



SURREY

People, Performance and Development Committee  
25 April 2019

## Performance Management

### Purpose of the report:

The Committee is asked to:

- Consider and note the overarching new approach to employee performance management.
- Consider and endorse a number of proposed modifications to three of the Council's contractual employment policies and procedures.

### Recommendations:

It is recommended that the People, Performance and Development Committee agrees to the proposed amendments to the following policies and procedures:

- a. Performance Capability
- b. Disciplinary
- c. Grievance

### Introduction:

1. One of the strategic objectives of the Our People 2021 Workforce Strategy is to develop a new approach to performance and achievement, the aim being that individual and organisational performance will be improved through new approaches to performance management that support honest performance discussions.
2. This has led to the development of a fundamentally different approach to employee appraisals and an associated review of performance related policies and procedures to create a framework that will have a tangible positive impact on individual and organisational performance.

### Key Issues

3. Appraisals
4. SCC's previous appraisal process was widely viewed as process heavy, bureaucratic and of questionable value. Alongside this, its link to pay progression resulted to some extent in superficial compliance and a forced rating distribution, with feedback from the appraisal discussion and

confirmation of an individual's rating/subsequent pay increase not being communicated until up to three months after the actual meeting.

5. The move from "appraisals" to "performance conversations" involves a complete change of focus; from a top down, management led process, with an emphasis on compliance and justifying past performance; to a simple process and guidance with a focus on future performance and continual improvement and jointly agreed expectations, supported by a coaching management style.
6. Policies
7. The council's existing Capability, Disciplinary and Grievance policies are lengthy, focussed on process as opposed to outcome and do not entirely align with each other.
8. The revised policies are clearer and simpler and have been produced in a new format to reflect the desired cultural change the council is aiming for.
9. The full policies (and accompanying procedures) are attached to this report, with a summary of key changes presented in Appendices A, B and C.
10. The Committee is asked to note in particular that the council's current Grievance Policy provides no route for Chief or Deputy Chief Officers to raise a grievance. The new policy includes provision for Chief/Deputy Chief Officers to lodge a grievance with the council's Monitoring Officer, with any subsequent appeal being heard by the Appeals and Representations Panel in accordance with the council's Constitution.

### Consultation

11. Feedback from managers and employees has been used to develop the new approach to appraisals and associated performance management related policies and procedures.

The Trade Unions have been consulted on and are in agreement with proposed changes.

### Financial and value for money implications:

12. It is not anticipated that this new approach will result in any negative financial impact. It is hoped the changes will:
  - Maximise and focus the time invested on raising individual and organisational performance through the replacement of the previous appraisal system.
  - Reduce employee and manager time spent complying with rigid timescales that apply to the current policies.
  - Enable managers to follow a more systematic approach, with less reliance on the HR Helpdesk.

**Equality and Diversity implications:**

13. The proposed changes to the appraisal system, policies and procedures do not vary the council’s overall approach to managing equality and diversity in employment. It is expected the changes will improve our approach in this area by signposting employees to support within the council and for managers and employees to consider wellbeing implications during capability or grievance situations.

**Risk Management implications:**

14. The key elements of the revised policies are based on the ACAS Code of Practice, therefore reducing the likelihood of cases culminating in Employment Tribunal claims.

**Next Steps:**

15. Workshops are currently being held to communicate and engage employees across the organisation with the council’s new approach to appraisals, accompanied by guidance available on S-net.

16. On gaining Committee endorsement to the revised policies & procedures, these will be communicated, along with relevant guidance and accompanied by e-learning and in person training sessions.

17. The new approach to and format of HR policies and procedures will be adopted for all future new and revised documents.

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**Performance Capability Policy & Procedure - Comparisons**

Current	Proposed
The formal stages of the Capability Policy apply to both performance and absence	The Performance Capability Policy and Procedure will be completely separate to the Sickness Absence Policy and Procedure.
Title - Capability Policy	Title – Performance Capability Policy The change in title will enable employees to distinguish between the Performance Capability policy and the Sickness Absence Policy.
The Capability Policy currently makes reference to ‘sickness absence issues that are not resolved through the informal absence management procedure set out in the absence management policy, should be progressed using the formal stages of the Capability Policy.’	References made to the management of sickness absence that are not relevant to the policy have been removed.
The current policy refers to the informal process being managed under normal day to day activity with an agreed development plan and timescales.	Detail on the informal process has been shortened, with reference made to it being part of normal performance conversations/supervision. Guidance will advise managers how to develop improvement/action plans.
Informal and Formal stages	The policy has removed most references to informal and formal stages, referring to informal as normal performance conversations/supervision and formal referring to the policy and procedure themselves.
	A new definitions chart is included to clarify which policy applies to what i.e. sickness, performance capability or disciplinary.
	Objectives – new section and wording

<p>Employee entitlements and expectations</p>	<p>This has been adapted and incorporated into guiding principles, with the following additions:</p> <ul style="list-style-type: none"> <li>• To be given reasonable notice of any formal meeting or hearing; to be notified of the outcome of any formal meeting or hearing in writing within the timescales set out in the capability procedure.</li> <li>• That employees are expected to be committed to achieving and maintaining required levels of performance and support such standards being maintained; to co-operate with any action taken under this policy and the associated procedure.</li> </ul>
	<p>Partnership working – new section introduced to take into account partnership working arrangements</p>
<p>Formal procedure – Stage One Capability Meeting</p> <ul style="list-style-type: none"> <li>• Sets out the information the employee is provided with before the stage one capability meeting.</li> </ul>	<p>Performance Capability meetings</p> <ul style="list-style-type: none"> <li>• Sets out the information the employee is provided with for all formal meetings rather than repeating similar information for each stage of the process.</li> <li>• Clarifies that outcome decisions will be confirmed to both parties in writing within five days of the meeting.</li> </ul>
<p>Decision – No Further Formal Action                  Decision – Further Action Required                  Capability Review Meeting                  Formal Procedure – Stage Two Capability Meeting                  Potential Outcomes                  Entering the procedure directly at Stage Two of the Capability Procedure</p>	<p>Stages and potential outcomes</p> <ul style="list-style-type: none"> <li>• New introductory wording setting out outcomes that are common to all stages.</li> <li>• A table summarises each stage (Stage 1 Capability Meeting, Stage 1 Capability Review meeting, Stage 2 Capability Meeting), its purpose, potential outcomes and any other important information.</li> <li>• Removed information about what to include in an action plan as this will be added to the Guidance.</li> </ul>



**Disciplinary Policy & Procedure - Comparisons**

Current	Proposed
The policy defines how discipline is maintained through advice, training etc. and how discipline may need to be reinforced by application of formal aspects of procedure.	The policy emphasises that everyday management and communication do not form part of the formal disciplinary policy and that this includes dealing with very minor breaches of conduct in line with ACAS guidance.
The style is based as a mechanism for imposing sanctions.	Adapted style to be seen as an aid to effective management and as a means of modifying people’s behaviour in line with the organisation’s aims.
	New definitions chart included showing which policy applies to what i.e. sickness, performance capability and disciplinary
In the current policy under ‘who uses the policy’ it states “special arrangements may also need to apply to disciplinary investigations involving Chief Executive, Directors, Head of Service, Section 151 and Monitoring Officers. Advice should be sought from the Director of HR&OD in these circumstances”.	<p>The new policy will include reference to PPDC’s role in disciplinary matters involving Chief, Deputy Chief and Statutory Officers under ‘roles and responsibilities’ as follows:</p> <p>The People, Performance and Development Committee holds responsibility for taking disciplinary action (including dismissal but see below) against Chief, Deputy Chief and Statutory Officers as defined in the Local Government &amp; Housing Act 1989 (including appointing an independent panel when required to do so). Full Council has responsibility for dismissing the council’s Head of Paid Service, Section 151 and Monitoring Officers.</p>
Disciplinary rules	These will be referred to as examples of general and gross misconduct and will be included in the guidance. Examples will now also include reference to the Council’s Values and Behaviours.
	Inclusion of new objectives. All are new apart from the reference to fair treatment.
Informal Procedure	Removed - although references are made to the use of an informal procedure via normal performance conversations/supervisory

	processes in the Introduction section. The opening sentence of this section refers to using the formal process when misconduct cannot be handled through everyday management processes.
Preliminary Enquiry - Formal Procedure	Summarised in this section. Specific reference to the example of harassment or safeguarding investigations when an employee is not advised about the allegation “early on” has been removed – this will be included in the Guidance Q&As.
Formal Procedures – warning expiry timescales: <ul style="list-style-type: none"> <li>• Short disciplinary procedure – 6 months</li> <li>• Full disciplinary procedure – written warning – 12 months and final written warning – 18 months</li> </ul>	Proposed formal procedure – warning expiry timescales: <ul style="list-style-type: none"> <li>• Short disciplinary procedure – 6 months</li> <li>• Full disciplinary procedure – written warning – 12 months and final written warning – 12 months</li> </ul>
Suspension – formal procedure	Only the main points are included in the policy and procedure and other points will be included in the Guidance. Reference to a suspension risk assessment has been removed and HR added as a point of reference for complex suspension cases.
Investigation – formal procedure	Only main points of investigation are included as other points will be included in the Guidance.
Formal Stage – Hearing and other considerations <ul style="list-style-type: none"> <li>- Stated that previous misconduct would be taken into consideration regardless of whether or not it had expired.</li> <li>- Included withholding salary progression and pay rises.</li> </ul>	<ul style="list-style-type: none"> <li>- New policy ensures that any previous misconduct would only be taken into consideration when the previous warning is still live.</li> <li>- The withholding of pay progression and pay rises has been removed from this Policy. The withholding of salary progression remains in the Reward Policy.</li> <li>- Examples have now been added to explain when financial reimbursement may be required, e.g. cases of fraud and/or theft.</li> </ul>
Process at a full length disciplinary hearing	Removed on the basis that it will be included in the Guidance.
Stage 1 – Short Disciplinary Procedure Stage 2 – Written Warning Stage 3 – Final Written Warning Stage 4 - Dismissal	All summarised in a table. Some procedural information not included will be added to the Guidance.



**Grievance Policy & Procedure – Comparisons**

<b>Current</b>	<b>Proposed</b>
<p>Places relatively limited emphasis on seeking solutions to disagreements and difficult situations. It frames grievances as allegations that can be ‘upheld’ or ‘not upheld’, as opposed to issues which can be ‘resolved’.</p>	<p>The proposed revisions to the policy incorporate linguistic and associated changes that focus on resolving complaints and disagreements. In the same spirit, the policy name has changed to ‘Grievance Resolution Policy and Procedure’.</p>
<p>Makes no reference to the Council’s policy on Ending Harassment, Bullying, Discrimination and Victimisation, or the various support sources employees have access to in order to aid informal resolution of disputes (e.g. Fairness Champions, coaching, mediation, restorative framework). Furthermore, it does not outline that Trade Union support may be available to officers prior to the commencement of any formal proceedings, and that this applies to both aggrieved employees and those faced with allegations.</p>	<p>The proposed revisions to the policy make reference to the restorative philosophy, and the associated Guidance will aim to provide employees with a comprehensive suite of tools, approaches and associated sign-posting.</p>
<p>The current Grievance Policy and Procedure sets a rigid requirement for an employee to report a grievance to the manager of their line manager, something which will not be appropriate or practicable under every set of circumstances.</p>	<p>The proposed revised Policy replaces this with a requirement to submit a grievance with a “manager of appropriate seniority”. The procedure provides model timescales for guidance purposes for non-complex cases.</p>

<p>The current Grievance Policy and Procedure provides the Head of Paid Service and their direct reports with no way of filing a grievance.</p>	<p>The proposed revised Policy includes provision for Chief/Deputy Chief/Statutory Officers to submit a grievance to the Monitoring Officer. The proposal include designating the Director of HR &amp; OD as a contact where appropriate.</p>
<p>The current Grievance Policy and Procedure includes timelines for various stages of the process which may be unrealistic in complex cases and/or where an employee/manager is absent due to holiday or sickness. These stipulations can create unnecessary friction where deadlines cannot be met.</p>	<p>The proposed revisions to the policy replace the fixed timelines for outcomes with a requirement for frequent updates (at least every two weeks).</p>
<p>The current Grievance Policy and Procedure does not clarify the distinction between commissioning officers (those overseeing the process and/or chairing a hearing) and investigating officers (those who are designated to carry out an investigation), and it is unclear on when an investigation should take place.</p>	<p>The proposed revised policy provides additional clarity, which will be further enhanced in the relevant Guidance.</p>
<p>The current Grievance Policy and Procedure refers to commissioning an independent investigator but does not include a facility for the Council to consider appointing an external investigator in cases where that may be warranted by the complexity of the issue or the seniority of the officers involved.</p>	<p>The proposed revised policy includes clarification on the appointment of an external investigator.</p>
<p>.</p>	<p>The proposed revised Policy emphasises implications to the employee’s well-being of raising a grievance, recommending managers to hold relevant conversations with aggrieved employees to assess the needs of the employee and consider making any adjustments that may be appropriate to individual circumstances.</p>



<p>The current Policy includes a section on 'matters which fall outside the scope of the Grievance Resolution Policy and Procedure'. This makes reference to a number of policy areas that would need to be exhausted via the appeals route prior to having recourse to the Grievance Policy. The Unions found this restrictive and not in keeping with the foundation of the Grievance Policy as well as employment legislation, e.g. an employee's route to raising an Employment Tribunal claim.</p>	<p>This has been replaced with 'issues that may cause grievances' in keeping with ACAS guidance. It also now makes reference to the ability to raise a grievance for serious harassment, bullying and discrimination issues rather than having to exhaust all the restorative practices in the Ending Harassment, Bullying, Discrimination and Victimisation Policy prior to raising a grievance.</p>
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