

East Herts Council Report

Local Joint Panel

Date of Meeting: 5 May 2021

Report by: Head of Human Resources and Organisational Development

Report title: Employment Policies Developed Report x 5 (Capability, Flexible Working Request Scheme, Recruitment and Induction, Organisational Development and Appeals Policy), and Updates to Probation, Managing Absence and Disciplinary for Leadership Team members in line with Capability.

Ward(s) affected: None

Summary

RECOMMENDATIONS FOR LOCAL JOINT PANEL MEMBERS:

- (a) To approve the revised Capability Policy (Appendix 1)**
- (b) To approve the revised Flexible Working Request Scheme (Appendix 2)**
- (c) To approve the revised Recruitment and Induction Policy (Appendix 3)**
- (d) To approve the revised Organisational Development Policy (Appendix 4)**
- (e) To approve the revised and reduced Appeals Policy in line with the changes made to the policies (a) and (b) above (Appendix 5)**
- (f) To approve the additional clauses regarding management of Leadership Team members and ensuring the Chief Exec is available for appeals to:**
 - Probation Policy – Clauses 1.5, 1.6 and 1.7**
 - Absence Management Policy – Clause 2.3**
 - Disciplinary Policy – Clause 1.3**

1.0 Proposal(s)

- 1.1 The proposals are set out in the recommendations above. Four key HR policies have been updated in line with legislation and best practice. Appeals processes have been incorporated back into the Capability and Flexible Working policies as the 'one size fits all' approach we currently have with a generic Appeals Policy does not work well so the appeals processes have been tailored to each individual policy. As such, the Appeals Policy has been updated to remove reference to these policies. The only policy still covered in the Appeals Policy is the Redundancy Policy, once this has been updated, the Appeals Policy will then be deleted.
- 1.2 It also proposed to add clauses to the Probation Policy, the Absence Management Policy and the Disciplinary Policy to outline how members of Leadership Team (LT) (excluding Chief Officers and Statutory Post Holders who are managed in line with constitution and with member involvement) will be managed to ensure that the Chief Executive is available/suitable to hold a final stage appeal in those policies.

2.0 Background

- 2.1 Upon starting at East Herts Council the new Head of HR and OD identified the need to update the full suite of HR policies and in particular, the key formal policies to incorporate further best practice. This work was then delayed in order to establish the East Herts Together (E.H.T) Group who have worked with HR, LT and Unison to develop the policies and serve as a further cross service group to engage with and consult with to ensure the policies are fit for purpose and user friendly.
- 2.2 The East Herts Together also agreed some terms of reference to be used when developing policies which has been followed:

- To take the employee through their career journey
- Should be joined up, not in isolation to each other
- Include good examples and flow charts
- Legally compliant
- Include who to contact for more information

2.3 These policies are the second tranche of HR policies to be reviewed by the team.

2.4 The policies have been updated in line with best practice and legislation.

3.0 Summary of changes to policies

3.1 Managing Performance / Capability

Main Changes

3.1.1 General

- The title of the policy will change to Capability Policy in line with best practice
- More concise wording, making the policy shorter.
- The procedure is less prescriptive to ensure more ability to adapt to circumstances.
- A paragraph has been added to explain the process for managing the performance of members of the Leadership Team as well as Chief Officers and Statutory Post Holders.

3.1.2 Informal Stage

- Paragraph has been added to state that notes taken at the informal stage should be saved on the employee's personnel file.
- Paragraph added that managers will explore whether it is appropriate at this stage to refer the employee to Occupational Health, after seeking agreement from the

employee beforehand.

3.1.3 Formal Stages

- The formal stages of the procedure are now referred to as Stage 1, Stage 2 and Stage 3 meetings (they were previously called First Performance Review Meeting, Second Performance Review Meeting and Performance Capability Meeting)
- Introduction of the right to withhold an incremental increase at the formal stages of the procedure.
- Removal of written warnings label, the employee will be clear what stage they are at and warned that if they do not improve they move to the next stage. If the employee's performance does not improve during the review period they would move to the next stage of the procedure.
- Makes it clear that should there be any further concerns with performance within 12 months (18 months for Stage 3) of the review date the procedure will continue from the beginning of the same stage (the current policy is silent on this).
- The option to consider voluntary redeployment is added at Stages 1 and 2 (currently only mentioned at Stage 3) and it is made clear that pay protection would not normally apply.
- The option to extend the review period as an outcome at Stages 1 and 2 has been added in.
- Stage 3 meetings will be held by a member of the Leadership Team usually they will have also held the stage 2 hearing (was previously a Director at stage 3).
- Removal of set timeframes to confirm outcome of meetings and changed to 'as promptly as possible'.
- The notice required for a Stage 3 meeting has been reduced from 10 working days to 5 working days.
- The Performance Improvement Plan template will be updated so that it is fit for purpose.

3.1.4 Appeal Stage and Review

- The appeals procedure for capability matters is now included within the policy rather than in a separate Appeals Policy.
- The right to appeal can now only be taken against a decision to dismiss or redeploy (in the current policy an employee could appeal against any formal sanction).
- As with all policy revisions we are removing the 3 year review and instead saying reviewed in line with best practice and legislation.

3.1.5 Unison Comments

- Unison have agreed to the changes above, they welcomed the removal of warning labels aligned to conduct matters being removed and replaced by stages. Unison wanted to ensure the policy was developed to ensure that the employee is aware that if the set targets and the required improvement is not sufficiently met during the review period the procedure will continue at the next stage, this was strengthened to ensure the clarity.

3.2 Flexible Working Requests Scheme

3.2.1 Main Changes

- Renamed to make more transparent to all from the title to Flexible Working Request Scheme (was previously called Flexible Working Scheme).
- It has been made clear that the whole process, including any possible appeal against the decision, must be conducted within a maximum period of 3 calendar months in line with statutory requirements.
- An optional reason has been added to the flexible working

request for the employee to state their reason for flexible working request, especially if it's for equality and diversity reasons.

- HR must now attend the meeting with the manager and employee to discuss the request (this will ensure greater consistency and support).
- The manager must get Head of Service approval before confirming back to the employee the decision (again this is to ensure greater consistency).
- The appeals process has been added back in as the Appeals policy is being deleted.
- Guidance for managers has been added as an appendix to improve the process and support managers to follow the policy.
- As with all policy revisions we are removing the 3 year review and instead saying reviewed in line with best practice and legislation.

3.2.2 Unison Comments

- The revisions have been agreed with Unison who in particular welcome HR involvement and Head of Service sign off to ensure decisions are well considered and to ensure greater consistency.

3.3 Recruitment and Induction

3.3.1 Main changes

- The equality section has been strengthened and now states that the council's recruitment pages will include a set of varied staff case studies that demonstrate diversity in our workforce to help attract and welcome applications from a wide range of candidates (6 employees have agreed to do a case study and these will be written and published in due course).
- Safer recruitment practices have been added into the policy

in line with the work agreed with the Safeguarding group – Person Spec criteria for all, DBS checks where applicable, as well as probing at interview, gaps in employment etc.

- Guidance on the recruitment process has been added back into the policy – this was previously guidance on the intranet but was not in the policy.
- The agency worker section has been updated to reflect the Matrix SCM framework now in place for the recruitment of agency workers.
- Information has been added about consultants/IR35 which was previously only guidance on the intranet.
- All jobs are to be advertised internally and externally at the same time as the standard approach to support diversity of applications (wider pool) – the recruitment request form should be used to justify if this is not the approach taken, e.g. internal only advertising re suitable development opportunity for an existing member of staff.
- The option to offer a ringfenced interview for employees where they have been acting up in a post has been added.
- More options are now available to fill posts for 6 months or less, i.e. casual bank, speculative applications.
- The option for internal transfers has been added.
- The policy has been updated to reflect the new part 1/part 2 application form that is now in use.
- It has been added that interview panels should try to show diversity if possible in respect of gender and race and if not, meet the team or similar should be considered to allow this to welcome a diverse range of applicants.
- Increased the time external applicants should wait before assuming they have not been shortlisted from 2 to 3 weeks.
- Added that panels should consider if they have any 'reserve' candidates and that these should be treated differently to other unsuccessful candidates.
- Added that if a new starter starts with their DBS check pending, that a risk assessment takes place before they can start in line with Safer Recruitment practices.
- Added the approval process for appointing above the

bottom of the scale (which has been in practice for some time now).

- Deleted all references to probation as we now have the separate Probation Policy.
- Guidance on asking probing questions at interview for Safer Recruitment added as an appendix to the policy.
- Added secondment guidance as an appendix to the policy. This was previously only guidance on the intranet. This has also been updated to reflect that the council will not normally support full-time external secondments but will support partial secondments where possible. Data from the past 7 years shows that of the full-time external secondments, over one third did not return showing that there is not a great return for the council. 100% of partial secondments to external secondments came back to East Herts at the end of the secondment.
- As with all policy revisions we are removing the 3 year review and instead saying reviewed in line with best practice and legislation.

3.3.2 Unison Comments

- The revisions have been agreed with Unison. Unison asked for an further addition to Person Specification criteria for all posts being to be added regarding equality and diversity as well as the commitment to safeguarding criteria that was added. This has been incorporated into 6.4: *An understanding of and commitment to diversity and equality as it applies to council services and employment.* This will be added to all updated person specifications once the policy is implemented. A number of other areas where strengthened in line with Unison feedback e.g. recording decisions on the recruitment request form.

3.4 Organisational Development

3.4.1 Main changes

- Title amended to organisational and development policy.
- The range of development opportunities available to all has been revised.
- The annual PDR has been added to individual responsibilities.
- The introduction of a three tier funding programme for professional sponsorship 100%, 75% and 50% to allow more support and flexibility re funding.
- Clarification of additional funding required on top of the professional qualification fee; so the full cost is explicit with no hidden costs.
- 20% off the job training has been clarified for apprentices or those staff that are Levy funded.
- Reimbursement of out of pocket travel expenses from core development budgets.
- Added detail of the Revenues and Benefits shared service training budget.
- New application form for Training and Development funding as local training pots have been centralised to ensure a greater spread across staff and services.

3.4.2 Unison Comments

- The revisions have been agreed with Unison. Unison were especially supportive of more flexible funding for professional development (50%, 75% and 100%). Unison also requested that a mandatory training section was added in line with this practice, which has been added as section 2.0. Unison asked for professional membership funding to be added in line with supporting staff to achieve professional qualifications or expecting staff to hold these memberships. This was considered by the Leadership Team on 12th April

2021 but was not agreed due to the agreed pay policy statement and need to make savings from reduced income. The Pay Policy Statement for 21-22 agreed by HR Committee in February and then full Council in March 2021 states that the council will only fund the cost of a legal practicing certificate for employees where it is a requirement of their employment (see clause 6.3). Whilst the Leadership Team would like to support this, the costs would be significant and were removed some years ago in line with austerity cuts, staff are encouraged to claim tax relief on professional membership (the intranet will be updated to remind staff how to do this). A number of other areas where strengthened in line with Unison feedback to ensure clarity e.g. repayment of professional development where the employee leaves before it has expired.

3.5 Appeals Policy

The Appeals Policy has been updated to remove the appeals process for the Capability Policy and Flexible Working Scheme as these have been incorporated back into these policies. The 'one size fits all' approach we currently have with a generic Appeals Policy does not work well as generic framework across all areas so the appeals processes have been tailored to each individual policy.

3.6 Additions to other policies re LT Members

3.6.1 Probation Policy:

New Clauses to be added: 1.5, 1.6 and 1.7 in the Purpose and Scope section 1.0:

1.5 This policy applies to all employees except for Chief Officer level or any other nominated statutory posts, for these postholders the principals and structure will apply but it should be used in

conjunction with procedures set out in the Constitution and will involve Members as appropriate.

1.6 Where members of Leadership Team (LT) (excluding the Statutory Post Holders and the Chief Officers as set out above) are required to be considered for a formal probationary hearing the following will apply: the investigating manager role will be allocated by the Chief Executive Officer (CEO) to a statutory post holder who will investigate and produce the formal report and the matter can then be heard by the Deputy Chief Executive Officer and any appeal can be heard by the CEO.

1.7 At all stages of the following procedure, where specified staff/managers are designated to handle different stages, East Herts Council reserves the right to reasonably substitute suitable alternatives.

3.6.2 Absence Management Policy:

New Clause to be added at 2.3 in the Scope section 2.0:

2.3 Members of Leadership Team (LT) (excluding the Statutory Post Holders and the Chief Officers) will be managed through this procedure with the manager role allocated by the Chief Executive Officer (CEO) as all LT members report to the CEO. In order to ensure that the CEO is available to consider any appeal the following roles will be allocated at stages 1 to 3:

- Stage one – the CEO will allocate the Manager role to a Statutory Post Holder either the Section 151 Officer or Monitoring Officer as appropriate.*
- Stage two – the manager role would remain with the Statutory Officer designated by the CEO.*
- Stage three – the statutory officer would remain in the manager role with Deputy Chief Executive Officer hearing the matter at stage 3.*

- *Appeal – should the matter reach the appeal stage this would be heard by the CEO.*

3.6.3 Discipline Policy:

New Clause to be added at 1.3 in the Purpose, Scope and Principles section:

1.3 Members of Leadership Team (LT) (excluding the Statutory Post Holders and the Chief Officers as set out above) will be managed through this procedure with the investigating manager role at both the informal and formal stages being allocated to one of the Statutory Post Holders by the Chief Executive Officer (CEO) and the Deputy Chief Executive Officer would normally hear the matter at any formal hearing. This will ensure that the CEO is available to consider any appeal.

3.6.4 Unison Feedback on these additional clauses added:

- Unison agreed the wording to be used in the Capability Policy and agreed that similar clauses for LT members and ensuring appeals can be held by the CEO should be added to the three policies recently agreed.

4.0 Implications/Consultations

Community Safety

No

Data Protection

No

Equalities

The policies have been updated in line with equalities legislation and with consideration to the Council's Equality Policy.

Environmental Sustainability

No

Financial

No

Health and Safety

No

Human Resources

Yes as set out this is an employment matter and the report has been produced by HR

Human Rights

No

Legal

The policies have been updated in line with employment legislation.

Specific Wards

No

5.0 Background papers, appendices and other relevant material

5.1 The updated policies are attached as Appendices 1 to 5.

Contact Officer

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