



Leicester
City Council

**WARDS AFFECTED
ALL**

**FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
CABINET**

17th May 2010

New Disciplinary Procedure

Report of the HR Director

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to present Cabinet with a revised disciplinary procedure.

2. SUMMARY

- 2.1 The City Council needs to adopt a new Disciplinary Procedure, following the repeal of the statutory disciplinary and grievance procedures, and their replacement by a revised ACAS Code of Practice.
- 2.2 The relevant trade unions, senior managers, and members of Cabinet were consulted on the development of this procedure.
- 2.3 The proposed procedure was presented to Cabinet Briefing. Following this, a working group of elected Members, drawn from Cabinet, met with the HR Director and HR Service Partner to shape the final proposal, as attached. The trade unions have been briefed on the changes.

3. RECOMMENDATIONS

- 3.1 That Cabinet agree the revised disciplinary procedure.

4. REPORT

4.1 Development of the New Procedure

- 4.1.1 The procedure is designed to be compliant with the new ACAS Code of Practice. Additionally, the procedure benefits from having been developed via consultation with the following stakeholders.

4.1.2 Trade unions were consulted to ensure that their perspective on disciplinary management had an influence on the proposed procedure.

4.1.3 Senior managers were also consulted to ensure that their accumulated experience had a bearing on the proposal.

5. Member Working Group

5.1 The proposal reflects the changes that elected Members wished to see; the amendments are represented in bold in the attached procedure document, cross referenced in the management guidelines and are summarised as follows:

- Greater clarity as to the difference between an informal oral warning and a formal oral warning
- Greater clarification of the employee's appeal rights
- Greater control of the circumstances where right of representation may be withdrawn
- Greater control of suspension, which should not normally exceed three months
- Facility for an employee to make written representation to a hearing
- Fast Track warnings, may be requested by the employee and only be refused by the manager in "exceptional circumstances"
- Where a character witness is to be called, a character statement should be sought rather than requiring the attendance of character witnesses
- The penalty of "disciplinary suspension without pay for up to four weeks" has been removed
- Appeal rights have been amended to include formal oral warnings.

6. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

6.1 Financial Implications

None

Author - Alison Greenhill –Interim Chief Accountant, Finance

6.2 Legal Implications

The new disciplinary procedure should comply with the new ACAS Code of Practice ('the Code'). Both the Code and the Employment Rights Act 1996 anticipate that in determining whether a fair procedure has been followed an

Employment Tribunal will take into account the size and resources of the employer. The Council, as an employer of approximately 15,000 employees, will therefore be expected to have sophisticated procedures in place to deal with disciplinary issues. A failure to follow a fair procedure in relation to disciplinary sanctions will be unlawful.

Author – Paul Atreides, Head of Employment Law

7 OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph references within the report
Equal Opportunities	NO	
Policy	NO	
Sustainable and Environmental	NO	
Crime and Disorder	NO	
Human Rights Act	NO	
Elderly/People on Low Income	NO	
Corporate Parenting	NO	
Health Inequalities Impact	NO	

8. BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972

ACAS Draft Code Of Practice for Disciplinary and Grievance Procedures
LGE Advisory Bulletin 548, February 2009.

9. CONSULTATIONS

HR Service Partners
Strategic Management Board
Directors' Group
Joint Trade Unions
Craft Unions
Cabinet Working Group

10. AUTHOR OF THE REPORT

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Key Decision	No
Reason	N/A
Appeared in Forward Plan	N/A
Executive or Council Decision	Executive (Cabinet)