

**REPORT FOR: EMPLOYEES'
CONSULTATIVE FORUM**

Date of Meeting:	30 June 2010
Subject:	HR POLICY FRAMEWORK Fair Treatment Suite Review
Key Decision:	No
Responsible Officer:	Jon Turner, Divisional Director Human Resources and Development
Portfolio Holder:	Councillor Graham Henson, Portfolio Holder, Performance, Customer Services and Corporate Services
Exempt:	No
Decision subject to Call-in:	Yes (following consideration by the Portfolio Holder)
Enclosures:	No

Section 1 – Summary and Recommendations

This report sets out the outcome of a review of the Fair Treatment Suite of procedures, implemented in 2009.

Recommendations:

That the Employees' Consultative Forum note the outcome of the review and, in accordance with the recommendations, that the Portfolio Holder agree the adoption of the HR Policy Framework agreed at the 29 August 2007 Forum meeting.

Reason: (For recommendation)

To continue with the drive to ensure that employees are treated fairly and consistently in handling conduct, capability and complaints in the workplace and foster positive employment relationships.

Section 2 – Report**Introductory paragraph**

The Fair Treatment suite of procedures provides tools to develop the effectiveness of managers at all levels in consistent management practice.

Each of the three procedures within the Fair Treatment Suite include a toolkit offering a step by step process for managers to follow and a series of best practice notes incorporating guidance.

Options considered

The Council needs to ensure that our procedures are compliant with the law, with ACAS codes of practice and are supportive to managers to make decisions. The Fair Treatment Suite of procedures are compliant with current ACAS guidelines therefore there are no options to be had in relation to this.

Background

- 2.1 At the ECF meeting on 29 August 2007, a report recommending the adoption of a revised HR Policy framework was presented, which included a proposal that only disciplinary dismissals be heard by a Member appeal panel.
- 2.2 Members agreed to withdraw from final stages of grievance hearings and final written warnings for conduct but wanted to review this decision after a year of operation.
- 2.3 The adoption of the HR policy framework was subsequently agreed, subject to:
 - (i) a formal review and evaluation of the framework after one year, following which confirmation would be required from the ECF for the framework to continue.

- (ii) the incorporation into the framework of a procedure whereby any second stage grievance would be reported to the Portfolio Holder.
- 2.4 The Conduct, Capability and Dignity at Work procedures, which comprise the changes proposed within the HR Policy Framework, were fully consulted on with Unison and GMB throughout their development.
 - 2.5 Unison initially agreed the Capability procedure but withdrew this later on the basis that it was non-contractual; they did not agree the Conduct and Dignity at Work procedures. GMB did not give their agreement to any of the three procedures.
 - 2.6 Consequently the Portfolio Holder's agreement was sought to implement these procedures and which took effect on 1 January 2009 (the Capability Toolkit) and 9 April 2009 (the Dignity at Work and Conduct toolkits).
 - 2.7 Briefing sessions were held for managers during the launch phase and ongoing support and guidance continues to be provided by the Human Resources and Development Division.

Current situation

- 2.8 Following implementation, there was a period of testing the effectiveness of the procedures where issues stemming from their operation were identified and attempts made to address these.
- 2.9 Managers have been working hard to resolve issues as early as possible and agree outcomes, using these procedures to manage the more serious cases as best they can.
- 2.10 This has resulted in only 5 tribunal claims been lodged against the Council in the first 12 months of operating these procedures, in comparison with the previous average of 10 claims a year (excluding schools).
- 2.11 The formal review of the procedures was conducted through consulting managers, HRD Advisers, GMB and Unison representatives.
- 2.12 Unison is submitting a separate report in response to this review, restating their objection to the non-contractual status of these procedures.
- 2.13 GMB and Unison request that access to elected members to hear Dignity at Work appeals be reinstated. Unison in addition seek that this opportunity is also available for appeals against final warnings under all procedures.
- 2.14 According to GMB, employees have little faith in the fairness of Dignity at Work appeals heard within management tiers. They claim that managers

communicate with each other about cases outside hearings, thereby influencing decisions.

- 2.15 Unison's view is that the procedures are weighted in favour of managers and have expressed concerns about Dignity at Work appeals being regularly heard below director level.
- 2.16 Currently, Managers graded SPM2 or above have responsibility for appeals under the Dignity at Work procedure. Senior Heads of Service, Directors and Corporate Directors may however delegate authority to a less senior manager to hear an appeal, which has been the practice in some directorates.
- 2.17 To address this, the Corporate Strategy Board has recently agreed that the Dignity at Work procedure be amended to ensure that final stage grievances cannot be delegated below Director level. This will provide reassurance that cases are being considered at the most senior level and in keeping with most other London Councils.
- 2.18 To maintain an overview of the application of these procedures, CSB and the Portfolio Holder with responsibility for HRD have been provided with monthly information on cases. Also, statistics about cases that reached the final stage of the procedures are analysed annually in the ECF Equality Report.
- 2.19 GMB's view is that the Dignity at Work terminology lessens the seriousness of employee complaints, therefore request a return to calling these a grievance.
- 2.20 Officers' view is that the Dignity at Work reference has been embedded cross-council over the past year therefore changing it again so soon is likely to create confusion.
- 2.21 Feedback received from managers and HRD Advisers was positive and constructive suggestions were put forward to enhance use of the procedures e.g. a checklist for managers to ensure that all stages are completed in appropriate timescales.
- 2.22 Further modifications will be made in consultation with the trade unions.

Financial Implications

There are no direct financial implications. However failure to have in place effective employment policies such as those in the Fair Treatment Suite would place the Council at risk of Employment Tribunal complaints which could result in significant costs for the Council.

Risk Management Implications

1. Impact of ongoing Trade Union concerns about the non-contractual status of these policies potentially frustrating the process.

2. Employees becoming disengaged from Dignity at Work processes as it is not felt there is a genuine attempt to resolve the issues.
3. A view could be taken that employees don't have a consistent route for appeals against dismissal because dismissals under the Capability Procedure cannot be heard by Members.

Risk included on Directorate risk register? No

Separate risk register in place? No

Corporate Priorities

The report incorporates all three corporate priorities through supporting directorates to address employee issues consistently and speedily to allow more time to be spent on front line services.

Section 3 - Statutory Officer Clearance

Name: Steve Tingle	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 15 June 2010		
Name: George Curran	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 16 June 2010		

Section 4 - Contact Details and Background Papers

Contact: Lesley Clarke, Organisational Development Manager, 020 8420 9309

Background Papers:

Vol 4 ECF 19 – Special ECF Meeting on 29 August 2007
<http://modern.gov:8080/ieListDocuments.aspx?CId=265&MId=3983&Ver=4>