

**Manchester City Council
Report for Information**

Report to: Resources and Governance Scrutiny Committee –
10 January 2019

Subject: Management of staff performance and misconduct

Report of: Director of HROD

Summary

The purpose of this report is to provide Members with an overview of employment casework in respect of the Disciplinary and Capability policies. The report provides case numbers, key issues and trends and the work of HROD to support managers and improve capacity.

Recommendations

The Committee is asked to note and comment on the report

Wards Affected: All

Alignment to the Our Manchester Strategy Outcomes (if applicable)

Manchester Strategy outcomes	Summary of how this report aligns to the OMS
A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities	
A highly skilled city: world class and home grown talent sustaining the city's economic success	
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	
A liveable and low carbon city: a destination of choice to live, visit, work	
A connected city: world class infrastructure and connectivity to drive growth	

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Background documents (available for public inspection):

None

1. Summary

- 1.1 The purpose of this report is to provide Members with an overview of employment casework in the organisation in respect of the Disciplinary and Capability policies.
- 1.2 The report provides case numbers, issues and the work of HROD to support managers and improve capacity.

2.0 Background and Overview

- 2.1 The Council's employment policy framework gives managers responsibility for managing all aspects of workplace performance, with a focus on maintaining high standards of performance at work but also identifying and managing issues that it is necessary to deal with through formal procedure, ie through Management of Attendance, Employee Dispute Resolution, Capability and Disciplinary policies. HROD provide specialist advice to all managers in support of their role; the nature of support varies from day to day advice and guidance in managing performance in the workplace, to specialist procedural advice and Employee Relations support if an issue is to be addressed formally.
- 2.2 Within HROD there is a specialist Casework team comprising of 9 officers. Each Directorate has at least one Specialist Officer providing specialist advice on the most complex cases with a pool of generalists providing advice on cases or issues of less complexity.
- 2.3 Over the period December 2017 - November 2018, 755 cases were supported by the HR casework team across all performance policies: Management of Attendance, Capability, Conduct and Employee Dispute Resolution. It should be noted that:
 - the majority of these cases are in relation to management of attendance (accounting for 77% of all casework), the detail of which is set out in the annual report to the HR Sub Committee;
 - there were 124 cases conducted under the Disciplinary policy, within which the trend of a year on year increase in case work volumes over the past three years has continued; and
 - 7 cases were conducted under the Capability policy in the 12 month period.

A breakdown of disciplinary cases is below; the profile of Capability cases has not been included on the basis that individuals could be identified from the small numbers involved, but profile is broadly consistent with Directorate numbers.

Directorate	Conduct
Adults	38
Core	17
Children's	37
Neighbourhoods	25
Strategic Development	7

3.0 Case Analysis

Disciplinary Casework

- 3.1 In 12 month period December 2017- November 2018 there were 124 Conduct cases (see table below) investigated under the Disciplinary policy, 91 of which were classed as gross misconduct. Under the Council's agreed disciplinary policy, gross misconduct is *"regarded as an incident or incidents of misconduct so serious, that the action fundamentally breaches the contractual relationship between the employee and the City Council and justifies that the Council in no longer accepting the employee's continued employment"*.

Directorate	General	Gross	Grand Total
Adults	7	31	38
Core	10	12	17
Children's & Education	7	30	37
Neighbourhoods	10	15	25
Strategic Development	4	3	7
Grand Total	33	91	124

- 3.2 Whilst the number of cases varies across Directorates, factors including overall staffing numbers within Directorates, nature of the work and statutory considerations all influence the numbers and complexity of cases. The highest numbers of conduct cases in the reporting period were within Adults and Children's and Education Services, with 31 and 30 cases respectively. The largest number of cases within a specific area was within Disability supported Accommodation where there were 26 Conduct Cases (22 of which were considered Gross Misconduct).
- 3.3 All of the 91 cases which were considered potential gross misconduct are/were subject to a full investigation. It used to be the norm for every gross misconduct allegation to result in a suspension from work but case law has changed to require suspension to apply only as a last resort. As such, over the last year the Council has suspended 28 employees during investigation and found alternative duties, with appropriate safeguards, for a further 59 people.

- 3.3 The numbers of suspensions and the average time frames to conclude suspensions are detailed below:

Directorate	No of employees suspended	Longest Duration (days)	Shortest Duration (days)	Average Duration (days)
Adults	14	1,024	27	643
Core	4	56	394	146.5
Children's & Education	8	471	65	273
Neighbourhoods	2	35	308	171.5
Grand Total	28			433.06

- 3.4 The current average timeframe to conclude a case is 6 months, however timeframes can vary greatly depending on complexity. The cases outside of this norm are generally those where there is more than one employee involved; where employees are subject to a police investigation and / or where there are safeguarding concerns which require multiple strands to the investigation. On this basis it should be noted that, within the figures above, one particular case within Adults services accounts for the highly exceptional current average duration of case work. This case has continued for over 18 months on the basis that it involves more than half a dozen staff; was subject to criminal proceedings and a Safeguarding Adults Review (SAR) all of which have diminished the Council's control over proceedings and regrettably elongated timescales.
- 3.5 It is possible to reduce average case work duration from 6 months if investigations are concluded more expeditiously. This will require more dedicated capacity from Investigating Officers who, at present, balance the investigation work with their substantive role which can give practical constraints.

Performance Capability

- 3.6 Within the same reporting period there were 7 employees taken through the formal performance capability procedure, all of which have been supported to improve performance at work and access appropriate development.
- 3.7 The low volume of formal capability casework has been achieved through significant recent investment in individual performance management, in order that performance concerns may be identified and addressed at an earlier stage rather than through formal procedure. Key interventions in place for all staff now include:

- The design and roll out of a new strengths-based individual appraisal mechanism for every member of staff - About You. This tool ensures that every member of staff has access to rolling, quality 121 conversations where objectives are set and monitored; individual wellbeing is reviewed and personal development planned
- About You was rolled out in 2016 and evaluated in 2018 to take feedback on effectiveness. Feedback was overwhelmingly positive but further continuous improvement mechanisms are being applied, including mechanisms to track records of such conversations from a quality assurance perspective
- A bespoke performance framework for senior managers (ie those in Special Grade posts) was introduced as part of the new Senior Pay Framework, in order that progression of senior managers through refreshed grades can be managed subject to individual performance. The framework requires senior managers to set and be assessed against an ABCD performance framework, which addresses:
 - Attitude (ie evidence of the Our Manchester behaviours);
 - Basics of service management (ie use of resources and key service performance indicators);
 - Corporate contribution; and
 - Directorate improvement.

Performance against these indicators will be reviewed by the relevant Strategic Director and moderated for corporate consistency by full SMT at the end of each financial year, to inform grade progression decisions these changes have been designed to support an increased focus on performance management as a key component of effective people management, improving performance and also enabling issues to be identified and managed sooner

4.0 HR Support

- 4.1 Casework support is available to managers from a specialist advice team within HROD. The team provide expert support and guidance in relation to employment law issues and providing additional 121 support for managers for the most complex cases.
- 4.2 By the very nature of the work, to a large degree the team provide reactive support and guidance, responding to issues as and when they occur in the organisation. However the team also have a proactive role, identifying risks and trends within Services and providing support, including training to address these.
- 4.3 In the last 12 months there has been a greater focus on Casework both at a Corporate and Directorate level and HR have introduced a range of initiatives to drive higher quality and more timely case management. In terms of Corporate oversight:

- The quarterly Workforce Performance Dashboards performance measures include an overview of casework activity at both a Corporate and Directorate level;
- HROD have introduced a monthly case review which monitors case progress and identifies risks and issues which can then be shared with the relevant member of SMT; and
- Monthly reviews of suspensions are being introduced again to improve timeliness and address any issues with cases.

4.4 At a Directorate level more detailed analysis is provided which includes:

- Each Directorate DMT receives detailed analysis of their current caseloads including risks and issues on at least a quarterly basis;
- Where trends and issues are identified, specific interventions are introduced to address them, recent examples include;
 - Within Adults increased engagement between the casework HROD specialists and Service Leads has enabled the service to assess priorities and establish the most appropriate actions that have led to the conclusion of a number of long running cases. In addition training was identified and rolled out to managers in relation to Case Investigations and managing performance with a strong focus on behaviours.
 - Within Children's and Education Services casework is now discussed on a monthly basis at the Directorate's Workforce Planning Board. This includes reporting on current cases but also sharing learning and identifying any additional support or training required. Focused work is carried out with teams with higher than average cases which includes weekly sessions with Investigating Officers to review progress. Case Conferences have been established within teams with high caseloads.
 - Performance Management training sessions have been developed to cover the basics of performance management from About You conversations to informal and formal monitoring of employees performance.

5.0 Recommendations:

5.1 It is recommended that Resources and Governance Scrutiny note:-

- the consistently high volume of case work being managed across the organisation;
- the work of the HR team to mitigate case work volumes through quality management interventions; analysis of workforce information in consultation with DMTs and quality assurance of formal proceedings; and
- the case law change which provides for a significantly lower number of suspensions now than were applied historically, but practical constraints in concluding complex investigations quickly