

Personnel Committee

Revised Joint Staff Disciplinary and Dismissal Policy

11 September 2013

Report of the Head of Transformation

PURPOSE OF REPORT

To consider the Council policy in relation to the revised Joint Staff Disciplinary and Dismissal Policy, specifically in relation to the Joint Management Team.

This report is public

Recommendations

The Committee is recommended to:

- (1) Consider the views and recommendations of Council and Employee Joint Committee
- (2) Approve the revised Joint Staff Disciplinary and Dismissal Policy and delegate authority to the Head of Law and Governance to make any consequential changes to the Constitution.

Executive Summary

1. Introduction

- 1.1 The revised policy is attached as **Appendix 1**.
- 1.2 The Joint Staff Disciplinary and Dismissal Policy is used to provide guidance for managers and employees on how issues of misconduct or negligence, rather than lack of capability, will be dealt with. Capability is dealt with through alternative policies at both Councils. The policy applies to all staff at both Councils with the exception of the Statutory Officers roles of Head of Paid Service (Chief Executive), Monitoring Officer (Head of Law and Governance) and Section 151 Officer (Director of Resources), where currently a separate statutory process applies although the Government has announced its intention to remove this at a future date.

2. Proposals For Change

- 2.1 The original version of this joint policy was approved in March 2012. However since then it has been realised that it requires amendment to reflect accurately its application to members of JMT who are employed by both Councils
- 2.2 Also at the time of approval of the original joint policy, the members of JMT were all employed to undertake work for both Councils. Since then a new Cherwell only post of Director for Bicester has been created. The current policy does not at present cover for this eventuality and therefore has been

updated to cater for it and any other single Council JMT posts that might be created in the future.

- 2.3 Joint Personnel Committee is currently stated as the disciplinary body and investigating body for misconduct and negligence for all members of JMT (except the statutory roles which are covered by a different policy), and the Joint Appeals Committee would deal with any appeals arising from action taken against JMT members.
- 2.4 The updated policy confirms that Personnel Committee (CDC) and Appointments and Personnel Committee (SNC) should be the disciplinary and investigating body for any JMT posts employed solely by a single Council. The same will apply for appeals where the Joint Appeals Committee, Appeals Committee (SNC) or Appeals Committee (CDC) will be selected based on the nature of the employment of the member of JMT.
- 2.5 The proposed policy also delegates responsibility to the Chief Executive to suspend a Director or Head of Service (except for those in statutory roles) quickly, in agreement with the relevant chairman from the appropriate personnel committee, should this ever be required. If a speedy suspension is not required this will remain the responsibility of the appropriate personnel committee.
- 2.6 **Delegated Authority to Dismiss – Non JMT Appointments**
Amendments are also proposed to allow Heads of Service greater delegations in relation to disciplinary action for all non JMT staff. This includes responsibility for determining whether disciplinary action is taken following review of the investigation report, dealing with fraud issues, and being able to make a decision to dismiss an employee. At present these responsibilities have to be completed either by the Head of Transformation or another delegated member of HR. Going forward this will mean that decisions around disciplinary action will no longer have to involve the Head of Transformation, and all Heads of Service will be given the same delegated responsibilities, which will provide greater resilience when dealing with these matters. It will also mean one Head of Service can deal with the disciplinary action from start to finish of the process, which should make for a more consistent and speedier process for all involved.
- 2.7 Should these amendments all be agreed, the Terms of Reference for all three personnel committees and appeals committees will be reviewed to ensure they comply with this policy, as well as reviewing the delegated powers to JMT, as detailed in the respective Constitutions of the two Councils.

3. **Conclusion**

- 3.1 The current Joint Staff Disciplinary and Dismissal Policy needs to offer clarity around the process that will be utilised for all staff, and in this instance members of JMT (excluding statutory officers), should disciplinary action and possibly the decision to dismiss an employee be taken. The same can be said for dealing with appeals. Without this clear process, and defined decision making responsibilities, the Councils are at increased risk of challenge and success in the form of employee complaints and possibly employment tribunal claims when dealing with any form of disciplinary action being taken. This new policy, along with any amendments required to the Terms of Reference for Personnel Committee (CDC), Appointments and Personnel Committee (SNC) and Joint Personnel Committee (Both), and Joint Appeals Committee, and the two Appeals Committees (SNC and

CDC), will ensure a robust process is in place with the specified level of decision making to those Officers who may become involved in dealing with, and taking actions concerning staff misconduct and negligence.

The revisions have been subject to consultation with affected staff and Unison at both Councils, the outcome of which is detailed in Section 4; Key Issues For Consideration.

Key Issues for Consideration/Reasons for Decision and Options

- 4.1 The Council has an obligation to ensure its policies and procedures remain up to date in relation to the law and best practice as well as ensuring they meet Council Objectives, and mitigate as best as possible the risk of any complaint.

The following options have been identified. The approach in the proposal is believed to be the best way forward:

- Option One** Approve the recommendation
- Option Two** Reject the recommendation and retain the current policy.

Consultations

Trade Union The Trade Union at each Councils has advised that it has no comments on the amendments being proposed.

JMT Consultation This is currently underway. To date there has been no comments from any of the affected staff, with consultation ending on 21 August 2013. In light of annual leave this consultation period has been extended to enable every Member of JMT to feel confident that they have had the opportunity to respond to the proposed changes and for the Councils to be confident that the process of consultation was meaningful. On this basis a verbal update will be given to the Committee should any further comments be obtained.

Implications

Financial: There are no financial implications arising directly from this report.

Comments checked by Martin Henry, Director of Resources, Tel 0300 003 0102
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Legal: If the policy is approved then this will reduce the likely success of any legal challenge by employees (JMT members) and trade unions in relation to the process for disciplinary action being taken. With the amendments proposed it will ensure that both the policy and the Committees' Terms of Reference work together and are consistent so that there are appropriate delegations and authorities to be able to make decisions and apply the sanctions proposed.

Comments checked by Kevin Lane, Head of Law and Governance, Tel 0300 0030107

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Risk Management:

In adopting the revised policy the Council seeks to further eliminate potential risk to employees, service users and the organisation by ensuring clarity of guidance and consistency of approach at both Councils and by all managers.

Comments checked by Claire Taylor, Corporate Performance Manager, Tel – 0300 0030113
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Wards Affected

All

Document Information

Appendix No	Title
Appendix 1	Joint Staff Disciplinary and Dismissal Policy
Background Papers	
N/A	
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