

**Manchester City Council
Report for Resolution**

Report to: Personnel Committee – 20 October 2021

Subject: New and revised HROD policies

Report of: Director of Human Resources and Organisational Development

Purpose of Report:

To outline new and revised employment policies for the Committee's consideration: the new Third-Party Harassment and Abuse Policy and the revised Disciplinary and Employee Dispute Resolution Policies.

Recommendation:

The Committee is requested to approve the new policies attached to this report.

Wards affected: All

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Background reports and policies (available for public inspection)

None.

1. Summary

- 1.1 The new Third-Party Harassment and Abuse Policy and revised Disciplinary and Employee Dispute Resolution Policies have been developed in response to the recommendations of both the 2019 Race Equity Review, and the subsequent Race Equality Working Group which highlighted the need to be more explicit within the Council's workforce policies about the organisational stance on race discrimination.

2. Context for the Review

- 2.1 The review of the Council's Approach to Workforce Race Equality in 2019 highlighted the need for the Council to update and strengthen the racial equality aspects of some of our core employment policies. In consultation with Trade Unions, the Disciplinary and Employee Dispute Resolution (EDR) Policy have been prioritised for review given the significant role of disciplinary and EDR processes in Employee Relations. This has also provided opportunity to review all equality, diversity and inclusion (EDI) aspects of these policies to ensure these sections are up to date and reflect our current EDI priorities.
- 2.2 Research undertaken by the Race Equality Working Group and HROD indicates that some staff and managers find our existing policies inaccessible due to unnecessarily lengthy documents and complex language/ terminology. In response to this feedback, and research into best practice and readability scores, the Disciplinary and EDR Policy are as simple and succinct as possible. Guidance documents that will sit alongside the new policies will provide the comprehensive detail on specific points that can be consulted by users as and when needed. The roll out of both the policy and guidance will be supplemented with a revised training offer, including specific investigating and hearing officer training.
- 2.3 The review of the Council's Approach to Workforce Race Equality also highlighted that there was a policy gap and that the issue of third-party racial harassment was not addressed within the existing policy framework. A recommendation was made that a third-party harassment policy should be developed. We have met this recommendation by developing a third-party harassment and abuse policy that covers both harassment and general abuse of workers.

3. New policy - Third Party Harassment and Abuse Policy

3.1 Policy development context:

There are several imperatives for the Council to develop this policy at this time. These include:

- The review of the Council's Approach to Workforce Race Equality in 2019 outlined how both Black Asian Minority Ethnic staff and Unite raised the issue of staff experiencing racial harassment by members of the public when carrying out their duties. The report recommended developing a policy

framework to protect staff from harassment by members of the public and service users.

- The issue of third-party abuse by service users or members of the public has been raised in other forums, for example at staff engagement events on the Employee Code of Conduct (2019), colleagues raised general abuse of employees while carrying out their duties as a concern.
- The Trade Union Congress recommended in 2019 that organisations put in place a Third-party abuse and harassment policy to ensure dignity at work for all staff.
- The Council carried forward a motion to end harassment against women and girls and become a 'white ribbon' employer at the end of March this year and the new policy covers sexual harassment of staff by third parties.
- In July of this year, the Government published its response to the consultation on workplace sexual harassment which was launched in 2019 to determine how to deal with sexual harassment in the workplace. The outcome of this consultation was that The Government will introduce a new duty for employers to prevent sexual harassment and third-party harassment in the workplace. These will both be introduced when Parliamentary time allows (there is no commitment to a specific implementation date).

3.2 Policy engagement:

- Given that this is a new policy, significant engagement has taken place to ensure that the policy (and the guidance and training that will follow), meet the needs of staff, managers, and services.
- Online and face to face confidential workshops have been held with circa 30 front line managers and 40 staff and equality group members to gather intelligence on the experiences of staff in relation to third party abuse.
- Questionnaires to draw out the experiences of front-line staff were completed by a number of services where staff were unable to attend workshops.
- A feedback group with mid and senior level Managers from front line services has been run to obtain feedback on policy and guidance as it is developed. Managers have provided positive and detailed feedback in relation to this policy.
- All equality groups have been given opportunity to comment on the policy.
- Trade Union consultation has taken place and the unions are fully supportive of the policy.

3.3 Policy Content:

- The policy covers abuse and harassment by third parties which is a broad term and covers abusive, harassing, and bullying behaviours by people that staff come into contact within their work who are not employed by the Council.
- A clear message emerging from staff engagement is that abuse of staff by service users or members of the public has become 'normalised' in many service areas. Abuse and harassment are such a frequent part of working life in some services that staff report becoming desensitised to it. This is consistent with the under-reporting of abuse and harassment using the Health

and Safety reporting tool (the Violent Incident Form). The policy outlines the benefits for staff of reporting abuse to encourage reporting.

- The expertise of the Council's Anti-Social Behaviour Action Team has been central to the development of the policy. The actions that can be taken against perpetrators (where appropriate) are outlined in high level within the Policy, with greater detail to be provided within policy guidance.
- Through engagement, staff have reported an inconsistency in management responses to abuse and harassment. There is a focus in the policy on the proactive steps that can be taken by Managers, ensuring that the victim of the abuse remains in control of any actions that are taken to protect them. The policy also stresses that there must be no detriment to staff because of arrangements that are put in place.
- The policy also reinforces the importance of Health and Safety preventative measures such as effective risk assessments and safer lone working arrangements.
- The current Violent Incident Form has been revised to more strongly emphasize non-violent forms of abuse and harassment as well as to provide enhanced recording of harassment linked to protected characteristics.
- The data fields in the Fig Tree system that holds the data extracted from Violent Incident Forms is in the process of being adapted to support this and the Third-Party Abuse and Harassment Policy will be launched to coincide with the completion of the changes to the system. This will enable Health and Safety to provide data that reflects the occurrence of all types of third-party abuse to support Corporate oversight and scrutiny.

3.4 Approach to Implementation:

- It is recognised that the policy should be the foundation of a broader strategy to ensure that third party abuse is effectively prevented or reduced and responded to robustly and efficiently.
- Detailed guidance will be provided to staff and managers with the aim of increasing understanding of the types of abuse and harassment that can occur, the impact of discriminatory abuse and the options that managers can take to prevent and respond to abuse.
- There will also be an awareness campaign designed to help change the culture of acceptance of abuse in some service areas and ensure that the message of 'zero tolerance' of third-party abuse is embraced.
- Expected standards of behaviour will be communicated to service users and the public, and an effective communication campaign will be key to ensuring that service users and the public accept the 'zero tolerance' to abuse message.
- Training options are being explored to ensure that staff and managers have a clear understanding of how to report abuse. Management training will be designed with the aim of increasing management competence in supporting staff who are victims of abuse, understanding discrimination and harassment and taking effective action against perpetrators where appropriate.
- Given the evidence suggests that third-party abuse and harassment is under-reported, following policy launch it may be that there will be a significant increase in requests for support from key services who support Managers

and/or staff in this area; the Anti-Social Behaviour Action Team and Health and Safety. The impact on resources will be closely monitored.

4. Existing Policies: Disciplinary and Employee Dispute Resolution

Disciplinary Policy

Context

The drivers for the review of the Disciplinary Policy are:

- The Racial Equality Report (2019) recommended that the policy was reviewed to ensure that policy scope and application did not result in unequal outcomes for Black, Asian and Minority Ethnic staff.
- The Race Equality Working Group (2020) recommended that the content of the policy be strengthened to include specific zero tolerance to discrimination commitments.
- The modernisation of the policy to ensure accessibility through condensing and simplifying the language

Policy Content

This is a summary of the notable changes in the policy:

- Strengthening of equality commitments by including a zero-tolerance statement on discriminatory behaviour and an assumption that misconduct of this nature will be heard as gross misconduct
- Raising the seniority of managers hearing any appeal
- Where the reported misconduct includes discriminatory behaviour, only senior managers who will have attended mandatory Inclusive Leadership and Let's Talk About Race training, will investigate or hear the case.
- Encouragement of informal resolution as part of normal day to day management practice for minor misconduct matters
- Appeals will move from a full rehearing to specifically on the grounds of appeal
- A statement setting out the Council's position in relation to audio or visual recording of meetings that form part of proceedings, to ensure that consent is sought prior to any recording taking place.
- Improved record keeping to maintain records on the individual centrally so that it is easier to pick up patterns of behaviour

Policy Guidance and Training

There will be detailed guidance to accompany the policy which describes in more detail how to operationalise the policy. In addition, the following training will be rolled out:

- Revised Disciplinary Policy training for all managers
- New training for Investigating Officers
- New training for Hearing Officers

Employee Dispute Resolution Policy

Context

The drivers for the review of the Employee Dispute Resolution (EDR) policy are:

- The Racial Equality Report (2019) recommended that the policy was reviewed to ensure that appropriate measures were put in place to improve responses to complaints related to racial discrimination, including effective training for Hearing Officers.
- The forthcoming legislation in relation to sexual harassment and the new duty to prevent sexual harassment in the workplace as outlined earlier in this report.
- The modernisation of the policy to ensure accessibility through condensing and simplifying the language

Policy Content

This is a summary of the notable changes to the policy:

- Raising the seniority of managers hearing any appeal
- Where the complaint relates to discriminatory behaviour, only senior managers who will have attended mandatory Inclusive Leadership and Let's Talk About Race training, will investigate or hear the case.
- A commitment to train Investigating and Hearing Officers to improve knowledge and skills, and further embed equality awareness.
- Inclusion of hate incidents and hate crime as an example of abusive behaviour that employees are strongly encouraged to report through the formal Employee Dispute Resolution Process (in addition to the Police as appropriate).
- Greater emphasis on the benefits of third-party mediation as an informal route that can result in early resolution of conflict
- Additional information in relation to after care for employees who have gone through the EDR process.
- A statement setting out the Council's position in relation to audio or visual recording of meetings that form part of proceedings, to ensure that consent is sought prior to any recording taking place.

Policy Guidance and Training

There will be detailed guidance to accompany the policy which will include:

- Examples of the categories of abuse set out in the Dignity at Work section of the policy including harassment related to protected characteristics, bullying, hate incidents and hate crime and victimisation.
- Comprehensive information about mediation including the approach and steps involved for both parties.

A training package to support understanding and competency in applying the policy is currently in development, and an Investigation skills package has been designed to improve skills in this area. This training will be launched shortly after implementation of the Employee Dispute Resolution Policy.

5. Comments from Trade Unions

5.1 Unison:

- We are supportive of the changes to policies presented at Committee today as we have been closely involved in the development of them. We believe they are now aligned with council priorities and behaviours. We note that if at any point in the future the policies are not delivering what we have anticipated from this piece of work, then we reserve the right to come back to Committee for approval to amend. We welcome the introduction of the third-party harassment policy as this gives employees the protections that are needed whilst undertaking the duties for Manchester.

5.2 Unite the Union welcomes the collaborative atmosphere between the trade unions and HR/OD over the development of these policies. Unite the Union would also like to thank the employee specialist involved for their hard work. The training underlying these policies will be key to the success of their delivery.

- **Disciplinary Policy:** Unite the Union hopes that this revised policy will be more inclusive and will help reduce the disproportionality against Black, Asian and Minority Ethnic staff when it comes to disciplinaries. The training element of this policy will be vital to its success.
- **Employee Dispute Resolution Policy:** Unite the Union hopes that this revised policy will help to resolve more employee disputes at an earlier stage. Unite the Union also welcomes the new emphasis on reconciliation as employee disputes can have a serious affect on relationships.
- **Third Party Abuse Policy:** Unite the Union welcomes the development of this policy and praises the victim centred approach of this new policy. No staff member should have to tolerate abuse from service users or other parties while undertaking their roles for the council.

6. Comments from the Director of HR/OD

6.1 No further comments to add

7. Conclusion

- 7.1 Personnel Committee are requested to approve the Third-Party Harassment and Abuse, Disciplinary and Employee Dispute Resolution Policies.