

Committee: **Council**

Date of Meeting: **21st July 2022**

Report Subject: **Council's Suite of Disciplinary and Capability Policies & Procedures**

Portfolio Holder: **Councillor Stephen Thomas, Leader / Executive Member Corporate Overview and Performance**

Report Submitted by: **Andrea J Prosser, Head of Organisational Development.**

Reporting Pathway								
Directorate Management Team	Corporate Leadership Team	Portfolio Holder / Chair	Governance & Audit Committee	Democratic Services Committee	Scrutiny Committee	Executive Committee	Council	Other (please state)
x	23/06/2022						21/07/2022	

1 Purpose of the Report

- 1.1 The purpose of this report is to seek Council approval for the following proposed policies and procedures:
- Disciplinary Policy & Procedure
 - Capability Policy
 - Disciplinary Procedure for the Chief Executive
 - Disciplinary Procedure for Specific Statutory Officers
 - Disciplinary Procedure for Chief Officers and Deputy Chief Officers

2 Scope and Background

- 2.1 The Organisational Development (OD) Service has reviewed the Council's suite of Disciplinary and Capability Policies & Procedures for all staff, with the exception of school based employees, who under the delegated powers of the Governing Body are subject to separate procedures and have not been included in this review.
- 2.2 The above policies and procedures have been reviewed and/or developed and are attached to this report. For ease of reference, the following table illustrates each policy / procedure, its scope and which officers they apply to:

Policy / Procedure	Covers	Who it applies to
Disciplinary Policy & Procedure	Conduct	Corporate employees*
Capability Policy	Performance	Corporate Employees*
Disciplinary Procedure for the Chief Executive	Conduct and performance	Chief Executive
Disciplinary Procedure for Specific Statutory Officers	Conduct and performance	Monitoring Officer, Section 151 Officer & Head of Democratic Services
Disciplinary Procedure for Chief Officers and Deputy Chief Officers	Conduct and performance	A Chief Officer reports directly to the Chief Executive. A Deputy Chief Officer reports directly to one or more of the statutory or non-statutory chief officers.

* With the exception of those covered by other procedures (as illustrated in the table) and those under delegated powers of a Governing Body.

- 2.3 OD are responsible for the development and review of all of the Council's HR related policies. In line with OD's Policy Schedule, the Disciplinary and Capability Policies (Corporate Staff) were due for review. In addition, following a number of complex disciplinary cases, the Council procured an external consultant, to review a particular disciplinary case and associated processes. The review set out a number of recommendations for the Council in relation to the management of disciplinary processes. These recommendations have been taken on board in the review and development of the policies.
- 2.4 The Disciplinary and Capability Policies for Corporate Staff have undergone a fundamental review, however, there are no significant procedural changes and the policies remain in compliance with the ACAS Codes of Practice, which are relied upon in Employment Tribunals. There is a stronger emphasis on the roles and responsibilities of officers involved in the process and the expectations laid upon them. In addition, a recommendation from the external consultant was to strengthen suspension processes which has been taken on board with the development of a Suspension Protocol which will feature as part of management guidance.
- 2.5 The Disciplinary Policy & Procedure for Corporate Staff is now inclusive of the Appeals Procedure which previously sat separately. Combining the documents allows for ease of reference for employees and reduces the number of policies requiring review.
- 2.6 A Managers Guide to Handling Disciplinary Matters will be finalised upon approval of this report and will be made available to all Managers. The Guide aims to provide further advice and guidance for Managers when dealing with disciplinary matters.
- 2.7 As part of the review, OD is also proposing the introduction of a new suite of procedures for Senior Officers to replace the Disciplinary Procedure for Chief Officers. The procedures developed for the Chief Executive, Specific Statutory Officers and Chief Officers & Deputy Chief Officers have been developed to manage disciplinary and capability matters in line with statutory regulations and the relevant terms and conditions of employment.
- 2.8 In line with the introduction of the new suite of policies and procedures and the recommendations of the external consultant, a pool of Managers will be trained on handling disciplinary matters to ensure appropriate levels of expertise. The training will cover key stages such as:
- Deciding whether to suspend,
 - Investigation,
 - Conducting a fair disciplinary hearing.
 - Conducting a fair disciplinary appeal.

3 Options for recommendation

- 3.1 **Option 1** (preferred option) - That Council approve the suite of Disciplinary and Capability Policies and Procedures for implementation. This will ensure that the policies reflect best practice, statutory requirements and strengthens current practice.

3.2 **Option 2** - That Council does not approve the suite of Disciplinary and Capability Policies and Procedures for implementation.

4 **Evidence of how does this topic supports the achievement of the Corporate Plan / Statutory Responsibilities / Blaenau Gwent Well-being Plan**

4.1 The suite of policies and procedures ensure that we meet our obligations as underpinned by employment law and statutory regulations.

5. **Implications Against Each Option**

5.1 ***Impact on Budget (short and long term impact)***

There are no direct financial implications of approving the new policies.

5.2 ***Risk including Mitigating Actions***

The risk of not implementing the proposed policies would mean that the policies are not reflective of current best practice and the recommendations from the external review. There are no risks associated with implementing the new suite of policies.

5.3 ***Legal***

All policies & procedures have been drafted in conjunction with legal support. The policies and procedures are fully compliant with employment law, statutory regulation and terms and conditions of employment.

5.4 ***Human Resources***

The review and development of the policies and procedures has been led by OD and it is therefore recommended by OD that the new suite of policies and procedures are approved by Council and implemented accordingly alongside the appropriate training to upskill Managers.

6 **Supporting Evidence**

6.1 ***Performance Information and Data***

No supporting performance information but the review and development of the policies and procedures has been supported by an external review of practice and employment law advice.

6.2 ***Expected outcome for the public***

N/A

6.3 ***Involvement (consultation, engagement, participation)***

The recognised Trade Unions; Unison, GMB and Unite, were fully engaged and consulted. At the outset of the process the Unions were invited to provide initial comments on current policy and practice to be taken into account during the review; Unison and GMB provided comments.

Following the development of the Policies, the unions were then invited to engage in a consultation period. Unison and GMB engaged in this process and provided detailed written feedback and participated in several meetings

during which the feedback was reviewed and where appropriate amendments made to the policies.

Other stakeholders who have been engaged in the development of the documents, include legal, audit and safeguarding experts.

6.4 ***Thinking for the Long term (forward planning)***

The implementation of the new suite of policies and procedures would ensure that they become well established and are in line with current best practice. They will be reviewed in line with the OD policy review timetable or if there are any legal or best practice changes that may arise in the meantime.

6.5 ***Preventative focus***

N/A

6.6 ***Collaboration / partnership working***

N/A

6.7 ***Integration (across service areas)***

N/A

6.8 ***Decarbonisation and Reducing Carbon Emissions***

N/A

6.9a ***Socio Economic Duty Impact Assessment (complete an impact assessment to consider how the decision might help to reduce the inequalities of outcome associated with socio-economic disadvantage).***

N/A

6.9b ***Equality Impact Assessment (screening and identifying if full impact assessment is needed)***

Integrated Impact Assessment completed – no adverse impact.

7. **Monitoring Arrangements**

7.1 All policies and procedures are monitored by OD in line with the Policy Schedule. The proposed policies and procedures will be reviewed in line with the OD policy review timetable or if there are any legal or best practice changes that may arise in the meantime.

Background Documents /Electronic Links

Appendix 1

- *Disciplinary Policy & Procedure*
- *Capability Policy*
- *Disciplinary Procedure for Chief Executive*
- *Disciplinary Procedure for Specific Statutory Officers*
- *Disciplinary Procedure for Chief Officers and Deputy Chief Officers*