

PART 1 - PUBLIC

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Decision Maker: **General Purposes and Licensing Committee**

Date: **27 May 2010**

Decision Type: Non-Urgent Non-Executive Non-Key

**TITLE: DISCIPLINARY PROCESSES**

Contact Officer: Sue Sydney, Head of HR Operational Services  
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Chief Officer: Charles Obazuaye, Assistant Chief Executive (HR)

Ward: N/A

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1. Reason for report

This report provides information on formal disciplinary outcomes for the last four years (non-schools staff).

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2. **RECOMMENDATION(S)**

Members are invited to note and comment on the information contained in this report.

## Corporate Policy

Existing policy:

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### Financial

1. N/A
  2. N/A
  3. Budget head N/A
  4. Total budget for this head £Nil
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### Staff

1. Number of staff (current and additional) – The Council's disciplinary procedures apply to all Council employees with the exception of staff employed in locally managed schools who are subject to the procedures adopted by the Governing Body.
  2. If from existing staff resources, number of staff hours -
- 

### Legal

1. Statutory requirement:
  2. Call-in is not applicable:
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### Customer Impact

Estimated number of users/beneficiaries (current and projected) - As stated above, the Council's disciplinary procedures apply to all Council employees with the exception of staff employed in locally managed schools who are subject to the procedures adopted by the Governing Body. Also, in line with the Equality legislation, the Council is required to monitor the equality profile of staff subjected to disciplinary proceedings.

### **3. COMMENTARY**

- 3.1 Performance management which includes managing staff conduct and capability is a key management responsibility. In the event that informal management action fails to address shortcomings in an employee's performance, or is inappropriate in the circumstances, then the formal disciplinary procedure will be used. The figures in the attached appendix only represent the "tip of the iceberg" in relation to the work by management and HR in resolving unsatisfactory performance/conduct.
- 3.2 Following a Member request Appendix 1 sets out information about outcomes under the formal disciplinary process in the last 4 years including the appeal stages. The information is drawn from HR records and relates only to use of the formal procedure. A copy of the Member request is also attached to the report (Appendix 2).
- 3.3 The Council's Disciplinary Procedures were drawn up after detailed discussion and consultation with stakeholders including Chief Officers, managers and the relevant recognised Trade Unions and departmental representatives. The disciplinary procedures include a 2-stage appeal process. An employee who has been formally disciplined may appeal against the decision. In the first instance the Chief Officer will hear the appeal. An employee will also have the right for his/her appeal to be heard by a panel of Members (Member Appeal Sub-Committee) if dissatisfied with the Chief Officer's decision but only in cases of dismissal, relegation or suspension without pay.
- 3.4 Although discipline and dismissal is an operational matter, following a review of the dismissal decision making process in November 2004 Members of this Committee decided to retain a final stage appeal against dismissal to a Members' appeal panel. Members are asked to note that no Chief Officer decision in the last five years has ever been overturned by Members at the second stage appeal process. Members are also asked to note that a number of London Councils do not involve Members in the disciplinary appeal process. The Member, management and Trade Union/Staff Side perspectives on the merit (or otherwise) of the current 2-stage appeal process are not necessarily the same!

### **4. LEGAL IMPLICATIONS**

- 4.1 The Council's Disciplinary Procedures are consistent with the guidance set out in the ACAS statutory Code of Practice on discipline and grievance. The Code sets out principles for handling disciplinary and grievance situations in the workplace.
- 4.2 A failure to follow the Code does not, in itself, make a person or organisation liable to proceedings. However, employment tribunals will take the Code into account when considering relevant cases. Tribunals will also be able to adjust any awards made in relevant cases by up to 25 per cent for unreasonable failure to comply with any provision of the Code. This means that if the tribunal feels that an employer has unreasonably failed to follow the guidance set out in the Code they can increase any award they have made by up to 25 per cent. Conversely, if they feel an employee has unreasonably failed to follow the guidance set out in the code they can reduce any award they have made by up to 25 per cent. The application of the Council's disciplinary process is also regulated by domestic and European laws including the Unfair Dismissal Law and the new Single Equality Law 2010.
- 4.3 Under the Local Authorities (Standing Orders) (England) Regulations Councillors are not allowed to be involved in disciplinary processes in relation to staff below deputy chief officer, although they may hear appeals. There are also specific statutory provisions relating to disciplinary action against the head of paid service, the monitoring officer and the section 151 officer.

## 5. PERSONNEL IMPLICATIONS

5.1 As contained within this report.

<b>Non-Applicable Sections:</b>	Policy, Financial Implications
Background Documents: (Access via Contact Officer)	Report No CPO04016 "Future Dismissal Arrangements" – General Purposes and Licensing Committee 16 November 2004

## **Disciplinary Proceedings**

Number of cases and department for each of the past four years including this year to date

1. Number where no further action was taken.
2. Number where an oral warning was given
3. Number where a first written warning was given
4. Number where a final written warning was given
5. Number where hearing took place and where i. Member of staff was reinstated with some form of warning; ii. Reinstated with no warning ii. Dismissed
6. Of those in 5 number who appealed and result
7. Of those in 6 number who appealed to Member Sub-Committee i. Reinstated with some form of action; ii those where decision to dismiss upheld.