



Internal Audit Report

Chief Executives

Disciplinary and Grievance Procedures

March 2011

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1 INTRODUCTION

This report has been prepared as a result of the Internal Audit review of Disciplinary and Grievance procedures within the Council as part of the 2010/2011 Internal Audit programme.

On 6 April 2009, the Employment Act 2008 changed the way that Disciplinary and Grievance matters were handled, by replacing the statutory dismissal, Discipline and Grievance procedures (the statutory procedures), with a new ACAS Code of Practice on handling Discipline and Grievances. It is expected that the Council has its own procedures that are compliant with the Statutory Procedures, and those same procedures should in nearly all cases satisfy the requirements of the ACAS Code.

2 AUDIT SCOPE AND OBJECTIVES

The broad objectives of the review were to ensure:

- That departmental and service processes meet the requirements of Government legislation;
- That there is a reporting format in place that is common across all departments and services; and
- There is an adequate process for monitoring outcomes.

3 RISK ASSESSMENT

As part of the audit process and in conjunction with our Systems Based Auditing, ICQ approach, both the Operational and Strategic Risk Registers were reviewed to identify any areas that needed to be included within the audit. The areas identified were;

- SR01 - Staff Absence;
- SR02 - Recruitment and Retention of high quality staff; and
- SR13 – Failure to comply with new legislation, regulations or statutory responsibilities

4 CORPORATE GOVERNANCE

There are no Corporate Governance issues to be reported as a result of this audit.

5 MAIN FINDINGS

- 5.1 The Council has a Code of Disciplinary Procedures which is in line with the ACAS Code of Practice.
- 5.2 The disciplinary procedures are located on the Council Hub and are accessible by all employees.
- 5.3 Following the centralisation of HR in April 2010 a process is in place to ensure that standard working practices are adopted across the Council. In some cases, the standard documents now being used are not routinely issued to investigation officers. This is being addressed under the review of the Disciplinary and Grievance policy and procedures and by the availability of all documentation on the Hub.
- 5.4 Standard notifications to employees are issued by a dedicated HR team and this system is working well.
- 5.5 It is unclear whether investigation papers are to be retained in the event that no formal disciplinary hearing is required.
- 5.6 Investigation papers are not routinely forwarded to the dedicated HR team for retention once the investigation is complete which prevents the effective maintenance of records This can have a negative impact on the Council's position if the investigation moves to the next stage.
- 5.7 The variation in experience, training and skill levels of officers in departments who are involved in the disciplinary process, can lead to potential inconsistencies both of judgement and disciplinary outcomes.
- 5.8 The Council's grievance procedures are not in line with the ACAS Code of Practice.
- 5.9 The Council's grievance procedures are now located on the Council's hub and therefore accessible to all employees.

6 RECOMMENDATIONS

Eight recommendations were identified as a result of the audit all of which are graded Medium priority. The recommendations are shown in the action plan attached at Appendix 2 and has been compiled with the co-operation and agreement of the Head of Improvement & HR.

Internal Audit considers that, in an effort to improve the quality of information, monitoring and control, the recommendations should be implemented in accordance with the agreed action plan. Management have set achievable implementation dates and will be required to provide reasons to the Audit Committee for failure to implement within the agreed timescale. Where

management decides not to implement recommendations it must evaluate and accept the risks associated with that decision.

A system of grading audit findings, which have resulted in an action, has been adopted in order that the significance of the findings can be ascertained. Each finding is classified as fundamental, material or minor. The definitions of each classification are set out below:-

High - major observations on high level controls and other important internal controls. Significant matters relating to factors critical to the success of the objectives of the system. The weakness may therefore give rise to loss or error;

Medium - observations on less important internal controls, improvements to the efficiency and effectiveness of controls which will assist in meeting the objectives of the system and items which could be significant in the future. The weakness is not necessarily great, but the risk of error would be significantly reduced if it were rectified;

Low - minor recommendations to improve the efficiency and effectiveness of controls, one-off items subsequently corrected. The weakness does not appear to affect the ability of the system to meet its objectives in any significant way.

7 AUDIT OPINION

The review identified that that the Council's Disciplinary Procedures meet the requirements of the ACAS code of Practice and in some areas go beyond the requirements. The centralisation of HR and adoption of a dedicated team with responsibility for disciplinary and grievance has gone some way to standardising the process throughout the Council. However this could be further achieved by amending the Guidance for Managers to include standard investigation document templates.

The Council's grievance procedures fall short of meeting the ACAS requirements. They have recently been made available on the Council's Hub. Only 2 grievances had been recorded as having been received and concluded in the period between April 2010 and March 2011. It is possible that further grievances have been raised and concluded during this time may not have been identified as such if they were not submitted in the prescribed manner.

Recommendations arising from the audit work should be implemented by the nominated responsible officer within the agreed timescale. When recommendations are not implemented, this will require explanation to the Audit Committee. This could lead to findings being reported in the Internal Control Statement produced by the Council in support of the Annual Accounts.

8 ACKNOWLEDGEMENTS

Thanks are due to the following people for their co-operation and assistance during the Audit and the preparation of the report and action plan:

HR Officers
HR Assistants

Argyll & Bute Council's Internal Audit section has prepared this report. Our work was limited to the objectives in section 2. We cannot be held responsible or liable if information material to our task was withheld or concealed from us, or misrepresented to us.

This report is private and confidential for the Council's information only and is solely for use in the provision of an internal audit service to the Council. The report is not to be copied, quoted or referred to, in whole or in part, without prior written consent.

APPENDIX 2

ACTION PLAN

No	FINDINGS	PRIORITY	RECOMMENDATION	RESPONSIBLE OFFICER	IMPLEMENTATION DATE
1	The standard documents which have been adopted as good practice are not included in the Guidance for Managers and are not routinely used in all disciplinary cases.	Medium	The Guidance for Managers should be reviewed along with the Disciplinary Procedures. The amended guidance should provide the standard templates to be used in a disciplinary to ensure that a standard process is adopted across the Council.	HR Officer – Employee Relations	August 2011
2	The form PERS/DISC/1/96 is not clear on whether investigation papers should be retained in the event that no formal disciplinary hearing is required.	Medium	As part of the review of the Guidance for Managers the form PERS/DISC/1/96 should be amended to make it clear that both the form and the investigation papers should be retained in cases where no formal disciplinary hearing is required. The form should also make it clear that the investigation papers should be forwarded to the dedicated HR Team for retention.	HR Officer – Employee Relations	August 2011
3	There is no consistent approach to the issue of Terms of Reference to investigation officers, the use of a standard investigators check list and the use of a standard report template.	Medium	The Council should adopt a standard approach to disciplinary investigations. The Guidance for Managers should be amended to record the approach to be adopted and provide the standard templates to be used.	HR Officer – Employee Relations	August 2011

No	FINDINGS	PRIORITY	RECOMMENDATION	RESPONSIBLE OFFICER	IMPLEMENTATION DATE
			<p>Consideration should be given to issuing a standard investigation pack to investigating officers at the start of each disciplinary case. This pack would include the completed terms of reference. It may be possible for the ADAGIO database to be utilised to issue this electronically as a case is created and an investigation officer appointed.</p>		
4	<p>Investigation papers are not routinely forwarded to the dedicated HR Team for retention</p>	Medium	<p>Once the investigation is completed the investigation papers should be collated and returned to the dedicated HR team. The investigation papers returned to HR should include the following</p> <p>Investigators Checklist Terms of Reference Investigators Report Witness Statements and additional evidence</p>	HR Officer – Employee Relations	August 2011
5	<p>There are inconsistencies of judgement and therefore disciplinary outcomes from Service to Service</p>	Medium	<p>The Council should consider ways of minimising inconsistencies of judgements and disciplinary outcomes. Consideration could be given to having dedicated disciplinary investigation and hearing officers within the Services</p>	HR Officer – Employee Relations	August 2011

No	FINDINGS	PRIORITY	RECOMMENDATION	RESPONSIBLE OFFICER	IMPLEMENTATION DATE
6	There is currently no training being provided for managers in relation to disciplinary and grievance.	Medium	The Council must ensure that all officers involved in the disciplinary process have received appropriate training.	HR Officer – Employee Relations	September 2011
7	The Council's grievance procedures are not in line with the ACAS code of Practice	Medium	The review of the grievance procedures should ensure that the new procedures are in line with the ACAS Code of Practice.	HR Officer – Employee Relations	September 2011
8	Some grievances are submitted in a way that they may not be identified as an official grievance and may not be recorded as such.	Medium	Managers should be made aware of what constitutes a grievance and ensure that that they are recorded as such.	HR Officer – Employee Relations	June 2011