

# AGENDA

## Employment Panel

**Monday, 20 January 2014 AT 16:00  
In the Slupsk Room, Civic Centre, Carlisle, CA3 8QG**

### **Apologies for Absence**

To receive apologies for absence and notification of substitutions.

### **Declarations of Interest**

Members are invited to declare any disclosable pecuniary interests, other registrable interests and any interests, relating to any item on the agenda at this stage.

### **Public and Press**

To agree that the items of business within Part A of the agenda should be dealt with in public and that the items of business within Part B of the agenda should be dealt with in private.

### **Minutes of Previous Meeting**

To approve the minutes of the meetings held on 12 November 2013.  
[Copy Minutes in Minute Book 40(4)]

## **PART A**

**To be considered when the Public and Press are present**

**A.1 POLICY STATEMENT ON SENIOR OFFICERS PAY**

**3 - 16**

The Director of Resources to submit a report on the Policy Statement for Senior Officers.

(Copy Report RD.76/13 herewith)

Background Paper – RD.87/11 and RD.64/12 – Policy Statement on Pay for Senior Officer reports are available on the Council’s website

- <http://cmis.carlisle.gov.uk/cmis/>

**A.2 REVIEW OF HR POLICIES - DISCIPLINARY POLICY**

**17 - 38**

The Director of Resources to submit a report on changes to the Disciplinary policy following minor legislative changes and changes to management roles and contacts within the Council.

(Copy Report RD.77/13 herewith)

**PART B**

**To be considered when the Public and Press are excluded from the meeting**

- NIL -

**Members of the Employment Panel:**

**Conservative** - Mallinson J, Mitchelson, Bloxham (sub), Mrs Geddes (sub)

**Labour** - Atkinson P, Glover, STothard, Weber, Bowditch (sub), Miss Sherriff (sub), Watson (sub)

**Enquiries, requests for reports, background papers, etc to Lead Committee Clerk: Rachel Rooney – 817039**

# Report to Employment Panel

Agenda  
Item:  
**A.1**

Meeting Date: 20th January 2014  
 Portfolio: Finance, Governance and Resources  
 Key Decision: No  
 Within Policy and Budget Framework: YES  
 Public / Private: Public

Title: POLICY STATEMENT ON SENIOR OFFICERS PAY  
 Report of: Director of Resources  
 Report Number: RD76/13

**Purpose / Summary:**

Section 38 (1) of the Localism Act 2011 required Authorities to produce and publish a pay policy statement for Chief Executives and Chief Officers by 31 March 2012 and to review the policy on an annual basis. Full Council approved the Policy Statement for the year 2013/14 at its meeting on 5<sup>th</sup> February 2013 and the attached statement now reflects any changes required for 2014/15.

**Recommendations:**

The Employment Panel approves the 2014/15 Policy Statement on Senior Officers Pay for recommendation to Council on 4<sup>th</sup> March 2014.

**Tracking**

Executive:	<b>Not applicable</b>
Overview and Scrutiny:	<b>Not applicable</b>
Council:	<b>4<sup>th</sup> March 2014</b>

## **1. BACKGROUND**

- 1.1** Section 38 (1) of the Localism Act 2011 required English and Welsh authorities to produce a pay policy statement for Chief Executives and Chief Officers by 31 March 2012 and to review the policy on an annual basis. It can be amended mid-year if required.
- 1.2** Full Council approved the policy statement for 2013/14 at its meeting on 5<sup>th</sup> February 2013 and this was subsequently published by the Council.

## **2. PROPOSALS**

- 2.1** The Statement attached to this report, detailing the pay and associated benefits for Chief Officers and the Chief Executive, has been amended where necessary for 2014/15 which is now subject to the approval of full Council, as recommended by the Employment Panel.

## **3. CONSULTATION**

- 3.1** None

## **4. CONCLUSION AND REASONS FOR RECOMMENDATIONS**

- 4.1** The Employment Panel approves the 2014/15 Policy Statement on Senior Officers Pay for recommendation to Council on 4<sup>th</sup> March 2014.

The Statement meets the requirements of the Localism Act. Under the Council's Constitution, the Employment Panel is responsible for recommending to Council matters relating to pay and employment conditions.

## **5. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES**

- 5.1** The Policy Statement on Senior Officers Pay exists to provide Members and the general public with a transparent framework in which Senior Officers are paid and rewarded for their work and instil confidence in the public.

**Contact Officer: Julie Kemp**

**Ext: 7081**

**Appendices  
attached to report:**

**Appendix – Policy Statement on Senior Officer Pay**

**Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:**

- **None**

**CORPORATE IMPLICATIONS/RISKS:**

**Chief Executive's – Not applicable**

**Economic Development – Not applicable**

**Governance** – S38 of the Localism Act 2011 came in to force on 15 January 2012 and requires that we must publish for the year 2012/13 and each subsequent year:

- A pay policy statement setting out our policies relating to:
  - The remuneration of Chief Officers
  - The remuneration of our lowest paid officers
  - The relationship between the remuneration of the Chief Officers and employees that are not Chief Officers.
- We have to state our definition of 'lowest paid employees' together with our reasoning
- The statement has to explain:
  - CO levels on appointment/progression and increases and additions
  - Performance related pay
  - Bonuses
  - Payment on ceasing to hold office
- The Policy was first approved by a resolution of the Council on 31 March 2012
- As referred to above, the next statutory review of the policy is now due to take place
- We have to publish in a manner we see fit (including on our website)

**Local Environment – Not applicable**

**Resources – Not applicable**

# CARLISLE CITY COUNCIL

## POLICY STATEMENT ON SENIOR OFFICER PAY

### 1 Introduction and Purpose

- 1.1 This pay policy statement sets out Carlisle City Council's approach to pay policy in accordance with the requirements of section 38 (1) of the Localism Act 2011.
- 1.2 The purpose of this statement is to provide transparency with regard to the Council's approach to setting the pay of its employees by identifying:
- the methods by which salaries of all employees are determined;
  - the detail and level of remuneration of its most senior staff;
  - the Panel responsible for ensuring that the provisions set out in this statement are applied consistently throughout the Council and recommending any amendments to full Council.
- 1.3 A Statement was initially approved by the Council for 2012/13 and must be reviewed annually. This statement is for the year 2014/15.

### 2 Aims and principles

- 2.1 Carlisle City Council's aim to offer a remuneration package which is fair and equitable, complies with all the relevant legislation, enables it to attract and retain quality staff that will achieve its strategic and operational objectives and is underpinned by the need to achieve value for money having regard to its financial restraints.

### 3 Definitions

*Senior Officers* are the Town Clerk and Chief Executive and Chief Officers. The posts within Carlisle City Council that are classified as *Chief Officers* are the Deputy Chief Executive and Directors.

*Lowest paid employees* are those on grade A (£14,759 per year in April 2014). The Council uses this definition as it is the nearest equivalent to the old 'manual' grades which existed before job evaluation was used to determine pay and before Single Status was implemented. Jobs at this level are relatively straight forward, quick to learn and require limited pre-existing knowledge.

*Employment Panel* is a cross party group of Councillors who are responsible for recommending to Council pay and conditions for employees.

*Multiplier* is the ratio of pay between senior staff and other employees (at full time equivalent rates) i.e. the pay for the senior officer divided by that for the lower paid employees.

## **4 Pay Structure**

- 4.1 The Pay Structure and pay related allowances for all employees below Chief Officer level (except apprentices and any employee on a "permitted work" scheme) is detailed in the document Pay Policy and Arrangements ([internet link](#)) which was approved by Council initially in November 2009, following extensive consultation with staff and updated on 01 December 2013 to implement the Living Wage increase. It is a local pay and grading structure which uses some of the nationally negotiated pay spines configured into local pay grades. Nationally negotiated cost of living awards are applied to those spine points that form part of the local pay structure.
- 4.2 From time to time, it may be necessary to take account of the external pay levels in the labour market in order to attract and retain employees with particular experience, skills and capacity. The document Pay Policy Arrangements details these.

## **5 Senior Management Remuneration**

- 5.1 Terms of employment for senior officers in Carlisle City Council are derived from a number of sources:
- pay rates determined by Carlisle City Council;
  - cost of living awards as negotiated nationally between the Local Government Employers Organisation (LGE) and the recognised trades unions and applied to existing pay grades;
  - nationally negotiated terms and conditions of employment for chief officers and chief executives as appropriate;
  - policies determined and approved locally by Carlisle City Council.

## **6 Responsibility for determining pay and allowances**

- 6.1 The Employment Panel is responsible for proposing the pay and grading structure to Council.
- 6.2 In the case of senior officers' pay, the Employment Panel seek advice from a suitably experienced external organisation such as North West Employers Organisation (NWEEO) to inform their recommendations.

- 6.3 Pay rates (including car allowances) for the Town Clerk and Chief Executive is reviewed each time the job is vacant, and may be reviewed between these periods on a decision by the Chair of the Employment Panel following a request from the post holder. A review can result in the pay remaining the same, an increase or a decrease. Market rates for District Councils form the basis of any review. The pay rate is a single pay point, within a range, and determined on appointment by the Employment Panel and is based on experience of the successful candidate.
- 6.4 In the case of the other senior officer posts, these are reviewed when organisational structural changes take place and use the Local Authority Senior Staff job evaluation scheme to determine the rank order, and market rates for a District Council to set the pay grade. The pay grades consist of three pay points.
- 6.5 Table 1, paragraph 10, gives current pay rates.

## **7 Elements of the remuneration package for senior officers**

- 7.1 This is made up of:
- actual pay as determined by the Council
  - car allowance of 9.09% of salary or participation in the Chief Executive or Chief Officer Car Lease Scheme to the same value
- 7.2 Pay for the Town Clerk and Chief Executive is a single pay point within a range plus car allowance as detailed as detailed above. This rate includes returning officer duties for elections relating to Carlisle City Council. Fees for election duties for other elections (County Council, national and European elections) are paid as an additional sum at the rate prescribed by government as and when each election occurs.
- 7.3 Pay for the Deputy Chief Executive and Directors consists of three point scales and, subject to satisfactory performance, the officer progresses through the grade on an annual basis until the top of the grade is reached, in line with national conditions. A car allowance, as detailed above is also paid.
- 7.4 No bonuses, profit related pay or other allowances are paid as part of the regular pay. Honoraria for undertaking additional duties are only paid if the additional duties are significant.

## **8 Chief Executive and Chief Officers' Recruitment**

- 8.1 Details of the appointment process for Chief Officers and Chief Executive is set out in the Council's constitution [http://www.carlisle.gov.uk/council\\_and\\_democracy/democracy\\_and\\_elections/about\\_the\\_council/constitution.aspx](http://www.carlisle.gov.uk/council_and_democracy/democracy_and_elections/about_the_council/constitution.aspx) and [democracy/democracy\\_and\\_elections/about\\_the\\_council/constitution.aspx](http://www.carlisle.gov.uk/council_and_democracy/democracy_and_elections/about_the_council/constitution.aspx). Recruitment is the responsibility of the Employment Panel to recommend the successful candidate to full Council for approval.



- 8.2 In the case of the Chief Executive, the Employment Panel determines the salary and take account of the experience of the successful candidate.
- 8.3 In the case of the Deputy Chief Executive and Directors, starting salary is normally the bottom point of their grade unless there are good reasons to pay at a higher point in the scale to secure the best candidate. Such a decision is made by the Employment Panel.
- 8.4 Return of Chief Officers or Chief Executive to local government after redundancy or early release. The same principle applies to all recruitment and any appointment is made on merit, regardless of whether the candidate has been made redundant or given early release in former employment. The provisions of the Redundancy Payments Modification Order would be applied in that if return to local government occurred within a month of redundancy, the redundancy payment would be forfeited. Cumbria County Council, as the administering body for the pension scheme operated by Carlisle City Council, implements 'abatement' which means that if pension plus earnings in the new job is greater than earnings prior to leaving or the pension is reduced accordingly.
- 8.5 Interim Support. Where the Council has need for interim support to cover work at Chief Officer or Chief Executive level, and there is no-one suitable within the Council, it will make use of agencies to recommend suitable candidates from which to select the most suitable. Selection will be in line with the appointment process for senior officers unless support is required too quickly to make this possible, when it will reported to Council at the earliest opportunity. The services of the successful interim will be engaged by either:
- On an agency basis where the person is employed by the agency *or*
  - On a self employed basis where the person meets the HMRC definition of 'self employed' *or*
  - Direct employment by the Council on a temporary contract.

Pay for temporary interim support will be at the required rate to secure a suitable candidate bearing in mind the temporary nature of the work, value for money, salaries within the Council and budgetary considerations.

At the date of this policy Statement, the Council has no temporary or interim support at Chief Officer level.

## 9 Other aspects of remuneration

- 9.1 Termination Payments – the Council's policy on termination payments in the event of redundancy or early release in the interests of the service (ERS) apply to all employees, irrespective of level in the organisation. Full details are given in the document *Redundancy and Early Release Schemes Policy, Guidance Notes and Procedures* ([internet link](#)).

In summary, redundancy payments are 2.5 times the statutory requirement and based on full pay, with the option to convert the sum above the statutory redundancy value to additional pension. Compensatory payments are not normally paid in the cases of early retirement in the interests of efficiency unless there is a strong business case for doing so in a particular situation. Where payments are made, these are equivalent to 1.5 times the statutory redundancy payment that would have applied had the officer been made redundant with the option to convert this to additional pension.

Dismissal of the Chief Executive and Chief Officers (including redundancy and early release) are made by Council on the recommendation of the Employment Panel.

- 9.2 Flexible Retirement. The policy on flexible retirement applies to all employees alike and details are covered in the document *Flexible Retirement Policy Guidance Notes and Procedures* ([internet link](#)). In summary, flexible retirement (with pension) is agreed if it is supported by a business case. Hours must be reduced by a minimum of 20% or grade by a minimum of one grade and earnings plus pension after flexible retirement must not be more than earnings before it.
- 9.3 Pension. Where employees exercise their statutory right to become members of the Local Government Pension Scheme, the Council is required to make a contribution to the scheme representing a percentage of the pensionable remuneration due to that employee. The contribution rate is set by Actuaries advising Cumbria County Council Pension fund and reviewed on a triennial basis in order to ensure that the scheme is appropriately funded. The current rate is 13.6% (provisional). The employee contribution rates are defined by statute and relate to the salary level of that employee.

Carlisle City Council applies the discretions given to them as an employer under the Local Government Pensions Regulations to all employees on the same basis. The key ones are shown in appendix 1 attached.

## 10 Senior Officers pay and its relation to that of other employees

10.1 All aspects of other employees' pay and related benefits are detailed in the document *Pay Policy and Arrangements* ([internet link](#)).

10.2 Table one, below, shows details of senior officer's current pay and the relationship to other staff's pay.

**TABLE 1: Senior Officers' pay and its relationship with others**

Position	£ Pay per year	Car allowance	£ Total pay + car allowance per year	Ratio to median pay**	Ratio to lowest paid staff *
Town Clerk and Chief Executive	A single point in range 96,627 – 104,462	9.09% of salary	105,410 – 113,958	• 5.0:1 • 5.4:1	• 7.1:1 • 7.7:1
Deputy Town Clerk and Chief Executive	3 points in the grade – • 74,545 • 78,273 • 82,000	9.09% salary	• 81,321 • 85,388 • 89,454	• 3.8:1 • 4.0:1 • 4.2:1	• 5.5:1 • 5.7:1 • 6.0:1
Chief Officer	3 points within the grade • 52,500 • 55,250 • 58,000	9.09% salary	• 57,272 • 60,272 • 63,272	• 2.7:1 • 2.8:1 • 3.0:1	• 3.8:1 • 4.0:1 • 4.2:1

\*Grade A staff – £14,759 per year for a full time employee. \*\* £21,067 per year for a full time employee

10.3 Carlisle City Council aims to keep these multipliers approximately the same in future years.

**Appendix 1: Summary of discretions exercised by Carlisle City Council as the employer under the Local government Pensions Scheme Regulations**

Regulation Number	Discretion	How applied by Carlisle City Council
52 and Benefits Regulations 2007 12	To increase membership of Scheme Members	Augmentation will not be granted except where the employee elects to convert their discretionary payment under Redundancy and Early Release in the interests of efficiency of the service to additional pension service – see discretionary payment below
Benefits Regulations 2007 12	To award additional pension to a member	Additional pension will not be granted
31 and Benefits Regulations 2007 30 (2)	To grant applications for early payment of benefits	Early payment of benefits, after age 55 but before age 60 will only normally be granted and will only be approved where it can be demonstrated to be in the employer's interest.
31 and Benefits Regulations 2007 30 (5)	To waive the percentage reduction on early payment of benefits.	Consideration, on compassionate grounds will be assessed on an individual basis.
67	To introduce a shared cost AVC (SCAVC) arrangement	Carlisle City Council will <b>NOT</b> offer employees who contribute to the Local Government Pension Scheme, shared cost AVC arrangements. That is, Carlisle City Council will not contribute to any additional voluntary contribution contract on behalf of an employee, but this does not prevent employees taking out an AVC arrangement and contributing in their own right.
(Transitional Regulations) 9	To grant 'free' widowers pensions	Carlisle City Council will pay female spouses pensions, in respect of active members of the Local Government Pension Scheme on 1 April 1998, by counting service between 1 <sup>st</sup> April 1972 and 5 <sup>th</sup> April 1988.
13 (1) (c)	Specify in an employee's contract any additional pensionable allowances.	To consider on an individual basis whether to include other payments or benefits, other than those specified in regulation 13 (1) (a) and not precluded

		by regulation 13 (2) as pensionable.
18 (6) and (7)	To extend the normal time limit for a member to pay contributions to cover a period of absence from duty	To consider on an individual basis.
89	The employer may deduct pension contributions direct from a persons pay	To deduct contributions from employee's pay.
34 (1) (b)	If a scheme member is entitled to benefits under more than one regulation, the employer can choose which benefit is to be paid	To consider on an individual basis, if the employee does not make an election within three months of becoming entitled to elect.
66 (9) (b)	To allow a member more than 30 days to elect to convert AVC's into scheme membership	To consider on an individual basis.
92	Where a C.E.P is due from a refund of conts (part is paid by the member) the balance may be recovered from the Fund	To recover the balance of the Contributions Equivalent Premium (C.E.P) from the Fund.
88	A member due a refund is not so entitled if employment ceased due to fraud or grave misconduct, unless the employer directs that a total or partial refund may be paid	To consider on an individual basis.
111	If a member ceases employment and is convicted of an offence in connection with that employment which was gravely injurious to the state or liable to lead to serious loss of confidence in the public service, the employer may apply to the Secretary of State for a forfeiture certificate	To consider on an individual basis whether to apply for forfeiture certificate within three months of conviction.
112	If a forfeiture certificate is issued before the employer has applied for one, the employer may direct that interim payments are made out of the Pension Fund until such time as it decides to apply the forfeiture cert	To consider on an individual basis.
113	Where a member ceases employment because of a criminal, negligent or fraudulent act and has incurred a monetary	To consider on an individual basis.

	obligation as a result of this, the employer may recover said amount from the value of the member's pension rights	
115	Where a member ceases employment because of an offence involving fraud or grave misconduct and the employer has suffered a direct financial loss and a forfeiture certificate has been issued, the employer may recover the financial loss from the Pension Fund	To consider on an individual basis.
32 (8) 121 (8)	A member wishing to transfer in previous pension rights	A member must elect within 12 months of employment to amalgamate any previous service. This time limit will only be extended in exceptional circumstances.
65 (3)	To allow a member who has paid AVC's with a previous LGPS employer and who recommences employment within 1 month and 1 day, more than 1 month to elect to continue paying AVC's	To consider on an individual basis.
71 (7) (a)	The current employer may consent to a former employer assigning to them their rights under any life cover policy the former employer held for a member under an SCAVC arrangement	To consider on an individual basis.
Benefits Regulations 2007 18	Flexible Retirement	<p>Members can elect to draw their pension from age 55 onwards while remaining in employment, but only if at the same time :</p> <ul style="list-style-type: none"> <li>• the employee takes up a lower graded job <i>or</i></li> <li>• there is a minimum of 20% reduction in their working hours.</li> </ul> <p style="text-align: right;"><i>And</i></p> <ul style="list-style-type: none"> <li>• Carlisle City Council approves the flexible retirement and will normally only be agreed when it is in the organisation's best interests.</li> <li>• The employee's earnings, including pension payment are not more than their earnings</li> </ul>

		<p>before the flexible retirement took effect (excluding any cost of living awards)</p> <p>Carlisle City Council will not normally waive any reduction in pension benefits arising as the result of flexible retirement unless there is a strong business case for doing so.</p> <p>Once Flexible Retirement has been agreed, Carlisle City Council will not normally allow the employee to work additional hours (on a permanent or temporary basis).</p> <p>It should be noted that this facility does not replace the Early Retirement and Voluntary Redundancy Schemes. It is merely an additional provision.</p>
	Optional contributions during absence due to a trade dispute	Applications to pay contributions for absence due to a trade dispute must be made <b>in</b> writing by the employee within 30 days of the date of return to normal work or the date employment is terminated if earlier. (Although this period can be extended at the employer's discretion, it will only be done so in exceptional circumstances).
<b>Discretionary Payments</b>		
	1	Calculation of a redundancy payment will be based on the employee's contractual weekly earnings, and not the statutory redundancy payment ceiling.
Compensation Regulations 2006	2	Redundancy: Carlisle City Council will make a discretionary redundancy payment of 1.5 times the statutory entitlement in addition to the statutory requirement (giving a payment of 2.5 times statutory entitlement) (based on the employee's actual pay as above)
	3	Early retirement in The Interest of The Efficiency of The Service: Where an employee is granted early retirement in the interest of the efficiency of the service Carlisle City

		Council will not normally make any discretionary compensatory payment; however, where it decides to do so, this will be 1.5 times the statutory number of weeks that they would have received if they had been made redundant. based on actual pay.
	4	Members leaving Carlisle City Council through redundancy or early release in the interests of efficiency of the service may elect to convert discretionary payments received to additional pension service
	NB	Where at the sole discretion of the Carlisle City Council an employee is made redundant or granted early retirement in the interests of the efficiency of the service the award should depend on there being a clear value for money case. Carlisle City Council will take into account the full effects of the strain on the pension fund resulting from the early payment of benefits as well any additional costs.



# Report to Employment Panel

Agenda  
Item:  
  
**A.2**

Meeting Date: 20th January 2014  
 Portfolio: Finance, Governance and Resources  
 Key Decision: No  
 Within Policy and Budget Framework YES  
 Public / Private Public

Title: REVIEW OF HR POLICIES - DISCIPLINARY POLICY  
 Report of: Director of Resources  
 Report Number: RD77/13

**Purpose / Summary:**

A number of HR policies are currently out of date by way of minor legislative changes, management roles and contacts within the Council. All HR Policies are currently under review with minor changes identified and amendments made that may or may not require approval by the Employment Panel.

The Disciplinary policy is the first policy to be reviewed in this process and a draft is appended to this report for consideration by the Panel.

**Recommendations:**

The Employment Panel is asked to approve adoption of the proposed changes to the policy in order to streamline the process for handling disciplinary matters within the Council, for consultation purposes with both Union representatives and employees.

**Tracking**

Executive:	<b>Not applicable</b>
Overview and Scrutiny:	<b>Not applicable</b>
Council:	<b>Not applicable</b>

## **1. BACKGROUND**

- 1.1 The attached amended Policy has been developed in line with the Acas Code of Practice and represents a modern approach to dealing with conduct and potential disciplinary matters.
- 1.2 Due to the reduction in size of the Senior Management Team (SMT) on some occasions it has been difficult to access the appropriate level of manager to handle disciplinary issues.
- 1.3 Managers working at level 'L' and above have the appropriate skill and experience to manage the disciplinary process to include dismissal and suspension with H.R support.
- 1.4 During the December CJC meeting Unions were informed of the suggestions to amend the Disciplinary Policy and no concerns were raised.

## **2. CHANGES PROPOSED**

- 2.1 The Disciplinary Policy has been streamlined and fully reflects the Acas Code; updates have removed some aspects previously referred to which created confusion and expectation. For example; all disciplinary matters require a full investigation and investigation officers attending the hearing.
- 2.2 The Disciplinary Policy refers to additional delegation of responsibilities to conduct disciplinary hearings and dismissal. The scope to delegate responsibility to suspend and dismiss would release the pressure on SMT members and reflects the seniority level of managers within the Council. This will now include officers on grade 'L' and above.
- 2.3 The amended Disciplinary Policy if approved will constitute a change to employees' terms and conditions of employment.
- 2.4 Once approved, additional documents will be developed to include detailed guidance on the process and template letters.

## **3. CONSULTATION**

- 3.1 Consultation with Unions to start at the CJC meeting February 2014.
- 3.2 Consultation to take place with staff during March 2014.

## **4. CONCLUSION AND REASONS FOR RECOMMENDATIONS**

4.1 The Employment Panel is asked to approve adoption of the proposed changes to the policy in order to streamline the process for handling disciplinary matters within the Council, for consultation purposes with both Union representatives and employees.

## **5. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES**

5.1 The Disciplinary Procedure and Process exists to provide Managers and Employees with a clear framework in which to manage performance and conduct issues in a fair and consistent way. Secondly, instil confidence in the public on the process for managing high expectations and performance expected of Council employees.

**Contact Officer: Julie Kemp**

**Ext: 7081**

**Appendices Appendix – Disciplinary Policy  
attached to report:**

**Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:**

### **CORPORATE IMPLICATIONS/RISKS:**

**Chief Executive's – Not applicable**

**Economic Development – Not applicable**

**Governance** – Any change to the Disciplinary Policy will be a change to staff terms and conditions and will need to be subject to consultation as explained within the body of the report.

**Local Environment – Not applicable**

**Resources – Not applicable**

**CARLISLE  
CITY COUNCIL**



[www.carlisle.gov.uk](http://www.carlisle.gov.uk)

Disciplinary Policy  
Guidance Notes and Procedures

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## Introduction

The council's Disciplinary Policy and Procedure is designed to assist managers and employees in dealing with disciplinary situations in the workplace including misconduct and poor performance.

It is recognised that Disciplinary Policy and Procedure are necessary so that all employees understand the standards expected of them or the implications should they fall short of these standards.

This policy and procedure is designed to help and encourage all employees to achieve and maintain standards of work and conduct to assist the Council to operate effectively.

The policy and procedure will reflect the principles of good practice established within the ACAS Code.

Employees will be made aware of the standards required of them, and will have the opportunity for counselling and training in order to meet them and to understand clearly the steps that must be taken when standards are not met.

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## **Part 1 – Policy**

### **1 – Scope and Application**

This Procedure will apply to all workers of Carlisle City Council, except for:

- Chief Officer Level.
- Employees who do not meet the required standards during the probationary period. In this instance the manager will follow the normal procedures for not 'confirming the employee in post'.
- Shared service arrangements may include a requirement to inform third parties when dismissal is a potential sanction.

All employees have an obligation to support the disciplinary process and ultimately give evidence at the investigation and hearing if required.

Formal disciplinary action may not be taken against any member of staff without discussing with the H.R Advisory Services Team.

An amended version of this process will be initiated when dealing with non-Council employees engaged to work for the Council, such as agency workers of Contractors. This will depend on the type of contract and engagement as to how they are dealt with at the formal parts of the process. For advice and guidance on this speak with the H.R. Advisory Services Team.

### **2 – Timescales**

The time scales set out in this policy are recommended as 'best practice' and it is expected they will be adhered to wherever possible. However it is recognised that there will be occasions when individual availability will delay the process, if this occurs all those involved should be kept informed of the progress at timely intervals.

### **3 – Confidentiality**

Confidentiality is critical throughout a disciplinary process, to maintain trust, to safeguard the integrity of an investigation and to protect all parties involved. Everybody involved in a case must maintain confidentiality and failure to do so will be considered a disciplinary offence. On occasions the process may be shadowed for training purposes and they may be attended by a note taker. These individuals should be aware that the proceedings and associated matters must not be discussed with anyone outside the process.

### **4 – Individual Responsibilities**

Employee

- To be aware of this policy and process.
- To be aware of who to contact for support.

Line Manager

## Carlisle City Council – Disciplinary Policy

- To be aware of this policy
- To be aware of what to do when a disciplinary issue is raised
- To follow the process when investigating any issues
- To be aware of who to contact for support

### HR Advisory Service

- To update and maintain the policy procedure and guidance
- To support employees and managers through the process
- To be involved in the disciplinary hearing when there is a possible higher level sanction.

### **5 – Links to other Policies**

Grievance Policy

Dignity and Respect

ICT Email and Intranet Policy

Capability Policy

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## Part 2 – Guidance

### 2.1 Principles

The disciplinary procedure embodies a number of principles:

- 2.1.1 No formal disciplinary action will be taken unless the Council has reasonable belief that a case justifies a disciplinary hearing.
- 2.1.2 Managers are responsible for addressing conduct and behaviour issues as early as possible and for taking appropriate action.
- 2.1.3 Where appropriate, steps will be taken to resolve issues on an informal basis without recourse to the formal procedure.
- 2.1.4 At every stage in the procedure the individual facing allegations may seek representation and/or support from their trade union or work colleague.
- 2.1.5 At every stage in the procedure, an employee will be advised of the nature of the complaint against them and will be given every opportunity to state their case before any decision is made.
- 2.1.6 Necessary and appropriate investigations to establish the facts of the case will be carried out, and on occasions may require a full investigation conducted by those independent of hearing the case. In other cases the investigation may include simply the collation of evidence and may not require investigatory meetings with individuals.  
  
Managers should consult the HR Advisory Service before deciding whether disciplinary investigation is necessary and a representative from the HR Advisory Service may be in attendance at any stage of throughout the process if required.
- 2.1.7 Management and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
- 2.1.8 No employee will be dismissed for a first breach of discipline except in the case of gross misconduct, when the appropriate action may be dismissal.
- 2.1.9 Employees will be given a minimum of five working days notice to attend a disciplinary hearing, however if the employee requests an earlier hearing provided all parties are agreeable every effort will be made to accommodate the request.
- 2.1.10 Progress through the Disciplinary Procedure is not dependant on offences/misconduct being related and a single act of misconduct may be of a sufficiently serious nature for earlier stages of the procedure to be omitted.

This policy and procedure is separate from the Council's Capability Policy and Procedure. Where there is a question as to whether an issue is to be dealt with

under the capability or disciplinary policy, managers should seek advice and support from the HR Advisory Service regarding the appropriate route to take.

2.1.11 Managers will be provided with mandatory training, support and guidance to ensure that they are adequately equipped to recognise and resolve disciplinary issues.

## **2.2 Disciplinary Rules**

### **2.2.1 Misconduct**

The employee should be given notice of the nature of the misconduct and the changes of behaviour required.

### **2.2.2 Gross Misconduct**

Gross misconduct is conduct by an employee of such a nature that it fundamentally breaches the contract of employment and may make any further working relationship and trust impossible.

Where gross misconduct is alleged, the employee may be suspended pending investigation.

As an alternative to suspension the Council may restrict access /type of work undertaken or remove them to different work area or change their work pattern.

The following list provides examples of offences that the Council will normally regard as gross misconduct. The list is not exhaustive and is not set out in any order of seriousness.

- Unauthorised removal of the Council's property
- Failure to obey lawful and reasonable instructions of a manager
- Bullying harassment or discrimination
- Serious infringement of health and safety rules endangering other people, including deliberate damage to, neglect of, or misuse of safety equipment
- Unauthorised disclosure of confidential information
- Incapacity to work brought on by alcohol or illegal drug and substance use
- Threatening behaviour or actual physical or verbal assault
- Misuse of the employee's official position for personal gain
- Theft from the Council, its members, members of staff or the public
- Malicious damage to the Council's property
- Serious negligence which causes unacceptable loss, damage or injury
- Falsification of expense claim forms, time sheets, records etc.
- Conviction of a criminal offence that, in the reasonable opinion of the Council, makes the employee unsuitable or unable to carry out his or her duties
- Falsification of qualifications or experience, which is a stated requirement of employment.
- Unauthorised entry to computer records or deliberate falsification of records
- A serious breach of the organisation's rules on e-mail, Internet and social media usage
- Bringing the Council into disrepute or reducing public confidence in the City Council

- Failure to disclose a Criminal Offence in accordance with the Rehabilitation of Offenders Act
- Deliberate and malicious allegations about other council employees which are subsequently shown to be unfounded.

### **2.2.3 Investigation**

In cases of misconduct the law is quite clear that the employer may be deemed to have acted unreasonably if the allegation/complaint is not investigated fully and fairly and the employee has not had the opportunity to state their defence and offer explanation or mitigation.

The type and length of the investigation will depend on the nature and complexity of the allegation; this may include fact finding and compiling evidence without the need for an independent investigation officer. However, the investigation will be carried out by a person independent of hearing the case unless the hearing is likely to result in a low level sanction.

The evidence obtained in support of an employer's case does not have to prove the matter "beyond all reasonable doubt", as would be the case in criminal hearings. The employer may take action if, after extensive investigation there are "reasonable grounds to believe" an offence has been committed.

Investigations will be carried out as soon as possible, before recollections fade. They are preliminary to any formal disciplinary proceedings and should be used to establish whether or not the employee has a case to answer. They will be carried out thoroughly and fairly, but at the same time as quickly as possible, so that the service suffers minimum disruption and the employee minimum distress. Under normal circumstances it is expected that an investigation would be completed within 4 weeks. However, speed of investigation should not compromise the integrity of the investigation.

The investigating officer must make it clear that an investigative meeting may lead to disciplinary hearing where formal allegations are made and formal sanctions may result.

The investigating officer will send a copy of the report to the manager who will then decide if there is a disciplinary case to answer. If the manager believes there is a disciplinary case to answer the employee will be notified in writing of the hearing date and will receive a copy of the investigating officer's report no less than a week before the hearing. A copy of the investigating officer's report will also be sent to the representative upon request.

### **2.2.4 Alternatives to Suspension**

As an alternative to suspension any of the following actions may be considered:

- Restricting the employee's access to areas of work or the type of work undertaken;
- Redeployment or relocation where possible.
- Changing working pattern where possible.

Managers should give due considerations to the above options prior to deciding to suspend.

### 2.2.5 Suspension

Suspension may be considered where further investigation is required in serious cases of misconduct, or where the possibility of dismissal may arise or where there are grounds for doubt as to the suitability of the employee to continue at work, or where the employee's presence at work may hamper any disciplinary investigation.

The decision to suspend rests with the appropriate line manager (i.e. a manager who is authorised to take formal disciplinary action) who will consult with a member of the HR Advisory Service. In certain circumstances it may be necessary for the most senior member of the department on duty at the time to suspend an employee from duty.

Ideally the employee must be informed of the suspension in the presence of a witness. This may be a trade union representative or a work colleague. The suspension meeting cannot be postponed to allow specific representatives or colleagues to be in attendance. Employees will have the conditions of suspension explained to them verbally at the time and written confirmation will be sent within five working days.

Suspension is a neutral act and is not to be regarded as a form of disciplinary action. As such employees who are suspended from duty have the right to confidentiality. At the time of suspension Managers should discuss with the employee the message the employee wish to be communicated to colleagues or customers. Managers are expected to give consideration to a future return to work and how this may be made easier for the employee when communicating reasons for the employee's absence.

Whilst suspended from duty employees are not allowed to enter Council property without prior authorisation from the appropriate manager and must remain contactable and available for meetings during the times when they would normally have been in work.

Periods of annual leave already booked will be honoured. Employees may also request a period of annual leave during their suspension by contacting their supervisor, who should liaise with their HR Advisor.

Sickness whilst on suspension should be recorded according to normal procedures and the appropriate certification provided as applicable.

Every effort will be made to conclude an investigation, as quickly as possible and in normal circumstances a period of suspension should not last for more than three months. Suspensions should be reviewed every 4 weeks. Employees will not be suspended for longer than necessary. Where there may be undue delays the employee will be informed with the reasons along with revised timescales.

During the period of suspension the employee shall be paid full pay.

A suspended employee will be offered a designated contact person within the Council to whom they may seek support, advice, guidance and access to services such as occupational health provision.

The employee will not contact any other employees, suppliers or customers of the organisation except the employee's designated contact, without the organisation's consent.

### 2.3 Level of Authorities to Discipline

Authority to undertake disciplinary action is outlined in the table below but this may be delegated as deemed appropriate by a Director.

	Line Managers	Department Managers	Service Managers	Director	Chief Executive	Council Members
Informal Discussion	✓	✓	✓	✓	✓	
Suspension			✓	✓	✓	
<b>Formal Warnings</b>						
Written Warning		✓	✓	✓	✓	
Final Written Warning		✓	✓	✓	✓	
Dismissal			✓	✓	✓	✓

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## **Part 3 – Procedure**

### **3.1 Informal Procedure**

#### **3.4.1 Supportive Discussion**

It is expected that a majority of minor faults in an employee's conduct may be dealt with informally by holding a supportive discussion meeting.

The purpose of a supportive discussion meeting is to bring to the employee's attention aspects of their conduct that is regarded as being unsatisfactory. Where improvement is required the employee must be given clear guidelines as to:

- What is expected in terms of improving shortcomings in conduct
- The timescales for improvement
- When this will be reviewed
- Where appropriate, the employee must also be told that failure to improve may result in formal disciplinary action.

A record of the discussion should be made using the Record of Supportive Discussion (Appendix A). A copy of the Record of Supportive Discussion form should be given to the employee and a copy retained on their personal file. A Supportive Discussion Meeting is not formal disciplinary action and no formal disciplinary penalty will be issued at this point.

It is not appropriate for anyone other than the employee and their manager to be involved in the meetings at this stage. A Supportive Discussion Meeting is an opportunity for an employee to discuss any difficulties they may be experiencing and for the manager to put supportive measures in place in order to improve performance or conduct in the short term.

### **3.2 Formal Procedure**

Managers should ensure that the decision to enter into the formal disciplinary procedure is based upon available evidence, which will form part of the presentation of any case.

#### **3.2.1 Disciplinary hearing**

The employee's manager will normally conduct a disciplinary hearing. Anyone involved in the investigation of a disciplinary offence should not, in normal circumstances, undertake the disciplinary hearing. This will depend on the complexity of the case and the potential sanction level. The employee will normally be given at least five days' written notice to attend a disciplinary hearing. The letter will include nature of allegation, copies of evidence, right to be accompanied and notified where the possible sanction includes dismissal. The employee will be entitled to be given a full explanation of the case against them and be informed of the content of any statements provided by witnesses. The employee will also be entitled to state their case and put forward mitigating factors for consideration and call witnesses.

The Council may adjourn the disciplinary proceedings if it appears necessary or desirable to do so (including for the purpose of gathering further information). The employee will be informed of the period of any adjournment. If further information is

gathered, the employee will be allowed a reasonable period of time, together with a union official or colleague, to consider the new information prior to the reconvening of the disciplinary proceedings.

As soon as possible after the conclusion of the disciplinary proceedings, the manager will inform the employee of what disciplinary action, if any, is to be taken. The decision will be confirmed in writing. The employee will be notified of their right of appeal under this procedure.

For further information see Appendix B Disciplinary Hearing Procedure

### **3.2.2 Right to be accompanied or represented**

At all stages throughout the procedure the employee facing allegations may be represented by a recognised Trade Union representative or be accompanied by a work colleague. If representation is not available to attend the meetings or the hearing it may be possible to reschedule a further time otherwise employees may be asked to request alternative representation. As the disciplinary process is an internal procedure employees are not entitled to be represented or accompanied by a solicitor or family or friends. It is the employee's responsibility to arrange representation.

### **3.2.3 Role of the Trade Union Representative / Work Colleague at Disciplinary Meetings**

The trade union representative may address the meeting, sum up the case on behalf of the employee and where necessary request an adjournment. The trade union representative or work colleague however must not answer for the employee without the agreement of the hearing panel.

### **3.2.4 Disciplinary Hearing**

A disciplinary hearing is a formal meeting and will follow a set procedure which can be found at Appendix B.

Employees will have the opportunity to present their case and any mitigating circumstances to the hearing panel.

Employees must submit their statement of case with mitigating circumstances and details of any witnesses they wish to call no later than 5 working days prior to the disciplinary hearing. Papers should be sent to the HR Advisory Service for distribution to the disciplinary panel.

### **3.2.5 Failure to attend**

Whilst every effort will be made to arrange a mutually convenient date and time for a disciplinary hearing it cannot be suspended indefinitely. A disciplinary hearing can where appropriate be rearranged twice but may be held in the employee's absence.

### **3.2.6 Resignation**

Where an employee chooses to resign prior to the disciplinary hearing it is at the manager's discretion whether to continue with the disciplinary hearing in the absence of

the employee. Where the allegations are concerning Safeguarding the disciplinary hearing will continue despite an employee's resignation.

### **3.3 Disciplinary Sanctions**

Progress from one stage to another is not dependant on offences/misconduct being related and a single act of misconduct may be of a sufficiently serious nature for earlier stages of the procedure to be omitted.

#### **Stage One First Written Warning**

If an employee's conduct does not meet acceptable standards they may be given a Written Warning. The employee will be advised of the reason for the warning, the improvement(s) required, the timescale within which improvement(s) are to be made and the process for monitoring progress if applicable.

The employee will also be advised of the following:

- That a Written warning is the first stage of the disciplinary procedure.
- That action under stage two will be considered if there is no satisfactory improvement or further incidents occur.
- That the warning will stay on the personnel file but will be discounted for disciplinary purposes after twelve months subject to their satisfactory conduct.
- That they have the right of appeal against the decision taken see Appendix C.

Written confirmation of the warning issued at the disciplinary hearing will be sent to the employee's home address within five working days of the decision being made.

#### **Stage Two Final Written Warning**

If the employee's conduct fails to improve following a First Written Warning, or if the misconduct is sufficiently serious to warrant a final written warning but insufficiently serious to justify dismissal, a Final Written Warning will be given. The employee will be advised of the reason for the warning, the improvement(s) required, the timescale within which improvement(s) are to be made and the process for monitoring progress if applicable

The employee will also be advised of the following:

- That a final written warning is the second stage of the disciplinary procedure.
- That dismissal will be considered if there is no satisfactory improvement or other incidents occur.
- That the warning will stay on their personnel file but will be discounted for disciplinary purposes between twelve months or twenty four months subject to their satisfactory conduct.
- Twenty four months being used when the employee's performance continues to fall below an acceptable standard but where dismissal would be considered too severe a penalty.
- That they have a right of appeal against the decision taken see Appendix C.

Written confirmation of the warning issued at the disciplinary hearing will be sent to the employee at their home address within five working days of the decision being made.

#### **Stage Three – Dismissal**



If the employee's conduct is still unsatisfactory and they have failed to reach the prescribed standards set following a Final Written Warning, dismissal or action short of dismissal may result.

In cases where the employee's conduct is considered gross misconduct, the action taken will normally be summary dismissal.

Written confirmation of the decision to dismiss and details of the right of appeal to a Member Appeal Panel against the decision made will be sent by recorded delivery to the employee at their home address within seven working days of the decision being made.

### **3.4 Action Short of Dismissal**

Action short of dismissal is where the manager decides that it would be to the benefit of both employee and the Council for the individual's employment to continue in a revised form even though their actions merited dismissal. Action short of dismissal will only be used in exceptional circumstances and in conjunction with a final written warning. Appropriate actions may include:

- Transfer to another post or another work area within the Council
- Demotion
- Mandatory training or retraining programme
- Loss of an increment

Where an employee agrees to the alternative disciplinary action, they will still have a right of appeal. Where an employee does not agree to the alternative disciplinary action there will be no alternative but to dismiss.

### **3.5 Appeals against disciplinary action**

#### **3.4.1 Appeal against disciplinary action below dismissal**

Employees may have the right of appeal against disciplinary action taken. In the case of written/final written warnings, the appeal will be to another manager not already involved with the proceedings.

Individuals who wish to lodge an appeal should do so in writing to the manager named on the confirmation letter within ten working days of receipt of the written notification of the disciplinary action. The notification of appeal must include the grounds for the appeal.

The grounds on which an appeal can be heard are limited to:

- Where new evidence has come to light that was not presented before the original disciplinary panel or
- Where the employee believes the penalty is too severe for the nature of the offence or
- Where the original investigation did not receive a fair hearing

Disciplinary Appeal Hearings will not be a full rehearing and will concentrate on the grounds for appeal in light of the original disciplinary hearing decision.

The decision made by the manager hearing the appeal is final and there is no further right of appeal

The procedure to be followed at an appeal hearing for action below dismissal is contained in Appendix C.

### **3.4.2 Appeal against dismissal or action short of dismissal**

In the case of dismissal or action short of dismissal, an employee has the right of appeal to a Member Appeal Panel. Appeals must be lodged by writing to the Human Resource Advisory Services Team Leader within ten working days of being informed in writing of the dismissal. Any supporting papers should be submitted ten days prior to the hearing for inclusion in the Panel report otherwise they may not be considered at the hearing without the consent of the Chair of the Panel. The decision made by the Member Appeals Panel is final.

The procedure to be followed at an appeal hearing by a Member Appeal Panel is contained in Appendix D.

### **Disclosure and Barring Service and Referral**

The council has a legal duty to make a referral to the Disclosure and Barring Service (formally the Criminal Records Bureau) where it is believed an employee or an employee who has resigned has or may have caused harm or pose a risk to vulnerable groups including children. In such matters the council will cooperate fully with the Disclosure and Barring Service.

### **3.6 The Role of HR**

The HR Advisory Services Team will normally: -

- Be consulted prior to any formal disciplinary investigation/action being taken.
- Provide appropriate advice and guidance to managers and employees ensuring a consistent application of the Council's disciplinary procedure.
- A representative from the HR Team may be in attendance at any stage of the disciplinary process.
- Attend suspension meetings where possible.
- Ensure that legislative and Council guidelines are adhered to.

### **3.7 Criminal Offences**

Criminal offences either inside or outside employment may not be treated as automatic reasons for dismissal, and employees may not be dismissed solely because a charge against them is pending or because they are absent through having been remanded in custody.

Consideration of appropriate action, if any, will take account of the nature of any offence committed, and whether that offence makes the individual unsuitable for their type of work, or unacceptable to other employees, and the extent to which the matter may bring the Council's name into disrepute.

Where it is thought that the conduct may warrant disciplinary action, the facts should be investigated as far as possible, a view reached about them, and consideration given to

whether conduct is sufficiently serious to warrant instigating the disciplinary procedures at an appropriate stage.

Where conduct requires prompt attention, the Council need not await the outcome of the prosecution before taking fair and reasonable action.

Where the police are called in, they should not be asked to conduct any investigation on behalf of the Council, nor should they be present at any disciplinary hearing or interview.

### **3.8 Disciplinary Situations Involving Trade Union Officers**

Disciplinary action will not normally be taken against a Trade Union official until the circumstances of the case have been discussed with a Full Time Official of the Union concerned, unless the situation is such that it would normally warrant suspension or dismissal. In such a case the Trade Union Official will be suspended on full pay pending such discussion.

The employee will have the option to be accompanied/represented by their full time officer/official throughout the process. The unavailability of a representative is not sufficient reason for a suspension meeting to be postponed and the employee must be advised that, if available, they can have either a friend or colleague present.

### **3.9 Review**

This policy will be reviewed by March 2015 or earlier in the light of operating experience and/or changes in legislation.

## Appendices

- Appendix A Record of Discussion Form
- Appendix B Disciplinary Hearing Procedure
- Appendix C Appeal Hearing Procedure – (action short of dismissal)
- Appendix D Procedure for a Members Appeals Panel Hearing – (appeal against dismissal or action short of dismissal)

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**Part 4 - Policy review Schedule**

<b>POLICY SCHEDULE</b>	
Policy title	Disciplinary Policy and Procedure
Policy Location	TBC
Policy owner (Directorate)	HR Advisory Service
Policy lead contact	HR
Approving body (SMT)	
Date of approval	
Date of implementation	
Version no. (amendment date)	V1.0
Related Guidelines, Procedures, Codes of Practice etc.	
Review interval	2016

**Version Control:**

Revision date	Issue No.	Summary of Changes
December 2013	V1.1	New policy/ procedure

