its decision, it will normally recall the parties and issue its decision in the presence of the parties. Where the decision has been unanimous then this will be declared by the Convener. Where there has been a division on the decision, the Sub Committee will replicate the vote (the original decision is a binding decision), which will be undertaken by roll-call. The decision of the Sub Committee will be confirmed in writing to both parties within 5 working days.

(May 2018)