

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Staff Governance
<b>DATE</b>	28 September 2021
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Managing Grievances Policy
<b>REPORT NUMBER</b>	RES/21/182
<b>DIRECTOR</b>	Steven Whyte – Director of Resources
<b>CHIEF OFFICER</b>	Isla Newcombe – Chief Officer – People and Organisational Development
<b>REPORT AUTHOR</b>	Kirsten Foley – Employee Relations and Wellbeing Manager
<b>TERMS OF REFERENCE</b>	2.5

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### 1. PURPOSE OF REPORT

- 1.1 To seek approval of the revised Managing Grievances policy

### 2. RECOMMENDATIONS

That the Committee: -

- 2.1 approves the revised Managing Grievances Policy, attached as Appendix 1 to this report;
- 2.2 agrees that implementation of the revised policy will be delayed until such time as the required training and communication has been undertaken on this policy and on the Managing Discipline and Dignity and Respect at Work policies;
- 2.3 notes the appended procedure/guidance document which supports the application of the policy; and
- 2.4 notes that a generic investigations procedure has been developed to cover all three policies mentioned above (which is appended to the committee report on the Dignity and Respect at Work policy).

### 3. BACKGROUND

- 3.1 As an employer, the Council seeks to promote and embed a positive workplace culture in which every member of staff feels valued, is empowered to meet their full potential and in which all individual circumstances and characteristics are respected and supported.
- 3.2 This culture is embedded in our Guiding Principles, Code of Conduct and Job Profiles of all staff, and they should be supported to have a positive experience in the workplace.
- 3.3 Managers and employees alike are encouraged and supported to build good day to day communication, which is honest, constructive and based on a culture of mutual respect. Such communication will allow any concerns to be raised

quickly and effectively and addressed together as a matter of course. There may be occasions, however, when a more structured approach is required. In such cases it will be dealt with at the earliest opportunity and wherever possible this will be through the provision of informal support.

- 3.4 It is recognised that on occasion, an employee may have a concern, problem or complaint relating to work, working conditions or relationships on an individual or collective basis which they wish to raise more formally; in such circumstances it is essential that a policy and procedure are in place through which they can be encouraged and supported, as appropriate, to raise a grievance and for this to be heard.
- 3.5 The Managing Grievances policy and accompanying procedure provides a framework within which employees can raise such matters in a safe and confidential manner without fear of censure, with managers supported to make a determination regarding the required actions and recommendations to address the concern.

#### **4. Aims of the Review**

- 4.1 The review of the Managing Grievances Policy is part of a wider review of policies that sit at the heart of employee relations processes within the Council, namely Managing Discipline, Managing Grievances and Managing Bullying and Harassment at Work.
- 4.2 The key aim of this review is to promote a workplace culture based on mutual respect, in which the voices of all employees, whatever their level of responsibility within the Council, are valued and everyone has the opportunity to raise any concerns they may have easily and informally, knowing that they can be confident that their concerns will be considered seriously and addressed appropriately. Accessible, supportive policies empower employees and managers to meet the expectations set out in the Guiding Principles, Code of Conduct and job profiles.

Moreover, by fostering a workplace culture in which relationships are based on mutual respect, the likelihood of issues being escalated through formal channels is minimised, thus reducing levels of anxiety on individuals.

- 4.3 Following feedback from an initial staff survey and focus groups (including employees, trade unions and managers), a number of key areas of improvement were identified. In relation to the Managing Grievances policy, these key improvements centred around:
  - increasing the use of informal processes wherever appropriate,
  - achieving early resolution,
  - the need for an investigation process, and
  - highlighting the support available to employees involved with this policy both during the application of the policy and in supporting relationships once the process has concluded.

The review aimed to address these issues and ensure that the policy continues to comply with the requirements of the ACAS Code of Practice.

- 4.4 An additional key aim of the review was to ensure that a collaborative approach was taken throughout, seeking, and addressing feedback from all stakeholders including unions, employees, and managers.

## **5 Approach**

- 5.1 A policy review group was set up in People and Organisational Development to progress the work on the revised policy, with the approach being to balance feedback from various stakeholders, working in a collaborative manner.
- 5.2 An employee survey was run to gather views on the operation of the current policy and on any proposed changes. Benchmarking was undertaken with other organisations to compare the content of their policies with the Council's.
- 5.3 Focus groups were also organised with managers, employees, and trade unions to obtain views on the operation of the current policy and what changes might be required to improve it.
- 5.4 A check was also made in relation to any legal issues to ensure that the revised policy was legislatively compliant. The ACAS Code of practice on grievance procedures and the accompanying guide on grievances at work were also referred to ensure that the policy continued to align with these.
- 5.5 Following the research phase, the information gathered was collated and evaluated.
- 5.6 A wide range of further engagement on the draft documents was undertaken including:
- 3 additional consultation events with the trade unions
  - officer attendance at all 13 Service Management Team meetings to gather feedback on the draft documents
  - further engagement with the teams within Legal and People and Organisational Development
  - feedback gathered from CMT.

## **6 Emerging Themes**

- 6.1 In addition to the key issues identified and set out in paragraph 4.3 above, other suggestions put forward were:
- a. reviewing the level of management involved in the various stages of the process in order to widen the pool of managers available to undertake the various stages and thus ensure that a larger number of employees are supported to gain the transferable skills that are developed through undertaking such tasks whilst sharing the workload among a wider group of staff;
  - b. considering a generic investigations process to avoid situations that have arisen in the past whereby a complicated case can result in a

number of investigations being undertaken under different policies at the same time;

- c. considering what role mediation and other informal measures could play in the process, thus avoiding the need for formal processes to be invoked;
- d. making more use of aids such as flow charts, which visual learners in particular find more user friendly when navigating policy and procedural documents.

6.2 If approval is given by Committee, the intention would be to delay implementation until such time as the required training and communication has been undertaken on this policy and on the Managing Discipline and Dignity and Respect at Work policies and implement all three policies together.

6.3 The benefits of having a single implementation plan are that it will allow the application of the generic investigations process to all three policies and a single communication plan and training plan can be put in place. Appropriate communication and training will be undertaken during the period October – December 2021 to ensure that employees and managers are aware of the content of the policies and trained in the skillset required to apply them appropriately.

6.4 The policy documents and guidance will also be placed on the People Anytime portal on the Intranet and cascaded throughout services via ECMT and the Leadership Forum.

6.5 A separate set of guidance notes will accompany the Managing Grievances policy giving fuller details on its application, including the procedure. This document is attached for noting.

## 7. Changes to the policy

7.1 From the employee survey, the focus groups and engagement sessions a number of issues were identified.

The table below details the issues raised, the change made to address each issue, and whether the change is part of the policy or the accompanying guidance.

Issue raised	Change proposed	Policy or Guidance
Early intervention in relation to grievances and informal resolution where possible	Emphasis placed on early intervention and on the use of informal measures to achieve grievance resolution, where appropriate e.g. 1-2-1 facilitated meetings, mediation, empathy mapping, use of reflective statement.	Policy and Guidance

Process for formal investigation of a grievance	To provide a process to undertake a formal investigation of a grievance.	Procedure
Status quo ante	To include the status quo provision relating to grievances. This is detailed in the SNCT handbook for teaching and SNCT employees; inclusion in the revised policy extends the provision to all staff groups across the Council. Status quo ante means the situation that existed previously prior to a given event.	Policy and Guidance
Collective grievances – two of more employees who share a common grievance arising from the same circumstances. This addition was requested by the trade unions.	To make provision for both individual and collective grievances, with the same stages applying for each.	Policy and Guidance
Counter grievances.	To indicate what should occur where a counter grievance is lodged by another employee.	Policy
Grievances in relation to a leaver	Clarity on what should occur where a grievance case has not been concluded prior to an employee leaving the Council.	Policy
Manager/TU survey - would like easy step by step guidance - more flowcharts with links would be welcomed as well as diagrams and less text.	A flow chart has been added giving an overall summary of the procedure. Visuals have also been included showing the key steps in each part of the process.	Policy and Guidance

Clarity around timescales	Timescales have been clearly indicated in relation to each stage of the procedure.	Guidance
More templates / 'How To' Guides / Checklist	Introduced a written statement of grievance template for employees to use to assist with consistency of format and understanding of issue and resolution being sought. Also introduced a grievance discussion note template to ensure that full records regarding grievances are retained. Checklists have been included on how to conduct a grievance hearing and a grievance appeal hearing.	Guidance
Need to recognise the impact of these processes on all involved in terms of wellbeing	A new section has been added on employee wellbeing, emphasising that the health and wellbeing of all employees involved in the process should be a priority at each stage of the procedure, and signposting to where support can be accessed.	Policy and Guidance

- 7.2 The procedural elements in the current policy have been removed from the policy document and have been put into the guidance document, so that the policy is separate and standalone in the new corporate template format. A procedural summary has been retained as an appendix to the policy.
- 7.3 Sections on manager and employee responsibilities have been added to the documents, detailing what is expected of each, as well as a section on core principles.
- 7.4 It has also been made clear that for concerns where specific provision is made within another policy or procedure to address them, that these will be dealt with under that particular policy or procedure.

7.5 The Council's Guiding Principles have been identified as setting the expectations in relation to the cultural norm of the organisation, thus providing a point of reference for employees when undertaking self-reflection on their behaviours.

7.6 Reference has been made in the policy to the ACAS Code of practice on grievance procedures.

7.7 Some terminology updating was required to the policy to take account of the changes in the organisation's structure.

## 8. FINANCIAL IMPLICATIONS

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

## 9. LEGAL IMPLICATIONS

9.1 By law employers must set out a grievance procedure and share it in writing with all employees. It must include who the employee should contact about a grievance and how to contact that person. The Managing Grievances Policy, Procedure and Guidance will fulfil these requirements.

9.2 Section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992 confers powers to Employment Tribunals to increase or decrease compensation awarded by up to 25% if they find that a party has unreasonably failed to follow relevant provisions of the ACAS code of practice on grievance procedures. By aligning this Policy and associated procedure and guidance with the ACAS code mitigates the risk of increased compensation.

## 10. MANAGEMENT OF RISK

Category	Risk	Low (L) Medium (M) High (H)	Mitigation
<b>Strategic Risk</b>	N/A	N/A	N/A
<b>Compliance</b>	The revised policy has been examined to ensure that it is legally compliant and aligns with the ACAS Code of practice on grievance procedures, which reflects good employment practice and is often referred to in employment tribunal cases. If the revised policy was	M	The approval and implementation of the revised policy and accompanying procedure and guidance should help to mitigate this risk as they have been checked for legal compliance and alignment to the ACAS Code.

	not applied, then there may be a risk that the most up-to-date good practice in the ACAS Code is not reflected and this could be detrimental to the Council in an employment tribunal situation.		
<b>Operational</b>	The changes made to the policy should result in its more efficient application, which will be a benefit to the operation of the Council, assisting with employee relations, and helping meet customer and service requirements. If the revised policy was not applied, then these benefits may not accrue.	M	The approval and implementation of the revised policy and accompanying procedure and guidance should help to mitigate this risk.
<b>Financial</b>	If the revised policy, which reflects up-to-date good practice was not applied, there is a risk that grievances are not dealt with as efficiently as possible, meaning that employment tribunal or other claims against the Council may be more likely to occur, which can be costly.	M	The approval and implementation of the revised policy and accompanying procedure and guidance should help to mitigate this risk.
<b>Reputational</b>	If the revised policy, which reflects up-to-date good practice, was not applied, there is a risk that grievances are not dealt with as efficiently as possible,	M	The approval and implementation of the revised policy and accompanying procedure and guidance should help to mitigate this risk.

	meaning that employment tribunal or other claims against the Council may be more likely to occur, which can lead to adverse publicity for the Council and also affecting the Council's reputation as a good employer.		
<b>Environment / Climate</b>	N/A	N/A	N/A

## 11. OUTCOMES

<u><a href="#">COUNCIL DELIVERY PLAN</a></u>	
<b>Impact of Report</b>	
<b>Aberdeen City Local Outcome Improvement Plan</b>	
Prosperous Economy Stretch Outcomes	The Prosperous Economy theme in the LOIP makes mention of the importance of retaining talent and expertise in City organisations. This would include the Council. Having this revised policy on managing grievances in place should assist with employee relations in the organisation and with the retention of trained and valued employees. This would mean that they can continue in post and contribute to delivering effective services to citizens and businesses, indirectly contributing to the City's economy.
Prosperous People Stretch Outcomes	The Prosperous People theme in the LOIP indicates that all people in the City are entitled to feel safe, protected from harm and supported where necessary, which would include employees of the Council. Having this revised policy in place should assist with employee relations in the organisation, ensuring that any grievances are efficiently addressed and that employees are supported when undergoing the procedure. This should indirectly assist with employee mental health and wellbeing allowing them to function both in employment and at home.

## 12. IMPACT ASSESSMENTS

Assessment	Outcome
Impact Assessment	Full impact assessment required – an Integrated Impact Assessment has been compiled in respect of the revised policy and no negative impacts have been identified.
Data Protection Impact Assessment	Not required.

## 13. BACKGROUND PAPERS

ACAS Code of practice on grievance procedures and the Managing Grievances Procedure and Guidance are appended to provide further clarity and for noting.

## 14. APPENDICES

Appendix 1 - Managing Grievances policy

Appendix 2 - Managing Grievances Procedure and Guidance

Appendix 3 - [ACAS Code of Practice on Grievance Procedures](#)

## 15. REPORT AUTHOR CONTACT DETAILS

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