

Agenda Item No:

Report No:

Report Title: Disciplinary Procedure

Report To: Employment Committee Date: 8 June 2009

Ward(s) Affected: All

Report By: Head of Business Services

Contact Officer(s): John Clark, Head of Business Services

Purpose of Report:

To make some changes to the Council's disciplinary procedure.

Officers Recommendation(s):

- 1 That the Head of Business Services is authorised to make changes to the Council's discipline procedure to:
 - Remove references to redundancy dismissals or the non renewal of fixed term contracts on their expiry
 - Make clear the use of investigations and investigatory meetings
- 2 That the whole procedure is reviewed and brought back to the next meeting for adoption.

Information

- 1 In April the ACAS code of practice on discipline and grievance changed as the requirement to follow statutory dispute resolution procedures was removed by the Employment Act 2008. The code of practice is a statutory one and while a failure to follow the code does not, in itself, make a person or organisation liable to proceedings, unreasonable failure to follow the code can be taken into account at any employment tribunal. In practice that means that our procedures need to follow those set out in the code of practice.
- 2 Our existing procedures comply with the main points in the code of practice, but there guidance from ACAS that would be useful to add to help everyone understand them more fully. There are also several related policies and procedures that contain references to discipline and grievance that may need updating. It is my intention to make those changes and seek your agreement to them at the next meeting.
- 3 However, there are two matters that would be helpful to sort out now for the sake of clarity. Firstly, the new code of practice makes it clear that it does not apply to redundancy dismissals or the non renewal of fixed term contracts on their expiry. That has in the past caused some difficulty as there are other procedures that must be followed in those cases. Removal of these potential reasons to invoke our procedure will make dealing with such cases easier.

- 4** The second issue relates to investigations carried out before a discipline hearing is held. On occasions the facts of the case or the circumstances surrounding it do not always justify holding an investigatory meeting with the member of staff concerned. This has on occasion led to difficulties when the member of staff has complained that such a meeting was not held.
- 5** The new code and the accompanying guidance makes it clear that although an investigation, usually with an investigatory meeting, will be required in most cases it is not always required. Previous statutory guidance did not make that clear and so our existing procedure needs to be amended.

Financial Appraisal

- 6** There are no new financial implications arising from this report.