



County Hall
Cardiff
CF10 4UW
Tel: (029) 2087 2000

Neuadd y Sir
Caerdydd
CF10 4UW
Ffôn: (029) 2087 2000

AGENDA

Committee POLICY REVIEW AND PERFORMANCE SCRUTINY COMMITTEE

Date and Time of Meeting TUESDAY, 3 NOVEMBER 2015, 4.30 PM

Venue COMMITTEE ROOM 4 - COUNTY HALL

Membership Councillor Howells (Chair)
Councillors Goodway, Hunt, McKerlich, White, Murphy, Thomas and Sanders

1 Apologies for Absence

To receive apologies for absence.

2 Declarations of Interest

To be made at the start of the agenda item in question, in accordance with the Members' Code of Conduct.

3 Minutes

To approve as a correct record the minutes of the meetings held on 8 September 2015 and 6 October 2015 – to follow

4 Review of the Non Operational Investment Property Estate *(Pages 1 - 72)*

- Councillor Phil Bale, Leader of the Council would be in attendance and may wish to make a statement.
- Neil Hanratty, Director of Economic Development and Helen Jones (Corporate Property and Estates Manager) will present the report and be available to answer Members questions;
- Questions by Members of the Committee.

5 Review of Disciplinary Policy, including Grievance, Bullying & Harassment *(Pages 73 - 294)*

- Councillor Graham Hinchey, Cabinet Member, Corporate Resources & Performance will be in attendance and may wish to make a statement;

- Lynne David, Operational Manager, Centre of Expertise, Chris Synan, Operational Manager will introduce the report and be available to answer questions.
- Questions by Members of the Committee

6 Correspondence Update (*Pages 295 - 322*)

7 Way Forward

8 Date of next meeting

Tuesday 1 December 2015 at 4:30pm

Marie Rosenthal

Director Governance and Legal Services

Date: Wednesday, 28 October 2015

Contact: Andrea Redmond, 029 2087 2434, a.redmond@cardiff.gov.uk

This document is available in Welsh / Mae'r ddogfen hon ar gael yn Gymraeg

**CITY AND COUNTY OF CARDIFF
DINAS A SIR CAERDYDD**

**POLICY REVIEW & PERFORMANCE
SCRUTINY COMMITTEE**

3 November 2015

Review of the Non-Operational Investment Property Estate

Reason for the Report

1. To provide the Committee with an opportunity to consider the Council's proposed strategy for managing its non-operational property portfolio, and provide its views to the Council Leader and officers prior to consideration of a proposed Non Operational Property Strategy by Cabinet on 12 November 2015.

Background

2. The Committee has had a longstanding interest in the management of the Council's estate, which comprises both 'operational' property (from which the Council operates and delivers services), and 'non-operational' or 'investment' property (which is often let for commercial return or to promote local employment, small businesses and the economic regeneration of local areas).
3. The Cabinet Report attached at **Appendix A** sets out the diversity of the Council's 600 non-operational estate properties, and explains the current and proposed management and governance arrangements for their retention, maintenance or disposal, based on an independent review undertaken by commercial property consultancy Jones Lang LaSalle (JLL) in January 2015.
4. The Cabinet report outlines issues that need to be resolved. These include:
 - a current lack of defined governance for management of the Council's non-operational estate;

- maintenance expenditure not undertaken on a structured basis, with the portfolio maintenance backlog estimated at £2m; and
 - some properties are currently held by Directorates and utilised to support revenue budgets.
5. Proposals to address these issues can be found on page 3 of **Appendix A** (points 11-18). The Cabinet is being asked to recommend:
- that all income generating properties and associated budgets are held corporately;
 - establishment of an Investment Estate;
 - governance of the Investment Estate to be administered by a new Investment Board consisting of officers from Strategic Estates, Legal, and Finance, advised by a commercial agent; and
 - delegated officer authority in consultation with the Leader, with an annual report as part of the Corporate Asset Management Plan.
6. For clarity, the papers attached to this covering report are:
- Appendix A: Cabinet Report - 12 November 2015, Review of the Non Operational Estate**, which is itself supported by the following appendices:
- Appendix 1: Independent Review of the Non Operational Estate;**
- Appendix 2: Investment Estate Schedule.**

Previous Scrutiny

7. The Committee received a presentation of the JLL review and recommendations in January 2015. Members will find a copy of this Review document attached at **Appendix 1 of Appendix A**. The document contains an overview of the local investment property market, the planning context, a review of the Council's portfolio and suggestions towards future strategy in this area. The report provides 18 recommendations for the Council to consider, in areas spanning; the renewal of the Council's Investment Asset Strategy; categorisation of existing assets; agreement of the implementation plan; and operational management of the Estate.

8. Following the scrutiny in January 2015 the Committee wrote to the Leader requesting that Cabinet address the following concerns:

- when deciding the way forward for the Investment Portfolio, take into consideration the community and social benefit of Council property, as well as financial considerations;
- acceptance of the recommendation to sell ¹rack rent shops without giving serious thought to their benefit to the community;
- where community assets are considered for asset transfer, sound business cases should be in place, and there must be community capacity to take the buildings on;
- full consultation with Ward Members is recommended where disposals are considered; and
- Members support the recommendation that strategic sites in the city centre should be retained.

9. In addition the Committee has programmed consideration of property-related issues on several occasions, responding to the Wales Audit Office's Corporate Assessment issued in September 2014, that '*the Council is not managing its land and property assets well*'. Key messages contained within letters from the Committee to Cabinet over the past two years have included:

- the urgency with which the Council's strategy for its property estate should be addressed;
- the need for a strong rationale for the use of the estate in future;
- Members' concern regarding the estate maintenance backlog;
- that due consideration should be given to the Council's estate in terms of its potential social and community benefits, as well as to potential financial benefits from any disposals;
- the need to compare the performance of our estate to the performance of that of the Core Cities;
- the need to develop explicit performance measures for the estate;

¹Rack rent is defined as the full rent of a property including both land and improvements if it were subject to an immediate open-market rental review.

- that local Members should be involved as decisions concerning disposals develop; and
- that a medium to long-term view of the use of the estate should be taken, rather than a short-term/annual point of view.

Way Forward

10. The Council Leader Councillor Phil Bale has been invited to attend the meeting and may wish to make a statement. Neil Hanratty, Director for Economic Development, and Helen Jones, Corporate Property and Estates Manager, will be in attendance to answer Members' questions.

Legal Implications

11. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

12. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to

consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATIONS

13. The Committee is recommended to:

- I. Consider the information presented in this report and at this meeting; and
- II. Decide whether it wishes to make any comments or recommendations to help shape the Non-Operational Investment Property Strategy programmed to be considered by the Cabinet on 12 November 2015.

MARIE ROSENTHAL
Director Governance & Legal Services
28 October 2015

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CABINET MEETING: November 2015

REVIEW OF THE NON OPERATIONAL ESTATE

REPORT OF CORPORATE DIRECTOR AGENDA ITEM:

PORTFOLIO: Economic Development

Reason for this Report

1. Following an independent review of the Council's Non Operational (Investment) Estate to seek authority to centralise all income generating property under the management of the Strategic Estates department and to establish a discrete Investment Estate with specific new governance and management arrangements.

Background

2. The Council's Non Operational Estate comprises circa 600 properties which the Council leases to external companies and organisations in the following categories:
 - 84 leased shops on market rents
 - 51 ground leased shops
 - 18 commercial properties (mainly strategic sites in the city centre)
 - 25 pubs and clubs
 - 6 hotels on ground leases
 - 96 industrial ground leases
 - 143 workshop units comprised in 9 separate estates
 - 54 community assets (e.g. community halls, churches and sports facilities)
 - 63 tenancies Cardiff Indoor Market
 - 83 other let properties (e.g. advertising hoardings, electricity substations, agricultural lettings etc.)
3. The Non Operational Estate is managed by the Council's Strategic Estates department on a commercial basis and it produces a total gross income to the Council of £5.2m, before deducting management and maintenance costs. This income is used to support the Council's core revenue budget.

4. The portfolio of this estate is diverse with a mixture of commercial properties at market value and community buildings leased historically at peppercorn rents. At present there are some inconsistencies in terms of how the properties are managed with some still controlled directly by Council service areas and not by Strategic Estates. In addition, the diverse nature of the Non Operational Estate can cause confusion in terms of the purpose for holding an asset and the subsequent processes required for management/disposal.
5. An independent review of the Council's Non Operational Estate was undertaken in January 2015 by property consultancy Jones Lang LaSalle (JLL) and a copy of the report is attached as Appendix 1. JLL made a series of recommendations which are considered in this report. These included rationalising the estate by selling low yielding management intensive properties and to reinvest the capital by acquiring better yielding assets. JLL further advised that reinvestment of capital receipts in the estate is required to retain and improve the asset value.
6. In January the PRAP Scrutiny Committee received a presentation from JLL. The Chairman of the Committee asked that a number of their views be taken into account. These included:
 - That the community and social benefits be taken into account as well as financial considerations.
 - That the community benefits of the market rented shops be taken into account in the decision making process.
 - Where community assets are considered for transfer that sound business cases should be in place and there must be a community capacity to take on these buildings.
 - It was requested that full ward member consultation is undertaken where disposal of assets is proposed.
 - That the Council's strategic sites in the city centre be retained.

Issues

7. At the present time there is no defined rationale or governance to effectively manage the Council's Non Operational estate. As a consequence decisions in terms of lettings, disposals and estate rationalisation can be ad hoc with varied authorities being applied.
8. Given the range of assets currently included in the Non Operational Estate the purpose for holding an asset is not clear.
9. Investment to modernise the estate is sporadic, and maintenance expenditure for the upkeep of the estate is not undertaken on a structured basis. The condition of the estate is variable with some of the more modern properties being in good condition and with some in need of extensive maintenance work. The current maintenance backlog for this portfolio is estimated to be circa £2m. Maintenance work is financed from the Asset

Renewal Programme on a standard prioritised basis each year but this does not address the work needed and is not a sustainable solution.

10. Some properties within the Non Operational Estate are held across service areas and are utilised to support revenue budgets. This results in sub-optimal management of the estate.

The Proposed Approach

11. The Non Operational Estate has been assembled over many years and consists of many properties that are a legacy of the Council's previous operational activities. In particular, the estate consists of properties that have good commercial purpose and others that are retained primarily for community purposes. It is therefore proposed to re-categorise the Non Operational Estate and to split the estate to create a new 'Investment Estate', with the residual properties being managed as part of the operational estate.
12. The proposed properties to be included in the Investment Estate are presented in Appendix 2. This will create a portfolio of properties that are held solely for income generation purposes.
13. It is proposed to establish a new governance arrangement to manage decision making relating to the Investment Estate to ensure that the portfolio is managed within a strict framework. This will involve the disposal of poor performing assets in terms of yield (return on investment); re-gearing of some existing arrangements; investment in properties that have the potential to generate further income; and the purchase of properties that will deliver a better yield.
14. To enable this, it is proposed that all capital receipts from the disposal of assets within the Investment Estate are ring-fenced to be reinvested in the Investment Estate with a view to generating increased income.
15. It is proposed to establish a new governance arrangement to deal with the efficient management of the Investment Estate. This will involve a new Investment Board consisting of officers from Strategic Estates, Legal and Finance. Day to day management will be undertaken by Strategic Estates with external advice through an appointed Commercial Agent. Recommendations for disposal, investment, re-gearing and acquisition will be presented quarterly to the Investment Board. Decisions will be reported quarterly to Asset Management Board and subsequently to Cabinet.
16. In the first instance Strategic Estates will build on the initial review undertaken by JLL and for each asset will determine which of the following three actions is appropriate:
 - Retain: good investments, hold as they provide a good return;

- Remodel: consider how existing investments can be improved, i.e. re-gear existing leases on better terms or invest in the asset.
 - Release: the asset does not deliver an appropriate return on investment and should be sold. The capital receipt from this sale is then ring-fenced to either invest in an existing asset or purchase a new better yielding asset.
17. It is also intended that the Investment Board directs facilities management spend in relation to these assets, in particular spend on maintenance/asset renewal.
 18. The residual properties that are currently part of the Non Operational Estate that do not form part of the Investment Estate will be managed as part of the Council's Operational Estate and will be subject to the same decision making processes involving local Member consultation and Cabinet approvals accordingly. This is considered the appropriate approach for the residual properties as they retain an element of local and community interest.

Reason for Recommendations

19. To enable Cabinet to approve the establishment of a governance structure and series of actions to enable Strategic Estates to effectively manage this strategic property asset with a view to creating a more commercial and better yielding investment estate.

Financial Implications

20. The Council's investment properties generate rental income to support the Council's overall budget.
21. The report proposes steps to be taken to ensure all non-operational property is managed by strategic estates, and categorised into commercial and operational. This then with a view to seeking opportunities to increase return where possible and disposing of low yielding and management intensive assets which are not in line with Council objectives. In determining whether properties are retained or not, consideration should also be given to the Council's responsibility for maintenance and whether the Council can afford to undertake such works.
22. The report proposes earmarking of any capital receipts /or lease premiums from the disposal or re-gearing of the commercial estate to new or existing commercial assets with a view to creating new assets or increasing income to offset the loss of income. This can only take place where receipts are not committed for other purposes e.g. in supporting the affordability of the capital programme.
23. Where rents are charged below commercial terms, or where disposal of assets takes place, there will be a detrimental impact on revenue income

unless it results in reduced management and maintenance costs or increased income from re-investment or regearing of existing leases. The report proposes that the impact of this be considered when setting the Council's revenue budget.

Legal Implications (including Equality Impact Assessment where appropriate)

24. The Council has an underlying fiduciary duty to ensure value for money from the acquisition, management and disposal of public assets

RECOMMENDATIONS

Cabinet is recommended to:

- (i) Agree to the principle of all commercial income producing properties to be held corporately, managed by Strategic Estates, with associated budgets to be realigned accordingly.
- (ii) Agree to the establishment of a new Investment Estate as detailed in Appendix 2 and to approve the proposed governance and operational arrangements set out in paragraphs 11-17 of this report.
- (iii) As part of (ii) above to agree to the principle of ring fencing and reinvesting all capital receipts generated from the disposal of assets in the newly formed Investment Estate to improve the yield of existing assets or to purchase better quality and better yielding assets.
- (iv) Delegate authority to the Director Economic Development, in consultation with the Leader of the Council, the Section 151 Officer and the County Solicitor to take all decisions in regard to the management of the Investment Estate and to provide an annual report as part of the Corporate Asset Management Plan.

Neil Hanratty

Director of Economic Development

November 2015

The following Appendices are attached:

Appendix 1: Independent Review of the Non Operational Estate

Appendix 2: Investment Estate Schedule

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Public Sector Consultancy

Review of Cardiff City Council Investment Property Portfolio

December 2014



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Appendix 1 Master Property Schedule

Appendix 2 Summary Schedule

Appendix 3 Rent Reviews 2014-2015

Appendix 4 Lease Renewals 2014-2015

Appendix 5 Rent Reviews 2016-2017

Appendix 6 Lease Renewals 2016-2017

Appendix 7 Rent Reviews 2018-2019

Appendix 8 Lease Renewals 2018-2019

Appendix 9 JLL Retail 2020 - The New Retail Notebook – 5 key lessons from the future

Key Recommendations

Renewal of the Councils Investment Asset Strategy

1. The corporate property strategy to be submitted, setting out the vision for the asset base and how each classification of assets would be treated.
2. We propose streamlining the existing investment portfolio and a future growth agenda focused upon improving the quality and quantity of the portfolio.
3. We recommend that there is a future focus upon acquiring prime assets which fit the growth agenda of Cardiff, a “Core City” at the heart of the Cardiff Capital City Region.
4. The Council to leverage it’s position through land ownership, marriage value and planning to create value. However, efforts must be made to ensure that private sector development and investment is encouraged and does not perceive the Council as a “blocker”.
5. The investment mandate to be informed by a detailed gap analysis.

Categorisation of the Existing Assets

6. We recommend the disposal of the following categories of properties:
 - Rack Rent Shops (84 No)
 - Workshop Estates (9 estates)

Note: the sale of workshop schemes at Douglas Buildings and Royal Stuart Workshops to be held in abeyance pending the outcome of the Cardiff Bay Master plan.

7. We recommend the selective sale of property assets from the following categories, but only where there is a strong business case:
 - Ground Rent Shops
 - Pubs and Clubs
 - Industrial Ground Leases
 - Other Properties
8. We recommend that alternative modals of ownership or management are explored for the following categories:
 - Community Assets
 - Central Market
9. All other properties, including the majority of those assets referred to in recommendation 7, to form the nucleus of the re-engineered investment portfolio.

Agreement of Implementation Plan

10. We recommend agreement upon a disposal register and target timescale for disposal.
11. We recommend a three month window be agreed for a short sharp asset management programme to include:
 - Clean legal title
 - Resolution of outstanding lease events
 - Planning/development opportunities
 - Collation of technical reports
 - Production of Energy Performance Certificates
 - Clearance of rental arrears
 - Minor repairs and dilapidations
 - Other management issues
12. A decision will need to be made on whether or not to offer freeholds to tenants. Our recommendation would be to avoid such tenant sales except where there is an isolated property/ground lease.
13. We recommend primary consideration be given to the following methods of sale:
 - Auction
 - Informal tender
 - Private treaty
14. In terms of lot size, our recommendation is to consider larger portfolios or estate sales rather than individual property sales. This is likely to be by way of informal tender or private treaty with auction offering a solution for standalone properties.
15. The Council needs to consider whether to pursue a joint venture or asset backed vehicle. Our view is that this is likely to prove more attractive for development or regeneration rather than for asset realisation.

Operational Management of the Estate

16. The proposed streamlining of the portfolio set out above should bring significant operational benefits to the Estates Department and in the medium term, free up their time to offer more proactive management of the core portfolio.
17. Our recommendation would be to create transparency of the estate management costs and benefits by combining responsibility for lettings and day to day management of investment properties in one department.
18. There is the opportunity to investigate a new model of estate management with a public/private model for outsourcing.

1 Instructions

JLL is instructed to provide a high level strategic overview of the Council's non-operational (investment) property estate.

By way of background, it is envisaged that the Council will be subject to significant financial pressures over forthcoming years. This will be a key driver towards ensuring that the Council makes the best use of its existing assets and re-assesses income earning opportunities from the let estate to generate additional income and investment value.

The main focus of this report is to consider the above issues. However we are also instructed to provide a broad-based 'gap analysis' of employment sites and buildings in Cardiff and consider new models of ownerships for the ownership and strategic management of the investment estate. Finally, we have reviewed the Council's estate management function which will include their work in relation to both the investment and operational estate.

This report seeks to build upon the internal review already undertaken in 2012 which set out a framework and rationale for the investment portfolio. The outcome of this review will be used to inform a new 'Property Strategy' which the Council intends to publish in October 2014.

We are grateful for the time and cooperation received from the Estates team.

2 Market Overview

2.1 General Market Overview

There has been an overall improvement in the property market in 2013-14 as we have seen the UK economy move into a period of economic recovery. As the outlook has improved, so there has been rising demand from both investors and occupiers for good quality buildings and sites in Cardiff.

With limited speculative development over recent years, there are now gaps in the supply of new and modern stock in both the office and industrial sectors. There has been a welcome return to speculative development in the office market over the past twelve months with the two dominant developers being J R Smart (Builders) Ltd and Rightacres Developments Ltd. These developers are bringing forward schemes at Capital Quarter and Central Square respectively.

In the retail sector, the City has now adjusted to the £675 million extension to St David's shopping centre which opened in 2009. The extension is now almost fully let and the arrival of John Lewis' first store in Wales and the overall quantum of floorspace in St David's 2 has changed the dynamics of the retail centre. The prime shopping location has now shifted southward toward The Hayes and fringe locations on Queen Street have had to readjust their focus with the arrival of local supermarkets, health and leisure and other convenience stores.

There has been little or no new development in the industrial sector although Viridor has completed a new £150 million waste to energy power generation plant at Trident Park, Ocean Park. In addition, Pinewood Studios Wales has acquired the 177,000 sq ft former G24i plant at Wentloog, Cardiff. This has added further to the strong creative industries cluster that has emerged within the City, most notably the relocation of the BBC Drama Village to Roath Basin.

2.2 Cardiff Capital City Region

Cardiff has a population of 346,000 (2011 Census) which represents an increase of 12% (36,000) since 2001. The City has a relatively young population with the smallest proportion of over 65s (13%) of any Council area within Wales.

Cardiff accounts for 32% of total employment in South East Wales and its economy is considered to be relatively strong and buoyant in a UK context. Cardiff's employment workforce totals nearly 189,000 with 88% of jobs being in the service sector (source: Deposit Local Development Plan).

Cardiff and the Vale of Glamorgan generate 22% of the Welsh GVA (Gross Value Added). Unemployment in Cardiff was 4.5% in March 2013. The recession has caused the loss of approximately 4,700 jobs in 2008-2010, however Cardiff has one of the highest percentages of high growth firms in the UK in 2002-2010.

The Capital City forms the focal point of the Cardiff Capital City Region which combines the ten Local Authorities of South East Wales, ranging from the Severn Bridges in the east to Swansea in the west and northward to the Heads of the Valleys Trunk Road.

Cardiff provides the administrative, political and commercial centre for the City Region with the linear nature of the valleys and coastal belt helping to reinforce the 'hub' nature of the City Centre in a regional context. Cardiff has recently joined as the tenth member of Core Cities UK.

There are a number of emerging policies in Wales which take a wider perspective and which will put Cardiff at the centre of economic development policy in the years to come. The emerging policy of 'City Regions' has seen a board appointed to consider matters of governance and investment priorities. The Sir Paul Williams review on local Government reorganisation set out recommendations in January 2014 for a reduction in the number of Local Authorities from the current 22 to 10-12 Councils, with a proposal that Cardiff merges with The Vale of Glamorgan Council.

Additionally, we have seen an on-going programme of planning reform which seeks to establish a National Planning Framework (NPF) as well as a Strategic Development Plan (SDP) for the Cardiff Capital City Region (together with SDPs for Swansea Bay and the A55 corridor).

Other national policy frameworks including The Wales Infrastructure Investment Plan (WIIP) and Dr Grahame Guilford's independent review of EU structural funds 2014-2022, which recommended the development of an 'economic prioritisation framework' for Wales.

The EU Assisted Areas were revised in July 2014 and these have been extended within Cardiff to include a greater portion of the City Centre. This was agreed because the Central Cardiff Enterprise Zone had been established over 140 acres of the City Centre, located both north and south of the Central Train Station.

There are significant infrastructure works proposed over the next 10 years with the most important being:

- **Main Line Rail Electrification** – the UK Government has committed to the electrification of the main line between London Paddington and Cardiff Central, although it has been reported in the press that the price has recently increased from c.£1 billion to £1.6 billion. In addition, there has been agreement to extend electrification westward to Swansea and northward into the Valleys although there remains a dispute as to who will eventually pay for this additional investment.
- **Metro** – allied to the electrification of the Valleys lines, the Metro project has been developed as a transport and regeneration project. This report outlined how an integrated transport network could help create a cohesive City Region and looks to provide an enhanced network using rail, light rail, trams and bus rapid transport to encourage higher density development and regeneration around Metro stations.
- **M4 Relief Road** – in November 2013, the Brynglas Tunnels were identified by the Prime Minister as a "... foot on the windpipe of the Welsh Economy" and funding powers were granted to Welsh Government of c. £500 million. In July 2014, the Business Minister announced that the 'black route' had been chosen with construction due in the period 2018-2022. There has been a lobbying campaign against this route and it is possible that an Inquiry will be required to confirm the route.
- **Extension to Peripheral Distributor Road (PDR)** – the contract has been placed for the construction of a one mile stretch of the PDR between the Queen's Roundabout at the southern end of the Central Link Road and the Docks entrance adjacent to the heliport. This will remove congestion within Ocean Park but will highlight the need for further investment to complete the eastern bay link in order to complete the PDR.

All of the above infrastructure projects will be of significant benefit to Cardiff, with mainline electrification and the M4 Relief Road having the most impact in terms of growing economic development within Cardiff. By contrast, the Metro is all about improving communications and spreading wealth within the city region. It is therefore a project which should take place after the improvement to external communications as it will not necessarily be as impactful in terms of improving GDP.

2.3 Investment Market Overview

The last twelve months have seen a significant improvement in the investment market for commercial property. In part this has been fuelled by an increase in available funds for investment and also a shift away from London and the South East, which is now considered by many property investors to be overheated and not offering the same value as stronger regional markets.

The office sector has been the strongest performer in Cardiff with c. £200 million of transactions undertaken in the past twelve months. Cordea Savills acquired Belmont House, Legal & General acquired Hodge House and Fidelity bought Fusion Point II. There has also been an influx of overseas capital with Crickhowell House acquired by Kuwait investors and Willcox House, Celtic Gateway sold to Hong Kong based investors.

Prime yields remain stable at 5.75%-6.5% whilst good secondary yields are in the region of 7.5-9% with secondary/tertiary yields at 10%+.

In the retail sector, we have seen a strong level of demand for well let retail investment properties in Cardiff City Centre with, for example, the TK Maxx investment on The Hayes selling at 5.75% net initial yield and 63/77 Queens Street (Topshop, Topman, Zara and River Island) sold at 5.6% net initial yield.

The hotel and leisure sector has also been active over the past 18 months with investors looking for alternatives to the core property sectors due to competition, the lack of traditional stock and the availability of longer term lease commitments, often with index linked rent reviews. For example, the leisure complex on Mary Ann Street (including Cineworld and Gala Casinos) sold for £19 million reflecting 6.89% whilst Novotel on Atlantic Wharf and the Ibis Hotel on Tyndall Street sold for 6.5% and 5.5% respectively.

In summary, the weight of money from institutional investors remains strong and this should support pricing for the next six months. However, the UK General Election may create some uncertainty in this regard. To date, there has been a substantial risk premium between prime and secondary investments however, this margin should reduce over the next two years as the outlook improves.

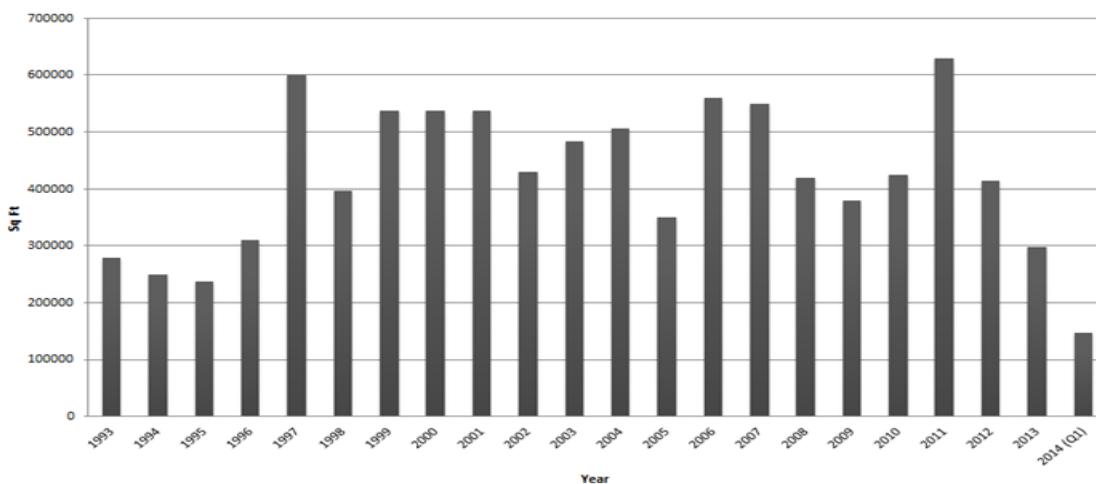
Alternative investment sectors, including student accommodation, healthcare and hotels have all grown in popularity however; the key criteria remain the investment fundamentals of covenant, lease length and rental.

2.4 Occupational Markets

There has been some concern that the occupational markets have lagged behind the investment markets.

Offices: - Cardiff office take-up was strong in Q1 2014, in part due to a disappointing year end in 2013. It is, however, unlikely that 2014 will see take-up see the long term average of 400 sq ft per annum.

Office Take-Up – Cardiff 1993-2013



The key Grade A transactions relate to ITV and Welsh Government's Life Science Hub, who collectively acquired 23,000 sq ft at 3 Assembly Square. In October 2014, Alert Logic moved into No.1 Capital Quarter whilst Finance Wales and Balfour Beatty were other occupiers to be attracted to this building.

JR Smart has announced plans to construct a further 85,000 sq ft at Capital Quarter whilst Rightacres has confirmed the speculative development of 135,000 sq ft at The Central Square scheme, fronting the River Taff. BBC Wales has confirmed Capital Square as its preferred location for a new 150,000 sq ft headquarters building which will involve a very significant IT fit-out. The other occupier enquiry which has dominated recent news coverage is that of Deloitte which may confirm the transfer of 500 back-office jobs from London to Cardiff, mirroring a similar announcement recently made in favour of Belfast.

There remains a critical mass of occupier enquiries for Central Cardiff Enterprise Zone combining both inward investment projects and relocation requirements, including Legal & General, Blake Morgan and Geldards.

Industrial: - In the industrial markets, there has been relatively little activity over the last 7 years due to the economic downturn. However, there is now increased demand across the distribution and manufacturing sectors together with related sectors including trade counter and energy.

In the distribution sector, Aldi stores have secured Planning Consent to develop a 450,000 sq ft Regional distribution centre (RDC) on 35 acres of land acquired by them in 2005 on Capital Business Park, Wentloog.

There has also been an upturn in interest from parcel carriers and other internet related businesses. In 2012, UPS acquired 45,000 sq ft in Wentloog (the former Maskreys warehouse) whilst DHL and Smiths News both upgraded their premises elsewhere along the M4 corridor. DPD Geopost has an outstanding requirement for an 80,000 sq ft cross dock distribution warehouse and is currently considering a site in Wentloog.

As previously noted, Viridor has completed a waste to energy incinerator plant in Trident Park which has the capacity to handle 350,000 tonnes of commercial and domestic non-hazardous waste whilst Pinewood Studios Wales acquired the Wentloog Energy Centre.

At the smaller end of the market, occupancy levels remain high on multi-let industrial estates in both private and public ownership. There is certainly latent demand for additional accommodation, particularly with flexible lease terms and cost effective rents.

3 Planning Context

3.1 Policy overview

Cardiff City Council has reached the final stages of adoption in the preparation of the statutory development plan. The Deposit Local Development Plan (LDP) (September 2013) is timetabled to be reviewed in the Examination Hearings with the Planning Inspectorate for January 2015. The expected adoption date for the Deposit LDP is late May 2015. Therefore, for the purposes of this report, the portfolio of assets identified for disposal or alternative uses would be assessed using the Deposit LDP.

The Vision

The Deposit LDP vision is: 'By 2020...Cardiff will be a world class European capital city with an exceptional quality of life and at the heart of a thriving city-region.'

Cardiff Council has set strategic outcomes that, if achieved would realise the above vision. The outcomes are:

- People in Cardiff are healthy;
- People in Cardiff have a clean, attractive and sustainable environment;
- People in Cardiff are safe and feel safe;
- Cardiff has a thriving and prosperous economy;
- People in Cardiff achieve their full potential;
- Cardiff is a great place to live work and play;
- Cardiff is a fair, just and inclusive society; and
- Cardiff has a thriving and prosperous economy.

The Cardiff Context

Cardiff has the Central Cardiff Enterprise Zone (CCEZ) (identified in figure 1 below) created to incentivise public sector investment, to entice and prioritise this type of investment to Cardiff.

Figure 1 – Central Cardiff Enterprise Zone (CCEZ)



Inward investment trends are improving but continue to trail other leading core cities. The city centre and Cardiff Bay remain the principal office locations complemented by out of centre sites. However, Cardiff lacks a large supply of Grade A office space and the Deposit LDP supports the on-going regeneration of the Bay Business Area, including Mount Stuart Square.

The total industrial stock in Cardiff is approximately 19.2 million square feet and mainly concentrated in the south/eastern area of the city. There is an impression of ageing portfolio with only 6.1% of the stock is less than 5 years old.

Cardiff city centre is the main shopping centre for South East Wales and is ranked the 6th top retail centre in the UK. The development of the extension to St. David's Shopping Centre has significantly boosted the service sector employment and helped achieve this ranking.

The leisure and tourism sector also generates significant economic and cultural benefits for the city. The aspiration is to provide a new conference centre within the city centre, demonstrates the Council's support to continue to develop this sector of the economy.

In summary, the strategic goals of the Deposit LDP are as follows:

- To respond to evidenced economic needs and provide the necessary infrastructure to deliver development;
- To respond to evidenced social needs;
- To deliver economic and social needs in a co-ordinated way that respects and enhances Cardiff's environment; and
- To create sustainable neighbourhoods that form part of a sustainable city.

Relevant Deposit LDP Policies

The core economic policies in the Deposit LDP that will deliver these strategic objectives are below:

Policy EC1 (Existing employment land) seeks to protect the city's existing employment areas, outside of the Central and Bay Business Areas, to be protected for B Use Class employment generating uses, together with ancillary or complementary uses referred to in policy EC2.

Policy EC2 (Provision of complementary facilities for employees in business, industrial and warehousing developments) sets out that the provision of open space, public realm, leisure, food and drink, and child-care facilities will be appropriate in office, industrial and warehousing developments, provided the facility is of an appropriate scale and nature, intended primarily to meet the needs of workers in the vicinity, therefore not attracting significant levels of visitor traffic into the area, or exacerbating existing traffic conditions.

Policy EC3 (Alternative use of employment land and premises) is extremely important when assessing alternative use of business premises. The following criteria must be addressed and met to be permitted:

- i. The land or premises are no longer well-located for business, industrial or warehousing use; or*
- ii. There is no need to retain the land or premises for business, industrial or warehousing use, having regard to the demand for such land and premises and the requirement to provide for a range and choice of sites available for such use; and*
- iii. There will be no unacceptable impact on the operating conditions of existing businesses."*

Policy EC4 (Protecting offices in the Central and Bay business areas) states that the alternative use of offices in the Central and Bay business areas will only be permitted where it can be demonstrated that there is no need to retain the site or premises for office use, having regard to the demand for offices and the requirement to provide a range and choice of sites available for such use.

3.2 How the portfolio can meet the strategic goals of the LDP

The Council is to effectively respond to the role as capital city of Wales, where National Government sits, providing a range of economic opportunities to drive forward the prosperity in the region.

The Deposit LDP identifies that the city centre must remain the major retail and cultural destination as a place to work, visit and live. In addition, the regeneration of Cardiff Bay must continue, maximising opportunities for commercial and other forms of development.

The Deposit LDP has identified the following specialist sectors and research & development to be promoted:

- ICT;
- Energy and environment;
- Advanced materials and manufacturing;
- Creative industries;
- Life sciences; and
- Financial and professional services.

The policies contained within the Deposit LDP seek to provide a range and choice of employment land / premises to create growth and attract inward investment.

Recommendations

In order to deliver and meet all of the strategic objectives and policies of the Deposit LDP, Cardiff Council Economic Development Department should have a mechanism in place to consult with Strategic Planning Policy and Development Control officers, prior to disposing of any Cardiff Council owned assets.

It is also recommended that for assets of significant importance that a planning brief would be prepared to assist developers / purchasers and to ensure that the aspirations of the Deposit LDP are met.

A joined up approach, with good communication between all relevant departments is vital in meeting the vision of the Deposit LDP.

4 Portfolio Review

4.1 Methodology

Following our appointment, a project initiation meeting was held with the Council on 19th September to discuss the proposed methodology and establish the property data required. Present at the meeting were Messrs Neil Hanratty, Charles Coates and Steven Watkins from the Council and Chris Sutton, Martin Little and Paul Tarling from JLL.

We agreed the broad scope of the review and the materials/information that would be required. The Council subsequently provided a number of spreadsheets detailing the properties within the portfolio from which we have produced a composite version for the purpose of the review.

We were also provided with a copy of a review of the non-operation estate that the Council prepared in 2012:

- A copy of a review produced by Savills in 2013 in respect of the workshop estate;
- A chart detailing the Council Senior Management structure dated 1st April 2014;
- A document detailing the structure of the Economic Development Service Area; and a plan showing the location of the assets.

As agreed in the initial meeting, the first week was spent in assembling and reviewing the available information to categorise the properties in order to produce a definitive schedule. Martin Little and Paul Tarling also met with Steven Watkins again on 22nd September in order to better understand aspects of the estate management structure.

Chris Sutton held a separate meeting with the Leader of the Council on 25th September to listen to his perspective on the issues.

In the second week, Martin Little and Paul Tarling viewed a representative sample of the properties within the portfolio and we completed a desk top study of the available information.

Chris Sutton, Justin Millett, Martin Little and Paul Tarling met with Steven Watkins and Steven Myers from the Council again on 6th October to review the property categories and discuss our initial thoughts. The remainder of this week was spent reviewing our initial conclusions and finalising our recommendations.

We began compiling the report the week commencing 13th October with several iterations being necessary in the light of additional information received with regard to the base property data.

4.2 The composition of the portfolio and sector categorisation

The investment portfolio is a legacy estate rather than one which has been consciously constructed as part of a proactive investment strategy and is typical of most local authority property assets. It comprises 565 properties (including 143 industrial units on 9 workshop estates) which the estates team divide into 10 generic classifications.

Tables showing a breakdown of the classifications are set out below and a copy of the composite schedule and summary data can be found at Appendix 1-8.

Generic Classification	Number of Properties	Outstanding Rent Reviews *	Outstanding Lease Renewals*
Rack rent shops	84	34	19
Ground rent shops	51	10	1
Commercial Properties (mainly city centre)	18	3	0
Pubs and Clubs	25	7	2
Hotels	6	1	0
Industrial Ground Leases	96	24	2
Workshops	143 units on 9 estates	0	15
Community Assets	54	23	10
The Central Market	1	0	0
Other Properties	83	21	16
Total	561	123	65

For the purpose of the review we have broken these generic classifications down into 25 separate sub categories as follows:

Sub Category	Number of Properties	Outstanding Rent Reviews*	Outstanding Lease Renewals*
Advertising	2	2	0
Agricultural	4	3	1
Army Cadet facility	1	0	1
Arts, performance and entertainment facilities	4	3	1
Car parking	12	1	1
Care homes and hostels	15	6	2
Church and associated premises	5	2	0
Community centre	9	2	2
Education and training	6	0	1
Garage	4	2	3
Heliport	1	1	0
Hotel	6	1	0

Sub Category	Number of Properties	Outstanding Rent Reviews*	Outstanding Lease Renewals*
Indoor Market	1	0	0
Land	11	5	2
Licensed and Leisure	25	7	2
Light Industrial	89	21	1
Museum	1	0	0
Offices	11	1	1
Residential	13	0	0
Retail (including mixed use)	143	46	20
Scout associated land and buildings	19	10	5
Small business workshop	143 units on 9 estates	0	15
Sport associated facility	22	6	4
Storage Premises	2	1	1
Utilities associated buildings and infrastructure	12	3	2
Total	561	123	65

* It should be emphasised that the apparently large number of outstanding lease events (rent reviews and lease expiries) is not untoward and there are often similar levels of outstanding events in private sector portfolios.

There are many reasons why events are not actioned which will include properties where the rent is already in excess of current market value with little prospect of an uplift or where only a minimal increase can realistically be expected. We have examined the circumstances of each event and while there are a number that need to be resolved we are satisfied that there are good reasons for the majority.

In these circumstances it is often prudent to leave the event outstanding in lieu of future negotiations. It should also be noted that many of the outstanding events relate to community type assets which we understand are considered by the Council to be a low priority in view of the availability of resources.

The key data and our observations in respect of the various components of the portfolio are set out below:

Rack Rent Shops



Location/Property Type

The majority of these properties are post war retail parades in suburban locations serving residential estates.

Tenant Profile

The tenants are predominantly independent traders. There is limited prospect of increasing the quality of the tenant mix or attracting national multiples with voids and empty rates liability likely to be an ongoing problem.

Number of Properties

84

Rental Income

Gross = £493,636 per annum
Net = £61,025 per annum

Annual Expenditure

£382,851 (business rates, maintenance and security)

Maintenance Backlog

£883,900

Outstanding Lease Events

34 rent reviews
19 lease expiries

Other Management Issues

The shops are all let on internal repairing leases with the Council retaining responsibility for external repairs. These properties account for the majority of the estates department annual maintenance budget and are in need of significant investment.

The nature of the tenant profile and the leasehold structure requires a disproportionate amount of officer time to deal with management issues, relative to the amount of rental income received.

Market Context

Generally secondary/tertiary, multi-let neighbourhood shopping parades, let to smaller local businesses on tenant's IRI leases.

Potentially saleable but management intensive and with a current high level of irrecoverable costs. Gross income is £493,636 pa with a net income of only £61,025 pa, however value will in some instances be underpinned by vacant possession value.

A period of intensive asset management and preparation (say, 3-6 months) required prior to marketing to present the properties in their best light and to identify/understand any redevelopment potential. To achieve best value it may be necessary to demonstrate that a higher level of net rent is achievable.

Target purchasers are often more difficult to identify for this type/quality of retail stock.

Recommended methods of sale would be private treaty, auction or a portfolio sale, in whole or part.

Whilst owner-occupier sales could be considered, this would be management and time intensive. It would lead to split ownerships in parades, creating future management issues.

We recommend that the minimum lot size is individual parades unless there are special circumstances.

If sold, restrictions could be placed on the tenure in terms of future use or redevelopment, with claw-back or profit share provisions, but this is likely to impact on value.

Conclusions

Attached as an Appendix is a copy of a JLL report that forms part of an ongoing retail research programme - the Retail 2020 Study. "The New Retail Rulebook: 5 Key Lessons from the Future" is the latest release from the study, launched in May 2010 with the aim of identifying key trends that are rapidly changing the global retail landscape. The report covers all factors expected to impact the retail sector by 2020, across the full spectrum of economic, technological, demographic and cultural changes. The findings have been shaped by numerous client and retail industry meetings including expert interviews, data-mining and a top table Think Tank.

We draw your attention to remarks on pages 18-20 regarding weak secondary and tertiary retail locations which are, in effect, becoming obsolete. In our view, the rack rent shops fall within this category. They are a deteriorating asset and a significant drain on management time and resources.

Notwithstanding this, we appreciate that there will be political concern regarding the need to support "convenience" retail for the benefit of local communities in some locations. However; in the face of changing market dynamics we do not believe that there is sufficient justification for retaining these assets as part of an investment portfolio with the exception being those properties identified within the schedule as being part of a proposed redevelopment scheme (e.g. Beechley Drive and Maelfa).

Where market requirements and conditions permit however, consideration could be given to the development of 'investment quality' convenience retail facilities which are more appropriate to modern needs.

Recommendations

Sell these assets - with exceptions for regeneration purposes only.

Ground Rent Shops



Location/Property Type	<p>These properties are a mixture of suburban retail parades and individual shop units, some of which are mixed use with residential accommodation above.</p> <p>Within this category are a number of city centre properties.</p>
Tenant Profile	The tenants are predominantly independent traders but there are also a number of good quality national multiples including Lloyds Pharmacy, Greggs, William Hill and BHS.
Number of Properties	51
Rental Income	Gross = £52,326 per annum Net = £33,154 per annum
Outstanding Lease Events	10 rent reviews 1 lease expiry
Other Management Issues	None.
Market Context	<p>Ground rents are, generally, highly sought after investments. Investors consider ground leases to provide very secure income with the prospect of a significant reversion on expiry, with values enhanced where there are regular ground rent reviews.</p> <p>Very marketable interests in their current form and would achieve strong capital values, albeit there is a range of prime to tertiary properties which influences value.</p> <p>The longer these assets are retained the higher the capital value, however long leasehold ownership dis-incentivise tenants for investing in their property as their unexpired lease term erodes.</p> <p>Recommended methods of sale would be private treaty or auction and the properties would be suited for a portfolio sale in whole or part. These are however long term interests and a considered, strategic approach can be taken to any sales programme.</p> <p>Lease restructuring to provide revised (e.g. widened user provisions) or longer lease terms in return for a rebased ground rent or a premium can also be considered.</p> <p>If sold, restrictions could be placed on the tenure in terms of future use or redevelopment, with claw-back or profit share provisions, but this is likely to impact on value.</p>

Conclusions

With the exception of one property, all are let on long term leases.

They require very little in terms of management resources or capital expenditure and therefore represent a good passive investment.

Recommendations

Retain – consider individual disposals on a case by case basis.

Commercial Properties



Location/Property Type	These properties are predominantly located in the city centre and comprise office, retail, mixed use premises and car parking.
Tenant Profile	The tenants are generally of high quality including strong retail covenants such as Marks & Spencer, Boots, Tesco and Toys R Us together with major investor/developers including Land Securities and Capital and Regional.
Number of Properties	18
Rental Income	Gross = £1,368,620 per annum Net = £1,363,101 per annum
Outstanding Lease Events	3 rent reviews
Other Management Issues	Other than lease events management input is minimal.
Market Context	<p>Core strategic assets predominately in the city centre and include offices, retail, mixed use premises and car parking.</p> <p>Generally prime to secondary assets, with secure income, which are readily saleable and would create strong investor interest.</p> <p>There is minimal management or irrecoverable costs. These assets are a strategic hold unless there are special circumstances, or a significant capital receipt is required.</p> <p>Recommended methods of sale would be individual private treaty or a portfolio sale in whole or part.</p> <p>If sold, restrictions could be placed on the tenure in terms of future use or redevelopment, with claw-back or profit share provisions, but this is likely to impact on value.</p>
Conclusions	These properties represent the strongest assets in the portfolio both from an income perspective and in terms of their strategic location.
Recommendations	These properties should be retained as a strategic investment.

Pubs and Clubs



Location/Property Type	<p>The majority of these properties are in suburban locations or on arterial roads and vary widely in age and type of building.</p> <p>Three properties are located in the city centre.</p>
Tenant Profile	<p>Most pubs are let to established national pub operators such as S.A. Brain, Greene King, Eldridge Pope and Punch Taverns, all of whom are good quality tenants with a strong covenant.</p> <p>The remainder are mainly let to local sports clubs and private members clubs.</p>
Number of Properties	25
Rental Income	<p>Gross = £370,934 per annum</p> <p>Net = £362,510 per annum</p>
Outstanding Lease Events	<p>7 rent reviews</p> <p>2 lease expiries</p>
Other Management Issues	Other than lease events management input is minimal.
Market Context	<p>A mixture of ground leases and occupational leases.</p> <p>Good secondary to tertiary units let to a mixture of national and local operators.</p> <p>Some management obligations but relatively low irrecoverable costs and these assets are a good, strategic hold unless there are special circumstances, or the Council requires a capital receipt.</p> <p>Recommended methods of sale would be individual private treaty, auction or a portfolio sale in whole or part.</p> <p>There are a number of active occupational requirements in leisure sector at it may be possible to improve the strength of tenant line-up.</p> <p>Given the location and age of some of these assets they could be suitable for redevelopment either for the existing or alternative, higher value uses and this would require careful consideration.</p> <p>If sold, restrictions could be placed on the tenure in terms of future use or redevelopment, with claw-back or profit share provisions, but this is likely to impact on value.</p>
Conclusions	Only three of these properties are strategically important in terms of location being city centre premises however, as a portfolio, they

represent a strong investment proposition requiring minimal management input.

Recommendations

Retain – selective sales where a strong business case can be established and/or where development opportunities arise.

Hotels



Location/Property Type	All but two of these properties are strategically important in terms of location being city centre premises. The remaining two are in suburban locations.
Tenant Profile	All tenants are recognised national or international brands such as Holiday Inn, Marriott or Ibis.
Number of Properties	6
Rental Income	Gross = £273,774 per annum Net = £271,450 per annum
Outstanding Lease Events	1 rent review
Other Management Issues	These are all held on long leasehold interests and, other than lease events, management input is minimal.
Market Context	<p>Good quality prime/secondary hotel ground rent investments that would be highly sort after.</p> <p>These properties offer secure income with the prospect of a significant reversion on expiry, with values enhanced where there are regular ground rent reviews.</p> <p>Marketable interests in their current form and would achieve strong capital values.</p> <p>The longer these assets are retained the higher the capital value. However long leasehold ownership potentially dis-incentivises tenants from investing in their property as the unexpired term erodes.</p> <p>Recommended methods of sale would be private treaty or auction and the properties would be suited for a portfolio sale in whole or part. These are however long term interests and a considered strategic approach can be taken to any sales programme.</p> <p>Given the age of the buildings and unexpired lease terms these are prime sites for redevelopment either for existing or alternative uses.</p> <p>Individual sales to tenants could be explored and lease restructuring to provide revised (e.g. widened user provisions) or longer lease terms in return for a revised ground rent or a premium can also be considered.</p> <p>If sold, restrictions could be placed on the tenure in terms of future use or redevelopment, with claw-back or profit share provisions, but</p>

this is likely to impact on value.

Conclusions

We view these properties in the same category as the 'commercial properties' and for the same reasons we regard them as a good investment proposition.

Recommendations

Retain.

Industrial Ground Leases



Location/Property Type	The industrial ground leases are not strategically important in terms of location and mainly comprise multi-unit clusters in the Hadfield Road area although there are also some isolated sites.
Tenant Profile	There is a mix of local and national covenants as tenants. There are however a significant number of national companies including Jewson, Evans Halshaw, Hyder, Speedy Hire, Robert Price, ATS Euromaster, Booker Cash & Carry and Railtrack.
Number of Properties	96
Rental Income	Gross = £966,699 per annum Net = £937,070 per annum
Outstanding Lease Events	24 rent reviews 2 lease expiries
Other Management Issues	These properties require a relatively low management input however; many of them are on a 5 yearly review pattern so an efficient letting strategy with timely management of lease events is essential to maintain the quality of the income stream.
Market Context	<p>Ground rents are, generally, highly sort after investments. They provide secure income with the prospect of a significant reversion on expiry, with values enhanced where there are regular ground rent reviews.</p> <p>Very marketable interests in their current form and would achieve strong capital values, albeit there is a range of prime to tertiary properties which influences value.</p> <p>The longer these assets are retained the higher the capital value, however long leasehold ownership does potentially dis-incentivise tenants for investing in their property as their unexpired lease term erodes.</p> <p>Recommended methods of sale would be private treaty or auction and the properties would be suited for a portfolio sale in whole or part. These are however long term interests and a considered strategic approach can be taken to any sales programme.</p> <p>There is less rationale for industrial ground rents to be aggregated together for future strategic goals and therefore individual sales could be considered.</p> <p>Consider lease restructuring to provide revised (e.g. widened user</p>

provisions) or longer lease terms in return for a rebased ground rent or a premium can also be considered.

If sold, restrictions could be placed on the tenure in terms of future use or redevelopment, with claw-back or profit share provisions, but this is likely to impact on value.

Conclusions

These ground leases represent a strong investment portfolio however consideration should be given to actions which would reduce the level of management input required.

This can be achieved by offering longer leases either in exchange for a premium payment or with fixed rental increases to RPI or CPI indexation, or by widening the review periods in exchange for a higher rent or premium.

Recommendations

Retain – selective sales where a strong business case can be established and/or where development opportunities arise.

Workshops



Location/Property Type

The majority of these estates comprise purpose built estates consistent with this type of use and are of reasonable quality. Douglas Buildings, Royal Stuart and Ely Brewery Workshops are however former warehouse and industrial buildings which have been subdivided to create work shop space.

Douglas Buildings and Royal Stuart Workshops have been provisionally identified as strategically important sites as part of an ongoing master planning study for Cardiff Bay.

The Willowbrook estate, St Mellons offers modern technology workspace / office premises and, in our view, represents the best of the workshop portfolio.

Tenant Profile	These properties are predominantly let to local and regional businesses and start-up businesses.
Number of Properties	9 estates comprising 143 units
Rental Income	Gross = £585,492 per annum Net = £395,796 per annum
Annual Expenditure	£174,719
Maintenance Backlog	£351,100
Outstanding Lease Events	15 lease expiries
Other Management Issues	<p>The management of the workshop estate is somewhat convoluted as a result of the division of responsibility between Estates and Economic Development. We appreciate that this structure has evolved to accommodate internal budgetary requirements however, from a management perspective it is unsatisfactory.</p> <p>Good estate management practice requires transparency in regard to property budgets where the relationship between income and costs can be fully considered.</p> <p>The arrangement that currently exists provides Economic Development with all the benefits in terms of the net income while Estates are left with all the liabilities including a substantial maintenance burden as the workshops are let on internal repairing terms.</p>

Market Context

Generally good secondary/tertiary multi-let estates which provide smaller (- 5,000 sq ft), starter industrial/workshop units, predominantly let to smaller local businesses.

Saleable but management intensive and with a relatively high level of

irrecoverable costs. The gross income is £585,492 per annum against a net income of £395,796 per annum; however the value will be underpinned by vacant possession value.

A period of intensive asset management (3 months) is recommended prior to marketing to present the properties in their best light and to identify/understand any redevelopment potential.

To achieve best value it would be necessary to demonstrate that a higher level of net rent is achievable.

There are a number of active investor requirements for multi-let industrial investments. Recommended methods of sale would be private treaty or auction and the properties would be well suited for a portfolio sale in whole or part.

Whilst owner-occupier sales could be considered this would be management and time intensive and would lead to split ownerships on estates, creating future management issues and having a negative impact on investment value. We recommend that the minimum lot size is individual estates unless there are special circumstances.

Across South Wales, there is a track record of public sector industrial estates being sold with the WDA asset sales of the 1990's to the likes of Ashtenne, IO Group, TBI and Hodge Properties involving over fifteen million sq ft of floor space. In addition, local authorities have sold off all or part of their workshop estates including RCT Council to Valad and Caerphilly to Ashtenne.

There has been no significant impact upon job creation as the private sector purchasers have worked hard to maintain full occupancy. The key aspect in terms of job creation is the initial development of the scheme and, arguably, if the Council KPI was job creation then the most effective route forward would be to sell the existing workshops and recycle the money into new schemes.

The sales programmes above have however highlighted the risk of estate fragmentation in terms of a purchaser selling off individual units with a detrimental impact on estate management. This can be avoided by disposals on a ground lease basis which would also protect against redevelopment (e.g Gabalfa Workshops).

Conclusions

We note the Council offers workshop units as a facility for start-up and small business occupiers as part of the economic development remit. In our opinion, the subject units would still be available in the market if sold to the private sector and this is, therefore, not a justification for retaining the status quo.

Recommendations

Sell these assets – except Douglas Buildings & Royal Stuart Workshops pending Cardiff Bay review.

Community Assets



Location/Property Type

The properties that fall within this classification are diverse comprising such assets as community centres, scout halls, care homes and sporting facilities.

Tenant Profile

There are no tenant names identified for these properties within the schedule but their specified use indicates the nature of tenants which are in the main community groups or organisations that serve this purpose.

Number of Properties

54

Rental Income

Gross = £107,838 per annum
Net = £91,861 per annum

Outstanding Lease Events

23 rent review
10 lease expiries

Other Management Issues

The large number of outstanding lease events clearly indicates that there are management issues in dealing with these properties. This is probably exacerbated by the sensitivities of dealing with non-commercial tenants for which we would expect there to be significant political interest.

Market Context

Community related properties including scout huts, sports facilities and community centres.

These are unlikely to have significant commercial value in their existing use, however if suitable for redevelopment, significant capital receipts could be achieved.

We have not recommended that these assets are sold to investors or developers unless there are special circumstances. Please refer to our section on alternatives methods of ownership.

Recommended method of sale would be auction or private treaty once the alternative use potential has been fully explored.

If sold, restrictions could be placed on the tenure in terms of future use or redevelopment, with claw-back or profit share provisions, but this is likely to impact on value.

Conclusions

These are clearly not investment quality assets from a commercial perspective and their inclusion within the investment portfolio is difficult to justify from this viewpoint. Nevertheless, the socio economic role that they play within the life of the city is not something that can easily be dismissed.

We have considered very carefully whether divesting these assets would be a rational decision but it is difficult to see how they could

be owned by anybody other than the public sector or possibly a third sector body or organisation.

The contribution to net rent is not insubstantial although the management of lease events is clearly an issue which may be attributable to the fact that they are “community assets” and therefore a low priority when it comes to the pursuit of rental increases?

The classification of a property as a community asset should not preclude the recovery of rent or pro-active management of lease events on market terms. If rents were ring-fenced for return to community benefit then it is entirely possible that the management of this element of the portfolio could be self-financing.

Consideration should be given to an alternative structure for holding and managing these particular assets which reflect their unique position, possibly through a community asset transfer, community trust or similar venture.

Recommendations

Retain due to community benefit. Consider alternative ownership model such as a community asset transfer.

Central Market



Location/Property Type

Central Market is a late Victorian building located in the city centre.

Tenant Profile

There are no tenant names identified for the individual stall holders however we assume that the nature of this property means that they will all be independent traders.

Number of Properties

1

Rental Income

Gross = £209,000 per annum
Net = £161,960 per annum

Maintenance Backlog

£176,100

Outstanding Lease Events

There are no tenancy agreements.

Other Management Issues

Indoor markets often represent a difficult challenge from a management perspective primarily due to the landlord/tenant relationship which is often fractious requiring a disproportionate amount of officer time.

We understand that the Council has recently commissioned an independent study into the operation of the market that will examine the issues and serve as a "health check".

Of particular concern is the fact that there are no regular tenancy agreements, an uncomfortable position for the Council to be in as a landlord.

Market Context

Very management intensive and with a relatively high level of irrecoverable costs. The gross income is £209,000 per annum with a net income of £161,960 per annum.

There are likely to be political sensitivities however, if declared surplus, we anticipate that there would be demand from specialist operators as a going concern.

The recommended method of sale would be targeted private treaty. If sold, restrictions could be placed on the tenure in terms of freehold/ground lease or claw-back or profit share provisions. These measures would however impact on value.

Conclusions

Central Market represents a unique asset in terms of the retail offer for the City however it requires significant investment and management issues are understood to be time consuming and a significant drain on resources.

The management of market premises is a specialist discipline and consideration should be given to outsourcing the running of the market to a private management company on terms which would encourage capital investment.

Steps should also be taken to regularise the position in respect of tenancy agreements and bring all stall holders into a modern tenancy structure, which is conducive with good management practice.

Recommendations

Retain – consider alternative management arrangement.

Other Properties



Location/Property Type	The properties within this part of the portfolio are those that don't fit comfortably within the generic categories set out above and include some of the more unusual assets such as advertising, electricity sub stations, gas governors and agricultural type properties.
Tenant Profile	There are no tenant names identified for the individual properties within the schedule.
Number of Properties	83
Rental Income	Gross = £230,621 per annum Net = £203,896 per annum
Outstanding Lease Events	21 rent reviews 16 lease expiries
Other Management Issues	We understand that the Council is currently in discussion with a private sector company regarding the leasing of advertising space throughout the city. As such this warrants a specific sub category as it will undoubtedly form an important component of the strategic investment portfolio in the future.
Market Context	<p>A mixture of miscellaneous property which does not fit the generic categories including advertising, electricity substations, gas governors, agricultural properties, car parking residential units and care homes. Some of these assets have limited commercial value.</p> <p>A high level of irrecoverable costs. The gross income is £230,621 per annum with a net income of only £203,896 per annum.</p> <p>Care Homes/Hostels – A mixture of occupational and ground leases. Would have commercial value to operators or investors.</p> <p>Recommended method of sale would be auction or private treaty. A sector specialist may be required to advise on sales with vacant possession or subject to occupational leases.</p> <p>Residential – Predominantly ground leases which could be sold readily as a portfolio or to individual tenants unless there is any rationale for a strategic hold.</p> <p>Given the location and age of some of these assets they could be suitable for redevelopment either for the existing or alternative, higher value uses and this would require careful consideration.</p> <p>If sold, restrictions could be placed on the tenure in terms of future use or redevelopment, with claw-back or profit share provisions, but</p>

this is likely to impact on value.

Conclusions

As with community assets, many of these properties are such that they should stay within public sector ownership. However, some including a number of residential properties and garages, contribute little to the overall net rent serving no strategic purpose and may be considered for disposal on a case by case basis.

The utilities type assets including sub stations, way leaves and gas governors etc are a specialist property type and as such we would recommend that any outstanding or future rent reviews are outsourced to a consultant with the requisite experience to ensure that appropriate levels of rent are being paid.

Residential care homes are also a specialist property asset and again we would recommend that external advice is sought in respect of any outstanding lease events.

Recommendations

Retain – consider disposals on a case by case basis. Specialist advice to be sought in areas such as care homes and utilities.

4.3 Management Review

Properties under management

By its nature a local authority estate often contains a number of high quality income producing properties balanced against a number that are not prime investment quality. The latter may be held for economic regeneration purposes, community benefit or as a legacy of operational need such as gas governors, way leaves and electricity sub stations etc. These types of property often represent a significant burden in terms of management time and/or financial resources. This is a particular problem in view of the current constraints on local authority budgets and therefore part of the rationale for this review.

The investment portfolio within the ownership of Cardiff City Council is therefore typical of local authority estates, combining a range of property across the main commercial sectors together with other specialised uses.

The management of the investment portfolio is the responsibility of the valuation section of the Strategic Estates team. We understand that some management functions, primarily the letting of the workshop units, is dealt with by a different service area which falls under the remit of the Economic Development team. This division of responsibility only relates to lettings with day to day management being the responsibility of "Estates" once a tenancy has been agreed.

It is not unusual to find this type of arrangement in local authority structures where property has a regeneration purpose however; efficient property management is usually achieved through a single management team or structure and we would question the efficiency of this arrangement in relation to the workshop estate.

Structure of Property Management

We have been provided with details of the Strategic Estates team structure which currently comprises a Principal Valuer, two Senior Valuers, two Assistant Valuers, one part time Valuer, one Development Valuer and one Estate Management officer together with a number of support staff.

The team has recently lost two valuers as a result of a reduction in staff and budgetary constraints and this has inevitably put the team under pressure in terms of dealing with the estate, some elements of which are particularly demanding in terms of staff time. Consequently the majority of the Estates team work can be viewed as reactive rather than proactive which is not conducive to maximising the potential of the assets.

Lease Events

The existing team undertake the day to day management as well as professional work. We have noted from the data provided that a large number of lease events appear to be outstanding within the portfolio.

There are 65 outstanding lease expiries on the schedule with a total income in excess of £207,875 per annum. There are 123 outstanding rent reviews (which may also include properties with expiries) with a total income in excess of £1,195,742 per annum. We have commented above on the reasons for many of the outstanding events still being shown as 'live', such as political sensitivity or no prospect of rental uplift. In our experience, it is often pragmatic to leave certain events outstanding in lieu of future negotiations when there is little prospect of any meaningful settlement and the estates team will also be mindful of sensitivities surrounding certain property categories particularly where there is a community interest.

For clarity we have sought to break down the lease events from 2014 until 2019 on a 2 year basis:

- In 2014 and 2015 there are 23 rent reviews (total income £728,570 pa) and 18 lease expiries (total income £75,801 pa).
- In 2016 and 2017 there are 10 rent reviews (total income £214,126 pa) and 6 lease expiries (total income £43,310 pa).

- In 2018 and 2019 there are 16 rent reviews (total income £253,046 pa) and 14 lease expiries (total income £88,741 pa).
- There are therefore 49 rent reviews and 38 lease expiries being a total of 87 events (ignoring outstanding lease events before 2014).

The above lease events include the full spectrum of uses and lease types which are managed by the estates team. In addition there will be potential asset management opportunities.

Estates surveyors deal with general management and professional work which places different priorities on them. We expect that professional work may potentially be put to one side where resource is required on day to day management. If surveyors continue to operate on this basis then it is preferable to allow specialism of particular sectors/uses. This may work where there are clusters of similar property e.g. industrial ground rents or rack rent shops so that surveyors have ownership of their area and have comprehensive knowledge, enabling efficient resourcing internally.

There are particular properties/uses where leases may be better dealt with externally. Where specialist properties are dealt with internally there may not be the required expertise or available market data required to efficiently deal with the lease event or maximise the income. In addition a third party maybe more detached in terms of decision making.

We have not had access to the internal estates database but from our discussions with the estates team it would appear that the systems currently in use do not automatically flag up events as a forward action which would go some way to explaining the problem. However, we suspect that there are also probably insufficient staff resources available for dealing with rent reviews and lease renewals in house.

This is not unexpected as these matters can be extremely time consuming and often require a level of market intelligence on specialist sectors such as pubs, hotels or utilities that would not be readily available to the Estates team. Most private sector property managers would not deal with lease events themselves but would instruct specialist lease advisory consultants.

We know from our own experience that the Council sometimes do this but we recommend this as a standard to achieve the best terms, which maximises the value of the portfolio. Nevertheless, it does require an appropriate level of budget to pay for it and the management systems need to be in place in order to identify the events as they arise.

General Management

The Council retains responsibility for maintenance in respect of a significant number of properties within the investment portfolio however, on the basis of information provided it is clear that there is insufficient budget for this purpose. Other than essential or re-active maintenance there appears to be no ongoing asset enhancement. Consequently those elements of the estate where the Council retains responsibility for repairs will inevitably deteriorate affecting asset value, lettings and consequently income generation.

The procurement of facilities management services also appears to carry an inherent burden in the form of a 12% internal management fee, additional to the contractor's fees of 20%. We question what benefit the estates team derive from this arrangement as direct procurement of services under the control of a single management structure would seem to be a more transparent and efficient route.

Disposals

The marketing (advertising) of vacant property is an area of concern as we are told that there is no specific budget allocated for this particular purpose although disposal costs can be charged against a future receipt where the timing is certain. An appropriate marketing budget is an essential requirement of good agency practice and most landlords would normally outsource this type of work.

The inability to carry out a comprehensive marketing strategy with appropriate collateral or to offer financial inducements (other than rent free periods) will obviously impact on the ability to let properties in a timely fashion to the best possible tenants on the most advantageous terms. The consequence is a high level of voids with loss of potential income and an empty rates liability. We understand that the Council currently has an empty rates liability in the region of £75,000 per annum, which would more than offset a useable marketing budget.

Conclusion

The inevitable conclusion of these observations is that the estates team is under-resourced to deal with the investment portfolio effectively and the current arrangements for dealing with the letting of vacant property are not efficient.

We understand that the estates department is tasked with raising £3.5m per annum from the portfolio with derived income used to support the Council's revenue budget. The exception is income from the workshops which is retained by Economic Regeneration and receipts from disposals below £10,000 which are retained by Estates to support operational budgets.

Receipts arising from disposals are used to support the capital programme however, any consequential loss of income must be offset against the remainder of the portfolio as the income target remains the same despite the fact that capital receipts are not reinvested. We believe this situation to be unsustainable in the medium to long term. Without reinvestment of capital receipts, or other injection of investment capital, the portfolio is simply operating as a drawdown facility and will slowly deteriorate over time. To expect to maintain a fixed level of income on this basis into the future is totally unrealistic.

4.4 Gap Analysis

We have not been afforded an opportunity to carry out a detailed study of the availability of development sites and buildings in Cardiff, which would have necessitated a qualitative and quantitative survey of all available sites and buildings together with a workshop with the Planning Department. We are aware that the draft Local Development Plan (LDP) is now close to being adopted. Therefore, the following commentary seeks to provide an overview of gaps in supply.

a) Employment Sites

The key gap in Cardiff is a lack of available employment land which can be brought on-line within a relatively short timescale. There is little, or no, employment land available for business park, science park or general industrial use. The lack of a network of existing attractive strategic sites undermines the efforts of Cardiff to attract mobile projects, particularly in value added industries.

Outside the City Centre, the existing employment offer is dominated by Ocean Park and Wentloog, to the south east of the City Centre together with a number of motorway related business parks. Ocean Park (formerly East Moors) provided the growth location in the 1990s and early 2000s whilst Wentloog has seen significant development over the past 15 years. Whilst land remains available for development at Wentloog, there are issues of access and technical matters relating to flood plain.

There remains demand within Cardiff for a significant employment site or sites, combining business park and industrial estate, to be located on the western side of the City with proximity to both the M4 and The Vale of Glamorgan, (where many business owners live). The business case was made, a decade ago, for an 'international class' business park at

Junction 33 of the M4. The key attributes of such a business park were considered to be scale (minimum 100 acres), the highest quality communications (access to motorway and airport links), University links and a strong physical and environmental appeal.

In the Cardiff Capital City Region, there is also an identified opportunity to create a bespoke science park. This would need to have proximity to Universities and other leading educational institutions. We are aware that there is a cluster of science based businesses, including Reneuron, emerging at Pencoed and it may be that this location is seen as the best fit.

There is the opportunity for special category sites with a provision for specialist uses where the property requirements of that sector are unlikely to be met on other types of sites. We have seen a media cluster emerge at Roath Basin with the BBC Drama Village and the more recent Gloworks building. There is the opportunity to build upon this sector demand, working with the “creative industries” panel of Welsh Government.

There is also a clear opportunity for a bespoke distribution park to be located on the eastern side of the City, between Cardiff and Newport and with strong communication links. The growth in e-commerce has generated increased activity from parcel carriers and other internet businesses. There is the opportunity to capture new investment from parcel carriers, internet fulfilment centres, click and collect stores and even ‘dark stores’ (so called, supermarkets for internet pickers). Such a distribution park would need to be located away from residential areas to facilitate 24/7 working.

At the more functional end of the market, there is a need for further local industrial estates, typically suited to a smaller/local operation and located in a mixed environment within close proximity to existing built up areas. There is demand in Cardiff for new local industrial estates in all parts of the City although it is recognised that these are often not the most attractive land uses. Within the City Region, but outside Cardiff, there may be more appropriate locations for such industries. However, as areas around Dumballs Road, Penarth Road and Newport Road become still more attractive to alternative use redevelopment, so relocation sites are required for some of the lower order uses that would be displaced. During the period that Cardiff Bay Development Corporation operated, secondary estates were created in Tremorfa and, to an extent, the back land in Ocean Park. However, these estates are full and there remains additional demand.

b) Employment Buildings

The core employment location is the City Centre, which offers the most sustainable location in terms of re-use of brownfield land and use of public transport. The Central Cardiff Enterprise Zone has provided an additional focus upon this area and the key schemes of Central Square, Capital Quarter and Callaghan Square are now ripe for redevelopment and c.300,000 sq ft or new speculative development is proposed across these sites.

The availability of a balanced portfolio of new floor space (completed or under construction) will allow existing and emerging businesses to be attracted to Cardiff and, therefore, private sector developers should be encouraged to bring forward speculative schemes potentially through Property Development Grant, if appropriate.

The out of town office market is perhaps the employment market which suffered greatest during the downturn as there had been a significant wave of speculative office development aimed at owner occupiers acquiring through a SIPP Pension Fund. However, after seven years the market has recovered although developers lack confidence to move forward with new schemes and it is likely that this will be the case for some years to come. Land remains available at Cardiff Gate and St Mellons Business Park although there are few opportunities to the west of Cardiff.

In the industrial market, developer J R Smart constructed c.800,000 sq ft of industrial and business unit accommodation, typically in terraces of 15-30,000 sq ft which was then available for sub-division according to demand. This floorspace was constructed over a period of 10 years ending in 2008 and two thirds was sold and one third leased. This floor space is virtually all occupied and vacancy level on smaller units in Cardiff is low. However, rental and capital values have not yet reached their peak and we are therefore probably 2-4 years away from any major speculative development of this nature.

As the property market improves, new development is likely to take place for those uses where there is little alternative in terms of existing second hand buildings. Therefore, new development is likely to be dominated by extensions to existing buildings and unusual or quirky building requirements, such as cross dock distribution, high eaves height or waste to energy type projects – these occupiers are unlikely to find a cost effective solution in an existing industrial shell.

4.5 Ethical Agenda/Policy

We have been asked to provide comment regarding the issue of an ethical lettings policy for the property portfolio. This is a subject that has recently become an area of concern for many Councils as they seek to address the social problems associated with pay day loan companies, betting shops and the sale of alcohol etc. Such uses tend to disproportionately affect low income families struggling to cope with the effects of the economic recession.

Property management is tightly controlled in terms of legal practice and robust professional guidelines which ensure ethical procedures from a business perspective. We would argue therefore that this is a political issue seeking to address a perceived social problem from an ethical perspective through management policy.

The issue is slightly at odds with the brief for this review which emphasises the need to drive efficiency and maximise returns from the portfolio in the face of increased financial constraints.

The challenge is to balance profit with social responsibility, something that we used to associate with the practices of the co-operative society which sadly now suffers from a tarnished reputation in this regard. This type of business model represents an approach that would require a completely different ownership structure and is one that would not necessarily fit with the objective except perhaps in relation to the management of community type assets and we have provided separate comment on this elsewhere in the report. We are also unclear as to the legal implications regarding the requirement for local authorities to achieve “best value” and would recommend taking further advice on this.

From a technical point of view it is a relatively simple matter to control or resist perceived “immoral uses” via user restrictions in leases which is standard management practice. To go beyond this and proactively seek to block a defined group of business types as a matter of policy could be problematic. From a commercial perspective it doesn't make financial sense and we would have to question whether it would have any real impact. Unless the Council were in control of all the property in the City then potential occupiers can always choose to lease alternative premises. In our opinion, the planning system is usually the most effective control for this purpose.

Notwithstanding the above comments there will be areas of practice within the management of the investment portfolio where it may be possible to actively encourage an ethical approach either in terms of the use of property or in the procurement of skills and services which would not necessarily be at odds with the objective of maximising efficiency and returns.

Meanwhile uses such as pop up shops that are run by charitable organisations or on a not for profit basis are an example of good practice in this regard and are often used by commercial landlords as a means of mitigating costs in respect of vacant property. Likewise, contractual covenants that ensure the delivery of training or apprenticeship places with building contractors, consultants and other service providers is a well-established concept within the public and third sectors which would not be viewed as onerous by the private sector.

At a more strategic level the Council is in a position to set the bar high when it comes to the quality, sustainability and energy efficiency of it's buildings which would act as a benchmark for future development. This will often come at an additional cost but as matter of policy it is something that the Council can take a view on.

Finally, we have commented elsewhere in this report regarding the strategy for those properties which fall within the category of “community assets” which we would advocate as being prime candidates for transfer to a community interest company. It is from within this part of the existing portfolio where perhaps there is the greatest scope for the delivery of a social or ethical agenda at a grass roots level which the Council can facilitate.

5 Future Strategy

5.1 Disposals

Regional investment markets in the UK, including Cardiff, have seen a sustained period of improvement over the past 12 to 18 months, with an increased appetite from investors, hardening yields and rising capital values. A lack of stock and strong competition for assets in London and the South East has led to investors looking to the regions in search of value and Cardiff has certainly felt the benefit.

Cardiff, as the capital city and the centre of government and commerce in Wales is leading the Welsh market. Prime and good secondary property in Cardiff across all sectors is on the shopping list for a broad buyer spectrum including institutions, property companies, trusts, private pension funds, syndicated investors, private investors and high net worth individuals. Some notable key market trends are:-

- **Yield gap** - There has been a substantial risk premium for secondary stock and the differential between prime and secondary has been at historically high levels. This margin reduced in 2014 with marked yield compression for good secondary assets. For properties with less secure or predictable rental income, the prospect of rising interest rates and uncertainty surrounding a general election has pushed yields higher, leading to a widening gap between different qualities of secondary stock.
- **Portfolios** – packaging assets into portfolios allows property investors to place large amounts of equity in a single transaction and to acquire a diverse range of assets thus spreading risk. This is currently a popular method of disposal and portfolios can command a premium value. Perversely, portfolios perceived as in “distress” often generate greater interest and can command a higher premium.
- **Lot size** – institutional purchasers and a number of active overseas investors are primarily seeking lots of £20 million plus. They have large volumes of capital to invest and only limited resources to make acquisitions, so their preference is to place a large volume of capital in fewer transactions. There is a broad range of sub-institutional investors however, these parties are often less aggressive. A challenging lot size is £3 - £5 million capital value, which tends to be too large for individuals and private investors whilst too small for properties companies and smaller institutional buyers.
- **Increasing availability of debt** – a range of the banks and other lenders have re-entered the market and therefore so have debt funded buyers. However, loan to value ratios remain at 50 - 60% and therefore bidders remain aggressive.
- **Overseas investors** – there is a continued emergence of well-funded overseas investors which have acquired a number of key assets in Cardiff over the past 12 months including Crickhowell House (occupied by Welsh Government) and Willcox House (occupied by Cardiff Council).
- **Occupational market** - there is still uncertainty around the health of the occupational markets and whilst this is improving for any recovery to be sustainable, investors will need to have confidence that there is tenant demand.
- **Irrecoverable costs** – Investors pay close attention to both income and costs. Purchasers prefer tenant’s full repairing and insuring leases and any irrecoverable expenditure in terms of building maintenance and repairs, service charge, insurance, letting voids, empty rates and other liabilities would be deducted from an investment’s gross income stream to provide a net rental income. Investors will be considering their “triple net” yield and the true net income is usually what an investor’s bid is based upon, unless the property value is otherwise underpinned by its vacant possession value.
- **Alternative investment sectors** – have continued to grow in popularity with a range of investors increasing their exposure to areas such as student accommodation, healthcare, renewables and hotels. The main driver is increasing competition for the limited pool of prime conventional assets with other attractions including longer-term, index-linked income streams and more diversified property portfolios.

- **Secure, long term income** – in terms of property investment fundamentals there remains a strong appetite amongst investors for long term income, with tangible prospects for rental growth, which is well secured to good covenants including government bodies such as local authorities. Whilst this might be more pertinent to the Council's operational portfolio, sale and leasebacks possibly on an "income strip" basis, would be very attractive to a variety of institutional and overseas investors and would present the Council with an opportunity to raise significant capital receipts.

5.2 Development Opportunities

The Council's non-operational portfolio is diverse and involves a broad range of properties across a wide spectrum of sectors. As such, it presents significant redevelopment opportunities. To ensure the Council achieves best value across their portfolio it is imperative that development opportunities are fully understood and explored, particularly as part of the due diligence for any proposed sale. This would involve brief discussions with the planning department and the potential for competitive marketing where an opportunity is identified.

Given the size/diversity of the portfolio, the Council's involvement in a number of large scale, high profile regeneration projects (e.g. Central Square, Cardiff Arena/Convention Centre etc.) and the management demands of their operational portfolio and rack rented assets (shops, workshops and central market), there is a risk that opportunities in the middle ground, across the remaining portfolio are not fully explored or are missed.

A clear focus is required to promote schemes and maximise opportunities. Where sites or buildings have a clear development angle then a ground lease disposal may be most appropriate or joint overage or sale with overage/profit share.

5.3 Alternative Models of Ownership - Public/Private Funding Solutions

There is a weight of private sector funding and expertise available for investment in public sector projects and joint ventures and for financing existing or proposed public sector infrastructure. Investors and developers are familiar with local authorities and how they operate and are financed and are willing to make investments and accept risk transfer in a number of ways, depending on the asset class and the nature of the investment required.

From early Private Finance Initiative (PFI) projects (particularly in local authority education and healthcare), the range of market opportunities has evolved and expanded to include joint venture participation for developments and investments and the availability of institutional financing for specific projects, generally supported by a local authority or other government covenant.

These instruments can work either discretely, as part of a wider series of initiatives or alongside the Council using its own prudential borrowing powers.

We provide below an outline of some of the structures that are working for a number of local authorities – to accelerate the delivery of identified objectives, streamline management and/or offer access to alternative sources of finance.

5.4 For development opportunities and investment portfolios

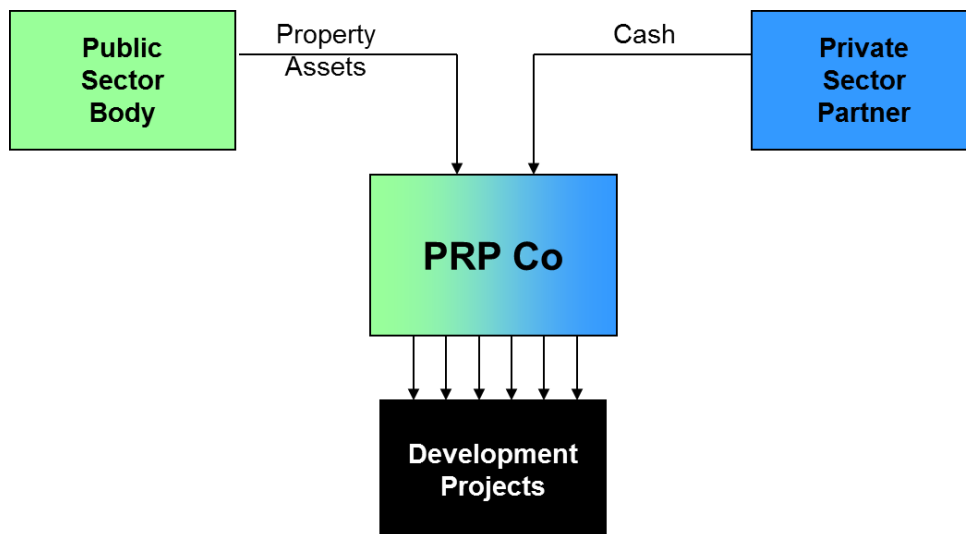
Joint Ventures

There are a number of examples, principally from local authorities or the recently dissolved Regional Development Agencies (RDAs), where public sector owned sites and/or income producing assets – offering development opportunities and/or providing an investment income stream from third party occupiers – have been transferred to joint venture vehicles to transfer and optimise management as well as accelerate the delivery of development, regeneration and other wider local authority objectives.

Principally structured as Local Asset Backed Vehicles (LABVs), the scope can be adapted to the circumstances of each opportunity but in essence:

- the Council would identify an opportunity or series of opportunities that it wishes to see delivered and identify sites (generally but not exclusively in its own ownership) that will enable the delivery of objectives;
- generally a business case process would be undertaken to test viability and engender stakeholder support;
- the opportunity would then be taken to market (generally but not exclusively through an OJEU-led procurement process) with a view to selecting a private sector delivery partner;
- private sector bidders would propose appropriate development solutions and offer to take development, funding, occupancy and other risks against a financial proposal;
- the basis of the financial proposal is the valuation of the assets the Council is making available to the LABV and this, on establishing the LABV, is reflected as the Council's equity shareholding in the partnership (and is cash-matched by the selected private sector partner, alternatively or in part, the Council may extract a capital receipt on establishment);
- LABVs are generally structured as 50:50 deadlocked joint venture vehicles, with the public and private sector partners having equal interests and management & decision making powers; the private sector partner will usually also be responsible for the delivery of management services and the performance of the joint venture.

The basic principles of a LABV are illustrated in the following diagram.



Examples in the local authority environment of development-led LABVs include the following.

Aylesbury Vale District Council (AVDC) – Aylesbury Vale Estates

AVDC established a LABV with Akeman Investment to manage a portfolio of council owned properties and undertake a programme of new developments. The council's commercial portfolio (comprising 292 units generating an annual income of £3.6 million) was transferred into the LABV and included a number of development sites.

The 50:50 joint venture set out to manage, improve and develop the commercial and tenanted properties over an initial vehicle life of twenty years. AVDC's assets were cash-matched by the joint venture partner on establishing the joint venture and the council shares in the rental and any capital returns to the joint venture over its lifespan.

Bournemouth Borough Council (BBC) – Bournemouth Development Company

BBC committed thirteen town centre development sites, all existing car parks, to its LABV, a 50:50 joint venture formed with private sector partner Morgan Sindall Investments Ltd. The joint venture is delivering facilities in support of the council's wider Town Centre Master Vision.

The LABV, established initially for twenty years, has an identified development programme valued at around £400 million. Early projects include the provision of a seven storey, 382 spaces, car park (to create capacity as other car parks are brought forward for development) and a £23 million student accommodation development for Arts University Bournemouth. These projects are part of a wider programme that will deliver a range of residential and mixed use developments, including leisure attractions and shops and offices.

Debt financing options

Local authorities have access to debt financing on attractive terms from the Public Works Loan Board (PWLB) and alternative funding sources rarely exhibit best value in comparison.

There are, however, credible alternatives, where a local authority is prepared to underwrite or guarantee income streams over the long term, from institutional investors offering long term financing products related to bond quality investments.

5.5 For the core operational portfolio

Although beyond the scope of the brief and potentially beyond the contemplation of the Council at this stage, it is appropriate to comment briefly on the potential for raising capital from the core portfolio.

There is a defined market interest, principally from a number of UK pension fund and other sub-institutional investors (UK and overseas based) for investment in government grade income streams. Depending on the exact scope and risk transfer, these can be characterised as public private joint ventures or annuity income arrangements.

The latter might be of interest to the Council if seeking to secure capital at economic rates to undertake capital projects or extract latent value from the Council's existing core occupied portfolio.

In essence, the Council could seek a financing partner to whom it could transfer a 25 year (or longer) leasehold interest in a key asset or assets with the Council as the leasing counterparty in return for an up-front capital receipt. The Council would then meet a "rental" payment stream (generally indexed to RPI) over the 25 year period with the assets returning to the Council at the end of the term.

We anticipate that a transaction of this nature on a good quality asset or portfolio and with the Council's covenant offered would attract an initial return in the range of 4-4.5%. We will be pleased to discuss options for this type of product further if it might be of interest to the Council, this opportunity would also be appropriate for a new build facility where the occupancy or rent roll is guaranteed by the Council.

5.6 Operational Review

With regard to the management of the operational estate, the Council might want to consider the option of outsourcing their estates management function or maybe set up a joint venture company as a means of driving efficiency savings. Any recommendation in this regard would require detailed investigation beyond the scope of this report and warrants a separate study to identify whether this approach would deliver tangible benefits.

As a brief example, Newport City Council recently agreed such a JV company with the Norse Group, who specialise in local authority partnerships of this nature. Newport were faced with similar problems and financial constraints as Cardiff and decided to take the JV route as a means of driving efficiency thereby delivering savings without compromising their existing staff.

Under this arrangement, around 200 council staff transferred to a joint venture company on the same terms and conditions as they had with the Council, which includes pensions. The company was awarded a 10 year contract to manage the council's property assets which includes cleaning and facilities management, building maintenance, management of the Indoor Market, and the provision of strategic property services.

6 Conclusions and Recommendations

This high level review of Cardiff City Council's non-operational (investment) portfolio has highlighted the impressive range and breadth of the property interests held by the Council. The portfolio ranges from the highest quality assets, such as the freehold of St David's shopping centre, to everyday properties, such as workshop units and lock-up shops, through to community assets including rugby clubs and scout halls.

The portfolio has evolved over many years and there are a wide range of reasons why properties have come to be owned by the Council. We recognise that public assets can make a central contribution to the delivery of public services in Cardiff and many properties in the portfolio are integral to the future growth and well being of the capital city.

Cardiff is the focal point of growth in the Cardiff Capital City Region and many of the emerging policies promoted by Welsh Government build upon this central role. These policies include the recommendations of the Sir Paul Williams review in terms of local government reorganisation, city regions growth policies, the establishment of a Strategic Development Plan for the city region and major infrastructure investment proposals in terms of rail electrification and 'The Metro'.

All of these emerging proposals suggest that Cardiff City Council will need to take a proactive role in encouraging investment and development, particularly in the city centre, and will need to allocate sufficient resources to these high level projects.

At the same time, the current era of public sector austerity has highlighted the political and economic imperative to manage assets on commercial terms and to reconsider the priorities of the Council. This streamlining of the portfolio affords the opportunity to provide a more strategic focus to the portfolio for the future whilst also allowing properties to be sold off to raise capital receipts and reduce management issues, including irrecoverable management costs.

Our recommendations fall under the following core headings:

6.1 Renewal of the Council's Investment Asset Strategy

The investment property asset strategy needs to be aligned with the organisational objectives of the Council as set out in the Council's asset management plan. This would set out the vision for the asset base, how each classification of assets would be treated and the overall financial framework in which this will be implemented.

Our recommendation would be set out a strategy for improving the quality and quantity of the investment portfolio. This would be through a focus upon prime assets and the delivery of new development and investment stock. Whilst it is important to encourage the private sector to invest in the city, there will be opportunities where the Council can leverage its position through its existing landholding, the provision of infrastructure and enabling planning to create value.

The new investment mandate could include the acquisition of additional properties specifically for the purpose of income generation, marriage value with existing holdings and to control both existing and new development. The investment mandate would also be informed by a detailed 'gap analysis' of employment properties and sites in Cardiff.

Recommendations:

1. The corporate property strategy to be submitted, setting out the vision for the asset base and how each classification of assets would be treated.
2. We propose streamlining the existing investment portfolio and a future growth agenda focused upon improving the quality and quantity of the portfolio.
3. We recommend that there is a future focus upon acquiring prime assets which fit the growth agenda of

Cardiff, a “Core City” at the heart of the Cardiff Capital City Region.

4. The Council to leverage its position through land ownership, marriage value and planning to create value. However, efforts must be made to ensure that private sector development and investment is encouraged and does not perceive the Council as a “blocker”.
5. The investment mandate to be informed by a detailed gap analysis.

6.2 Categorisation of the Existing Assets

In terms of the various classifications of properties examined in this report, we propose the following hierarchy of strategic value:

Generic Classification	No.	Strategic Value	Sale-ability	Recommendation
Rack rent shops	84	Low	Medium	Sell these assets - with exceptions for regeneration purposes only.
Ground rent shops	51	Medium	High	Retain – consider individual disposals on a case by case basis.
Commercial	18	High	High	Retain.
Pubs & Clubs	25	Medium/High	High	Retain – selective sales where a strong business case can be established and/or where development opportunities arise.
Hotels	6	High	High	Retain.
Industrial Ground Leases	96	Medium	High	Retain – selective sales where a strong business case can be established and/or where development opportunities arise.
Workshops (9 estates)	143	Low/Medium	Medium	Sell these assets – except Douglas Buildings & Royal Stuart Workshops pending Cardiff Bay review.
Community Assets	54	Low	Low	Retain due to community benefit. Consider alternative ownership model.
Central Market	1	High	Low	Retain – consider alternative management arrangement.
Other Properties	83	Mixed	Mixed	Retain – consider disposals on a case by case basis. Specialist advice to be sought in specialist areas such as care homes and utilities.
Total	561			

Recommendations:

6. We recommend the disposal of the following categories of properties:
 - Rack Rent Shops (84 No)
 - Workshop Estates (9 estates)

Note: the sale of workshop schemes at Douglas Buildings and Royal Stuart Workshops to be held in abeyance pending the outcome of the Cardiff Bay Master plan.
7. We recommend the selective sale of property assets from the following categories, but only where there is a strong business case:
 - Ground Rent Shops
 - Pubs and Clubs
 - Industrial Ground Leases
 - Other Properties
8. We recommend that alternative modals of ownership or management are explored for the following categories:
 - Community Assets
 - Central Market
9. All other properties, including the majority of those assets referred to in recommendation 7, to form the nucleus of the re-engineered investment portfolio.

6.3 Agreement of Implementation Plan

Once a disposal register has been agreed then there should be a concerted effort to prepare the identified assets for sale through a short sharp active asset management programme. This would include ensuring clean legal title, resolution of outstanding lease events, consideration of any planning gain opportunities and resolving maintenance backlog. There will be other matters to be considered including technical reports, production of Energy Performance Certificates and clearance of rent arrears and other management issues.

The method of sale will vary from classification to classification, and is explored in more detail in section 5.1 above. However, at an early stage there will need to a decision as to whether to progress tenant sales or not.

Our general advice would be to avoid tenant sales on occupational leasehold premises as this will be protracted and may become somewhat political. However, where there is a ground lease or isolated property then a sale to the tenant may extract a price higher than an open market disposal.

In other instances of public sector disposals of individual properties, we have seen a clear benefit in a sale by auction as this is classified as “best value”, avoids third party intervention and imposes a strict timetable.

There are however estates of workshops and parades of suburban shops which we recommend be sold either on a portfolio or ‘estate by estate’ basis. In considering the method of disposal, the Council should have regard to asset protection in terms of future management and also potential future planning gain. The introduction of overage provisions or long ground leases instead of freehold disposal would offer the Council an element of protection but would also impact upon pricing. Therefore, these measures would need to be considered on a case by case basis.

There is the opportunity to consider a joint venture or asset backed vehicles (LABV) with surplus assets being used to leverage match funding from private sector investment. However, our view is that this is more appropriate where there is

a major regeneration project or area based project rather than a method of disposal. This type of vehicle is a development vehicle rather than investment or asset realisation project.

Recommendations:

10. We recommend agreement upon a disposal register and target timescale for disposal.
11. We recommend a three month window be agreed for a short sharp asset management programme to include:
 - Clean legal title
 - Resolution of outstanding lease events
 - Planning/development opportunities
 - Collation of technical reports
 - Production of Energy Performance Certificates
 - Clearance of rental arrears
 - Minor repairs and dilapidations
 - Other management issues
12. A decision will need to be made on whether or not to offer freeholds to tenants. Our recommendation would be to avoid such tenant sales except where there is an isolated property/ground lease.
13. We recommend primary consideration be given to the following methods of sale:
 - Auction
 - Informal tender
 - Private treaty
14. In terms of lot size, our recommendation is to consider larger portfolios or estate sales rather than individual property sales. This is likely to be by way of informal tender or private treaty with auction offering a solution for standalone properties.
15. The Council needs to consider whether to pursue a joint venture or asset backed vehicle. Our view is that this is likely to prove more attractive for medium to long term development or regeneration objectives rather than for short term asset realisation but we can explore this option in more detail- subject to the outcome of our other recommendations.

6.4 Operational Management of the Estate

In the formulation of this report, we have been provided with an insight into the operational issues surrounding the management of the investment estate. We recognise the severe budgetary constraints that the Estates Department work under and the resourcing issues arising from staff shortages. We appreciate that there will be significant changes arising from the implementation of the new Corporate Property Strategy and this will undoubtedly bring substantial benefits going forward.

Our recommendations above seek to streamline the existing portfolio of properties to both raise capital and reduce the management burden and irrecoverable costs. This will create efficiency benefits for the team in the medium term however is likely to increase yet further the workload in the short term and time required to undertake the preparation for sale of identified disposal assets. This could, in part, be addressed through varying the terms of engagement for a selling agent to require that party to undertake the preparation for sale and active asset management in return for a higher than normal disposal fee payable upon completion and out of proceeds.

While not within the scope of this report, one area of further study for future consideration is to investigate a new model of management similar to that recently introduced by Newport City Council whereby a public-private partnership arrangement was agreed with the Norse Group (Norfolk Property Services). In this scenario, responsibility for the Estates team is transferred to the private sector company alongside a long term contract from the Council to supply management and other services.

Whether there would be any significant advantage to this type of arrangement for Cardiff Council is unknown as their property strategy is significantly different with different requirements. Given that the Newport model is in its infancy we would recommend that this is something that should be evaluated once the model has been in place there for at least four or five years to determine whether the experience has delivered the expected outcomes and whether there would be any merit in Cardiff adopting a similar approach.

Recommendations:

16. The proposed streamlining of the portfolio set out above should bring significant operational benefits to the Estates Department and in the medium term, free up their time to offer more proactive management of the core portfolio.
17. Our recommendation would be to create transparency of the estate management costs and benefits by combining responsibility for lettings and day to day management of investment properties in one department.
18. There is an opportunity in the medium to long term to investigate a new model of estate management with a public/private model for outsourcing.

We thank the Council for the opportunity to provide advice in connection with this matter and we would be pleased to meet with you to address any queries you might have regarding our conclusions and recommendations.

Yours faithfully

Yours faithfully

Chris Sutton MRICS
Director
For and on behalf of
Jones Lang LaSalle Limited

Paul Tarling MRICS
Senior Surveyor
For and on behalf of
Jones Lang LaSalle Limited



JLL
Cardiff
One Kingsway
Cardiff
CF10 3AN
029 2022 7666
029 2037 3196

Chris Sutton
Director
+44 (0)29 2072 6014
chris.sutton@jll.com

JLL
Cardiff
One Kingsway
Cardiff
CF10 3AN
029 2022 7666
029 2037 3196

Paul Tarling
Senior Surveyor
+44 (0)29 2072 6012
paul.tarling@jll.com

www.jll.com

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 UNIT 12 LAMBY WAY IND EST, SITE 12, LAMBY WAY, RUMNEY
 UNIT 25 HADFIELD RD IND EST, BESTWAY CASH & CARRY, BRINDLEY ROAD, GRANGETOWN
 FREIGHT TERMINAL, WENTLOOG ROAD, RAILTRACK PLC, RAILTRACK PLC HEADLEASE LAND AT WENTLOOG, TROWBRIDGE
 FITNESS FIRST, FFORDD PENGAM, PREMISES, PREMISES, SPLOTT
 UNIT 2, PLASNEWYDD INDUSTRIAL ESTATE, VERE STREET, UNIT 2 PLASNEWYDD IND ESTATE, UNIT 2 PLASNEWYDD IND ESTATE LAND FOR SNOOKER CLUB EXTENSION, PLASNEWYDD
 CAPITAL BUSINESS PARK, PHASE 1C, KNOWN ALSO AS PHASE 3 HIGH TECH WORKSHOPS, TROWBRIDGE

MARKET

CARDIFF MARKET, ST MARY STREET, CENTRAL MARKET, CENTRAL MARKET, CATHAYS

PUBS - COMMERCIAL

QUE PASA, TRINITY STREET, OLD CENTRAL LIBRARY, LEASE FOR PUB ON GROUND FLOOR AND BASEMENT, CATHAYS
 COPA, 4 WHARTON STREET, LICENSED PREMISES, LICENSED PREMISES, CATHAYS
 THE CORPORATION HOTEL, 188 COWBRIDGE ROAD EAST, CORPORATION HOTEL, CORPORATION HOTEL, CANTON
 THE GRAPE AND OLIVE, 39 WEDAL ROAD, WEDAL PUBLIC HOUSE, WEDAL PUBLIC HOUSE, CATHAYS
 THE NINIAN PARK HOTEL, 49 LECKWITH ROAD, NINIAN PARK PUBLIC HOUSE, NINIAN PARK PUBLIC HOUSE, RIVERSIDE
 THE PENDRAGON, EXCALIBUR DRIVE, PENDRAGON PUBLIC HOUSE, PENDRAGON PUBLIC HOUSE, LLANISHEN

RESIDENTIAL ACCOM

LONGCROSS FARM, WENTLOOG ROAD, LONGCROSS FARMHOUSE, FORMER FARMHOUSE, TROWBRIDGE
 185 BURNHAM AVENUE, FLAT, MAISONETTE, LLANRUMNEY

RESIDENTIAL LAND

DUNRAVEN COURT, BRANDRETH RD , PENYLAN, RESIDENTIAL, CARDIFF
 RAGLAN COURT, LANGDALE CLOSE, SITE FOR FLATS DEV'T BRANDRETH RD & NO'S 1/2/3+4, PENYLAN
 MARLBOROUGH COURT, LANGDALE CLOSE, SITE FOR FLATS DEV'T BRANDRETH RD &, PENYLAN
 WESTMINSTER COURT, LANGDALE CLOSE, GROUND LEASED FLATS LANGDALE CLOSE FLAT NUMBERSA 1 -4ALE CLO, PENYLAN
 259A ALLENSBANK ROAD, GROUND FLOOR FLAT, HEATH
 265A ALLENSBANK ROAD, GROUND FLOOR FLAT, HEATH
 261B ALLENSBANK ROAD, FIRST FLOOR FLAT, HEATH
 263A ALLENSBANK ROAD, GROUND FLOOR FLAT, HEATH
 261A ALLENSBANK ROAD, GROUND FLOOR FLAT, HEATH
 259B ALLENSBANK ROAD, FIRST FLOOR FLAT, HEATH
 263B ALLENSBANK ROAD, FIRST FLOOR FLAT, HEATH
 265B ALLENSBANK ROAD, FIRST FLOOR FLAT, HEATH

RETAIL GROUND RENT

TIVOLI GARAGE, STATION ROAD, PART OF GARAGE, LAND @ R/O TIVOLI CINEMA, LLANDAFF NORTH
 69 CAE GLAS ROAD, SHOP & LIVING ACCOMMODATION, SHOP & LIVING ACCOMMODATION, RUMNEY
 MR HOMES, 173 PWLLMELIN ROAD, LOCK UP SHOP, LOCK UP SHOP, FAIRWATER
 MIKES FOOD STORES, 191 BURNHAM AVENUE, SHOP & MAISONETTE, SHOP & MAISONETTE, LLANRUMNEY
 65 CAE GLAS ROAD, SHOP & LIVING ACCOMMODATION, SHOP & LIVING ACCOMMODATION, RUMNEY

187 BURNHAM AVENUE, SHOP & MAISONETTE, SHOP & MAISONETTE, LLANRUMNEY
MORGANSTOWN FORMER CLUB HOUSE, TY-NANT ROAD , MORGANSTOWN, CARDIFF
81 GRAND AVENUE, SHOP & FLAT, SHOP & FLAT, ELY
79 GRAND AVENUE, SHOP & FLAT, SHOP & FLAT, ELY
75 GRAND AVENUE, SHOP & FLAT, SHOP & FLAT, ELY
71 GRAND AVENUE, SHOP & L/ACCOM, SHOP & L/ACCOM, ELY
59 GRAND AVENUE, SHOPS & LIVING ACCOMODATION, ELY NORTH SHOP + L/ACCOM, ELY
MICHAELS HAIR SALON, 56B PLAS MAWR ROAD, LOCK UP SHOP, LOCK UP SHOP, FAIRWATER
A1 GENERAL STORE, 183 BURNHAM AVENUE, SHOP & MAISONETTE, SHOP & MAISONETTE, LLANRUMNEY
LLOYDS PHARMACY, 35 WILSON ROAD, SHOP & LIVING ACCOMMODATION, SHOP & LIVING ACCOMMODATION, ELY
MORGANS SOLICITORS & ADVOCATES, 31 WILSON ROAD, SHOP & LIVING ACCOMMODATION, SHOP & LIVING ACCOMMODATION, ELY
C & M NEWS, 32 FISHGUARD ROAD, FISHGUARD ROAD 32 (SHOP), FISHGUARD ROAD 32 (SHOP), LLANISHEN
SHAWS CARDIFF, 37 WILSON ROAD, SHOP & LIVING ACCOMMODATION, SHOP & LIVING ACCOMMODATION, ELY
LLOYDS PHARMACY LTD, 185 BURNHAM AVENUE, SHOP, SHOP, LLANRUMNEY
MORGANS & MORGANS, 31 GREEN FARM ROAD, SHOP & LIVING ACCOMODATION, SHOP & LIVING ACCOMODATION, ELY
34 FISHGUARD ROAD, SHOP AND FLAT, SHOP AND FLAT, LLANISHEN
LLANGRANOG POST OFFICE, 15 LLANGRANOG ROAD, SHOP AND FLAT, SHOP AND FLAT, LLANISHEN
59 GRAND AVENUE, SHOPS & LIVING ACCOMODATION, 59 GRAND AVENUE, ELY
WATER BOOSTER STATION, MOUNT PLEASANT LANE, PREMISES AT THE REAR OF..., PREMISES AT THE REAR OF..., LLANRUMNEY
1A MARIA STREET, 1A MARIA STREET, ADMIN BASE FOR CARE ATTENDANTS, BUTETOWN
91 GABALFA AVENUE, SHOP & FLAT, SHOP & FLAT, LLANDAFF NORTH
85 GABALFA AVENUE, SHOP & FLAT, SHOP & FLAT, LLANDAFF NORTH
66 PLAS MAWR ROAD, SHOP & FLAT, SHOP & FLAT, FAIRWATER
64 PLAS MAWR ROAD, SHOP & FLAT, SHOP & FLAT, FAIRWATER
WA HARRIS BUTCHER, 62 PLAS MAWR ROAD, SHOP & FLAT, SHOP & FLAT, FAIRWATER
68 PLAS MAWR ROAD, SHOP & FLAT, SHOP & FLAT, FAIRWATER
60 PLAS MAWR ROAD, SHOP & FLAT, SHOP & FLAT SHOP&FLAT (GREENGROCER) (FORMERLY NO 52), FAIRWATER
PREMIER STORES, 125-127 BISHOPSTON ROAD, SHOP AND FLAT, SHOP AND FLAT, CAERAU
LONDIS, 10 HEOL TRENEWYDD, SHOP & LIVING ACCOMMODATION, SHOP & LIVING ACCOMMODATION, CAERAU
SPAR, 67 CAE GLAS ROAD, SHOP & LIVING ACCOMMODATION, SHOP & LIVING ACCOMMODATION, RUMNEY
PIPPY LOU'S PANTRY, 82A PWLLMELIN ROAD, SHOP & FLAT, SHOP & FLAT, FAIRWATER
FAIRWATER FISH BAR, 58 PLAS MAWR ROAD, SHOP & FLAT, SHOP & FLAT, FAIRWATER
53 GABALFA AVENUE, SHOP & FLAT, SHOP & FLAT, LLANDAFF NORTH
125A BISHOPSTON ROAD, SHOP AND FLAT, SHOP AND FLAT, CAERAU
51 GABALFA AVENUE, SHOP & FLAT, SHOP & FLAT, LLANDAFF NORTH
49 GABALFA AVENUE, SHOP & FLAT, SHOP & FLAT, LLANDAFF NORTH
91-93 GABALFA AVENUE, SHOP & FLAT, SHOP & FLAT, LLANDAFF NORTH
9 LLANGRANOG ROAD, SHOP AND MAISONETTE, SHOP AND MAISONETTE, LLANISHEN
189 BURNHAM AVENUE, SHOP & FLAT, SHOP & FLAT, LLANRUMNEY
7 LLANGRANOG ROAD, SHOP & FLAT, SHOP & FLAT, LLANISHEN
17 LLANGRANOG ROAD, SHOP & LIVING ACCOMMODATION, SHOP & LIVING ACCOMMODATION, LLANISHEN
11 LLANGRANOG ROAD, SHOP AND FLAT, SHOP AND FLAT, LLANISHEN
87 GABALFA AVENUE, SHOP & FLAT, SHOP & FLAT, LLANDAFF NORTH
56A PLAS MAWR ROAD, LOCK UP SHOP, LOCK UP SHOP, FAIRWATER

RETAIL RACK RENT

ROATH PARK REFRESHMENT KIOSK & MOBILE KIOSK, ROATH PARK, LAK, REFRESHMENT KIOSK/MOBILE KIOSK, REFRESHMENT KIOSK & MOBILE KIOSK, CYNCOED
SUMMERHOUSE KIOSK, BUTE PARK, CASTLE STREET, SUMMERHOUSE KIOSK, SUMMERHOUSE KIOSK BUTE PARK, CATHAYS
PETTIGREW TEA ROOMS, WEST LODGE, CATHAYS, TEA ROOMS, CARDIFF
TERRA NOVA CAFÉ, ROATH PARK, LAKE ROAD WEST, ROATH PARK LAKE - CAFE, ROATH PARK LAKE - CAFE, CYNCOED
FORMER LLANDAFF FIELDS PUBLIC TOILETS, PENHILL ROAD, RIVERSIDE, CAFE, CARDIFF
REFRESHMENT KIOSK, GORSEDD GARDENS, GORSEDD GARDENS ROAD, REFRESHMENT KIOSK GORSEDD GDNS, REFRESHMENT KIOSK GORSEDD GARDENS FORMER PARK RANGERS HUT, CATHAYS
VICTORIA PARK KIOSK, VICTORIA PARK, COWBRIDGE ROAD EAST, REFRESHMENT KIOSK, REFRESHMENT KIOSK, CANTON

WILLIAM HILL, 190-192 COWBRIDGE ROAD EAST, LOCK UP SHOP, LOCK UP SHOP DOES NOT INCLUDE 1ST & 2ND FLOORS OF 192, CANTON
PAVILION CLOTHING, 3 WHARTON STREET, LOCK UP SHOP, LOCK UP SHOP, CATHAYS
HAYES ISLAND SNACK BAR, THE HAYES, LOCK UP SHOP, LOCK UP SHOP, CATHAYS
BOSTON BUILDINGS, 70 JAMES STREET, BOSTON BUILDINGS-GENERAL, BOSTON BUILD SHOP/CAFE STORAGE & OFFICES-GENERAL CARD, BUTETOWN
MARKET CHAMBERS, 5-7 ST MARY STREET, COMMERCIAL PREMISES, COMMERCIAL PREMISES, CATHAYS
GRILLER, 29 CAROLINE STREET, LOCK UP SHOP, LOCK UP SHOP, CATHAYS
MALLOY AND BARRY SOLICITORS, 194 COWBRIDGE ROAD EAST, LOCK UP SHOP, LOCK UP SHOP, CANTON
48 QUEEN STREET, PREMISES (PART OF B.H.S.), PREMISES (PART OF B.H.S.), LLANDAFF NORTH
ICELAND, 194B COWBRIDGE ROAD EAST, SUPERMARKET (BEJAM), SUPERMARKET (ICELAND), CANTON
NEWSPAPER KIOSK, NEWPORT ROAD, CATHAYS, KIOSK, CARDIFF

SPORTING ACTIVITIES

WELSH NATIONAL TENNIS CENTRE, OCEAN WAY, OCEAN PARK TENNIS CENTRE, OCEAN PARK TENNIS CENTRE, SPLOTT
CARDIFF CITY STADIUM, LECKWITH ROAD, LECKWITH ROAD, CANTON
GLAMORGAN CRICKET, SWALEC STADIUM, SOPHIA CLOSE, LICENCED CLUB & CRICKET GROUND, LICENCED CLUB & CRICKET GROUND, RIVERSIDE
LLANISHEN GOLF CLUB, HEOL HIR, LLANISHEN GOLF CLUB, LLANISHEN GOLF CLUB, LISVANE
CARDIFF SKI CENTRE, 198 FAIRWATER ROAD, SKI CENTRE, SKI CENTRE, FAIRWATER
THE CARDIFF ARENA ICE RINK, INTERNATIONAL DRIVE, CARDIFF ICE RINK, CARDIFF ICE RINK, GRANGETOWN

UNIVERSITY

SOUTHGATE HOUSE, BEVAN PLACE / LLYS TAL-Y-BONT ROAD,, UNIVERSITY PREMISES, GABALFA
SENGHENNYDD COURT, SALISBURY ROAD, UNIVERSITY HALLS OF RESIDENCE, CATHAYS
LLYS-TAL-Y-BONT STUDENT PREMISES, BEVAN PLACE, HALLS OF RESIDENCE, UNIVERSITY SPORTS HALL, GABALFA
INFORMATION SERVICES, CARDIFF UNIVERSITY, 41 PARK PLACE, PARK PLACE UNIVERSITY OFFICES, PART OF COMPUTER CENTRE, CATHAYS
CARDIFF UNIVERSITY, CORBETT ROAD, UNIVERSITY PREMISES, LIBRARY & R/O COLUM ROAD , CATHAYS
UNIVERSITY OF WALES COLLEGE OF CARDIFF, PARK PLACE, UNIVERSITY PREMISES (EXTENTION), ADJ. SCHOOL OF BIOSCIENCES, CATHAYS

UTILITIES

ORANGE INSTALLATION RUMNEY HIGH SCHOOL NEWPORT ROAD, ORANGE INSTALLATION RUMNEY HI, ORANGE INSTALLATION RUMNEY HIGH SCHOOL, RUMNEY
TOTAL = 243 ELECTRICITY SUB STATIONS, TOTAL = 243, TOTAL = 243, NOT KNOWN
TOTAL = 417 WAYLEAVES, TOTAL = 417, TOTAL = 417, NOT KNOWN
UNIT 20 HADFIELD R IND ESTATE 'HADFIELD ROAD, UNIT 20 HADFIELD R IND ESTATE 01129650 - ADDITIONAL LAND LEC, GRANGETOWN
MERCURY RELAY STATION, HADFIELD ROAD, UNIT 19 HADFIELD RD IND ESTATE, UNIT 19 HADFIELD RD IND ESTATE (FOR ADDIT LEASE SEE 6412) EL, CANTON
CARDIFF WEST SUBSTATION, HADFIELD ROAD, ELECTRICITY SUB STATION, UNIT 19 HADFIELD RD IND ESTATE FOR ADDIT LEASE SEE 6412) ELE, GRANGETOWN
GAS GOVERNOR KIOSK, RIVERSIDE TERRACE, RIVERSIDE TERRACE, GAS GOVERNOR KIOSK MOSTLY UNUSED HIGHWAY VERGE LAND SUBJECT, CAERAU
GAS GOVERNOR KIOSK, MICHAELSTON RD, ST FAGANS, GAS GOVERNOR KIOSK, CARDIFF
GAS GOVERNOR KIOSK TRELAI PARK, GAS GOVERNOR KIOSK, GAS GOVERNOR KIOSK, CAERAU
GAS GOVERNOR KIOSK, HAZEL PLACE, GAS GOVERNOR KIOSK, GAS GOVERNOR KIOSK, FAIRWATER
ELECTRICITY SUB STATION, MINSTER ROAD, ELECTRICITY SUB STN, ELECTRICITY SUB STN MINSTER RD PLAYING FIELDS, PENYLAN

WORKSHOPS

Bessemer Workshops
Ely Brewery Workshops
Fairwater Workshops
Gabalfa Workshops
Lamby Workshops
Douglas Buildings
Royal Stuart Workshops

Splott Workshops

Willowbrook Workshops

BUSINESS IN FOCUS ENTERPRISE HOUSE, 127-129 BUTE STREET, ENTERPRISE HOUSE, PREMISES, BUTETOWN

DUMBALLS ROAD TRAINING CENTRE, DUMBALLS ROAD, DUMBALLS ROAD TRAINING CENTRE, DUMBALLS ROAD TRAINING CENTRE, BUTETOWN

DISCLAIMER: this list is subject to further due diligence and therefore maybe subject to amendment within the relevant criteria for investment properties.

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**CITY AND COUNTY OF CARDIFF
DINAS A SIR CAERDYDD**

**POLICY REVIEW & PERFORMANCE
SCRUTINY COMMITTEE**

3 November 2015

REVIEW OF DISCIPLINARY POLICY

(including Grievance, Bullying & Harassment policies and associated procedures)

Reason for this Report

1. To present the Committee with an opportunity to consider the Disciplinary Policy Review, and the new Resolution Policy (formerly Grievance and Bullying and Harassment policies) and contribute to pre-decision policy development, prior to Cabinet's consideration of proposed recommended changes.

Background

2. The Committee has responsibility for scrutiny, monitoring and review of the effectiveness of all Council human resource policies.
3. A review of workplace Investigations in the Council was undertaken between October 2014 and December 2014. 260 disciplinary investigations over the previous 18 months (from April 2013 to October 2014) were examined.
4. A Report and Executive Summary was produced in March 2015 with nine key recommendations, and 25 sub recommendations for change. (see **Appendices 1 and 2** attached).
5. The Council is presently in the policy consultation phase following these published reports, including consultation with all Directorates, Trade Unions and Equality Networks.

Summary of Key Changes Proposed

6. *Disciplinary Policy (Corporate)*

- a. Reduce the length of the current corporate Disciplinary Policy by extracting the guidance information from it.
- b. Produce a series of five new comprehensive guidance documents for Hearing Chairs, Investigating Officers, managers, employees and witnesses to supplement the policy, ensure a more consistent approach /consistent advice, and to better support those dealing with investigations. (A draft sample can be found at **Appendix 3.**)
- c. Revise timescales regarding key decisions during an investigation.
- d. Introduce standardised preliminary assessment, to enable robust decision making regarding the appropriate course of action e.g. informal or formal procedure.
- e. Introduce a new formal 'fast track' disciplinary procedure available for misconduct issues.
- f. Introduce a standardised format for suspension from duty, which evidences clarity of decision making i.e. that all alternatives to suspension have been considered.
- g. Change the level for authorising suspension to Operational Manager (and above).
- h. Introduce a requirement to report and review a suspension, and the progress of an investigation every four weeks.
- i. Introduce a new code of conduct and confidentiality to govern the way Hearings will be undertaken.

- j. Introduce additional grounds for appeal to include "new evidence that has come to light".

Monitoring the Effectiveness of the Revised Disciplinary Policy

7. In addition to reviewing policies and developing new guidance material, the opportunity is being taken to ensure that robust monitoring data is captured and reported in the following way to ensure that accountabilities are clear and compliance monitored:
 - a. Disciplinary Investigations to be monitored and reported at senior management level within Directorates (Appendix 1a: Recommendation 6.1).
 - b. HR People Services will review and collate monitoring data on disciplinary investigations (Appendix 1a: Recommendation 6.2).
 - c. HR People Services will monitor that any improvement actions recommended by the Hearing Chair to a Directorate are actioned.

New Resolution Policy (formerly Grievance Policy and, Bullying & Harassment Policy)

8. The review of workplace Investigations highlighted a higher number of disciplinary cases than grievances which is seen to be indicative of a culture of formal, rather than early, resolution of disciplinary issues. A recommendation of that review was that the Grievance and Bullying & Harassment Policies will be replaced with a more progressive "*Resolution Policy*" to support the cultural change that is required.
9. Increased emphasis is intended to be placed on early resolution of matters, with managers up-skilled, and Trade Unions involved collaboratively, to resolve issues at an earlier stage, through a range of resolution methods such as additional training, support, coaching, advice, counselling and mediation.

10. The internal Mediation Service has been expanded, and referral to the Service is detailed in the new policy. Mediation, whilst voluntary, can be used to prevent escalation to a formal procedure, as well as “repair” damaged relationships within a team after an investigation has concluded.

Consultation Programme

11. Initial consultation on proposed changes took place between June and September 2015 and consisted of:-

- a. Consultation sessions with HR People Services staff
- b. Use of a “Virtual” Reference Group which comprised of 21 people who participated in the Workplace Investigations Review, attended the Review report feedback sessions in April 2015, and expressed an interest in being part of the group. They represented a number of Directorates, including Sports, Leisure and Culture; Environment; Education and Lifelong Learning; Childrens Services; Resources (including Audit); Communities; and Health & Social Care. They contributed suggestions to draft versions

12. The formal Consultation phase commenced at the end September 2015 and has continued to date. It consisted of:-

- Six consultation meetings with nominated representatives from Directorates
- Six consultation meetings with Trade Unions
- Three consultation meetings with Equality Networks

13. Consultation was scheduled to be completed by early November. However, the Trade Unions have requested an extended consultation period as there are 7 documents in total for consideration.

Pre- Policy Implementation Phase

14. The proposed implementation date for the policies is 1 April 2016.

15. Following Scrutiny consideration and Cabinet approval, a series of policy briefings for staff is planned between January and March 2016.

16. Formal skills training and e-learning modules are currently being developed.

17. Managers will be given additional skills training through the Cardiff Manager Phase 2 Development programme.

Setting up an Investigation Team

18. The Workplace Investigations Review recommended that options be considered for how more complex investigations could be better managed. It is proposed to establish an internal Investigation Team, to deal with, for example, more complex or potential gross misconduct investigations, those involving the police, safeguarding concerns, fraud and impropriety

19. A member of the Investigation Team would work solely on the investigation until it was concluded, to ensure investigations are undertaken as quickly as possible and reduce the mean length of investigations.

20. The Senior Management Team has considered options and proposes the establishment of a “virtual team” comprising staff nominated by Directorates, and released from their day job, to undertake the investigation, who would receive additional training. Directorates would manage their own cover arrangements. Investigations could be cross Directorate if required. This will be developed further in 2016.

Scope of the Scrutiny

21. The Committee will examine the proposals having been:

- a. advised of the key changes proposed to the Disciplinary, Grievance and Bullying and Harassment policies;
- b. updated on the current consultation programme with Directorates, Trade Unions and Equality Networks;

- c. advised of the pre-implementation phase of the policies;
- d. informed of the views of the Senior Management team, regarding the principle of establishing an internal Investigation team for complex workplace investigations, as recommended in the Review of Workplace Investigations report.

Way Forward

22. Councillor Graham Hinchey (Cabinet Member, Corporate Resources and Performance), Lynne David (Operational Manager, Human Resources), and Chris Synan, (Operational Manager) will attend Committee to explain to Members the changes that are proposed to the policy as a result of the Review, and answer any questions Members may have.

Legal Implications

23. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to the Cabinet/Council will set out any legal implications arising from those recommendations. All decision taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirements imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be taken having regard to the Council's fiduciary duty to its taxpayers; and (he) be reasonable and proper in all the circumstances.

Financial Implications

24. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial

implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATIONS

The Committee is recommended to:

- i. Note the information contained in these papers and presented at the meeting;
- ii. Consider whether it wishes to make any comments to inform the Cabinet's discussion and decision making.

MARIE ROSENTHAL
Director of Governance and Legal Services
28 October 2015

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*REVIEW OF WORKPLACE
INVESTIGATIONS
IN
CARDIFF COUNCIL*

Executive Summary

MARCH 2015

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EXECUTIVE SUMMARY

1. *Introduction:* Cardiff Council sets standards of performance and conduct for the workforce that are reinforced by its rules and regulations and procedures, which help the Council to follow the law, and be fair and consistent. Disciplinary procedures may be used for problems with employees' conduct or performance, and the main aim should be to improve an employee's performance or correct their behaviour, and not punish them. Grievance procedures are used for considering problems or concerns that employees want to raise with the Council. Discipline and Grievances are primarily about people, not just processes. Workplace Investigations, as part of Grievance or Disciplinary procedures are designed to support effective management by enabling quick, cost-effective resolution of problems in the workplace.

2. *Background:* This Review was commissioned to examine some of the known issues in the current system:-
 - Many potential disciplinary or grievance issues can, and should be, resolved at an early stage, as that is normally less time consuming and damaging to working relationships. It is not known to what extent early resolution happens, and there appears to be a large number of investigations taking place.

 - Disciplinary Investigations and Hearings are undertaken in addition to the "day job" for staff. There is currently no training programme available in how to undertake an Investigation or Hearing, nor any coaching or mentorship scheme.

 - A number of employees are suspended from duty on full pay for long periods of time. There is no monitoring or reporting on disciplinary investigations at senior level

 - Investigations are taking too long to conclude. Anecdotal evidence suggests that sickness absence levels are higher amongst people who are undergoing investigations.

3. *Aims:* The Review was undertaken between October 2014 and December 2014, and focussed on Disciplinary investigations that took place between April 2013 and October 2014. The reason for focussing on Disciplinary investigations rather than Grievances was, firstly, due to the current review of the Disciplinary policy, and secondly, due to the higher number of Disciplinary investigations compared to Grievance investigations. Organisational culture is considered to have a key influence on the balance and level of disciplinary and grievance cases.

4. *Terms of Reference :-*

- To understand and summarise the main issues inherent in the current system.
- To establish quantitative data on timescales and outcomes for Disciplinary investigations.
- To produce recommendations for beneficial change to procedure, in order to inform the current review of Cardiff Council Disciplinary Policy, Procedures & Guidance 1.CM.035
- Identify, where appropriate, the interface and trigger for potential reviews with other applicable policies e.g. Attendance & Wellbeing, Fraud, Bribery & Corruption, etc
- Address the issues that are currently not in agreement with the Trade Unions.
- To identify how best to address the perceived inconsistency of Disciplinary sanctions in relation to fraud and financial impropriety issues, as raised by the Audit Committee.
- To explore methods for improving skills and knowledge of Investigating Officers and Hearing Chairs, in order to deal with disciplinary investigations in a fair and just manner.
- To discuss the potential viability of the establishment of a specialist Investigation team for complex investigations.

5. *Methodology:-*

- A contextual review of relevant documents
- A quantitative analysis of available HR People Services data on Disciplinary Investigations¹ between April 2013- October 2014
- A qualitative survey of Council staff, Schools staff & Trade Unions involved in those Disciplinary Investigations.

Summary of Findings

6. Contextual Review of Research and Policy documents

Key Findings:-

Code of Practice Disciplinary & Grievance Procedure (ACAS)

An Employment Tribunal is legally required to take the Code into account when considering cases and should continue to be embedded within any review of Cardiff Council policy.

Discipline and Grievances at Work (ACAS Guide)

Detailed good practice advice & guidance for dealing with disciplines and grievances in the workplace. It urges the need to resolve some disciplinary issues informally.

Evaluation of the ACAS Code of Practice on Disciplinary and Grievance Procedure

Describes the balance of grievance and disciplinary cases in an organisation as reflective of its organisational culture. A higher number of disciplinary cases compared to grievances indicates a culture of formal, rather than early resolution of disciplinary issues: where the first step is recourse to a formal disciplinary or grievance procedure. The use of mediation can be in place of formal disciplinary action outlined in organisational policies

¹ Excluding schools Child Protection Disciplinary investigations undertaken by Servoca Investigators

Accompaniment and representation in workplace discipline and grievance
Saundry R, Antcliff V & Jones C (ACAS Research paper)

Trade Unions were central to informal processes of dispute resolution, before, during and after the onset of formal procedure. Early resolution is *“crucially dependent on the nature of the relationship between trade union representatives, operational management and HR advisors and managers”*

Facing Disciplinary Action: A guide for employees and their representatives
(London Law centre)

Variation of sanctions in Disciplinary Hearings can be legitimate reasons for employees to be treated differently for the same offence, including mitigating circumstances, a cleaner disciplinary record or a difference in training.

Mediation: A protocol for the use of Internal workplace mediation in Local Government in Wales **Welsh Local Government Association (WLGA).**

Recommendations for how mediation should be used, including commitment and buy in, policy and procedures, training & support and guidance.

Win- Win” A study into the role and impact of mediation within Local Government **(LGA/PMA)**

Many Local Authorities are replacing their Grievance, Bullying and Harassment policies with a more progressive *“ Model Resolution policy”*. This can help a transition from a *“grievance culture”* to a *“resolution culture”*.

Mediation: An Approach to resolving workplace Issues **(ACAS)**

The line between disciplinary and grievance issues may in specific instances become blurred, in which case the employer may prefer to tackle the underlying relationship issues by means of mediation rather than impose a disciplinary sanction.

***Transforming conflict management in the public sector? Mediation, trade unions and partnerships in a primary care trust* Saundry R, McCardle L & Thomas P**

Saundry et al. discuss how the involvement of unions as full contributors in the design and running of a scheme in an NHS Primary Care Trust proved transformative of the climate and culture of employment relations

***Mediation and Early Resolution: A Case Study in Conflict Management* Richard Saundry and Gemma Wibberley (ACAS)**

Positive results where Trade Unions have actually been trained as mediators leading to breaking down of barriers

7 Quantitative analysis

Data reporting & recording:

A total of 260 Investigations were found between 04 April 2013 and 09 October 2014, recorded in three data sources in HRPS (Two excel spreadsheets and Digigov.) There were problems with missing data, and with inaccurate information entered by HRPS officers to “work - around” the inflexibilities of the Digigov process. The accuracy of the data was manually checked where feasible. 19(83%) of the HRPS staff described accuracy of data recording in all systems as “*poor/really poor*”. No data reports on investigations are regularly produced in HRPS and accurate management reports cannot be run from Digigov. The process for recording Investigations on Digigov is too complex - 19 (83%) HRPS officers, all the Hearing Chairs, and 45 (88%) Investigating Officers reported problems with it. There is a great deal of HRPS officer time spent entering and amending data on Digigov, and this situation will not improve until the Digigov process is streamlined and simplified. There is no requirement to report on investigations within Directorates, so no-one has overall oversight of the issues. It is unclear who has overall responsibility for setting the standard of investigations.

Too many investigations

The highest number of investigations (91) was in the Education & Lifelong Learning Directorate, although this represents only 1% of their headcount. The Environment Directorate had 60 employees under investigation in the 18 month study period, which is 10% of their headcount.

Too many investigations have either no disciplinary action or a poor outcome:

Of the 169 cases that had recorded outcomes, 54 (32%) resulted in either “*no disciplinary action/case to answer*” and a further 25(15%) were abandoned/incomplete, making a total 79 cases (47%). This indicates that potentially there are a significant number of cases that could be dealt with by means other than a disciplinary investigation. In addition, 24(61%) Grievance cases were not upheld and only 10(26%) were either upheld or partially upheld.

Investigations taking too long:

Of the 64 cases studied on the 2013/14 excel spreadsheet with recorded data, the mean length of time from investigation start date to hearing date is 22 weeks (adjusted figure from 26 weeks). This is often not proportionate to the allegation, with no options for dealing with matters in a quick, effective manner. Less than a third of investigations were concluded within an 8 week period. Delays are frequent, often caused by sickness absence or availability of Trade Unions and other parties.

8. Qualitative Survey

Disciplinary policy is too long & not user- friendly:

The current document is an amalgamation of other policies that were previously separate. It is important to keep all aspects of the disciplinary procedures and processes together in one policy, however the act of pulling the separate policies together has resulted in a document that is too long. It is also a mixture of policy and guidance, resulting in more than half the Investigating officers interviewed finding that format hard/fairly hard to use. Nearly half HRPS staff stated that the policy was too long. Staff generally supported the idea of the production of detailed guidance to undertake disciplinary processes. 65% HRPS officers stated they had some issues with the definition of misconduct versus gross misconduct in the disciplinary rules

Lack of early resolution:

Managers are inadequately trained to deal with issues effectively at an early enough stage, and there are too few options available to them. 16(69%) HRPS staff, 29(57%) Investigating Officers and 10(59%) of the Hearing Chairs, felt they could identify situations in disciplinary investigations, where early resolution would have been an option. Mediation is currently a limited option, with a general lack of awareness of the two trained mediators in HRPS.

Inadequate training in undertaking an investigation:

34(67%) Investigating officers had received no training in undertaking an investigation. They are sometimes dealing with complex situations, with potentially life changing outcomes for the employee under investigation. This level of responsibility, without training, leads to a high level of stress for the Investigating officers. Both Investigating Officers and Hearing Chairs would prefer that a range of different learning methods was available including formal training, e-learning, written guidance, coaching & mentorship .

Roles inadequately defined:

There is a lack of description and awareness of peoples' roles in disciplinary investigations. This contributes to unnecessary delays or functions/tasks not happening. Further clarification is required for the role of HRPS, Director, Audit and the contact officer (during a suspension).

Suspensions from duty are too long:

40 people (15%) were recorded as being suspended from duty at some stage during the study period. 30 (75%) of the suspensions occurred in the Education and Lifelong Learning Directorate. The mean length of time for paid suspensions was 39 weeks, adjusted to 32 weeks (excluding two very long suspensions). 15(37%) employees under suspension were dismissed from employment and 6(15%) people who were suspended, ended with no case to answer/ dealt with informally. There was little evidence of adequate review of suspensions to ensure continued appropriateness. An unjustified period of suspension may amount to a breach of the implied term of trust and confidence, entitling the employee to resign and claim constructive unfair dismissal.

Investigation Interview:

Audio recording of interviews was favoured by 20(87%) HRPS officers and 38 (74%) Investigating officers. One Trade Union was also in agreement, but the remaining two Trade Unions disagreed with audio recording. Improvements to note-taking in interviews can be made by a standard agreed format, and/or people with shorthand skills or who can work straight onto a laptop. Where investigations are undertaken within a Directorate, impartiality, confidentiality and ongoing working relationships are issues.

Investigating Officers Reports:

Investigating Officer reports are very variable in quality. As evidenced by the number of poor reports at Hearings, Directors are not robustly applying a degree of standard setting at the stage when the decision to proceed to a hearing takes place. It is unclear who is "setting the standard" for Investigating Officer's reports, with divided opinion in HRPS.

Hearings and Appeals:

The length of time from the completion of the Investigation report to the Hearing date was often greater than the length of the investigation, due to delays in decision making and practical arrangements for Hearings. It is acknowledged that although there was some variation in sanctions at Hearings, it was inevitable due to mitigating circumstances in differing cases.

Issues not agreed between HRPS and Trade Unions:

(i) *Management witnesses having accompaniment at a hearing:* The role of an accompaniment to a witness is unclear, although the majority of HRPS staff, Hearing Chairs and Investigating Officers were in support of this. It is concluded that it is the conduct of the Hearing that needs addressing, to prevent witness intimidation, rather than the presence of an additional person.

ii) *Two Trade Union Representatives at a Hearing*: The ACAS Code of Practice does not describe the need for two Representatives. Where a need is identified for a new Trade Union representative to gain experience by shadowing and observing an experienced Representative, this is covered by the “observer” role. Where the case is complex, and the Trade Union Representative has a need for an Assistant to deal with large volumes of information, this is covered by the “Assistant” role.

Appeals:

Eleven of the 13 people who appealed the decision of the Hearing had been dismissed from employment and none of them had their Appeal upheld. The mean length of time from the Hearing to the Appeal Hearing was 10 weeks. The grounds of Appeal do not currently include “*New Evidence coming to light since or not considered at original Hearing*”. Very little accompanying evidence is supplied with the appeal form. The policy is not rigidly applied, and appeals are allowed to proceed despite the lack of information

Sickness and Disciplinary Investigations :

97(47%) of the 275 people under investigation had a sickness absence recorded which could be associated to their investigation. The total number of days lost was 6,155 calendar days, (about 3,633 working days) This averages to 37 working days per person, and is more than three times higher than the average of working days lost in the Council. There is no mechanism to record the reason for the sickness absence on Digigov as in connection with an Investigation. People who are suspended and subsequently report sick, are also not captured on Digigov as a sickness absence.

There are blanket referrals to Occupational Health for determination of fitness to proceed, which causes delays. Their default position is that either attendance at an interview, OR continuing the investigation without the individual, will be better for the individual's health in the longer term. It is recommended that the individual under investigation is given the option of agreeing to continue with participation with the interview. Only those who are unsure, or where it is not clear, would be referred to Occupational Health.

Schools:

Servoca currently manage the Independent Investigation Service for child abuse allegations against school staff. Since the introduction of *The Staffing of Maintained Schools Regulations* in July 2014 Servoca no longer manage the less serious child protection cases that call for an independent investigator. A member of the maintaining Local Authority is no longer considered as being “independent” for the purposes of the independent investigation. The Education & Lifelong Learning Directorate have the largest number of recorded investigations (91) and account for 75% of the total number of suspensions. The qualitative survey had a low response rate (36%) from the Investigating Officers, and any conclusions drawn from the responses should be viewed with caution, although opinions were broadly similar to the corporate survey.

9. Options for change

Option1 Minimal change :

Maintaining the status quo, with some improvements in sanctions in Hearings due to improved internal HRPS communication, and resolution of the two issues with Trade Unions. The model includes the following elements:

1. Disciplinary and Grievance Investigations would continue to be generally held within Directorates
2. Continue to be in addition to the “day job” for Investigating officers and Disciplinary Hearing Chairs.
3. Small adjustments to Disciplinary Policy only, with no division between policy and guidance
4. Training continues to be on the policy only, with no additional training in undertaking disciplinary investigations or Disciplinary Hearings.
5. No change to informal stage or other procedures
6. No change to Digigov or reporting requirements

The issues with this option include:-

- No reduction in numbers of investigations
- Insufficient improvements to length of time for investigations or suspensions
- No change in levels of sickness absence for people under investigation
- Continued lack of visibility of investigations and suspended employees
- On top of “day job” for Investigators so flawed or incomplete investigations with insufficient improvements to length of time for investigations
- No training available, so continued levels of inexperienced staff dealing with some complex investigations with high levels of stress amongst staff.
- Investigations held within Directorates so does not address issues of impartiality, working relationships or confidentiality
- Inaccurate data reporting from Digigov
- No improvement in staff time to complete Digigov process

Option 2 Moderate change :

This option would include all the changes listed in option 1. Disciplinary Investigations would continue to generally be held within Directorates, and be in addition to the “day job” for Investigating officers and Hearing Chairs. There would be no change to early resolution procedures(apart from expansion of the Mediation service), and no changes to Digigov or reporting requirements .

The new additional elements to this option would be:

1. The current disciplinary policy would be separated into policy and enhanced guidance.
2. Formal training provided in undertaking disciplinary investigations, including e-learning, coaching & mentorship.

The issues with this option include:-

- Investigation on top of “day job” so investigations could be rushed or incomplete, with insufficient improvements to length of time for investigations
- Limited early resolution, so little reduction in numbers of investigations
- Little reduction in sickness absence
- Continued lack of visibility of investigations and suspended employees
- Inaccurate data reporting from Digigov
- No improvement in staff time to complete Digigov process
- Investigations held within Directorates so does not address issues of impartiality, working relationships or confidentiality
- School staff policy excluded from review

Option 3 Substantial change :

This option would include all the changes listed in option 2 with the addition of :-

- 1 Early resolution procedures introduced
- 2 Changes to Digigov investigation process
- 3 Reporting requirements by senior management
4. Internally based Investigation team to deal with cases of potential gross misconduct and people suspended from duty. An established team with sufficient capacity could also offer a service external to the council (to other Local Authorities, for example) as an income generation option.

Independent Investigation Team

Introduction of an Independent Investigation Team would address issues of impartiality, confidentiality and workplace relationships. It was established during the qualitative survey, that the introduction of an Investigation unit to deal with cases of potential gross misconduct would be largely well received, especially from the Trade Unions. The potential model for an Investigation team would need further discussion & consultation, as there would be a number of options for its establishment. The Team would be based internally in the Council.

Funding options

Option 1: A “**virtual team**” comprising of staff nominated by Directorates who would deal with investigations. These nominated people would receive additional training and a range of support mechanisms.

Option 2: **Staffing seconded from Directorates** (including HRPS) to form an actual team. This would be proportionally according to demand ascertained from the numbers of investigations previously undertaken, so could include people on part time secondments.

Option 3: **Top slicing Directorate budgets:** Funding to set up a Team proportionally based on previous percentage of Investigations undertaken. No additional charging to the Directorate for usage of the service.

Option 4: **Corporate funding , with cross charging to Directorates:** Charging would be according to usage of the service. Charging Directorates for an Investigation service is likely have an impact on increasing early resolution methods, and reducing numbers accelerating to investigation..

Option 5: **Corporate funding with no charge to Directorates :** This would be an attractive option for Directorates, as there would be no spend on their individual budget. This option would potentially only be feasible if a business model was considered with income generation (see point 4).

Option 6. **Externally funded:** An established team with sufficient capacity could also offer a service external to the council (to other Local Authorities, for example) as an income generation option, which could fund or offset costs an internal service.

These substantial changes should bring about benefits which include

- Fewer number of investigations as more resolved earlier
- Fewer Investigating Officers doing investigations on top of day job
- Reduced level of stress on staff and improved sickness absence levels
- Expertise developed so fewer investigations flawed and improved impartiality and justice
- Reduced cost of delivering training programme to fewer staff
- Reduction in inconsistency of sanctions at Hearings
- Staff understand roles and responsibilities better
- Improved consistency of HRPS advice from Investigation unit officers

- Reduced length of investigations & suspensions improved cost to council
- Accurate data reporting from improved Digigov process
- May be income generation option

The risks to this option are:-

- Long term sustainability of the investigation unit and training with reduced council resources
- Restriction on providing Independent investigators for schools due to protocol changes

Further Option for more detailed Analysis:

Business case for an Investigation Unit as arm's length company

A future opportunity would be the establishment of a business case to set up an Investigation unit as an arm's length company, in a trading model. The Unit could provide cost effective investigations to other Local Authorities or organisations. The external income stream would then directly fund the level of support to independent investigations as required by Schools and Directorates within the Council. This option could be part of a staged approach following on from Option 3

This option would bring about the following benefits:-

- Disciplinary investigation would be independent
- Potential for a professional service at cost effective price
- Potential Income generation for the council
- External income stream fund service to Cardiff Council
- Service could provide independent investigations for schools
- Service may be expanded to provide training & development
- The risk to this option is that the Market for an investigation service not known

RECOMMENDATION

- 1. It is recommended that Option 3 is implemented, as this will provide the biggest impact in the short to medium term, and represent value for any financial investment by reduction of wasted resource and potential income**
- 2. This could be a staged approach leading to a further option for an Investigation unit as an arm's length company , as this would potentially give longer term sustainability as a business model, provide an opportunity for an external funding stream and enable delivery of a service to Schools.**

Conclusions

10. During the qualitative survey, there were expressions of gratitude from many Investigating officers for the level of support they received from the HR officer during their investigation. However, Schools and Trade Unions expressed some negative comments about the relationship with HRPS, with criticisms of “*procedural flaws*”, “*lack of communication*” and “*inconsistent HRPS advice*”. This sense of “injustice” has led to fraught relationships at times.

11. This review has evidenced that there needs to be a change to the way that workplace investigations are managed in the Council. Maintaining the status quo is not an option, as there are considerable costs in terms of wastage of staff resource on unnecessary work, and cost in terms of high sickness absence, and the length of time people are on paid suspensions from duty.

12. The Key Principles for future workplace investigations need to include the following elements:
 - Managers should be up-skilled through the Manager Development programme to resolve issues at an earlier stage -a range of resolution methods will be available
 - Fast track disciplinary process available for more minor misdemeanours
 - Trade Unions will be involved collaboratively to resolve issues at an earlier stage.
 - Robust decision making regarding which situations need investigation. If there is insufficient improvement in the reduction of the number of disciplinary investigations, a panel forum should be considered.
 - Misconduct issues that need investigating will be dealt with by staff who are trained and supported to do so.
 - Policy and guidance is clear with peoples’ roles and responsibilities well defined
 - Employees under investigation have better levels of communication, support and sickness management
 - Hearings are undertaken in accordance with a code of conduct

- More complex or potential gross misconduct investigations are dealt with by an investigation team with higher levels of training and expertise. Investigations are undertaken as quickly as possible without compromising quality
- The whole process is backed up by a management information system that is accurate and simplified, to enable proficient monitoring and reporting arrangements.

13. *Changing Organisational Culture*: The future management of workplace

Investigations is set within a period of rapid organisational change and the need for changes in culture. A workforce strategy is currently being formulated and awaiting ratification. It sets out a framework of six key priority areas to create this culture, and achieve improvements. It is suggested that implementation of all recommendations from this Review will be a key example of evidencing the workforce strategy in action.

Working in partnership with Trade Unions – a collaborative approach will be essential for the increased robustness of Early resolution of issues reducing unnecessary investigations, stress and sickness absence.

Employee voice -This review is a good example of consultation and listening to the employees to influence change and improvement. Many elements will be found in the emerging *Employee Charter*.

Learning & Development- Learning & Development will be key to “making a difference” to increased confidence in the quality and consistency of future investigations.

Performance Review- the up-skilling of managers to deal with staff behavioural issues through performance review, will be an essential early resolution mechanism.

14. More than 120 staff people who had been involved in undertaking investigations over the previous 18 months, have been involved in this review, with in excess of 100 hours of face to face interview time spent actively listening to them. Their experience of undertaking investigations has shaped the recommendations.

15. For future positive management of workplace investigations, the following Key Recommendations need to be implemented, together with the cultural change, for a reformed service. This will restore confidence in the disciplinary process, instil a sense of “natural justice”, and lead to improved outcomes.

Christine Synan

March 2015

KEY RECOMMENDATIONS

RECOMMENDATION 1: CHANGES TO COUNCIL DISCIPLINARY POLICY

- 1.1 Amend Disciplinary policy separating the all encompassing policy from the individual guidances contained therein.
- 1.2 Increase emphasis on early resolution of issues to include:
 - Expansion of the internal mediation service
 - Introduction of Fast track Disciplinary process
- 1.3 Changes to policy regarding:
 - Use of mediation at any stage of discipline and grievance procedure
 - Re-define Fraud in order to categorise minor misdemeanours
 - Amendment to the Disciplinary policy regarding the choice of workplace colleague as companion to the Employee at the Hearing. In accordance to the EAT ruling May 2013, it is the request to be accompanied that has to be reasonable and not the choice of workplace colleague.
 - Amendment to policy regarding attendance at Hearings between management and respondent witnesses.
- 1.4 New addition to policy:
 - Introduction of Code of Conduct for hearings
 - Additional ground for Appeal “New Evidence coming to light”.
- 1.5 Cross -reference the Discipline policy to the Attendance & Wellbeing policy and Fraud, Bribery & Corruption policy
- 1.6 Consideration interface with Dignity at Work policy and a linkage to the workforce strategy including the Employee Charter
- 1.7 The consequences of breaching policy should be clearly stated

RECOMMENDATION 2: CHANGES TO OTHER POLICIES

- 2.1 Review the current Grievance policy 1. CM.040 and consider introduction of a Resolution policy which combines Grievance, Harassment and Bullying policies.
- 2.2 Adoption of the Welsh Local Government protocol for Internal Workplace Mediation
- 2.3 Amendment to the School Staff Procedure 1.CM.035 –Sch. to reflect changes to the revised Welsh Government Circular 002/2013
- 2.4 Addition to the Attendance & Wellbeing policy re management of sickness during Disciplinary Investigations (including suspensions)

RECOMMENDATION 3: CHANGES TO DISCIPLINARY GUIDANCE

- 3.1 Develop detailed Guidance for each stage of a Disciplinary Investigation Process**
- 3.2 Define roles and responsibilities of staff within the Disciplinary Investigation process, including new roles of Observer, Assistant and Expert witness**
- 3.3 Develop enhanced guidance relating to Child Abuse and Police involvement**
- 3.4 Guidance on Employment Tribunals should be produced on preparation for ET- roles and expectations**

RECOMMENDATION 4: TRAINING

- 4.1 Enhance Cardiff Manager Development programme to include methods of early resolution**
- 4.2 Establish a Disciplinary Investigation development programme including e- learning, formal training, coaching & mentorship.**
- 4.3 Instigate opportunities for observational experience for relevant staff in Disciplinary Hearings (by agreement of all attendees and carefully managed as a confidential process) and HRPS staff at Employment Tribunals.**

RECOMMENDATION 5: COMMUNICATION

- 5.1 Improve internal communication and establish database within HRPS re outcomes of Hearings & Employment Tribunals**
- 5.2 Improve future policy review by enhanced engagement of employees and communication to Directorates/schools**

RECOMMENDATION 6: MONITORING & REPORTING

- 6.1 Disciplinary Investigations (including suspensions and associated sickness absence) should be regularly monitored and reported at senior management level within Directorates.**
- 6.2 HRPS should review and collate corporate monitoring data in relation to Discipline.**

RECOMMENDATION 7: CHANGES TO DIGIGOV

- 7.1 Review and amend the Disciplinary Investigation process on Digigov to reduce the current issues, and enable accurate management reporting.**
- 7.2 Develop a prompt in Digigov to trigger a review of a suspension of an employee.**
- 7.3 Create an option tab in Digigov to link sickness absence to an investigation**

RECOMMENDATION 8: SICKNESS ABSENCE

- 8.1 Robust management of sickness absence during Disciplinary Investigation (including suspensions) managed by one HRPS officer.**
- 8.2 Revise the determination for fitness to participate in the investigation, to prevent blanket referrals to Occupational Health**

RECOMMENDATION 9: FUTURE MANAGEMENT WORKPLACE INVESTIGATIONS

- 9.1 Establish an Investigation team to deal with cases of complexity and/or potential Gross Misconduct.**
- 9.2 Consider business case to set up an Investigation unit as an arm's length company, in a trading model for income generation and longer term sustainability**

*REVIEW OF WORKPLACE
INVESTIGATIONS
IN
CARDIFF COUNCIL*

MARCH 2015

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Christine Synan
Operational Manager
Cardiff Council
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INTRODUCTION

Cardiff Council sets standards of performance and conduct for the workforce that are reinforced by its rules and regulations. Where a formal approach is needed, then procedures help Cardiff Council to follow the law, and be fair and consistent.

Disciplinary procedures may be used for problems with employees' conduct or performance, and the main aim should be to improve an employee's performance or correct their behaviour, and not punish them. Grievance procedures are used for considering problems or concerns that employees want to raise with the Council. Discipline and grievances are primarily about people, not just processes. Many potential disciplinary or grievance issues can, and should be, resolved informally, as that is normally less time consuming and damaging to working relationships. It is not known to what extent early resolution of workplace disputes happens in this organisation.

Workplace Investigations, as part of Grievance or Disciplinary procedures within Cardiff Council are designed to support effective management by enabling quick, cost-effective resolution of workplace issues. Feedback from the recent employee engagement roadshows indicated that some Council HR processes are taking too long to conclude, including disciplinary procedures. There is no monitoring or reporting of investigations at senior level, including the length of time investigations are taking, and a number of employees are suspended from duty on full pay for long periods of time.

Anecdotal evidence suggests that sickness absence levels are higher amongst people who are undergoing investigations. However, there is currently no means of reporting on these specific sickness absence levels, so the true extent of the problem is not known.

A further issue is that workplace Investigations are undertaken in addition to the "day job" for Investigating officers and Disciplinary Hearing Chairs. There is currently no training programme available in how to undertake an Investigation or Hearing, nor any coaching or mentorship scheme. A flawed or incomplete investigation can undermine the entire disciplinary process, and, in the worse case scenario, leaves the Council vulnerable to claims for unfair dismissal.

Cardiff Council Disciplinary Policy, Procedures & Guidance (1.CM.035) sets out actions that will be taken when the Council's rules, regulations and standards are breached. There have been a number of minor amendments to the Disciplinary Policy in recent months, and there now needs to be a wider review of this policy. The latest version (dated September 2014), is currently "on hold" pending the outcome of this Review, and forthcoming recommendations.

Cardiff Council's School Staff Discipline Procedure (1.CM.035- Schools) governs the Council's rules, regulations and standards for schools and is designed to be read alongside the Welsh Government Circular 002/2013 . The current version of the policy was produced in May 2014, and at the start of this Review there were no plans for further revision.

The Review

This Review into Workplace Investigations was undertaken by the author from October 2014 to December 2014. The focus was primarily on Disciplinary investigations in the Council that had taken place in the 18 month period 04 April 2013 to 09 October 2014. The reason for focussing on Disciplinary investigations rather than Grievances was, firstly, due to the current review of the Disciplinary policy, and secondly, due to the higher number of Disciplinary investigations compared to Grievance investigations. Organisational culture is considered to have a key influence on the balance and level of disciplinary and grievance cases, and this is further discussed in **Sections 3** and **5.3.2**.

The Review was based on a 3 part methodology:-

1. A contextual review of relevant documents;
2. A quantitative analysis of available HR People Services data on Disciplinary Investigations¹ between 04 April 2013 - 09 October 2014,
3. A qualitative survey of Council staff, Schools staff & Trade Unions involved in those Disciplinary Investigations.

The report is structured into 9 main sections, the contents of which are summarised in the following table.

Key recommendations arising from this Review are shown on pp 4-6.

¹ Excluding schools Child Protection Disciplinary investigations undertaken by Servoca Investigators

SECTION 1: BACKGROUND:	<ul style="list-style-type: none"> ○ Background to policy and HR People Service review ○ Policy background for Schools
SECTION 2: TERMS OF REFERENCE:	<ul style="list-style-type: none"> ○ The scope of the Review.
SECTION 3: CONTEXTUAL REVIEW OF RELEVANT DOCUMENTS:	<ul style="list-style-type: none"> ○ A summary of relevant policy, guidance and research documents from various sources on Workplace Investigations and Mediation.
SECTION 4: QUANTITATIVE ANALYSIS:	<ul style="list-style-type: none"> ○ Data sources in HRPS- recording/reporting, main issues. ○ Data on number of investigations, length of time and delays etc. Investigations and outcomes are shown per Directorate. ○ Grievance and Employment Tribunals are included for reference. ○ The section ends with a summary of main findings, proposals & recommendations for change.
SECTION 5: QUALITATIVE SURVEY:	<ul style="list-style-type: none"> ○ Survey respondents and response rates ○ Information is displayed under 9 themes- <i>Disciplinary Policy & Procedure; Early resolution; Staff Experience & Training; Roles; Suspensions; Investigation Interviews; Reports and Recording; Hearings and Appeals.</i> ○ Each themed sub-section is concluded with a summary of main findings, proposals & recommendations for change.
SECTION 6: SICKNESS & DISCIPLINARY INVESTIGATIONS:	<ul style="list-style-type: none"> ○ Data on sickness absence rates. ○ Qualitative survey information from the Attendance & Wellbeing Team and Occupational Health. ○ The section is concluded with a summary of main findings, proposals & recommendations for change.
SECTION 7: SCHOOLS:	<ul style="list-style-type: none"> ○ A synopsis on policy, guidance and data for schools. The qualitative survey follows the same thematic layout. ○ The section is concluded with a summary of main findings, proposals & recommendations for change.
SECTION 8: DISCUSSION & OPTIONS APPRAISAL:	<ul style="list-style-type: none"> ○ The future management of workplace investigations ○ Early resolution. Options appraisal with four options for change. ○ Independent Investigations team ○ A recommended option is included
SECTION 9: CONCLUSIONS	<ul style="list-style-type: none"> ○ The case for change. ○ Improving relationships. ○ Key principles for the future management of disciplinary investigations. ○ Changing culture and concluding comments
APPENDICES.	The Qualitative survey questions

KEY RECOMMENDATIONS

RECOMMENDATION 1: CHANGES TO CARDIFF COUNCIL DISCIPLINARY POLICY

- 1.1 Amend Disciplinary policy separating the all encompassing policy from the individual guidances contained therein.**
- 1.2 Increase emphasis on early resolution of issues to include:**
 - **Expansion of the internal mediation service**
 - **Introduction of Fast track Disciplinary process**
- 1.3 Changes to policy regarding:**
 - **Use of mediation at any stage of discipline and grievance procedure**
 - **Re-define Fraud in order to categorise minor misdemeanours**
 - **Amendment to the Disciplinary policy regarding the choice of workplace colleague as companion to the Employee at the Hearing. In accordance to the EAT ruling May 2013, it is the request to be accompanied that has to be reasonable and not the choice of workplace colleague.**
 - **Amendment to policy regarding attendance at Hearings between management and respondent witnesses.**
- 1.4 New addition to policy:**
 - **Introduction of Code of Conduct for hearings**
 - **Additional ground for Appeal “New Evidence coming to light”.**
- 1.5 Cross -reference the Discipline policy to the Attendance & Wellbeing policy and Fraud, Bribery & Corruption policy**
- 1.6 Consideration interface with Dignity at Work policy and a linkage to the workforce strategy including the Employee Charter**
- 1.7 The consequences of breaching policy should be clearly stated**

RECOMMENDATION 2: CHANGES TO OTHER POLICIES

- 2.1 Review the current Grievance policy 1. CM.040 and consider introduction of a Resolution policy which combines Grievance, Harassment and Bullying policies.**
- 2.2 Adoption of the Welsh Local Government protocol for Internal Workplace Mediation**
- 2.3 Amendment to the School Staff Procedure 1.CM.035 –Sch. to reflect changes to the revised Welsh Government Circular 002/2013**
- 2.4 Addition to the Attendance & Wellbeing policy re management of sickness during Disciplinary Investigations (including suspensions)**

RECOMMENDATION 3: CHANGES TO DISCIPLINARY GUIDANCE

- 3.1 Develop detailed Guidance for each stage of a Disciplinary Investigation Process**
- 3.2 Define roles and responsibilities of staff within the Disciplinary Investigation process, including new roles of Observer, Assistant and Expert witness**
- 3.3 Develop enhanced guidance relating to Child Abuse and Police involvement**
- 3.4 Guidance on Employment Tribunals should be produced on preparation for ET including roles and expectations**

RECOMMENDATION 4: TRAINING

- 4.1 Enhance Cardiff Manager Development programme to include methods of early resolution**
- 4.2 Establish a Disciplinary Investigation development programme including e learning, formal training, coaching & mentorship.**
- 4.3 Instigate opportunities for observational experience for relevant staff in Disciplinary Hearings (by agreement of all attendees and carefully managed as a confidential process) and HRPS staff at Employment Tribunals.**

RECOMMENDATION 5: COMMUNICATION

- 5.1 Improve internal communication and establish database within HRPS re outcomes of Hearings & Employment Tribunals**
- 5.2 Improve future policy review by enhanced engagement of employees and communication to Directorates/schools**

RECOMMENDATION 6: MONITORING & REPORTING

- 6.1 Disciplinary Investigations (including suspensions and associated sickness absence) should be regularly monitored and reported at senior management level within Directorates.**
- 6.2 HRPS should review and collate corporate monitoring data in relation to Discipline.**

RECOMMENDATION 7: CHANGES TO DIGIGOV

- 7.1 Review and amend the Disciplinary Investigation process on Digigov to reduce the current issues, and enable accurate management reporting.**
- 7.2 Develop a prompt in Digigov to trigger a review of a suspension of an employee.**
- 7.3 Create an option tab in Digigov to link sickness absence to an investigation**

RECOMMENDATION 8: SICKNESS ABSENCE

- 8.1 Robust management of sickness absence during Disciplinary Investigation (including suspensions) managed by one HRPS officer.**
- 8.2 Revise the determination for fitness to participate in the investigation, to prevent blanket referrals to Occupational Health**

RECOMMENDATION 9: FUTURE MANAGEMENT WORKPLACE INVESTIGATIONS

- 9.1 Establish an Investigation team to deal with cases of complexity and/or potential Gross Misconduct.**
- 9.2 Consider business case to set up an Investigation unit as an arm's length company, in a trading model for income generation and longer term sustainability**

1. BACKGROUND TO THE REVIEW

1.1. HR People Services (HRPS) needs to continuously review and improve what it does, including policies that are developed and reviewed on behalf of the rest of the Council. There have been discussions in various fora regarding HR policies and the requirement to review them, ensuring that they meet customer requirements, and are in line with the need for the organisation to be able to react quickly and efficiently in austere times with Council budgets reducing. It is important that policy reviews take full account of the needs of Directorates as well as detailed discussions with the trade unions.

1.2 HRPS have recently undertaken a service review aimed at new ways of streamlined working, fit for future purpose, potential income generation, and cost saving opportunities. The resulting *Service Review Report and Action Plan* is currently awaiting ratification. Some key issues identified for the service include the need for customer feedback mechanisms, the importance of Trade Union partnership, improving consistency of advice and exploiting commercial opportunities. The action plan includes, for example,

- The need to review all key processes
- Reviewing the service level agreement to schools
- The need to explore market competitiveness
- Expanding the Manager Development Programme to up-skill managers
- Exploring income generation opportunities in relation to Mediation

1.3 In 2014, a report was sent to the Audit committee from Internal Audit & Risk Management entitled “*A fair and consistent approach to non benefit fraud investigation sanctions*”. The Audit Committee had raised a concern regarding the perceived variation of sanctions in Disciplinary Hearings, which required a response from HR People Services, and will be included in the scope of this Review. Cardiff Council Anti-Fraud, Anti- Corruption and Bribery Policy 1.CM.120 is currently under review, and a new Fraud, Bribery and Corruption policy is awaiting ratification.

1.4 Schools:

- 1.4.1 The Regulations covering staff disciplinary matters are contained in the *Government of Maintained Schools (Wales) Regulations 2005* and the *Staffing of Maintained Schools (Wales) Regulations 2006*. In January 2013, the Welsh Government issued guidance *Disciplinary and Dismissal Procedures for School Staff* (circular no 002/2013). The guidance was produced to help school governing bodies and local authorities implement effective staff disciplinary and dismissal procedures. In accordance with sections 35(8) and 36(8) of the Education Act 2002, this guidance is statutory, and governing bodies of all maintained schools in Wales must have due regard to it.
- 1.4.2 The framework for dealing with allegations of abuse against people who work with children is set out in *Safeguarding Children: Working Together Under the Children Act 2004* and the *All Wales Child Protection Procedures*. In July 2014, the Welsh Government issued *The Staffing of Maintained Schools (Wales) (Amendment) Regulations 2014*, and produced circular 009/2014 “*Safeguarding children in education: Handling allegations of abuse against teachers and other staff*”
- 1.4.3 The Regulations removed the requirement on the Governing body to appoint an independent investigator to investigate allegations of “*a child protection nature*” prior to the staff disciplinary and dismissal process, and replaced it with a duty to appoint an independent investigator to investigate allegations that a teacher or member of staff has “*abused*” a pupil (i.e. allegations of physical, sexual, or emotional abuse). This would be considered gross misconduct, and be subject to a staff disciplinary and dismissal hearing, and if substantiated may result in dismissal and referral to the Disclosure & Barring Service (DBS).
- 1.4.4 The Welsh Government is in the process of amending Circular 002/2013 *Disciplinary and Dismissal Procedures for School Staff*, in particular chapter 10, which deals specifically with handling child protection allegations to reflect the new regulations and the guidance in Circular 009/2014.

2. TERMS OF REFERENCE

2.1 To understand and summarise the main issues inherent in the current system of Workplace Investigations

- To explore strengths and areas for improvement for the efficiency and effectiveness of the management of investigations, in order to reduce the cost to the council in terms of the timescales involved in undertaking investigations, reduction of stress / sickness absence etc.
- To gather the views and experiences of a range of people involved with investigations such as Investigating Officers, HRPS officers, Trade Unions, and Chairs of Disciplinary Hearings.

2.2 To establish the current baseline position, focussing on production of quantitative data on timescales and outcomes for Disciplinary investigations between April 2013- October 2014.

- To explore current methods of data gathering
- Investigate current performance management and outline changes where applicable

2.3 To produce recommendations for beneficial change to procedure, in order to inform the current review of Cardiff Council Disciplinary Policy, Procedures & Guidance 1.CM.035

- Identify, where appropriate, the interface with other applicable policies e.g. Attendance & Wellbeing, Fraud, Bribery & Corruption, etc
- To highlight triggers for potential reviews of other applicable policies and procedures

- Address the issues that are not currently in agreement with the Trade Unions.

2.4. To identify how best to address the perceived inconsistency of Disciplinary sanctions in relation to fraud and financial impropriety issues, as raised by the Audit Committee.

2.5. To explore methods for improving skills and knowledge of Investigating Officers and Hearing Chairs, in order to deal with disciplinary investigations in a fair and just manner.

2.6 To discuss the potential viability of the establishment of a Specialist Investigation team for complex investigations.

2.7 Out of scope:

1. Review of the School Staff Discipline Procedure 1.CM.035- Sch. (May 2014)
2. Study of schools Child Protection Disciplinary cases undertaken by Servoca
3. Review of the Grievance policy 1.CM.040

3. CONTEXTUAL REVIEW OF RELEVANT DOCUMENTS

3.1 Policies & Guidance

3.1.1 **Code of Practice Disciplinary & Grievance Procedure (ACAS)**

The Advisory, Conciliation and Arbitration Service (ACAS) statutory code sets out principles for employers in handling disciplinary & grievance situations in the workplace. The Code is issued under s199 Trade Union and Labour Relations (Consolidation) Act 1992. A failure to follow the Code does not make a person or organisation liable to proceedings, but an Employment Tribunal is legally required to take the Code into account when considering cases. They may adjust any compensatory award by up to 25%, if they feel an employer has unreasonably failed to follow the guidance set out in the Code.

It is advisable that the ACAS guidance within the Code, continues to be embedded within any review of Cardiff Council policy.

3.1.2 **Discipline and Grievances at Work (ACAS Guide)**

This document provides more detailed good practice advice & guidance for dealing with disciplines and grievances in the workplace. Employment Tribunals are not required to have regard of this advice, however, the law on unfair dismissal requires employers to act reasonably. It urges the need to resolve some disciplinary issues informally- *“Cases of minor misconduct or unsatisfactory performance are usually best dealt with informally. A quiet word is often all that is required to improve an employee’s conduct or performance. In some cases additional training, coaching and advice may be what is needed.”* The guidance details how to deal with the informal stage and goes on to say *“Consider at any stage whether the use of an independent mediator may be helpful”*

It is suggested that the ACAS good practice advice continues to be contained within Cardiff Council Guidance, in order to minimise the risk of unfair dismissal on grounds of “unreasonableness”

3.1.3. ***Evaluation of the ACAS Code of Practice on Disciplinary and Grievance Procedure*** Rahim, N; Brown, A & Graham, J (ACAS Research paper)

This paper reviews the Employers' understanding & use and impact of the ACAS Code of practice, since its introduction in 2009. The review concluded that application of the Code should encourage employers towards earlier resolution of matters, and that confidence in interpreting and applying the Code would be enhanced by training. It also describes the balance of grievance and disciplinary cases in an organisation as reflective of its organisational culture. Those organisations "*with just a handful of disciplinary cases were likely to have different considerations in thinking about organisational policy, compared to organisations that initiated hundreds of disciplinary cases in any given year*". Where there is a higher number of disciplinary cases compared to grievances, this could indicate "*a culture of formal, rather than early resolution of disciplinary issues: where the first step was recourse to a formal disciplinary or grievance procedure*".

The paper also discusses that the use of mediation can be "*in place of formal disciplinary action outlined in organisational policies, or after a formal grievance had reached an outcome*". It goes on to say where mediation was used in place of a formal disciplinary action it was reported to have worked successfully to resolve low level disputes between colleagues, not where relationships had deteriorated to the extent that they did not wish to communicate with one another. It states that "*employers could be encouraged to review the behaviours or offences that currently constitute formal disciplinary action as well as their decision-making about appropriate processes.*"

This is further discussed in section 5.3.2 Early Resolution

3.1.4 ***Accompaniment and representation in workplace discipline and grievance*** Saundry R, Antcliff V & Jones C (ACAS Research paper)

This research paper reports on the role of companions in Disciplinary Hearings, in particular the role that trade unions can play a key role in moderating disciplinary outcomes. Trade Unions were "*central to informal processes of dispute resolution, before, during and after the onset of formal procedure. They acted as an early*

warning system, a channel of communication and even as an additional arm of management in trying to ensure that unacceptable behaviours were corrected. However, this was crucially dependent on the nature of the relationship between trade union representatives, operational management and HR advisors and managers”

This is further discussed in section 5.3.8 Hearings

3.1.5 *Facing Disciplinary Action: A guide for employees and their representatives* (London Law centre)

This publication is aimed at employees facing disciplinary action. Variation of sanctions in Disciplinary Hearings is discussed in this document and it states *“Inconsistency can make a dismissal unfair and can be an indicator of discrimination”* It goes on to say, however, *“tribunals do not expect employers to rigidly treat everyone the same way”*. There can be legitimate reasons for employees to be treated differently for the same offence, including mitigating circumstances, a cleaner disciplinary record or a difference in training. It states that *“rigid application of policy is not advisable”*.

Control measures to limit variation of sanctions are discussed in s. 5.3.8 Hearings.

3.2 *Mediation*

3.2.1 *Mediation: A protocol for the use of Internal workplace mediation in Local Government in Wales* Welsh Local Government Association (WLGA).

This document was developed in 2013 by HR Directors in Wales, as a framework to encourage Local Authorities to resolve conflict by incorporating the use of mediation where appropriate. It includes recommendations for how mediation should be used, including commitment and buy in, policy and procedures, training & support and guidance.

3.2.2 *“Win- Win” A study into the role and impact of mediation within Local Government* (LGA/PMA)

This Research was undertaken to assess the current use of workplace mediation within Local authorities across the UK. It reported that over 90% of Local Authorities are now using mediation regularly to resolve disputes. It goes on to

say that many Local Authorities are replacing their Grievance, Bullying and Harassment policies with a more progressive “ *Model Resolution policy*”. This can help a transition from a “grievance culture” to a “resolution culture”.

3.2.3 *Mediation: An Approach to resolving workplace Issues* (ACAS)

This guidance provides practical guidance in deciding whether, and in what circumstances, mediation may be suitable and the factors and processes in its implementation. It states that “*in some organisations mediation is written into formal discipline and grievance procedures as an optional stage.*” It goes on to say that although grievances most obviously lend themselves to the possibility of mediation, “*the line between disciplinary and grievance issues may in specific instances become blurred, in which case the employer may prefer to tackle the underlying relationship issues by means of mediation rather than impose a disciplinary sanction*”.

3.2.4 *Transforming conflict management in the public sector? Mediation, trade unions and partnerships in a primary care trust* Saundry R, MCardle L & Thomas P

Saundry et al. discuss how the involvement of unions as full contributors in the design and running of a scheme in an NHS Primary Care Trust proved transformative of the climate and culture of employment relations. It discusses the how there may be a perception that “*mediation might ‘get someone off’ a disciplinary.... but concerning the ‘fit’ of mediation with discipline and grievance, this was not the intention in any of the organisations. In fact, more commonly it was reported that unions ... could see exactly where it fitted with the process, and felt comfortable with where their role started and ended.*”

3.2.5 *Mediation and Early Resolution: A Case Study in Conflict Management* Richard Saundry and Gemma Wibberley (ACAS)

This case study discusses the experience of Trade Unions in those organisations where mediation has been introduced. Despite initial suspicion over alternative methods of resolving disputes, there have been positive results where Trade Unions have actually been trained as mediators leading to breaking down of barriers
Mediation is further discussed in Section 5.3.2 Early Resolution

4. QUANTITATIVE ANALYSIS

“When you can measure what you are speaking about, and express it in numbers, you know something about it” (Lord Kelvin)

4.1 Data sources

There are a number of data sources in HR People Services² (HRPS) in relation to Disciplinary and Grievance investigations, accessible and managed by HRPS staff only.

- Excel spreadsheets for each financial year stored in the Manage Secure folder (HR admin) on ‘ccfile1a’ shared drive.
- Digigov records
- Employment tribunals data kept on a separate spreadsheet/log in the Employee relations folder (HR admin) on ‘ccfile1a’ shared G drive.

4.2. Data recording in HRPS

The data during the study period (including schools investigations) was entered by HR officers on both the Excel spreadsheets and Digigov, and therefore adjustments were required by the author to take account of occurrences of double recording.

4.2.1 Excel spreadsheets for 2013/14 and 2014/15 :

These records are maintained by HRPS caseworkers in the Customer Service delivery team (Manage). Disciplinary and Grievances are entered on separate tabs on the spreadsheet. The spreadsheets contain information such as:- Service Area, Employee name & number, Post title & section, Investigating officer name, HR advisor name, Date of suspension (where applicable) Date investigation started, Date of hearing & outcome, Date of appeal & outcome. The 2013/14 spreadsheet also contained details of the allegation. The spreadsheets were the main source of data recording prior to the introduction of Digigov, but since September 2012, data has also been recorded on Digigov. However, schools data did not start to be recorded on Digigov until September 2014, so for the study period the Excel spreadsheet is the main data source for schools.

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Problems with Excel Spreadsheet data:

² Data in relation to fraud/ financial impropriety cases is also kept in a separate log/ database in Internal Audit.

- (i) *Missing data*: numerous examples amongst these records.
- (ii) *Data not uploaded* : Data is often kept separately by HR caseworkers in notebooks, and uploaded from time to time from their records. This practice makes it difficult for HR managers to view the data, and run a report to get an accurate and current picture at any one time.

4.2.2 *Digigov records*:

Disciplinaries and Grievances are entered separately onto the system. A report run on 27.10.14 included the following information:-Date initiated, Organisation, Service area, Case number, Respondent, Stage, Final action, HR caseworker, Investigating Officer, Case owner, Chair, Closure time.

Problems with Digigov data:

(i) *Multiple respondents*: Until June 2014, Digigov was not able to record these in respect of one single investigation, and therefore the data was entered separately. This gave the effect of multiple investigations on one specific date, when in fact it should be recorded as one investigation only, involving a number of people. For example, on 16th July 2013 there were 13 entries recorded for one Investigating Officer in one Directorate, giving the effect of 13 investigations instead of one with multiple respondents. It resulted in that Director having to close down 13 cases in their Digigov in-box. The number of actual investigations was therefore less than the 215 data entries. The number was adjusted by discounting 32 entries to give a total of 183 investigations between April 2013- October 2014 on Digigov.

(ii) *Missing data*: Numerous examples which prevent accurate management reports being run. The problems with inaccurate data entry is linked to the complexity of the Investigation process in Digigov (see section 5.3.7 Reports & Recording). An example of an inaccurate report was in response to the request for a report on the number of people suspended in the last 18 months. The Digigov report listed 4 names only, which is inaccurate, and does not match the spreadsheets (see section 5.3.5 Suspensions).

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(iii) *Inaccurate information due to inflexibilities of Digigov*: HR officers have had to “work around” the system entering data to “over -ride” it in order to move the

process on. One example is the inability of being able to change the name of the Hearing Chair (there have been multiple entries of HR officers' names being entered into the system as "Hearing Chairs" and "Investigating Officers"). Another example of inaccurate data applies to dates the investigation started, due to the inability to go back in time and make amendments, or put on records after the investigation started. This results in any management report run from Digigov on the length of time the investigation has taken as being inaccurate.

(iv) *Time wasting*: HRPS officers report that they are spending a great deal of time entering and amending data on Digigov, on behalf of Investigating Officers, Hearing Chairs or Directors who struggle to cope with the difficulties of the Investigation process.

(v) *Inadequate details of informal stage*: Details of the informal stage e.g. use of mediation is not recorded.

This situation will not improve until the Digigov process is streamlined and simplified- see section 5.3.7

*"I can't work it out – can take one hour+ of my time so I get **** in HRPS to do it for me" (Hearing Chair)*

During the Qualitative survey, HRPS staff were asked their opinion of the accuracy of data in HRPS. 19(82%) of the staff described it as *"poor/really poor"*. 9(40%) of the staff also stated that *"we don't capture things well"* and a fifth also said it was *"inaccurate"* and there was *"a need to improve"*.

*"The spreadsheets give us a better visual record for cross referencing"
"Not reliable" "I can't find out how many gross misconducts lead to dismissals"
"We need to have management information " (HRPS)*

In HRPS, there are no data reports regularly produced on Disciplinary and Grievances from either the Excel spreadsheets, or Digigov. Internal Audit reports to the Audit Committee in relation to fraud /financial impropriety cases. Directors are not required to report on Disciplinary/Grievance Investigations and therefore, no-one has total oversight regarding the progress of investigations, either at Directorate level or within HRPS. During the Qualitative survey, Hearing Chairs were asked whether they felt that Disciplinary Investigations should be monitored and reported at senior management level within Directorates. 15 out of 17 (88%) Hearing Chairs interviewed felt that there should be regular monitoring and reporting arrangements in place, with the remainder saying “*Probably*”.

It is agreed that there is a lack of awareness in Directorates regarding the number of ongoing investigations and their progress, coupled with a lack of timely and regular reviews of employees suspended from duty (see section 5.3.5 Suspensions).

It is of concern that there is no awareness between sickness absence rates and the linkage with Disciplinary Investigations.

(See Section 6 Sickness & Disciplinary Investigations)

“It’s Audit’s role to report in financial investigations. In non- financial investigations should be the role of the Directors” (Audit)

Recommendations and further feedback in relation to Data reporting can be found in section 5.3.7 Recording and Reporting

Accuracy of data included in this report from the three data sources should be viewed with some caution. The author has attempted to improve the accuracy of reported data by manually checking information, where feasible.

A total of **260 Investigations** were found between 04 April 2013 and 09 October 2014, recorded in the three data sources

Table 1: Records of Disciplinary Investigations 04 April 2013 – 09 October 2014 (Source:- Excel spreadsheets)			
Source	No. records	No. duplications	Remainder
2013-14 excel spreadsheet	147	92 records were duplicated in Digigov	55
2014-15 excel spreadsheet	101	79 records were duplicated on Digigov	22
Total			77

Table 2: Records of Disciplinary Investigations 04 April 2013 – 09 October 2014 (Source- Digigov 27.10.14)			
Source	No. records	No. duplications due to multiple respondents	Remainder (number Investigations)
Digigov: 04 April 2013- 09 October 2014	215	32	183

4.3.1 Length of time:

The three sources of Investigation records were examined to establish the length of time the investigation took. Unfortunately, information was limited to the 2013/14 Excel spreadsheet for the following reasons:-

(i) *Inaccurate information in Digigov* :The Digigov database report ran on 27.10.14 recorded only the date that the investigation was entered onto the Digigov system not the date that the investigation started. The date of the Hearing was also not given, and the closure time is the length of the investigation at the date the report was run, not necessarily the end of the investigation. Therefore, it was not possible to produce accurate information in relation to length of time from this source.

(ii). *Insufficient data in Excel Spreadsheet 2014/15*: was entered onto the spreadsheet, to produce accurate information in relation to length of time from this source

Table 3: Length of time Disciplinary Investigations April 2013-March 2014 (Source: Excel Spreadsheet 2013/14)				
Source	No. records	Total Length of time	Range	Mean
2013-14 excel spreadsheet	69	Start to End Investigation = 1035 weeks	3-54 weeks	15 weeks
2013-14 excel spreadsheet	64	Start Investigation to Hearing Date = 1679 weeks	5-194 weeks	26 weeks ³

4.3.2 The 2013/14 Excel spreadsheet had only 69 records with start and end dates of the investigation entered, and only 64 records had start of Investigation and Hearing dates entered. The mean length of time for an Investigation was 15 weeks, and from the start of the Investigation to the Hearing date was 26 weeks. This figure includes two investigations in the Education and Lifelong Learning Directorate, one which lasted 194 weeks until the Hearing date (including a period of maternity leave), and another lasting 94 weeks- so the mean figures are skewed. Excluding these two cases, the mean length of time from start of the investigation to Hearing date is reduced to **22 weeks**, which is still very lengthy.

Section 8.7 Disciplinary Policy Procedures & Guidance Notes states:-

“All investigations must be carried out as quickly as possible and in sufficient time so that any disciplinary action deemed necessary can be conducted within 8 weeks of the start of the investigation...”

4.3.3 Twenty one (30%) investigations were concluded within an 8 week period, However, only 8 (12%) Investigations with recorded data had start date to Hearing date within an 8 week period.

³ See adjusted figure in section 4.3.2

4.3.4 *Delays*: During the qualitative survey, opinions were gathered from HRPS, Trade Unions, Investigating Officers and Hearing Chairs regarding perceptions of causes of delays.

Table 4: <u>Delays to Investigations</u> (Source: Qualitative survey)				
Reasons for delay	Rank order given by HRPS	Rank order given by Trade Unions	Rank order given by Investigating Officers	Rank order given by Hearing Chairs⁴
Trade Unions	1	5	3	1
Sickness absence	2	4	2	3
Grievances	3			
Pressure of day Job for Investigating Officer (IO)	4	6	4	7
Availability of parties	5		1	2
Schools Governing body committee	6			
Directors	7	2	7	8
Servoca (schools)	8			
Police involvement	9		6	
HRPS	10			6
IO Inexperienced/ anxious	11	1		
Appointment of IO		3	10	
Process			5	4
Person under investigation			11	5
Digigov			8	
Typing up/ agree notes			9	

The top ranking reasons for delays include Trade Unions, Sickness absence, availability of parties, and the Investigating Officer’s inexperience/ pressure day job

*There is different advice with different HR officers. There can be deliberate delays (Audit)
 “Investigations are taking too long and costing us money Go on for too long- in one case one year” (Hearing Chairs)*

⁴ Delays to arrangement of Hearing rather than investigations

4.3.5 Two Directorates recorded the highest number of investigations when viewed as a percentage of their head count. They were Change & Improvement⁵ and Environment, with percentage values of 12% and 10% respectively. The remainder were between 1-3% number by headcount. The highest number of investigations (91) is in the Education & Lifelong Learning Directorate.

Table 5: <u>Disciplinary Investigations by Directorate- % total by headcount (All sources)</u>						
Directorate	No.on Digigov	No. on 2013-14 sheet	No. on 2014-15 sheet	total	Directorate headcount	% cases by headcount
CHANGE & IMPROVEMENT	5			5	43	12%
ENVIRONMENT	57	1	2	60	616	10%
STRATEGIC PLANNING HIGHWAYS TRAFFIC&TRAN	12	1		13	399	3%
CHILDREN SERVICES	13	1		14	417	3%
COMMUNITIES HOUSING & CUSTOMER SERVICES	30	5		35	1155	3%
SPORT LEISURE & CULTURE	13	1		14	784	2%
RESOURCES	8			8	373	2%
HEALTH & SOCIAL CARE	11	1	1	13	793	2%
FINANCE	5			5	328	1%
HR PEOPLE SERVICES	1			1	103	1%
EDUCATION & LIFELONG LEARNING	27	45	19	91	8188	1%
Not specified	1			1		
Total	183	55	22	260		

⁵ There were only 5 cases in this Directorate.

4.3.6 Outcomes Analysis:

The 260 investigations were examined for outcomes. There were:-

- 118 Investigations with completed outcomes recorded on Digigov
- 43 Investigations with completed outcomes recorded on 2013-14 spreadsheet
- 9 Investigations with completed outcomes recorded on 2014-15 spreadsheet

Total number of 169 Investigations with completed outcomes. Of the remaining 91 investigations, 67 were “in progress”, 20 outcomes were not recorded, with a further 4 “errors”⁶

Table 6: <u>Final Outcome Analysis Disciplinary Investigations</u> (All sources)				
Recorded Outcome of Investigation	Digigov (n=118)	2013-14 spreadsheet (n=43)	2014-15 Spreadsheet (n=9)	Total (n=169)
<u>Disciplinary Action</u>				
Dismissed with/ without notice	19	11	0	30
Final Written Warning	18	3	0	21
Written warning	11	5	0	16
Verbal Warning	8	3	3	14
				(81) 48%
<u>No Disciplinary Action</u>				
• No case to answer	19	7	2	28
• No further action	17	4	0	21
• Dealt with Informally	2	1	2	5
				(54) 32%
<u>Investigation not completed/abandoned</u>				
• Employee resigned before investigation completed	9	6	2	17
• Investigation not progressed within reasonable timescales	5	0	0	5
• Withdrew allegation	1	0	0	1
• Did not proceed – evidence issue	0	1	0	1
• Investigating Officer left before investigation completed	1	0	0	1
				(25) 15%
Dismissed under sickness	4	2	0	6 (3%)
Transferred or redeployed	2	0	0	2
Terminated contract	1	0	0	1
Total	117	43	9	169

⁶ An “Error” indicates flawed information

Less than half (48%) of the investigations with recorded outcomes resulted in some disciplinary action being taken. These include some cases that went to Disciplinary Hearing and resulted in no case to answer/ dealt with informally. A further 54 (32%) Investigations resulted in no disciplinary action being taken, with another 25 (15%) not being completed or abandoned.

This indicates that potentially there are a significant number of cases that could be dealt with by means other than a disciplinary investigation.

4.4 Grievances

Data regarding Grievances is shown below for reference only, and the investigations have not been studied in any depth. 61 Grievances were recorded on the three data sources. 22 (36%) did not have the outcomes recorded, with the results for the remaining 39 cases shown in table 7.

Table 7: <u>Outcome Analysis Grievances April 2013 –October 2014</u> (All sources)				
Outcome	Source			
	Digigov (n=21)	2013/14 Excel Spreadsheet (n=12)	2014/15 Excel Spreadsheet (n=6)	Total (n=39)
Upheld	4 (19%)	2 (17%)	0	6 (15%)
Not upheld	15 (71%)	5 (42%)	4 (67%)	24 (61%)
Partially upheld	2 (9%)	0	2 (33%)	4 (10%)
Withdrawn	0	2 (17%)		2 (5%)
Dealt under Disciplinary policy	0	2(17%)		2 (5%)
Resolved other means	0	1		1
Total	21	12	6	39

24(61%) cases were not upheld and there were only 10 (26%) Grievances that were either upheld or partly upheld. There were 6 Appeals recorded on the Digigov report, of which 4 were not upheld and 2 were partially upheld.

The Grievance policy is not currently under review. However, the Author recommends this policy is considered for review or inclusion in a wider Resolution policy.

4.5 Employment Tribunals

4.5.1 These records are maintained by HRPS officers in the Employee Relations Team. A log is kept of cases where there is an Employment Tribunal (ET) claim and contains information on Date, Directorate, Nature of the claim and the outcome e.g. “settled” or “proceeded to Tribunal”. There are no management reports run on this data, other than the protected characteristics data monitoring.

4.5.2 The 2013/14 spreadsheet data was examined. There were 21 cases listed, of which 7(33%) were in connection with a Disciplinary matter. Three of the 7(43%) were in the Education & Lifelong Learning Directorate. The number of disciplinary cases going to Employment Tribunal is relatively low.

Table 8: Outcome Analysis ET claims 2013/14 (source: Spreadsheet HRPS)					
ET Claim	Directorate	Outcome			
		Withdrawn by claimant	Struck out by ET	Won by the council at ET	Settled with compensation awarded
Unfair Dismissal	Education & Lifelong Learning			1	
Unfair Dismissal	Education & Lifelong Learning		1		
Unfair Dismissal	Education & Lifelong Learning				1
Unfair Dismissal	Health & Social Care	1			
Constructive Dismissal	Health & Social Care	1			
Unfair Dismissal	Environment	1			
Unfair Dismissal	Childrens	1			

4.5.3 HRPS staff were asked during the Qualitative survey re issues relating to Employment Tribunals and Training & Guidance. Issues raised included:-

- Information and data is not shared sufficiently between the Employee Relations Team and the Customer Service Delivery (Manage) team
- Opportunities for observational experience is required
- Lack of guidance in relation to Employment Tribunals and the role of HR in risk management.
- Information in relation to investigations are held in a number of different places and often hard for the Employee Relations Team to find

SUMMARY OF FINDINGS

- 1. Numerous examples of missing data from the Excel Spreadsheet**
- 2. Accurate management reports cannot be run from Digigov due to:-**
 - (i) Multiple respondents recorded as multiple entries of investigations prior to June 2014.**
 - (ii) Numerous examples of missing data**
 - (iii) Inaccurate information has been entered by HRPS officers to “work around” the inflexibilities of the Digigov system**
- 3. There is a great deal of HRPS officer time being spent entering and amending data on Digigov. This situation will not improve until the process is streamlined and simplified.**
- 4. 19(82%) of the HRPS staff describe accuracy of data recording in all systems as “poor/really poor”.**
- 5. In HRPS, there are no data reports regularly produced**
- 6. Directors are not required to report on Disciplinary/Grievance Investigations and therefore, no-one has total oversight regarding the progress of investigations**
- 7. The mean length of time for an Investigation in 2013/14 was 15 weeks and from the start of the Investigation to the Hearing date was 26 weeks (adjusted to 22 weeks to take into account two very long investigations)**
- 8. Only 21(30%) investigations were concluded within an 8 week period, and only 8 (12%) Investigations reached Hearing date within an 8 week period.**
- 9. Top ranking reasons for delays include Trade Unions availability, Sickness absence and Investigating Officer Inexperience/ pressure day job.**
- 10. The highest number of investigations is in the Education & Lifelong Learning Directorate.**
- 11. Change & Improvement and Environment have the highest percentage investigations compared with number of employees, with percentage values of 12%(5 cases) and 10% (60 cases) respectively.**
- 12. Less than half (48%) of the investigations with recorded outcomes(81) resulted in some disciplinary action being taken.**
- 13. 24(61%) Grievance cases were not upheld and only 10(26%) were either upheld or partially upheld.**

PROPOSALS

1. Data on spreadsheets in HRPS should be phased out to leave one data source.
2. There should be amendments to the Digigov Disciplinary process to enable accurate data entries.
3. Disciplinary Investigations should be monitored and reported at senior management level within Directorates. This should include suspensions, progress of investigations and associated sickness absence.
4. HRPS should review and collate corporate monitoring data in relation to discipline.
5. Guidance on Employment Tribunals should be produced on preparation for ET, including roles and expectations
6. Improvements to HRPS internal communication in relation to outcome of Employment Tribunals, as part of HRPS service review.

KEY RECOMMENDATIONS

RECOMMENDATION 3: CHANGES TO DISCIPLINARY GUIDANCE

- 3.4 Guidance on Employment Tribunals should be produced on preparation for ET including roles and expectations

RECOMMENDATION 5: COMMUNICATION

- 5.1 Improve internal communication and establish database within HRPS re outcomes of Hearings & Employment Tribunals

RECOMMENDATION 6: MONITORING & REPORTING

- 6.1 Disciplinary Investigations (including suspensions and associated sickness absence) should be regularly monitored and reported at senior management level within Directorates.
- 6.2 HRPS should review and collate corporate monitoring data in relation to Discipline.

RECOMMENDATION 7: CHANGES TO DIGIGOV

- 7.1 Review and amend the Disciplinary Investigation process on Digigov to reduce the current issues, and enable accurate management reporting.

5.0 QUALITATIVE SURVEY

5.1 *Methodology*:

A qualitative survey was undertaken with those Council staff that had an involvement with Disciplinary Investigations April 2013- October 2014. The questions for the survey were developed by taking into consideration background knowledge and information from the contextual review. A pilot of the questionnaire was initially undertaken in HRPS, and survey questions are shown in the appendices.

- HR People Services (HRPS) (Appendix 1)
- Mediators in HRPS (Appendix 2)
- Attendance & Wellbeing Team HRPS (Appendix 3)
- Occupational Health HRPS (Appendix 4)
- Trade Unions (GMB, Unison, Unite) (Appendix 5)
- Internal Audit & Risk Management (Appendix 6)
- Chairs of Disciplinary Hearings (Appendix 7)
- Investigating Officers (Appendix 8)

(See Section 7 for Schools survey)

5.2. *Response Rate*:

Tables 9 & 10 detail the numbers of people who participated per staff group, the method of information gathering and the non- respondents, giving a total response rate. 66 HRPS, Trade Unions and Hearing Chairs were identified- 6 people declined or did not respond, leaving 58 people. 53 (91%) HRPS, Trade Unions and Hearing Chairs received a face to face interview.

Table 9: <u>Response rate and method HRPS/Trade Unions/Audit/Hearing Chairs</u>						
Survey	Face to Face Interview	Email return	Tel. Interview	Took part	Response Rate	No response/declined
Pilot study (2)	2			2		
HRPS OFFICERS/OM (24)	22	1		23	96%	1
Mediation (2)	2			2		
Attendance & Wellbeing (3)	3			3		
Occupational Health (2)	2			2		
TRADE UNIONS (8) Unison, GMB, Unite	7			7	87%	1
INTERNALAUDIT (2)	2			2		
CHAIRS OF HEARINGS (23)	13	2	2	17	74%	6
total	53	3	2	58		8

Investigating Officers:

From the data sources, 101 Investigating Officers were originally identified: 21 were discounted as 9 had left the service, 3 were on maternity/long term sickness absence, 3 were surveyed in their capacity as a hearing Chair, and 6 were not appropriate as the investigation had just commenced.

This left 80 people as a potential interview group.

Due to the large numbers of Investigating Officers they were contacted by email and asked to return the survey by email. However, 19 (24%) of the Investigating Officers contacted the author and requested a face to face interview, and one person requested a telephone interview.

Table 10: <u>Investigating Officers response rate and Information gathering method</u>						
Survey	Face to Face Interview	Email return	Tel. Interview	Total no.	Response Rate	No response/declined
INVESTIGATING OFFICERS (80)	19 (24%)	31 (39%)	1	51	64%	29 (36%)

A total of 109 participants took part in the corporate survey out of a potential group of 146 people, giving an overall response rate of 75%, with staff group response rates ranging from 64%- 96%.

72 (66%) of the total number of survey participants had face to face interviews.

5.3 THEMES

Information is displayed in this section under nine themes- *Disciplinary Policy & Procedure; Early resolution; Staff Experience & Training; Roles; Suspensions; Investigation Interviews; Reports and Recording; Hearings and Appeals*. Each themed sub-section is concluded with a summary of main findings and detailed recommendations for change.

5.3.1 Disciplinary Policy and Procedure

Review of the policy: In HRPS, the Employee Relations Team undertake consultation and face to face meetings with the Trade unions, to review the policy. The caseworkers involved with Disciplinary Investigations are not based within this team, but within the Manage team. The HRPS Manage staff interviewed stated that they are only involved with policy review once the overview is completed. Whilst the separation of caseworkers from the Employee relations Team does free up staff capacity to deal with policy change, it does mean that the people with the greatest/most recent experience of disciplinary investigations, (and practical experience of the application of the policy) feel they are insufficiently in-putting into policy improvements, which needs to be addressed as part of HR Service Review.

There are two issues which were not agreed during the current policy review with the Trade unions, and they are discussed in section 5.3.8 Hearings.

Length of policy: The current policy document is an amalgamation of other policies that were previously separate e.g. suspension policy, dealing with police etc. It is important to keep all aspects of the disciplinary procedures and processes together in one policy, however the act of pulling the separate policies together has resulted in a document that is too long. 10 (43 %) HRPS staff commented that the policy was now very long. 10(59%) of Hearing Chairs also felt it was too long, together with 25 (49%) of investigating Officers. One of the issues for new Investigating Officers was that they felt that they had to read all 73 pages of the policy document, so as to ensure that they had not missed any vital information. This point is especially true as there is new information in the FAQ section that does not appear in the main body of the policy. This also applies to the person under investigation as the document could feel overwhelming. Other comments were there was a lack

of clarity and a smaller policy cross referencing to other relevant policies (e.g. Attendance & Wellbeing policy) and with separate (enhanced) guidance would be preferable.

*“It is wordy and daunting for people who receive it” Takes too long to read”
“There should be the policy and then a separate code of guidance that explains how to complete each stage” (Hearing Chair)*

“There is lots of narrative about stages . Need a process map for each stage. I needed HR guidance to read through it” “Difficult to send out to some staff in a hard copy” “It is clear enough to be able to make a decision” (Investigating Officers)

*“ Lot of amendments required. This is the result of merged policies which at 73 pages is too long. Needs to be short and sharp with supporting information”
(Audit)*

Ease of use : 52% of Investigating Officers found the policy “hard” or “fairly hard” to use with the remainder saying it was ok. Most of the criticism was in relation to the style. The current policy is a mixture of policy and guidance, and it is difficult to easily locate the guidance in order to understand how to undertake an aspect of an investigation e.g. conducting an interview. The current guidance is inadequate for staff new to the procedures, and improving the guidance without separating it from the policy would result in a document between 100-200 pages long. A different style to the guidance would be helpful with flowcharts etc.

*“It’s hard to find stuff “ It’s too cumbersome”
It has a lack of “teeth” to deal with head teachers and Trade Unions” (HRPS)*

“There should be an overarching policy with expectations regarding time limits with guidance for investigating officers and staff that is people friendly.”

“It is clear enough to be able to make a decision” Having only 4 options of sanctions makes it easier” “ It is too formal needs to be a different style with references to appendices- overkill for situations” (Hearing Chairs)

“Confusing in the layout”

“Didn’t know what stage I was at – had an informal been done?”

“A lot of information -It takes a while to familiarise yourself and due to the length there is a danger of some not reading/ absorbing the whole thing”

“Contents page is very good as the page numbers are hyperlinked”

“Unintelligible not obvious what we should do, needs process map in appendix it’s unwieldy” (Investigating Officers)

Issues in relation to Disciplinary Rules : The general opinion from all respondents was that the disciplinary rules were satisfactory, although 15 (65%) HRPS officers stated they had had some issues with them especially in the definition of misconduct versus gross misconduct. The Trade Unions would welcome more definition of “*bringing the council into disrepute*”

“*The Welsh Government guidance has different definition of theft*” (HRPS)

“*The Flexi issue is defined as fraud*” “*Minor misconduct v gross misconduct is a problem There is insufficient expansion of rule and /or detail of the allegation*” (Trade Unions)

“*The Rules cover most cases*” “*Very useful and should be used more by IO’s so they are clear between misconduct and gross misconduct*”

“*They are comprehensive and helpful- may be an issue of interpretation and where it fits*” “*It is difficult to interpret Gross misconduct v Breach of Trust.*”

“*More guidance on social media e.g. facebook use – this is a grey area*” (Hearing Chairs)

“*They are ok but you need to go a long way in before you get to them. Not in logical order*” (Investigating Officers)

Location of Frequently Asked Questions (FAQ’s): The majority of respondents welcomed the addition of the FAQ’s as a useful information resource. However, there were concerns from a number of respondents regarding the new information that appeared in the FAQ’s, which was not included in the main body of the policy. As there would be a likelihood for people not to read the FAQ’s, then vital information could be missed. There was overwhelming response across all categories of respondents that they should not be located within the policy, as they could only be updated when the policy was reviewed every few years. They would be more usefully placed on the HRPS website (e.g. A-Z services) and the information could be updated in a timely manner.

Policy not adhered to: During the review, it was apparent that there were numerous examples of the Disciplinary policy not being adhered to throughout the process, without any apparent consequences e.g. breaching investigation timescales, lack of suspension reviews, lack of supporting information to appeals etc. The consequences of breaching the policy should be clearly stated.

Other Issues and comments

- Child Protection- HRPS officers stated that more guidance is required
- Fraud & Police involvement- improved guidance is required which includes:-
 - advice on statement taking to make a referral to the police to avoid tampering with evidence
 - clarity of roles in police referral panel
 - timescales
 - informing employee if police not taking the matter forward

SUMMARY OF FINDINGS

- 1. HRPS staff in Customer service delivery(manage) team feel they are insufficiently in-putting into policy improvements.**
- 2. 10(43 %) of HRPS staff , 10(59%) of Hearing Chairs and 25(49%) Investigating Officers stated the policy was too long.**
- 3. More than half Investigating Officers found the policy “hard” or “fairly hard” to use.**
- 4. 15(65)% HRPS officers stated they had some issues with the definition of misconduct versus gross misconduct in the disciplinary rules. The Trade Unions would welcome more definition of “*bringing the council into disrepute*”**
- 5. There is new information that appeared in the FAQ’s, which was not included in the main body of the policy. FAQ’s should be in guidance or on a website, not in the policy.**
- 6. Timeframes for the Investigations as stated in the policy are not realistic and are not adhered to or reported on**
- 7. The current policy makes a distinction between the necessity to attend a hearing for witnesses for management, and witnesses for the respondent.**
- 8. Improved guidance is required for Child Protection and Fraud & Police involvement which includes advice on statement taking prior to a referral to the police(to avoid tampering with evidence).**

PROPOSALS

- 1. Change to Discipline policy to separate policy and guidance (with enhancement to guidance)**
- 2. Guidance -change of style with less narrative and use of flowcharts and Appendices**
- 3. FAQ's should go onto HRPS website to enable regular updating or guidance**
- 4. Review of the timeframes for investigations – into complex and non complex**
- 5. Improved guidance on review of progress of Investigation, Reporting & Monitoring arrangements (including suspensions).**
- 6. Improvements to future policy review: Enhance internal communication in HRPS to enable feedback/input issues to inform required changes to disciplinary policy. Employees (and their representatives) should be involved in the development of rules and procedures (ACAS guidance)**
- 7. Improved communication to Directorates regarding policy changes**
- 8. The consequences of breaching the disciplinary policy should be specified**
- 9. Improved guidance required relating to Child Protection and Police involvement**

KEY RECOMMENDATIONS

RECOMMENDATION 1: CHANGES TO CARDIFF COUNCIL DISCIPLINARY POLICY

- 1.1 Amend Disciplinary policy separating the all encompassing policy from the individual guidances contained therein**
- 1.5 Cross -reference the Discipline policy to the Attendance & Wellbeing policy and Fraud, Bribery & Corruption policy**
- 1.7 The consequences of breaching policy should be clearly stated.**

RECOMMENDATION 3: CHANGES TO DISCIPLINARY GUIDANCE

- 3.1 Develop detailed Guidance for each stage of a Disciplinary Investigation Process**
- 3.3 Develop enhanced guidance relating to Child Abuse and Police involvement**

RECOMMENDATION 5: COMMUNICATION

- 5.1 Improve internal communication and establish database within HRPS re outcomes of Hearings & Employment Tribunals**
- 5.2 Improve future policy review by enhanced engagement of employees and communication to Directorates/schools**

5.3.2 Early Resolution

Application of the ACAS *Code of Practice on Disciplinary and Grievance Procedures* guides employers towards earlier resolution of workplace disputes, and the need to resolve some disciplinary issues informally.

The quantitative analysis in section 4 has shown that between April 2013 and October 2014, there were 260 disciplinary investigations recorded compared to only 61 grievances for the same period. This higher number of disciplinary cases compared to grievances, is indicative of a culture of formal, rather than early resolution of disciplinary issues in Cardiff Council. The Contextual Review of the relevant research papers and documents shown in section 3, clearly provides the background evidence needed to endorse a change in culture.

During the qualitative survey, staff were asked their opinions of Early Resolution.

1. *Managing staff behaviours & opportunities for Early Resolution*

It was found that there was overwhelming evidence and agreement from all parties, for the resolution of matters at an early stage. A common issue expressed was that managers were not managing their staff adequately.

HRPS staff considered that managers should be encouraged to more proactively manage or challenge behaviours. 16(69%) HRPS staff felt they could identify situations where early resolution would have been an option- they cited interpersonal relationships/ bad management/ bullying. One officer stated the "*Formal process is a trail of destruction*". It was considered that there was insufficient training & guidance for managers in relation to this. More than half felt that a template document specifying expected improvements for staff behaviours would be useful.

Trade Unions also felt there were opportunities lost stating there "*is an epidemic of people being escalated. Managers need to manage people*". One Trade union felt that there were sometimes issues for unions when a member insists on putting a grievance in.

“There have been a couple where clearly the manager took sides and prejudiced - the opportunity for resolution was lost. Some managers are over zealous re disciplinary before mediation – it is about individuals”

“I feel that issues such as poor timekeeping could be dealt with by the line manager and not involve others in an investigation; this could go against performance management” (Hearing Chair)

“Cases have been referred in respect of “problem employees” as managers occasionally don’t want to deal with the issue and would rather the matter be investigated and hope that the employee is dealt with by someone else” (Investigating Officer)

Investigating Officers: 29 (57%) Investigating Officers felt that there had been opportunities for early resolution that would have prevented acceleration to an Investigation.

Hearing Chairs: Significantly, even when a case had proceeded to a disciplinary Hearing, 10 (59%) of the Hearing Chairs stated that could identify situations that could have been resolved at an earlier stage.

“It is rare to chair a hearing for one instance out of the blue. Usually it is difficult behaviours/ relationships and the ability for managers to sort out. This would give the chance to facilitate a more appropriate sanction”

“The informal stage is a grey area with the Trade Unions- it should involve someone independent to look at it. Often an individual wants to go to a grievance hearing to speak to manager. Trade Unions have a huge responsibility to act responsibly at this stage” (Hearing Chairs)

“There used to be a facility to give a verbal warning with the approval of the Chief Officer/Director. This was a better way of dealing with it. We have a record of discussion/ coaching”

“At the Preliminary Stage I wanted to clarify with the person reporting the allegation but was informed that I could not do this as it was part of the Investigation. However if I had been able to do so there would have been no need to undertake an investigation” (Investigating Officers)

The management of staff behaviours should be more closely linked to the Behavioural Competency Framework in the Personal Performance and Development Review (PPDR). There is also an opportunity for linkage to Dignity at Work policy and defining a “*Respectful workplace*”.

(see Section 8 Discussion- Workforce Strategy Employee Charter)

2. Role of Mediation

Mediation is a voluntary process using an independent mediator to resolve issues between two or more parties, that agree to participate. The mediator aims to enable the parties to reach an agreement.

HRPS Mediators: There are currently two trained mediators in HRPS and they were interviewed as part of the qualitative study. They undertook “*Meditation and Conflict Resolution*” (ILM endorsed) training in 2012, and between them have been involved in 6 mediations since that date. There are only informal arrangements in place for referrals for mediation – through HR officers who become aware of spotting conflict and ask the manager to contact HRPS. This is partly due to the work capacity of the mediators who are employed in other roles in HRPS. Mediation has been used successfully to prevent escalation to an investigation, but has only been used once to “repair” damaged relationships after an investigation has concluded. Mediation is not recorded or reported on, neither has there been any formal evaluation of its effectiveness. It is not known to what extent Directorates pay for external mediation services. Both mediators felt there was currently insufficient training for managers on conflict resolution. Development of a larger mediation service is currently being considered by HRPS (**section 3.1.6**). There can be downsides to being a mediator in HRPS with a potential conflict in roles. The Welsh Local Government Association (WLGA)⁷ recommends mediators are drawn from a wider range of service areas than just HR. The 2013 ACAS guide “*Mediation: An Approach to resolving workplace Issues*” also discusses the suitability of HR professionals to become mediators- “*Although many HR practitioners would make good mediators with the kind of skills they are likely to have, there could be a direct conflict with their role if they are selected as mediators- they could be responsible for handling an ongoing or subsequent grievance, for example.*”

HRPS officers/ Trade Unions/Hearing Chairs/Investigating Officers: About a third of HRPS officers had experience of mediation being used at an informal stage, with about a half being aware of mediation used post investigation. Trade Unions were unanimous in their support of mediation, stating that more of it was

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⁷ Mediation: A protocol for the use of Internal Workplace Mediation in Local Government in Wales- October 2013

needed. They stated that they had been told that once the investigation process has begun, mediation cannot be used. This is in conflict to ACAS guidance which states *“it is useful to be clear about whether the discipline and grievance procedure can be suspended if mediation is deemed to be an appropriate method of resolving the dispute.”* In addition, they welcomed the chance to use mediation after the hearing. Neither Hearing Chairs nor Investigating Officers had experienced the use of mediation after the commencement of the investigation. 7(42%) Hearing chairs reported they had recommended the use of mediation after the Hearing. The HRPS mediators stated in interview that they had undertaken mediation only once after a Hearing. It is unlikely in these times of budget restrictions that external mediation is being commissioned. (see section 5.3.8 Hearings- Recommendations of Chair)

It is apparent, therefore, that either the recommendations of the Hearing Chairs are not being implemented, or any “mediation” is not undertaken by trained mediators, so may not be effective,

Role of the Trade Union Representative in Early Resolution: The ACAS Research paper *“ Accompaniment and representation in workplace discipline and grievance”* found that effective trade union representation allowed for early identification of problems and informal approaches to resolution stating *“this prevented certain issues from escalating and helped avoid formal disciplinary action and dismissals”* They were also described as *“a channel between manager and employee”*. Research has shown that the most successful mediation schemes are those with the involvement of unions as full contributors in the design and running of a scheme.

The culture in Cardiff Council:

It is suggested that the culture in Cardiff Council of higher numbers of disciplinary investigations compared to grievances has arisen in part due to:-

1.Lack of understanding of methods of early resolution –the *“basket of solutions”* which includes such things as additional training, coaching, advice, counselling and the role of mediation in disciplinary, and not just grievance, issues.

2.Lack of real alternative options available to managers, due to the current limited mediation service and lack of training on conflict resolution.

For a cultural change to occur, there needs to be a review of the behaviours or offences that currently constitute formal disciplinary action. In addition, the role of the Trade Unions and the nature of the relationship between trade union representatives, operational management and HR advisors and managers will be key to a successful change. (see section 9.2)

As a consequence of cultural change, research informs that many Local Authorities are replacing their Grievance, Bullying and Harassment policies with a more progressive “ *Model Resolution policy*”.

3. *Fast Track Disciplinary Process*

Data in this report shows that investigations are taking a considerable amount of time to undertake, causing sickness absences from work, and many have no disciplinary actions as an outcome. It is recommended that the use of a fast track disciplinary process be developed, for cases to be dealt with in a timely manner e.g. within one month of the initial assessment. This process could be used for situations regarded as ‘Misconduct’ which would normally result in a verbal or written warning. It could also include a situation where the employee against whom the allegation has been made has *admitted it in full*. Proceeding along this route would still need to be agreed by all parties i.e. the Employee, their representative and the manager.

It would exclude situations where the allegation is potential gross misconduct for example, a safeguarding issue, a Police matter or a serious fraud. An Investigating Officer will not need to be appointed but the manager, as Disciplining Officer, would gather all relevant supporting information and meet with the employee (and their representative). The outcome would be decided at a Fast track Hearing.

There are examples of Fast Track disciplinary procedures being used successfully in other Authorities. The author recommends that any fast track process is developed in conjunction with the Trade Unions and managers.

SUMMARY OF FINDINGS

- 1. 16(69%) HRPS staff, 14 (61%) Investigating Officers and 10 (59%) of the Hearing Chairs felt they could identify situations where early resolution would have been an option**
- 2. The management of staff behaviours should be closely linked to the workforce strategy- Behavioural Competency Framework in the Personal Performance and Development Review (PPDR).**
- 3. There are two trained mediators in HRPS who have undertaken 6 mediations since 2012. There are only informal arrangements in place for referrals for mediation, and a lack of awareness of the trained mediators within HRPS.**
- 4. Mediation is not recorded or reported on, neither has there been any formal evaluation of its effectiveness**
- 5. The Welsh Local Government Association protocol recommends mediators are drawn from a wider range of service areas than just HR.**
- 6. 7(42%) Hearing chairs reported they had recommended the use of mediation after the Hearing. However only one mediation was reported to have taken place post Hearing. It is apparent, that the recommendations of the Hearing Chairs are not being implemented.**
- 7. There is a need for robust decision making early on using a basket of solutions to reduce the number of unnecessary investigations**
- 8. There is a need for a fast track disciplinary process to deal with minor misconducts**

PROPOSALS

1. Review the current Disciplinary policy 1 CM 035 and the Grievance policy 1.CM.040 and re-define the informal stage, role of mediation and fast track processes.
2. Consideration for the introduction of a Resolution policy which combines Grievance, Harassment and Bullying.
3. Amendment of Disciplinary policy to allow suspension of discipline and grievance procedure at any stage, if use of mediation is an appropriate method of resolving the dispute
4. Adoption of the Welsh Local Government protocol for Internal Workplace Mediation June 2013
5. Expand the mediation service by increasing the number of trained mediators in the council, drawn from a wider range (other than HRPS) of Directorates and Trade Unions
6. Clarification of whose role it is to carry out recommendations of Chair
7. Consider interface with Dignity at work policy- to include definition of "*Respectful workplace*" and linkage to Employee Charter
8. Introduction of Fast track Disciplinary process

KEY RECOMMENDATIONS

RECOMMENDATION 1: CHANGES TO CARDIFF COUNCIL DISCIPLINARY POLICY

1.1 Amend Disciplinary policy separating the all encompassing policy from the individual guidances contained therein.

1.2 Increase emphasis on early resolution of issues to include:

- **Expansion of the internal mediation service**
- **Introduction of Fast track Disciplinary process**

1.3 Changes to policy regarding:

- **Use of mediation at any stage of discipline and grievance procedure**
- **Re-define Fraud in order to categorise minor misdemeanours**

1.5 Cross -reference the Discipline policy to the Attendance & Wellbeing policy and Fraud, Bribery & Corruption policy

1.6 Consideration interface with Dignity at Work policy and a linkage to the workforce strategy including the Employee Charter

RECOMMENDATION 2: CHANGES TO OTHER POLICIES

2.1 Review the current Grievance policy 1. CM.040 and consider introduction of a Resolution policy which combines Grievance, Harassment and Bullying policies.

2.2 Adoption of the Welsh Local Government protocol for Internal Workplace Mediation

RECOMMENDATION 3: CHANGES TO DISCIPLINARY GUIDANCE

3.1 Develop detailed Guidance for each stage of a Disciplinary Investigation Process

RECOMMENDATION 4: TRAINING

4.1 Enhance Cardiff Manager Development programme to include methods of early resolution

4.2 Establish a Disciplinary Investigation development programme including e learning, formal training, coaching & mentorship.

5.3.3 Staff Experience & Training

Level of Experience

Table 11: <u>Level of Experience HRPS Caseworkers</u>⁸				
	0	1-10	10-50	More than 50
Investigations	1	6 (37%)	6 (37%)	2
Hearings	1	7	7	1
Appeal Hearings	2	11	3	0
Employment tribunals	6 (37%)	10		
Schools investigations	2	9	5	

There was a good range of experience amongst caseworkers, although experience for the officers in the Employees relations team was not recent. Experience of the managers above Lead manager level was not included, as again it was not recent.

Table 12: <u>Level of Experience Hearing Chairs</u>				
	0 hearings	1 hearing	2-10 hearings	10+ hearings
Hearing		2 (12%)	10 (59%)	5 (29%)
Appeal Hearing	11 (65%)	3 (18%)	2 (12%)	1 (6%)

The majority of Chairs interviewed had a lot of experience of conducting Hearings, although they were much less likely to have conducted an Appeal hearing.

Table 13: <u>Level of Experience Investigating Officers</u>					
First investigation	2-5 Investigations	6-10 Investigations	More than 10 Investigations	Hearings	Fraud/Financial Impropriety Investigation
19 (37%)	20 (39%)	6 (12%)	6 (12%)	Yes 40 (78%) No 11 (21%)	Yes 17 (33%) No 34 (67%)

A high proportion of Investigating Officers were either on their first investigation or were relatively inexperienced. However more than three quarters of them had experience of attending a Hearing, which in view of their lack of experience many found to be a daunting experience.

“HR supported the Chair, the employee was supported by the Union but as Investigating Officer I was not supported. I felt that I should have been offered support at the Hearing”

“Very intimidating experience for both sides” (Investigating Officer)

⁸ Including Service Delivery lead Managers

Level of Training & Guidance

(i) Investigating Officers

Support during Investigation: 46 (90%) respondents stated that they received help/guidance from a HR Officer. The most popular areas of help were in relation to planning of interview questions, outlining the procedures, and preparation of the Investigating Officer's report. Investigating Officers also found help received from another experienced Investigating Officer was particularly beneficial.

"I had a different HR officer each time with a different level of support. Generally support was only given when I asked specific questions".

"With little experience I could have done with more proactive advice from HR e.g. Examples of a good and bad report"

"Right from the start my assigned case worker has been an absolute rock and provided me with guidance and support".

Training in the role of Investigating Officer: 1 person stated they had shop steward training through the Union, 2 people attended informal training by HR, 2 people were qualified accredited counter fraud specialists who had attended ACAS training/Investigative interviewing etc. The remaining 34 (67%) stated they had received no training at all.

"High level of responsibility to align roles and get it right when peoples' jobs are on the line- Lead me to think what kind of organisation do I work for? I think less of the Council now because of it"

"Disciplinary are such a serious matter for all involved, but especially the individual being investigated for gross misconduct as it could literally change their life".

12 people stated they had attended *Discipline, Grievance and Sickness Skills Workshop* training (but it does not cover Investigations). One Directorate sent in the following comment:- *"Three of my staff attended the Discipline, Grievance and Sickness Skills Workshop and found it very poor with regards to carrying out Investigations/Disciplinaries. Even without adding the use of Digigov to the process there is a lot of uncertainty in the disciplinary and Grievance processes and*

procedures e.g. what is and is not permissible in an investigatory/disciplinary hearing”

Audit stated during interview that they will be offering training in relation to Financial procedural and investigations, and that shortly a module will be going onto the learning pool.

Preferred method of training for Investigating Officers: Investigating Officers were asked what method of training they would choose to have. Respondents were given a range of options and could select more than one method of learning. The majority of people favoured a combination of methods and stated that there should be a range available. Many people felt that the formal training course should include role play of investigative interviewing and a “mock” Hearing, although observational opportunities to see a real Hearing would be preferable if this coincided with the timing of their own Investigation.

(ii) Hearing Chairs

Preferred method of training for Disciplinary Hearing Chair: The same range of learning methods were suggested to Hearing Chairs, with Coaching/mentorship and opportunity for observational experience being the favoured methods.

Table 14: Preferred method of Learning: Investigating Officers & Hearing Chairs		
Method of Learning	No. Investigating Officers selecting this method	No. Hearing Chairs selecting this method
Formal training course	41	7
Coaching/ Mentorship	36	10
Opportunity for observational experience	35	10
Written guidance	31	5
E-Learning	18	6

(iii) HRPS officers

Some HRPS officers also commented on their own lack of learning opportunities and training

*“We don’t get training you’re put out there” “We don’t have shadowing”
The only training is on the policy” “ I feel vulnerable”
“ We are intimidated by Trade Union reps, who apologise afterwards”*

The gravity of many of the Disciplinary Investigations must be acknowledged, together with the potential impact on the employee under investigation (including dismissal from employment). In view of this, there is a high level of responsibility upon the shoulders of the Investigating Officer to ensure that a full, thorough and fair Investigation has been conducted in circumstances that are less than ideal i.e. on top of their day job. It is of concern that there is no training provided to Investigating Officers or Hearing Chairs to undertake such an important role.

SUMMARY OF FINDINGS

- 1. There is a good range of Investigations experience amongst HRPS caseworkers in Manage team. Experience for the officers in the Employees relations team (who produce the policy) was not recent.**
- 2. 19(37%) Investigating Officers were on their first Investigation, with a further 20(39%) having done 2-5 investigations. However, 40(78%) of them had experience of attending a Hearing. A number of Investigating Officers requested face to face interviews with the author. Some remained in a stressed state from undertaking the Investigation & Hearing, needing to “de-brief” and were vociferous regarding their (negative) experiences.**
- 3. 46(90%) Investigating Officers stated that they received help/ guidance from HR**
- 4. 34(67%) Investigating Officers stated they had received no training in running investigations with the remainder having training in the policy only**
- 5. The Rank order of preference for training methods for Investigating Officers were 1. Formal training course 2. Coaching/ Mentorship 3. Opportunity for observational experience 4. Written guidance 5. E-Learning**
- 6. The Rank order of preference for training methods for Hearing Chairs was Equal first. Coaching/ Mentorship & Opportunity for observational experience 3. Formal training course 4. E-Learning . 5 Written guidance**
- 7. HRPS officers commented on their own lack of learning opportunities and training**

PROPOSALS

1. A Disciplinary Investigation development programme is established using a range of learning methods. This should be offered to Managers, Investigating Officers, Hearing Chairs and HRPS Officers. The programme should include the following elements which is recommended to be formal learning in short sessions backed up by e-learning modules and relevant guidance :-

Training for managers : Early resolution, Handling Difficult conversations positively. Understanding the Role of mediation Managing persistent and difficult behaviours

Investigating Officers: Planning an Investigation, Conducting investigation interviews including role play, Analysing evidence & Report writing, Preparing for a Disciplinary Hearing, Presenting at a Disciplinary Hearing including role play. Financial procedural and investigations (undertaken by Audit)

Hearing Chairs: Preparing for a Disciplinary Hearing, Conducting a Disciplinary Hearing, including Role play, Consistent decision Making, Conducting an Appeal hearing

HRPS officers should have the opportunity to attend any of the above training (and/ or be involved in the delivery of the training) so that they have knowledge of what information is given to personnel

2. The production of guidance alone would not meet the needs of the majority of People, as staffing groups are diverse. The potential for internal coaching & mentorship should be explored in addition.
3. Instigate programme of opportunities for observational experience in Disciplinary Hearings by agreement of all attendees and carefully managed as a confidential process.
4. Opportunities for observational experience for HRPS staff at Employment Tribunals should be provided
5. Further discussion is needed to match the requirement for training to the level of investigation. An incremental approach may be preferable, but it is suggested that a full training programme is mandatory for Officers dealing with the most serious/complex investigations.

KEY RECOMMENDATIONS

RECOMMENDATION 3: CHANGES TO DISCIPLINARY GUIDANCE

- 3.1 Develop detailed Guidance for each stage of a Disciplinary Investigation Process**
- 3.4 Guidance on Employment Tribunals should be produced on preparation for ET including roles and expectations**

RECOMMENDATION 4: TRAINING

- 4.1 Enhance Cardiff Manager Development programme to include methods of early resolution**
- 4.2 Establish a Disciplinary Investigation development programme including e learning, formal training, coaching & mentorship.**
- 4.3 Instigate opportunities for observational experience for relevant staff in Disciplinary Hearings (by agreement of all attendees and carefully managed as a confidential process) and HRPS staff at Employment Tribunals.**

5.3.4 Roles

Roles and policy

The current Disciplinary policy briefly describes the roles of the Chair, HRPS and the presenting officer, but it is only in relation to Disciplinary Hearings. The FAQ at the end of the policy includes some description of the roles of Trade Unions witnesses etc. However, there is no broader description in relation to other roles in disciplinary investigations as a whole, and some roles are not described at all e.g. the Director/Head of service. The absence of role description has led to people not being aware of whose responsibility certain functions are. This includes, amongst other things, the maintenance of standards of Investigations, and the monitoring, reviewing and reporting aspects. This can lead to unnecessary delays to the Investigation, or the function not being undertaken, which is a risk for potential challenge to the Council as an Employment tribunal.

1.Role of HR : Section 1.7 Disciplinary policy states that the HRPS role is to:-

- Act as advisors to managers
- Ensure procedures correctly applied
- Provide employees with information and advice
- Review and monitor disciplinary cases and outcomes
- Support service areas to undertake remedial action
- Review and collate monitoring data in relation to disciplinary
- Review application of policy

It does not specify any role in relation to asking questions either in interviews or in hearings and appeals. Respondents were asked their opinion:-

HRPS : 11(48 %) officers stated they should be able to ask any questions, 10(43%) felt that HR officer could ask any questions but via the Investigating Officer/ Chair only, and 2(9%) felt that only questions that clarify issues could be asked. During the qualitative survey, it became apparent that there was variation in practice for some HR caseworkers in relation to their role. One example is in relation to the HRPS caseworker involvement with the Investigation Report (see section 5.3.7)

Trade Unions: There was 100% agreement that HR should not ask questions that direct the investigation or provide evidence, but should only be answering in relation to procedures and policy.

Hearing Chairs: 12(70%) Hearing Chairs felt that HR officers could ask any questions, 3(18%) felt they could ask any questions but via the Chair only, and 2(12%) stated that it was not their role to ask questions.

There should be careful consideration of the role of HRPS officers in asking questions, as the risk is that they may become secondary Investigating Officers/Chairs, which can be perceived to be in conflict with their role. Questions are usually prepared in advance by both the Investigating Officers/Chairs, and that is the most relevant time for a HRPS officer to have input into providing advice re the questions. Any questions invited of HRPS from the Chair or Investigating Officer should be on matters of clarification, rather than new lines of questioning. It would be helpful to clarify this aspect of the HRPS role in the policy, as there is currently wide variation in practice amongst the different Officers. Other responsibilities for the HRPS officer should also be clearly specified in the Policy guidance e.g. referral of disciplinary matters to Professional bodies.

2. Role of Internal Audit in fraud or financial impropriety cases

There is a lack of clarity over the role of Internal Audit in relation to the Disciplinary cases that involve fraud /financial impropriety. It is unclear as to whether the role is a lead one or a supporting one. It is the author's opinion that Internal Audit should take the role of lead Investigating Officer in serious fraud/financial impropriety cases, owing to their level of expertise in these matters, as accredited counter fraud specialists. However, it is advised that further discussion with Audit should take place. The definition of "fraud" needs re-defining in the policy in terms of the disciplinary rules, as it covers relatively minor misdemeanours of flexi- time to serious theft of money. There should be cross referencing to the new "*Fraud, Bribery and Corruption Policy*" which will shortly be issued, pending cabinet approval.

3. *Role of the Director/Head of Service*

This is not currently described in the policy. The responsibilities should be clearly defined, including the timeliness of their decision making, as they are cited as one of the reasons for delays to the investigation.

4. *Role of Contact Officer*

Within the policy, there is limited description of the role of the person appointed as contact officer to an employee suspended from duty. In the qualitative survey, **HRPS officers** were asked regarding the role of a contact officer. There was a wide variation in answers, some conflicting, including advising on changes in the workplace, to updating on progress of investigation (or not updating on progress of investigation!), getting information from the Investigating Officer etc.

Trade Unions stated they had issues with contact officers not making contact with their members on suspension.

It is concluded that clarification of this contact officer role is essential, especially in the situation where by an employee needs to make contact with work colleagues who are potential witnesses, and is prevented from making a direct contact. There needs to be stipulation regarding the frequency of contact and recording a contact. (see section 5.3.5 Suspensions)

5. *New roles:*

The author recommends the creation of three new roles in relation to Disciplinary Hearings:-

(i) *Observer* It is suggested that a formal role of “observer” at a hearing could be developed. This would be for an individual to gain experience and would equally apply to HRPS staff, Trade Union representatives and Investigating officers. The attendance of observer at a Hearing would require the consent of the employee under Investigation, and the Chair would have the final say over the number of people attending the Hearing, which would be strictly limited. The Observer would be bound by confidentiality and would not be able to speak during the Hearing. Respondents were asked their opinion during the survey. There was conclusive support from HR and Trade Unions for this idea together with agreement from 59 (87%) of the Hearing Chairs and Investigating Officers.

(ii) *Assistant* It is suggested that a formal role of “assistant” at a hearing could be developed. This would be to assist an individual deal with complex cases that produce large volumes of information.. It would equally apply to Trade Union representatives and Investigating officers. The Chair would have the final say over the number of people attending the Hearing and it would require the consent of the employee under Investigation. The Assistant would be bound by confidentiality and would not be able to speak during the Hearing. The majority supported this idea although it was not as popular as the observer role. 18(78%) of HRPS staff supported it as did 12(70%) Hearing Chairs and 31(61%) Investigating Officers. The opinion of the Trade Unions was less clear. 5(71%) were undecided and the remainder had a split opinion with 1(14%) in agreement and 1(14%) not in agreement.

(iii) *Expert Witness*: This role would be to provide expert advice linked to the professional expertise of an individual. The Chair could call an Expert Witness to the Hearing as required to provide any clarification in relation to matters of expertise, where they had not been called as a witness to the Investigation. This could be applicable to Safeguarding/ Financial impropriety cases, for example.

SUMMARY OF FINDINGS

1. Little or no description of peoples' roles in disciplinary investigations, resulting in people not being aware of whose responsibility certain functions are, which contributes to unnecessary delays or tasks not happening.
2. *Role of HR*: Variation in HRPS practice was evident. 11 (48 %) HRPS officers stated they should be able to ask any questions but all the Trade Unions felt that HR should not ask questions. There is a risk that HRPS officers will be perceived as secondary Investigating Officers, which can be perceived to be in conflict with their role. Questions should be asked on matters of clarification, rather than new lines of questioning.
3. *Role of Audit* : The role of Audit in serious fraud/financial impropriety cases is unclear and warrants further discussion. The definition of "fraud" needs re-defining in the policy in terms of the disciplinary rules, as it covers relatively minor misdemeanours
4. *Role of the Director/Head of Service*: The responsibilities should be clearly defined, including monitoring & reporting and the timeliness of their decision making, as they are cited as one of the reasons for delays.
5. *Role of Contact Officer*: Frequency, type and level of contact should be defined. (section 5.3.5 Suspensions)
6. The creation of the *New roles of Observer, Assistant and Expert Witness* were favourable received by the majority of respondents.

PROPOSALS

1. Disciplinary Investigation guidance should include of roles and responsibilities of HRPS/ Trade Unions/Investigating Officers/Hearing Chairs/Witnesses/ Director/Head of service. This must include the maintenance of standards and reporting responsibilities.
2. Audit take the role of Investigating Officer in serious fraud/financial impropriety cases due to their level of expertise.
3. Fraud should be re-defined in the disciplinary policy to separate minor misdemeanours. Audit's role should be clarified and cross referenced to the Fraud Bribery & Corruption policy
4. Creation of expert witness role for Hearings. Audit could attend Hearings in this role as or when required by the Hearing Chair
5. New roles of Observer and Assistant at a Disciplinary Hearing are created. The parameters of these roles to be clearly defined.

KEY RECOMMENDATIONS

RECOMMENDATION 1: CHANGES TO CARDIFF COUNCIL DISCIPLINARY POLICY

1.3 Changes to policy regarding:

- **Re-define Fraud in order to categorise minor misdemeanours**

1.5 Cross -reference the Discipline policy to the Attendance & Wellbeing policy and Fraud, Bribery & Corruption policy

RECOMMENDATION 3: CHANGES TO DISCIPLINARY GUIDANCE

3.1 Develop detailed Guidance for each stage of a Disciplinary Investigation Process

3.2 Define roles and responsibilities of staff within the Disciplinary Investigation process, including new roles of Observer, Assistant and Expert witness

5.3.5 Suspensions

The Disciplinary policy states that suspension from duty is a neutral act regarded as a precautionary measure. It is not a disciplinary sanction and should be used as a last resort, following a preliminary examination and consideration of other options. Employees are suspended on full average earnings and legally the suspension is not time limited, but should be regularly reviewed. The ACAS Code of Practice states that:-

“In cases where a period of suspension with pay is considered necessary, this period should be as brief as possible”

A Digigov report was run in October 2014 in response to a request for the number of suspensions between April 2013 and October 2014. This report was inaccurate as it only reported 4 suspensions, one of which was discounted as it before April 2013. All three names supplied were also recorded on the Excel spreadsheets. Therefore, the 2013/14 and 2014/15 Excel spreadsheets were studied to obtain the required information.

Table 15: <u>Number Suspensions by Directorate April 2013- October 2014</u> (Source 2013/14 & 2014/15 Excel spreadsheets)			
Directorate	No. on 2013-14 Excel spreadsheet	No. on 2014- 15 Excel spreadsheet	total
EDUCATION & LIFELONG LEARNING	26	4	30
STRATEGIC PLANNING HIGHWAYS TRAFFIC&TRAN	3	0	3
COMMUNITIES HOUSING & CUSTOMER SERVICES	3	0	3
HEALTH & SOCIAL CARE	2	0	2
CHILDREN SERVICES	1	0	1
SPORT LEISURE & CULTURE	1	0	1
total	36	4	40

40 people were recorded as being suspended from duty at some stage during the study period, which represents 15% of the total number of investigations. 30 (75%) of the suspensions occurred in the Education and Lifelong Learning Directorate.

Information on the 2014/15 Excel Spreadsheet did not have any reportable outcomes to date, therefore the 2013/14 Excel Spreadsheet alone was used as a data source. Data was available on start and end dates for 32 (89%) out of the 36 recorded suspensions on the 2013/14 Excel Spreadsheet, to enable calculation of the length of time.

Table 16: Length of time suspensions April 2013-March 2014 (Source: Excel Spreadsheet 2013/14)				
Source	No. records	Total Length of time all cases	Range	Mean
2013-14 excel spreadsheet	32	Start to End suspension= 1253 weeks	8-194 weeks	39 weeks ⁹

The mean length of time for paid suspensions was 39 weeks. This figure includes two suspensions in the Education and Lifelong Learning Directorate, one which lasted 194 weeks (including a period of maternity leave), and another lasting 94 weeks so the figures are skewed. Excluding these two cases reduces the mean length of suspension time to 32 weeks (8 months), which is still very lengthy.

The Disciplinary policy (FAQ's p66) states "*an unjustified period of suspension may amount to a breach of the implied term of trust and confidence, entitling the employee to resign and claim constructive unfair dismissal*". Therefore, the Council as employer, is at risk if the suspension is unnecessarily protracted or without proper cause. There was evidence that this aspect of the policy regarding the length of the suspension, is frequently breached.

Table 17: Outcome of Investigation where Employee was suspended Apl 2013- Oct 2014 (Source 2013/14 & 2014/15 spreadsheets)			
Outcome of Investigation	2013-14 Excel spreadsheet (n=36)	No. on 2014-15 Excel spreadsheet (n=4)	Total (n=40)
Dismissed without notice	15		15 (37%)
Final Written Warning	2		2 (5%)
Written warning	3		3 (7%)
Verbal Warning	2		2 (5%)
No case to answer/informal means	6		6 (15%)
Employee resigned	3		3(7%)
Suspension lifted but no outcome yet	2	1	3 (7%)
Suspension continuing but no outcome yet	1	3	4 (10%)
Don't know/not recorded	2		2 (5%)
Total	36	4	40

⁹ Figure adjusted to 32 weeks when two cases are excluded

Only 15 (37%) employees under suspension resulted in dismissal from employment, a further 7(17%) receiving some other form of disciplinary sanction. However, 6(15%) people who were suspended at some stage, ended with no case to answer or were dealt with informally.

Preliminary Examination prior to Suspension

HRPS officers were asked what they considered constituted a preliminary examination prior to a suspension. Opinions ranged from gathering of the facts/ looking at alternatives to a risk assessment. Three HRPS officers had developed a risk assessment template, but this has not been shared or adopted as standard practice. There was overwhelming agreement that there is insufficient guidance on a preliminary examination available, and a standard template to record decision making would be useful.

Trade Unions commented they had never seen a written preliminary examination prior to a suspension. The majority of Hearing Chairs and Investigating officers felt that suspensions were largely justified in the cases they had come into contact with. It is concluded that written evidence of alternatives considered as part of a preliminary examination, is not standardised practice.

Contact and Review during suspension

The contact officer role is an important one, to reduce the feelings of isolation for the employee on suspension from duty. (see section 5.3.4 Roles) During interview, both **Occupational Health** and the **Trade Unions** described situations where employees felt “abandoned”

“One case example in schools- the person was not allowed to talk to colleagues, she lost all her peer support and was not informed of a contact person”
(Occupational Health)

It became apparent during the survey, that in the experience of the personnel being interviewed, little or no reviews of suspensions are taking place by Directorates. A suspension should be reviewed to ensure that it is still appropriate, and to re-consider alternatives to suspension. The policy is specific on the need for, and timeframe of the review, but again, there is no apparent consequence to this breach of policy. It should be specified in the policy, and the guidance should reflect who should review a suspension, and how it should be done.

“Don’t think people consider all the options.” They should be reported on and held to account “Need to be clear on consequences of not reviewing”
(HRPS)

“A suspension can last a long time if an investigation is complicated and complex.” “I would not necessarily have known that I needed to review. I would expect reminder from HR on such matters.”
(Investigating Officers)

Suspensions and sickness absence

People who are suspended and subsequently report sick, are not captured on Digigov as a sickness absence. People who are suspended and sick are doubly disadvantaged, as it is likely that neither their suspension is reviewed, nor do they receive a sickness contact visit from the Attendance & Wellbeing team (who would not be aware of them). During the interview with Occupational Health, they described how people who were suspended frequently talked about their feelings of isolation. (Section 6 Sickness and Disciplinary Investigations)

SUMMARY OF FINDINGS

- 1. 40 people were recorded as being suspended from duty at some stage during the study period, which is 15% of the total number of investigations. 30(75%) of the suspensions occurred in the Education and Lifelong Learning Directorate**
- 2. Data from the 2013/14 excel spreadsheet showed the mean length of time for paid suspensions was 39 weeks. Adjusting the figure to remove two very long suspensions reduces the mean length of suspension time to 32 weeks (8 months),**
- 3. Only 15(37%) employees under suspension were dismissed from employment. Surprisingly, 6(15%) people who were suspended at some stage, ended with no case to answer/ dealt with informally.**
- 4. There is insufficient guidance on what constitutes a preliminary examination prior to suspension.**
- 5. The policy is specific on the need for, and timeframe of, a review of suspension, but there is no apparent consequence to this breach of policy**
- 6. An unjustified period of suspension may amount to a breach of the implied term of trust and confidence, entitling the employee to resign and claim constructive unfair dismissal. Therefore, the Council as employer, is at risk.**
- 7. People who are suspended and subsequently report sick, are not captured on Digigov as a sickness absence. It is likely that they will neither have their suspension reviewed, nor receive a sickness contact visit.**

PROPOSALS

- 1. Guidance on what constitutes a preliminary examination prior to suspension. Consider use of a standardised risk assessment/template for decision making.**
- 2. Clarify the role and responsibilities of the Contact officer.**
- 3. Develop a prompt in Digigov to trigger a review of a suspension**
- 4. Monitor and report on review of the suspensions regarding the length of time and appropriateness. Reporting at Directorate level to senior management. Policy and guidance should state how they should be undertaken and by whom.**
- 5. Guidance for managers on returning employees to the workplace following suspension, including use of mediation, where appropriate.**

KEY RECOMMENDATIONS

RECOMMENDATION 1: CHANGES TO CARDIFF COUNCIL DISCIPLINARY POLICY

1.1 Amend Disciplinary policy separating the all encompassing policy from the individual guidances contained therein.

1.3 Changes to policy regarding:

- **Use of mediation at any stage of discipline and grievance procedure**

RECOMMENDATION 3: CHANGES TO DISCIPLINARY GUIDANCE

3.1 Develop detailed Guidance for each stage of a Disciplinary Investigation Process

RECOMMENDATION 6: MONITORING & REPORTING

6.1 Disciplinary Investigations (including suspensions and associated sickness absence) should be regularly monitored and reported at senior management level within Directorates.

6.2 HRPS should review and collate corporate monitoring data in relation to Discipline.

RECOMMENDATION 7: CHANGES TO DIGIGOV

7.1 Review and amend the Disciplinary Investigation process on Digigov to reduce the current issues, and enable accurate management reporting.

7.2 Develop a prompt in Digigov to trigger a review of a suspension of an employee.

5.3.6 Investigation Interviews (source: Qualitative survey)

Audio recording in interviews: Information in relation to “tape” recording currently sits in the FAQ’s and not in the main body of the policy. It states that consent must be obtained from the employee and must not be covert, as this could be a breach of Article 8 Human Rights Act 1998. Tape recording could proceed if the employee and their representative consent, but it is not a common practice, and most interviews are recorded by a note- taker. However, two of the Investigating Officers interviewed were accredited Counter Fraud Specialists, who had extensive experience of using audio recording. Both of them would advocate recording employee interviews as an improvement on the current disciplinary processes.

20(87%) **HRPS officers** interviewed agreed that audio recording interviews would be a good thing, to establish what was said and it would be there to refer to if there were issues. The few that disagreed felt it may stunt the interview. 38(74%) Investigating officers also felt it would be a good idea. The main objections came from the majority of the **Trade Unions** - ...*“it would frighten the life out of members and cause stress” “Need to be duplicate copies of tapes for Trade Unions so there is no tampering with evidence” “It would be more costly”*. However one **Trade Union** was in agreement with audio recording stating that it would make sure witnesses stick to what they say, and would add integrity to the process.

Note taking in Investigation Interviews : Respondents were asked how note taking in interviews could be improved.

“Standard agreed format” “HR to take notes” “Have a confidentiality agreement “ (HRPS)

“Training” “Audio recording !” (Investigating Officers)

“Professional shorthand people” “Impartial note taker” “Being handed a copy of the questions as going into the room” “Dedicated people who can work straight on the laptop” (Trade Unions)

Further work would be required to ascertain any potential financial savings by audio recording versus note taking. If audio recording is used, it is likely there would be a reduction of delays in agreement of the interview notes. Copyright issues would need to be addressed.

Other issues in relation to Interviews:

(i) **Confidentiality:** A number of **Investigating Officers** raised the issue of confidentiality as a particular problem. This arises where investigations are within a Directorate and people know each other as colleagues outside the investigation. There is significant risk of collusion amongst witnesses where confidentiality has not been emphasised.

*I knew all the witnesses as they were colleagues.....a lot of their answers would be "You know him A****, you know what he's like". So very often I had to remind them that assume I don't know them or the individual. It was very awkward during and afterwards. (Investigating Officer)*

(ii) **Witnesses:** Some **Investigating Officers** described the difficulty of interviewing witnesses who were reluctant to be part of the investigation. The policy should state that there is an "expectation of co-operation" which covers attendance at interviews and Hearings.

"Engaging with witnesses who are reluctant to be involved although in many cases their testaments are essential to corroborate accusations etc."

"Some of the staff interviewed were interviewed as witnesses to relatively minor offences, but which added up to a significant whole. They felt nothing personal against the member of staff being investigated and felt they would be looked badly upon if called to the hearing". (Investigating Officers)

(iii) **Lack of Experience:** Managing the interview was an issue for some officers due to lack of experience, which could be addressed through appropriate training in Investigative interviewing (see section 5.3.3 Staff Experience and Training)

"I was not prepared- the questions were prepared but not the script that you say at the time. I went through the prepared questions with HR."

"An individual under investigation refusing to answer questions, continually asking for the interview to be adjourned and requesting their union rep answer the questions for them." (Investigating Officers)

SUMMARY OF FINDINGS

- 1. Audio recording interviews was favoured by 20(87%) HRPS officers and 38(74%) Investigating officers. Two, out of three, of the Trade Unions disagreed; the remaining one Trade Union was in agreement with audio recording.**
- 2. Note-taking in Investigation Interviews can be improved by a standard agreed format, professional shorthand people or people who can work straight on the laptop.**
- 3. Confidentiality is a problem where investigations are within a Directorate, and people know each other as colleagues outside the investigation. There is significant risk of collusion amongst witnesses**
- 4. Investigating Officers had difficulty interviewing witnesses who were reluctant to be part of the investigation.**
- 5. Managing the interview was an issue for some Investigating officers due to lack of experience.**

PROPOSALS

- 1. Improve the accuracy of records of Investigation interviews and Hearings, by exploration of audio recording and transcribing, versus the cost of a pool of experienced note takers with appropriate IT equipment. Exploration of a costed clerking service could be part of an options analysis.**
- 2. Provide guidance on a standard agreed format for recording notes of interviews.**
- 3. Provide guidelines on the appropriateness of selecting Investigating officers within a Directorate.**
- 4. Produce written information for witnesses at Investigation interviews. This would include issues such as the expectation of co-operation in the proceedings and a confidentiality agreement.**
- 5. Liaise with audit regarding Investigative interviewing training for Investigating Officers.**

KEY RECOMMENDATIONS

RECOMMENDATION 3: CHANGES TO DISCIPLINARY GUIDANCE

3.1 Develop detailed Guidance for each stage of a Disciplinary Investigation Process

3.2 Define roles and responsibilities of staff within the Disciplinary Investigation process, including new roles of Observer, Assistant and Expert witness

RECOMMENDATION 4: TRAINING

4.2 Establish a Disciplinary Investigation development programme including e learning, formal training, coaching & mentorship

5.3.7 Reports and Recording

Digigov: The issues with Digigov data are reported in Section 4 Quantitative Analysis. Respondents were asked during the survey what issues they had with recording the Disciplinary investigation information onto Digigov. The level of dissatisfaction amongst respondents was high.

(i) *Standard letters*- (19) 83% **HRPS officers**, 16 (94%) **Hearing Chairs** and 34(67%) **Investigating Officers** who use the Digigov Investigation process had problems with the standard letters. They included:-

1. The information in Digigov affects the wording of the letter so most letters have to be re-drafted.
2. The system does not make it easy
3. Layout is poor
4. The wrong letter can be generated dependant on allegation
5. Digigov letters do not print out in a suitable format/font
6. When you make an appointment for an interview Digigov automatically invites everyone to the interview unless you physically delete each individual from the list. There have been a number of incidents where the names of all witnesses were sent to the individuals under investigation, and seeing the Home address is a data protection issue
7. Any delays in inputting the Digigov process will prevent the use of the standard letters

*“I’ve never sent one letter that I haven’t had to amend from Digigov . The way the letters are generated needs editing as they are too prescriptive”
“You end up doing too much I use HR to do these” (Hearing Chairs)*

“ You can’t change the letter once approved” “Generating letters on digigov is very slow as it kept freezing and after changes were made and saved, these changes were removed when I went back into the letter”

“I think the default as a fail safe mechanism should be no-one is invited to an interview and you have to manually choose who you wish to invite”.

“Meeting arrangements were complicated” “Can’t change date historically so had to put in fictitious date which generated notification to employee inviting them to interview wrongly” (Investigating Officers)

(ii) *Disciplinary process*- 19 (83%) **HRPS officers**, 100% **Hearing Chairs** and 45(88%) **Investigating Officers** had problems with the process for reporting Investigations on Digigov. **It is not a process that Council staff will use on a very regular basis, so there is not the opportunity to become familiar with a complex system, hence the need for a process that is straightforward.**

The issues raised during the interviews included:-

1. It is ok as a recording process but not for managing them as cases are not standard . It is too complex, not suitable and takes longer. Need to simplify it to what is relevant only
2. There is not enough space in boxes to include information
3. Supporting information cannot be attached
4. The process is too restrictive so the result is unprofessional
5. There are sensitive issues on display
6. HR Officers need to chase a lot to get workflow going. Things are not closed so sits in the in box
7. Lack of visibility for Directors
8. It needs to be logical there are too many alternatives – the tabs are not clear
9. Autosave would be useful
10. Needs to be a linear process -it is too clunky and not user friendly
11. Can't see the timelines of when things are done in the investigation
12. Options for informal actions should be extended
13. There is no joining up of the policy, templates or Digigov .
14. When an area has not been filled in, and you cannot proceed to the next stage without it, there is no flagging of what has not been filled in, or where.
15. The guidance notes on how to use the disciplinary application need to be clearer

"It should come off Digigov It can go under the radar and for people who are hands off this is not helpful" "It's horrible" "Its cumbersome and not user friendly when you're not doing it regularly" "Historically a chair only needed to send a letter out. Now the process is lengthy. I use WORD and transfer it in"
(Hearing Chairs)

"No-one appears to have had training on how to use Digigov for the Disciplinary process and even HR are not able to advise when problems occur with the system." "14 different people were involved which caused a problem as it had to be separately entered into Digigov for printing and caused a problem"
"We don't get asked input for the development of Digigov"
(Investigating Officers)

Investigating Officers Reports: At the conclusion of the investigation, the Investigating Officer produces a report of the findings for consideration by the Director. There is currently a template (4.C. 432) available on the Cardiff Improvement System (CIS) and also within Digigov. There is a difference in practice with some people uploading a Word document version of 4.C.432 into Digigov, and others using the Digigov template.

Quality of the report

HRPS, Trade Unions and **Hearing Chairs** were asked in the survey what was their opinion of Investigating Officer reports. The majority felt that they were very variable in quality.

“Too brief “ “very difficult to follow and not in line with the policy – parts missing”

“One Investigating Office lost a witness statement and it was a Data Protection issue” “too many sloppy reports” (Trade Unions)

“Pretty good they have put a lot of effort into them and done them in their own time for serious issues”

“One I had things were in a mess with the layout of the report- who advised the IO? QA not reliable”

“It varies greatly according to the experience of the IO, who supports them and the offence”

“Some reports do not have the analysis of the findings and this can cause the investigation to fail.” (Hearing Chairs)

HRPS officers were questioned regarding what happens when the Investigating Officer’s report was not up to the required standard. It was apparent that there was variation in HRPS practice. 9(39%) said they would go through the report with the Investigating Officer, 5(22%) would make recommendations for amendments and 3(13%) admitted to re-writing the report. A further 3(13%) stated that HR officers should not re-write the report. Nearly half the HRPS officers felt that the Director should decide whether the report was fit for purpose, sending it back to the Investigating Officer if improvements were required. However, if there are inadequate reports reaching the Hearing Chairs then it would suggest that

Directors are not robustly applying any degree of standard setting at the stage when the decision to proceed to a hearing takes place.

HRPS staff were asked who they felt was setting the standard for Investigating Officer's reports. 8(35%) felt "*HR*", 7(30%) said "*no-one*", 5(22%) said "*the policy*" and the remaining three said the "*Investigating Officer*"

The following improvements to the Investigation template were suggested by respondents:-

1. Have clear guidance for completion and regarding how much information and detail required in each section.
2. The report format in Digigov is poor- better to upload a document report
3. Improve the language of the template with some description under the FINDINGS so there are facts presented followed by analysis and judgement that lead to recommendations.
4. Can feel repetitive
5. It would be useful for those who have not undertaken an investigation to see an anonymised one

SUMMARY OF FINDINGS

1. 19(83%) HRPS officers, 16(94%) Hearing Chairs and 34(67%) Investigating Officers who use the Digigov Investigation process had problems with the standard letters.
2. 19(83%) of HRPS officers, 100% Hearing Chairs and 45(88%) Investigating Officers had problems with the process for reporting Investigations on Digigov
3. It is not a process that Council staff will use on a very regular basis, so there is not the opportunity to become familiar with a complex system, hence the need for a process that is straightforward.
4. Investigating Officer reports are very variable in quality. There is variation in HRPS practice in relation to the report. 9(39%) said they would go through the report with the Investigating Officer, 5(22%) would make recommendations for amendments and 3(13%) admitted to re-writing the report A further 3(13%) stated that HR officers should not re-write the report.
5. Directors are not robustly applying any degree of standard setting at the stage when the decision to proceed to a hearing takes place, evidenced by the number of poor reports at Hearings.
7. It is unclear who is “setting the standard” for Investigating Officer’s reports. 8(35%) of HRPS staff said “*HR*”, 7(30%) said “*no-one*”, 5(22%) said “*the policy*” and the remaining three said the “*Investigating Officer*”

PROPOSALS

1. Review the Digigov Disciplinary Investigation process for use as a simple recording tool, not management of the case. A simplified process would enable more accurate data entry so that management reports can be produced. Any costs incurred would be offset by considerable reduction in wastage of staff resources.
2. Cross reference the use of the Digigov process to the Policy Guidance
3. Produce guidance on completion of the Investigating Officer’s report template with anonymised report samples available
4. Clarify HR role in relation to Investigating Officer’s reports
5. Specify the role and responsibility of Directors to monitor quality of the Investigating Officer’s report.

RECOMMENDATIONS

RECOMMENDATION 3: CHANGES TO DISCIPLINARY GUIDANCE

- 3.1 Develop detailed Guidance for each stage of a Disciplinary Investigation Process**
- 3.2 Define roles and responsibilities of staff within the Disciplinary Investigation process**

RECOMMENDATION 7: CHANGES TO DIGIGOV

- 7.1 Review and amend the Disciplinary Investigation process on Digigov to reduce the current issues, and enable accurate management reporting.**

5.3.8 Hearings

Following submission of the Disciplinary report to the Director/Head of service, a decision is then made as to whether disciplinary proceedings should be instigated or not. Where they are instigated, a Disciplinary Hearing is held.

Length of time to Hearing

Data can be found in section 4.3.1 Table 3. In many instances the length of time from the completion of the Investigation report to the Hearing date was greater than the length of the investigation, highlighting problems and delays with this stage. Most common delays arise due to practical arrangements including availability of all parties and a suitable venue. This responsibility currently lies with the Presenting Officer and it can be particularly time consuming. There is a current contradiction in the policy regarding who should arrange the note-taker for the Hearing, which should be addressed. See section 5.3.6 Investigative Interviews

Preparing for the Hearing

The vast majority of **HRPS staff, Trade Unions, Hearing Chairs** and **Investigating Officers** interviewed were in favour of the production of guidance documents for Presenting officers. This would include how to prepare the Hearing pack and how to present the case.

Employees at a Hearing have a statutory right to representation from a companion defined in a list of approved categories under the Employment relations Act 1999. These include trade union officials, certified union representatives or fellow workers. The Disciplinary policy currently states that “*the work colleague should not be somebody who may prejudice the hearing*”. However, an Employment Appeal Tribunal ruled in May 2013 that “*there is no requirement for the choice of companion to be reasonable, as long as the choice came from the approved category*”- in other words it is the request to be accompanied that has to be reasonable, and not the choice of the work colleague.

Amendment is required to the Disciplinary policy to reflect this ruling.

There should be further guidance on preparation of witnesses for a Hearing. The idea of producing information for witnesses on “*What to expect in a Hearing*” was well received by all parties. In the current Disciplinary policy there is an anomaly between the requirement for a management witness to attend (mandatory), and the attendance for a witness for the employee under investigation (optional). This should be addressed as to enable cross examination of witnesses, and in the interests of natural justice for the Hearing, the requirement to attend should be equal to both.

Conducting the hearing

21(91%) **HRPS staff**, 100% **Trade Unions** and 12 (70%) **Hearing Chairs** were in favour of production of guidance for how to conduct a Hearing. In addition, a standard script for Chairs would be welcomed- this is commonly in use in Schools.

Decision making

At the conclusion of the Hearing, the Chair uses 10 key questions (as listed in the policy) to aid decision making. The majority of Hearing Chairs find them helpful. However, it is recommended that:-

- The wording of the 10 key questions is reviewed
- They are presented in a Template format to enable recording of decision making (Schools use a template)

Variation in Sanctions

As stated in section 1.7, Audit Committee had previously raised a concern regarding the perceived variation of sanctions in Disciplinary Hearings. The majority of **HR officers** interviewed and some Hearing Chairs acknowledged that there could be variations, but that it was inevitable due to mitigating circumstances. The majority of the **Trade Unions** felt that there was general consistency, although one case of extreme variation was cited, where a person was dismissed by one Hearing Chair and the Appeal Chair found “*no case to answer*”.

“I have heard this and agree that sanctions need to be the same across the board; sometimes advice is not consistent”

“I hope the HR advisor would have done their research re sanctions . I know there have been previous Appeal Hearings where I have not agreed with the previous sanctions”

“It would be good to have a knowledge bank of circumstances/outcomes that could be anonymised and shared”. (Hearing Chairs)

Following the concern raised by Audit Committee, Internal Audit put forward a proposal that they attend all Hearings where the case has been one of fraud or financial impropriety. Respondents were asked during the survey their opinion regarding this proposal. **HRPS** consider the attendance of audit at all of these hearings to provide advice to Chair would be highly resource intensive. Having Internal Audit on *“both sides of the table”* could create issues, and Chairs may find the presence of 2 advisors (i.e. Internal Audit and HRPS) rather confusing.

Trade Unions were also 100% in agreement that they did not consider it necessary for Internal Audit to attend all hearings. Half of the **Hearing Chairs** interviewed felt that Internal Audit should attend all hearings, 31% disagreed, and the remainder felt there was an occasional need.

Audit would either be present at a Hearing as Presenting Officer in cases of Fraud /Financial impropriety, or could be called to attend a Hearing by the Chair as an Expert Witness (see section 5.3.4 Roles)

It is suggested that attendance of Internal Audit at all Hearings as a sole control measure, would not substantially reduce the variation of sanctions.

Improved control measures would include :-

- The robust use of a decision making template by Hearing Chairs
- Ensuring that HRPS advisors have previous Hearing outcomes readily available (from HRPS database), for communication to Hearing Chairs
- Improved internal communication within HRPS regarding outcomes of Hearings & Employment tribunals (see HRPS Service review 1.2).
- Audit leading the investigation in serious fraud/financial impropriety cases (in which case they would be presenting at the Hearing.)
- Opportunities for observational experience for Hearing Chairs (See section 5.3.3 Staff Experience & Training)
- Opportunity for Internal Audit to be called to Hearings as required in the role of an Expert Witness

Outcome of Hearings

Data can be found in Section 4.3.8 Table 6. There is a significant amount of staff time (both HRPS and Investigating Officers) being spent on work with no disciplinary outcome, including cases that have proceeded to Disciplinary Hearing. This calls into question the decision- making regarding the need to proceed to a disciplinary investigation in the first instance, and not having exhausted other means of resolution (see section 5.3.2 Early Resolution). It is imperative that the number of disciplinary hearings are reduced, as levels of available Operational Manager resources will fall with budget restrictions.

Recommendations of the Hearing Chair

Following the Hearing, Chairs may make recommendations for specific actions such as Mediation or Counselling. There is some evidence that recommendations are not passed to Directorates, or acted upon (see Section 5.3.2 Role of Mediation) There is a lack of clarity regarding whose role and function it is to ensure that this happens. It is suggested that the Hearing Chair should take responsibility for ensuring recommendations are passed to Directorates, and the HRPS officer should follow up to ensure they have been actioned.

Issues in dispute between HRPS and the Trade Unions

As stated in section 3 there are currently two issues (relevant to Hearings) that were not agreed between HRPS and the Trade Unions, during the last 12 month review of the Disciplinary policy.

Issue 1: Witnesses attending the Hearing should not be accompanied (apart from exceptional circumstances- (i) Adult & Child Protection cases (ii) advocacy under reasonable adjustments (iii) serious fraud cases)

During the qualitative survey, 19 (83 %) **HRPS staff**, 11(65%) **Hearing Chairs** and 34(67%) **Investigating Officers** were in support of witnesses having accompaniment, in addition to the exceptional circumstances. The reasons given are connected to perceived intimidation by witnesses during questioning by the Trade Unions at the Hearing, and the need for moral support (although the person accompanying would have no role in asking questions). The opinion of the Trade Unions, and those other staff who were not in favour, is that firstly, the witness would have had representation during the investigatory interview and should stand by their statement. Secondly, it is the role of the Chair to control the conduct of the Hearing and prevent witness intimidation.

The ACAS Research paper “ *Accompaniment and representation in workplace Discipline and Grievance*” found that “ *companions were solely used as a source of support and to observe proceedings*” it goes on to say... “ *non - union companions tended to be seen as playing a negative role in formal hearings*”. The role of an accompaniment to a witness is unclear, and it is concluded, therefore, that it is the conduct of the Hearing that needs addressing, rather than the presence of an additional person.

The ACAS *Guide to Disciplines & Grievances in Work* states that “ *It is possible that the disciplinary meeting may not proceed smoothly- people may get upset or angry.... Clearly during the meeting there may be some letting off steam and this can be helpful in finding out what has actually happened. However, abusive language or conduct should not be tolerated*”.

The author recommends that a **Code of Conduct for Hearings** is introduced. The Code would define the level of professional behaviour expected from all parties, and that “letting off steam” does not tip into behaviour that is neither unacceptable nor in the spirit of natural justice. The application of the Code will also ensure that Hearing Chairs consistently and robustly manage and prevent any potential intimidation of personnel by any party.

Issue 2: There should be one, not two, Trade union representatives attending the Disciplinary Hearing.

As previously stated, the Right of Representation at a Hearing is a statutory one, and a companion may be a fellow worker, a trade union representative or an official employed by a trade union. The ACAS Code of Practice does not describe the need for two Representatives. It is suggested that the potential need for a second Trade Union representative can only be for two reasons, either:-

- There is a new Trade Union representative that needs to gain experience by shadowing and observing an experienced Representative
(*Observer Role*)

OR

- The case is complex and the Trade Union Representative has a need for an Assistant to deal with large volumes of information.
(*Assistant Role*)

Both of these roles are described under “new Roles” in section 5.3.4 Roles.

The author recommends that where a second Trade Union representative is required, a request to the Hearing Chair for an “*Observer*” or an “*Assistant*” to attend is made. This ensures that the second Trade Union Representative has a specific role, which does not include the ability to raise questions during the Hearing.

SUMMARY OF FINDINGS

1. The length of time from the completion of the Investigation report to the Hearing date was often greater than the length of the investigation, highlighting problems and delays with this stage. Most common delays arise due to practical arrangements including availability of all parties and a suitable venue.
2. Respondents in favour of producing guidance for presenting case, preparing a pack for hearing and information for witnesses
3. The employee at a Hearing has a right of representation which can be a work colleague. The Employment Appeal Tribunal ruled in May 2013 that *“there is no requirement for the choice of companion to be reasonable, as long as the choice came from the approved category”* A work colleague cannot be excluded on the grounds that they may prejudice the Hearing, as currently stated in the policy
4. Perceived Variation in Sanctions at Hearings can be controlled by robust use of a decision making template by Hearing Chairs, ensuring that HRPS advisors have previous Hearing outcomes readily available, opportunities for observational experience for Hearing Chairs and Audit lead the investigation in serious fraud/financial impropriety cases.
5. A lack of clarity regarding whose role it is to pass recommendations from the Hearing Chair and ensure they are actioned
6. Issues in dispute with Trade Unions-
 - (i) Management witnesses having accompaniment at a hearing: The majority of HRPS staff, Hearing Chairs and Investigating Officers were in support of this. However, ACAS guidance states that *“non - union companions tended to be seen as playing a negative role in formal hearings”* and the role of an accompaniment to a witness is unclear. It is the conduct of the Hearing that needs addressing, rather than the presence of an additional person.
 - ii) Two Trade Union Representatives at a Hearing: The ACAS Code of Practice does not describe the need for two Representatives. Where there is a need for a new Trade Union representative to gain experience by shadowing and observing an experienced Representative, this is covered by the “observer” role. Where the case is complex and the Trade Union Representative has a need for an Assistant to deal with large volumes of information, this is covered by the “Assistant” role.

PROPOSALS

- 1. Explore the options available to undertake note taking and practical arrangements for interviews and Hearings in a more timely and accurate manner.**
- 2. Production of guidance for presenting Officers on all aspects of Disciplinary Hearings including preparation of the Hearing pack , how to present a case etc**
- 3. Produce information leaflet on the role and expectations of the witnesses at the Hearing.**
- 4. Guidance for Chairs on conducting hearing together with a standard script**
- 5. Amendment to the Disciplinary policy regarding the choice of workplace colleague as companion to the Employee at the Hearing. In accordance to the EAT ruling May 2013, it is the request to be accompanied that has to be reasonable and not the choice of workplace colleague.**
- 6. Introduction of Code of Conduct for hearings. Any second Trade Union Representative at a hearing must have a specific role of Observer or Assistant**
- 7. Review the wording of the 10 key questions and produce a template to record decision making**
- 8. Create a database of previous Hearing outcomes for internal use in HRPS. Information should be readily available by the HR advisor for communication to the Chair, where appropriate.**
- 9. Change to policy regarding attendance at Hearings between management and respondent witnesses. This is not in the interests of natural justice for the Hearing and should be amended.**

KEY RECOMMENDATIONS

RECOMMENDATION 1: CHANGES TO CARDIFF COUNCIL DISCIPLINARY POLICY

1.1 Amend Disciplinary policy separating the all encompassing policy from the individual guidances contained therein.

1.3 Changes to policy regarding:

- **Amendment to the Disciplinary policy regarding the choice of workplace colleague as companion to the Employee at the Hearing. In accordance to the EAT ruling May 2013, it is the request to be accompanied that has to be reasonable and not the choice of workplace colleague.**
- **Amendment to policy regarding attendance at Hearings between management and respondent witnesses.**

1.4 New addition to policy:

- **Introduction of Code of Conduct for hearings**

RECOMMENDATION 3: CHANGES TO DISCIPLINARY GUIDANCE

3.1 Develop detailed Guidance for each stage of a Disciplinary Investigation Process

3.2 Define roles and responsibilities of staff within the Disciplinary Investigation process, including new roles of Observer, Assistant and Expert witness

RECOMMENDATION 4: TRAINING

4.3 Instigate opportunities for observational experience for relevant staff in Disciplinary Hearings (by agreement of all attendees and carefully managed as a confidential process)

RECOMMENDATION 5: COMMUNICATION

5.1 Improve internal communication and establish a database within HRPS re outcomes of Hearings

5.3.9 Appeals

Employees subject to formal disciplinary action have the right of appeal against the decision, which is considered by a higher level of management who had no previous involvement in the Hearing decision.

Appeals can take the form of :-

- A review (where the appeal is against a verbal, written or final written warning)
- A complete re-Hearing (where the appeal is against a dismissal or demotion)

During the period April 2013 – October 2014, 13 employees appealed the decision of the Hearing and underwent an Appeal Hearing. Data on Hearing and Appeal Hearing dates was available for 11 (85%) of the 13 cases.

Table 18: <u>Length of time from Disciplinary Hearing to Appeal hearing (All sources)</u>			
No. records	Total Length of time	Range	Mean
11	110 weeks	2-27 weeks	10 weeks

The mean length of time from the Hearing to the Appeal Hearing was 10 weeks. Claims to an Employment Tribunal have to be within 3 months of a person's employment ending, which would be dated around the time of the Hearing. The implication of the length of time from Hearing to Appeal is that in many cases, a submission to ET would need to take place before the Appeal has been heard. This may be considered to be unreasonable of the employer.

Grounds for Appeal:

According to the Disciplinary policy the grounds for Appeal are:-

- Procedural flaw
- Inconsistent findings
- Inappropriate sanction

The grounds do not currently include “*New Evidence coming to light since or not considered at original Hearing*”. This is a current ground for appeal in the Schools Staff Discipline procedure, and for consistency should be added to the corporate policy.

The majority of respondents interviewed felt that it was usual for people to supply very little accompanying evidence with their appeal form. The policy is not rigidly applied, and appeals are allowed to proceed despite the lack of information. The procedure should be clarified to specify who should scrutinise the appeal notification, and make the decision for the requirement for appeal, and whether it is a Review or re-Hearing, based on the information supplied.

Outcomes of Appeals:

Data was available on the outcome of the Appeal Hearing for the 13 employees.

Table 19: <u>Outcome of Appeal Hearings</u> April 2013- October 2014 (All sources)				
Source	Number of Appeals	Decision at Hearing	Original Decision upheld on appeal	% Appeal Not upheld
2013/14 Excel spreadsheet	4	Dismissal (2) Final Written Warning (1) Written Warning (1)	3 ¹⁰	75%
2014/15 Excel spreadsheet	1	Dismissal (1)	1	100%
Digigov	8	Dismissal (8)	8	100%
Total	13		12	92%

11 (85%) of the people who appealed the decision of the Hearing had been dismissed from employment, and none of these dismissed employees had their Appeal upheld. Two employees had not been dismissed, and one of them had their original decision overturned on Appeal, which was changed from a Final Written Warning to a Written warning. Both of these people had periods of sickness absence associated with their investigation (see section 6 Sickness & Disciplinary Investigations).

¹⁰ Final Written Warning commuted to Written Warning on appeal

SUMMARY OF FINDINGS

1. 13 employees appealed the decision of the Hearing and underwent an Appeal Hearing.
2. The mean length of time from the Hearing to the Appeal Hearing was 10 weeks. Any submission to an Employment Tribunal would often need to take place before the Appeal, due to the Employment Tribunal's submission timescales. This may be considered to be unreasonable of the employer.
3. The grounds of Appeal do not currently include "*New Evidence coming to light since or not considered at original Hearing*". This is a current sanction in the Schools Staff Discipline procedure.
4. Very little accompanying evidence is supplied with the appeal form. The policy is not rigidly applied, and appeals are allowed to proceed despite the lack of information.
5. Eleven of the 13 people who appealed the decision of the Hearing had been dismissed from employment. None of the dismissed employees had their Appeal upheld. Two had not been dismissed, and one of them had their original decision overturned changed from a Final Written Warning to a Written Warning

PROPOSALS

1. Amend the grounds for appeal to include "*New Evidence coming to light either since, or not considered, at original Hearing*".
2. Improved guidance for the appeal procedure to specify who should scrutinise the appeal notification, request more information if required and make the decision for the proceedings.

KEY RECOMMENDATIONS

RECOMMENDATION 1: CHANGES TO CARDIFF COUNCIL DISCIPLINARY POLICY

1.4 New addition to policy:

- Additional ground for Appeal "*New Evidence coming to light*".

RECOMMENDATION 3: CHANGES TO DISCIPLINARY GUIDANCE

3.1 Develop detailed Guidance for each stage of a Disciplinary Investigation Process

6 SICKNESS AND DISCIPLINARY INVESTIGATIONS

6.1 *Data*

6.1.1 Records were examined for the 275¹¹ people who had been under Disciplinary investigation between April 2013 and October 2014, to see if they had any periods of recorded sickness absence.

6.1.2 68 (25%) people did not have any sickness absence recorded. The remaining records were then further examined to establish whether there was any likely association (or causal effect) between the disciplinary investigation and the sickness absence.

6.1.3 The sickness absence was discounted for a further 110 people because it either:-

- Fell outside the investigation period¹² OR
- Was for a cause that was unlikely to be associated with a disciplinary investigation e.g. surgery/ fractured bones, minor sicknesses/infection etc.

6.1.4 This left a group of **97** people¹³ where there was an apparent association between the disciplinary investigation and the sickness absence, and represents 35% of the original group.

Reported reason for absence

6.1.5 43 (44%) of the 97 people had a reported reason for absence as “*Stress*”. The remainder had a variety of reasons recorded - sometimes as “*other*” or sometimes the condition was *stress related* e.g. stomach pains/headaches or an exacerbation of a pre –existing condition that is effected by stress e.g. angina

¹¹ The number of people exceeded the number of investigations due to multiple respondents

¹² Four people had long term sickness absences for stress/conditions associated with stress, immediately after the investigation period. They have been included as it was apparent that the absence was a direct consequence of the investigation

¹³ This figure excludes people who are suspended as part of the investigation, as Digigov cannot report a person who is suspended as having a sickness absence (see section 5.3.5 Suspensions)

6.1.6 Some people had more than one period of sickness absence during the period of the investigation. The data was based on the start and end date of the absence, and was therefore initially calculated in calendar days.

6.1.6 Table 20 illustrates that the total number of days lost for the 97 people was 6,155 calendar days. Based on a figure of 224 working days per calendar year, this figure was reduced by 40% to give an approximate number of total working days lost as 3,633 days, which is an average of 37 working days per person.

Table 20: Sickness levels Staff during Disciplinary Investigation period (Source: Digigov)			
No. records	Total Length of time calendar days	Working Days lost (40% reduction)	Average working Days lost per person
97	6,155 days	3,633 days	37

6.1.7 Sickness absence levels for the Council (Table 21) are calculated by dividing full time equivalent staff by total sickness days (short and long term), and reported quarterly. There are approximately 10 working days lost per person to sickness absence.

Table 21: <u>Cardiff Council Sickness Data reporting</u> (Source: HRPS)			
	Staff FTE average	Total sickness FTE days lost	Average working Days lost per person
2013/14 (April 2013- March 2014)	11677	118854	10.18
2014/15 (Q1 & Q2 2014)	11221	73086	10.06

6.1.8 The average of 37 working days lost per person undergoing a disciplinary investigation, is therefore more than three times the average of working days lost in the Council.

6.1.9 There is anecdotal evidence that some sickness absences for Investigating Officers and witnesses are also directly attributed to the Investigation, but this data has not been studied. It is possible that Investigations are causing an even higher level of sickness absence than demonstrated here.

6.2 Qualitative Survey

6.2.1 Attendance & Wellbeing (AWB) Team

Three members of the Attendance & Wellbeing Team were interviewed. Two of them had experience of participation in Disciplinary Investigations (including schools) and Hearings. No-one had attended an Employment tribunal. The AWB team commented that they were not “*sickness absence experts*” and had not received specialist additional training. They were, however, in a position to know the whole situation of the employee from contact visits and discussion with the manager. They do not receive any feedback in relation to the outcome of investigations.

Role of AWB team:

The Team can be asked to make a referral to Occupational Health re the fitness of the individual to be investigated and attend or take part in interviews, although the Manage team can also do the referral. They undertake a contact visit as part of sickness policy, and advise on the Employee counselling service. The Team have issues of not feeling involved in the investigation, yet are expected to manage the visit, which then does not feel co-ordinated. There is a dilemma with the contact visit in trying to keep it separate from investigation, which is likely to be the focus and main concern of the employee. In some instances e.g. Schools investigations, the Caseworker deals with the sickness absence. The AWB team favoured joint visiting by the caseworker and AWB team. The author recommends that one HRPS Officer deals with the sickness absence and the investigation together.

Policy:

The AWB team considered that there was insufficient guidance regarding the management of sickness during Disciplinary Investigations, in particular which policy is applicable, and how to manage persistent sickness absences that fall into a disciplinary matter. The Attendance & Wellbeing policy guidance does not make reference to Disciplinary Investigations at all, and there needs to be clarity and cross referencing between the Disciplinary policy and the Attendance & Well Being policy. The Attendance & Well Being policy is currently under review.

Reporting & Recording:

There is currently no reporting on the interface between sickness absence and investigations. There is no mechanism to record the reason for the absence on Digigov as being in connection with an Investigation. There is also no recording of a sickness absence when an employee is suspended from duty, as their pay would otherwise be affected. Other improvements suggested by the AWB team included one letter being sent to the employee, instead of two letters from both teams.

6.2.2 Occupational Health:

One Occupational Health Nurse Manager and one Occupational Health Nurse practitioner were interviewed. With regards to Disciplinary investigations, their role is to determine the person's fitness to continue with an investigation where they have reported sick from work. The largest group of people they see are those who are stressed (which is not a medical condition). Some people have never had a previous history of stress, and some have medical issues or a pre-existing condition which may be aggravated by stress. The other group of people they see are those who have been through the disciplinary process, and then report sick from work.

Fitness to attend:

The Society for Occupational Medicine recommend that an employee is fit to attend an investigation meeting if the following criteria are met:-

- Employee has the ability to understand the issue being addressed
- Employee has the ability to distinguish right from wrong
- Employee is able to instruct a representative to represent their interests
- Employee is able to understand and follow the proceedings, if necessary with extra time and written explanation

The employee would have to be incapable of consenting to, or understanding the procedure, as they were in a condition that impaired their judgment, but this case would be rare. In December 2012, the Faculty of Occupational Medicine of the Royal College of Physicians issued updated "*Ethics Guidance for Occupational*

Health Practice". The Guidance is explicit in that in addition to consideration of the worker's health, there should also be consideration for the " *need of the employer to reach a conclusion in the interest of the organisation and the other workers*".

Occupational Health's default position in determining an employee's fitness to participate is as follows:- *"Even if a person is signed off from work with stress, that does not mean they are unfit to meet, as 'fitness for work' and 'fitness to meet' are different levels of fitness. In the majority of situations, individuals are likely to be fit to meet with management, and that doing so, is in their best interests to facilitate a resolution. Delaying the process is known to be counterproductive, as a protracted matter only risks a further decline in psychological / emotional wellbeing. Meeting is widely regarded as the best way forward to achieve a resolution in any stress symptoms, and is the lesser of the two evils when compared with the alternative of no action, and the matter dragging on indefinitely."*

Therefore either attendance at an interview, OR continuing the investigation without the individual, will be better for the individual's health in the longer term. Occupational Health feels that a "blanket referral" to them prolongs the investigation process. They also commented that even after their advice to proceed has been given, it can seem to take a long time. The longer someone remains off work the less likely a full return is possible. It is also likely that the employee's condition may deteriorate from, for example, a "reactive" anxiety to a more entrenched mental health condition. Actions designed to reduce any delays to this process would be preferable. It is recommended that the individual under investigation is approached and given the option of agreeing to continue with participation with the interview. Only those who are unsure, or where it is not clear, would be referred to Occupational Health.

Attendance & Wellbeing Policy:

Occupational Health stated they had previously requested that fitness to attend investigation interviews should be included in the Attendance & Wellbeing Policy

6.2.3 HRPS/Trade Unions/Investigating Officers/Audit: People going on sickness absence during the investigation was reported as a common issue. **Audit** stated this was a particular problem in relation to Investigation Interviews. **Trade Unions** felt that 90% of the absences were for genuine reasons and not “delaying” tactics. One Trade Union respondent felt that the sickness absence should be “discounted” if there was no case to answer in the investigation. 13 (57%) **HRPS officers** felt that the sickness should be covered by one HR officer, rather than the caseworker and the AWB team. **Investigating Officers** were questioned about their experience of dealing with the HRPS officers in relation to sickness absence. 24 (47%) stated that two officers were involved, although many did not know, as they were not communicated with.

“Same officer would make the process easier” “ There were two officers, but both not discussing what is going on “ (Investigating Officers)

SUMMARY OF FINDINGS

- 1. 97 people (35%) were identified as having an apparent association/causal effect between the investigation and the sickness absence.**
- 2. 43(44%) had a reported reason for absence as “Stress” Some people had more than one period of sickness absence during the period of the investigation**
- 3. The total number of days lost for the 97 people was 6,155 calendar days. Reducing it by 40% gives an approximate number of 3,633 days total working days lost, which equates to average 37 working days per person.**
- 4. This average is more than three times the average of working days lost per person for the Council.**
- 5. *Role of Attendance & Wellbeing (AWB) Team* There is insufficient guidance regarding the management of sickness during Disciplinary Investigations. 13 (57%) HRPS officers felt that the sickness should be covered by one HR officer rather than the caseworker and the AWB team.**
- 6. There is no mechanism to record the reason for the sickness absence on Digigov as in connection with an Investigation. This is not reported on.**
- 7. *Occupational Health’s* default position is that a person on sickness absence would be fit to proceed with an investigation unless there were genuine health concerns. Delaying the process for a prolonged period is likely to be more damaging to their health, especially their mental health, than continuing with it.**

PROPOSALS

- 1. There should be robust management of sickness absence during Disciplinary Investigation in view of the amount of working days lost per person.**
- 2. Addition of an appendix to the Attendance & Wellbeing policy regarding sickness absence and Disciplinary & Grievance investigations. There should be cross referencing between the Discipline and Attendance & Wellbeing policies.**
- 3. There should be clarification /change to paragraph 15.9 in the Disciplinary policy which is contradictory. Use of a flow chart in relation to sickness absence would be helpful.**
- 4. Digigov should be amended to include a specific tab or question “ Is the Absence in connection with an Investigation”, to enable reporting.**
- 5. One HRPS officer should deal with the Investigation and the Sickness Absence**
- 6. There should be regular monitoring and reporting on people under investigation as part of sickness absence monitoring.**
- 7. There should be revised determination for fitness to participate in the Investigation to prevent blanket referrals to Occupational Health**
- 8. There should be sickness absence monitoring of people who are suspended and sick including sickness contact visits.**

KEY RECOMMENDATIONS

RECOMMENDATION 1: CHANGES TO CARDIFF COUNCIL DISCIPLINARY POLICY

1.1 Amend Disciplinary policy separating the all encompassing policy from the individual guidances contained therein.

1.5 Cross -reference the Discipline policy to the Attendance & Wellbeing policy

RECOMMENDATION 2: CHANGES TO OTHER POLICIES

2.4 Addition to the Attendance & Wellbeing policy re management of sickness during Disciplinary Investigations (including suspensions)

RECOMMENDATION 6: MONITORING & REPORTING

6.1 Disciplinary Investigations (including suspensions and associated sickness absence) should be regularly monitored and reported at senior management level within Directorates.

6.2 HRPS should review and collate corporate monitoring data in relation to Discipline.

RECOMMENDATION 7: CHANGES TO DIGIGOV

7.3 Create an option tab in Digigov to link sickness absence to an investigation

RECOMMENDATION 8: SICKNESS ABSENCE

8.1 Robust management of sickness absence during Disciplinary Investigation (including suspensions) managed by one HRPS officer.

8.2 Revise the determination for fitness to participate in the investigation, to prevent blanket referrals to Occupational Health

7. SCHOOLS

7.1 Disciplinary and Dismissal procedures for school staff

- 7.1.1 The regulations and guidance governing Disciplinary procedures for teachers and other school staff can be found in Background section 1.4.
- 7.1.2 The introduction of *The Staffing of Maintained Schools (Wales) (Amendment) Regulations* in July 2014, and the circular 009/2014 “*Safeguarding children in education: Handling allegations of abuse against teachers and other staff*” have removed the requirement on the governing body to appoint an independent investigator to investigate allegations of ‘*a child protection nature*’ prior to the staff disciplinary and dismissal process, and replace it with a duty to appoint an independent investigator to investigate allegations that a teacher or member of staff has “*abused*” a pupil..
- 7.1.3 Servoca currently manage the Independent Investigation Service for child abuse allegations against school staff, and report back to the Welsh Government. The changes have resulted in Servoca effectively changing their threshold and are now managing the most serious cases only, not including those of a “*Safeguarding*” nature that they formerly dealt with.
- 7.1.4 The governing body (chair) must not appoint an independent investigator until the headteacher (or chair if the allegation is about the headteacher) has held an initial discussion with the Local Authority Designated Officer (LADO). If the allegations could result in a potential gross misconduct, then there is a requirement to appoint an independent investigator unless:-

- Beyond reasonable doubt the allegation is demonstrably false
- Beyond reasonable doubt the allegation is unfounded
- The allegation has been substantiated
- The member of staff is convicted of a criminal offence

7.1.5 The list of persons considered as not being independent for the purposes of the independent investigation has been extended to include:

- a member of the maintaining Local Authority
- a trustee of the school (if applicable)
- a member of the diocesan authority (if applicable)
- a person who appoints the foundation governors (if applicable)

This, therefore, now precludes reciprocal arrangements between schools (within the same Local Authority) for “independent” investigations.

7.1.6 Following the issuing of circular 002/2013 *Disciplinary and Dismissal Procedures for School Staff*, Cardiff Council produced a revised policy in May 2014- “*School Staff Procedure 1.CM.035 –Sch.*” Welsh Government is now updating circular 002/2013, and in light of this, **there should be consideration for further review of Cardiff Council School staff procedure.**

7.1.7 There is a potential for any Disciplinary Investigation Guidance produced for Corporate staff to be of equal value for use by Schools staff.

7.2 Data

7.2.1 Quantitative data in relation to Schools Investigations can be found in section 4 Quantitative Analysis. The extract from Table 5 shown below, indicates that the highest number of investigations is in the Education & Lifelong Learning Directorate with 91 recorded investigations.

Extract from Table 5 (section 4.5.4) : <u>Disciplinary Investigations by Directorate- % total by headcount</u>						
Directorate	No.on Digigov	No. on 2013-14 sheet	No. on 2014-15 sheet	total	Directorate headcount	% cases by headcount
EDUCATION & LIFELONG LEARNING	27	45	19	91	8188	1%

7.2.2 Reasons for delays to investigations are shown in Table 4 in section 4.3.5. Investigations by Servoca ranked in the top 10 reasons for delay as suggested by HRPS officers. Delays can also be caused to school investigations as they can only proceed during term time.

“Yes. It was unfortunate that the school’s holidays are excluded and delays the process.” (Investigating Officer)

7.3 Qualitative survey

Methodology & Response Rate: A qualitative survey was undertaken with those Schools staff that had an involvement with Disciplinary Investigations between April 2013 and October 2014. The survey questions are shown in the appendices.

- Investigating Officers (excluding Servoca Investigators) (Appendix 9)
- Trade unions: (National Association Head Teachers –NAHT;
National Union Teachers- NUT;
National Association of Schoolmasters
Union of Women Teachers – NASUWT) (Appendix 10)

A total of 12 participants took part in the schools survey. Table 22 details the number of people who participated per staff group, the method of information-gathering and the non- respondents, giving a total response rate.

Table 22 : Investigating Officers (Schools) response rate and Information gathering method							
Survey	Face to Face Interview	Electronic return	No response	Telephone Interview	Declined	Total no. participants	Response Rate
INVESTIGATING OFFICERS (22) (Schools)	1	7	11		3	8	36%
TRADE UNIONS (NAHT,NUT, NASUWT)	4					4	100%
total						12	46%

Three schools **Trade Unions** participated in the survey, including three Branch Secretaries and one full time official.

31 **Investigating Officers** were identified who had undertaken non Child - Protection investigations. 9 were discounted, as 6 had since left the service, 1 was on long term sickness absence and 2 were not appropriate, as the investigation had just commenced, leaving 22 as a potential interview group. Three Investigating Officers declined to participate. Despite multiple requests, responses were received from only 8 people. 7 returned their response by email, with one Investigating Officer requesting a face to face interview.

Due to the low response rate from the Investigating Officers (36%), any conclusions drawn from their responses should be viewed with caution.

Themes

7.3.1 *Policy:* Respondents were asked to comment on the School Staff Discipline Procedure (1.CM.035-Sch), including whether schools had formally adopted the policy. 2 (50%) of the Trade Union participants interviewed had not seen the policy, and they were not aware that it had been rolled out. Most of the Investigating Officers had used the policy, and found it satisfactory.

Adoption of the policy by schools is via the Governing body and a database is kept in HRPS of the schools that have adopted it. 7 out of 8 Investigating Officers reported that their schools had adopted the policy. The issue for the Trade Unions was communication from HRPS regarding which school had adopted a different version of the policy, and they stated that the information was not very forthcoming.

“Why did it take so long to produce this version after the Welsh Government guidance? I had a comprehensive training course through NAHT 2 months (March 2013)after WG guidance”

“The old version of the policy is being used -There should be a proforma being returned from the Clerking service regarding which policy is being used”

“The principal is that the Council one is adopted unless it is a Faith school. We are not informed by HR and can’t access the list remotely... Have asked for it to be produced for a member- have to ask individually” (Trade Unions)

Respondents were asked whether the development of guidance documents to the policy would be helpful. This was well received by the Trade Unions and 6(75%) Investigating Officers. The remaining 2(25%) Investigating Officers felt that they had received sufficient guidance.

7.3.2 *Early resolution:* Only 3 (37%) Investigating Officers felt that there could have been opportunities for early resolution in the cases that they dealt with, but all welcomed the idea of a range of solutions. Likewise, all Trade Unions welcomed the ideas of Early resolution

“I like the idea of a basket of solutions- Less expensive and more creative. Half way between mediation and investigation An empowering and enabling way as a solution to be very creative” (Trade Union)

Respondents were asked about their opinion regarding the role of mediation. Trade Unions were aware of mediation being used but did not know there were trained mediators in HRPS. Investigating Officers had little experience of mediation, although one person was aware that ACAS mediation service had been used in one school. Some respondents commented that mediation could be helpful to return an employee to the workplace following the termination of the investigation

“Our members don’t always understand what it is” (Trade Union)

“Mediation afterwards may have been useful. One member of staff ended up being seconded to other school and never came back” (Investigating Officer)

7.3.3 *Training :*

a. Training for Investigating Officers: **Trade Unions** favoured a variety of methods of learning for Investigating Officers, including e-learning, guidance and observational experience. **Investigating Officers** also favoured a range of learning methods with equal divisions between all the methods. All Investigating Officers stated they had not received formal training in their role.

“HR were outstanding in their help. However they cannot do the job for you.”

“When discussing which witnesses to interview I was given advice which could have opened the door to dispute of the outcome/consequences for the member of staff.(had there been a dismissal) the decision could have been jeopardised because not all witnesses had been interviewed”

“We wrote the second report together”

“The HR officer assigned to the cases was extremely experienced and very helpful – I feel that her support, guidance and advice was fantastic training”

(Investigating Officers)

b. Training for Staff disciplinary and dismissal committee: Currently the Committee receive a training session from HRPS. **Trade Unions** were asked whether they should receive more training, but they did not feel this was the answer, as a cultural change is required.

7.3.4 Roles:

a. Role of HR: The opinion of the **Trade Unions** was that HRPS were there to give advice on law and procedure, to enable people to make decisions, and that it was ok for them to clarify questions, but not to lead questioning.

“HR officers should understand they can’t collude and change advice or alter minutes. Must know rules, regulations and policies and not overstep the mark”

b. Role of Audit: There was a mixed response from the **Trade Unions**, but one Union felt that Internal Audit should take lead role in fraud cases. The majority of Investigating Officers had no experience of dealing with audit.

c. New roles: Observer & Assistant at a Hearing.- 7(87%) **Investigating Officers** were in favour of the Observer role at a Hearing. There was a split 50:50 view in favour of the Assistant role.

7.3.5 *Suspension*: Table 15 in section 5.3.5 illustrates that 30 (75%) of the total number of suspensions between April 2013 and October 2014, occurred in the Education and Lifelong Learning Directorate. Of the 26 suspensions that occurred in 2013 in that Directorate, 10 (38%) were recorded as being investigated by Servoca.¹⁴

Trade Unions were asked about preliminary assessments prior to suspensions and they felt that there should be a risk assessment, but they can be too arbitrary. They are more common with Child protection situations. Only 4(50%) **Investigating Officers** had experienced the person they were investigating being suspended. They all felt the suspensions were appropriately reviewed, but the Trade Unions had the opposite opinion and stated they didn't know what a review looked like. Other issues were the length of the suspensions - they can "*drag on endlessly*" and it was hard for a school to get continuity if the head teacher was suspended. In Child protection cases, as a matter of practice, the allegation is not known.

It was felt by the **Trade Unions** that the role of the contact person could be vastly improved and defined, as either the person doesn't contact them or they don't get enough information.

"It is draconian to prevent contact with employees who are not involved as witnesses This has got to be improved"

"Suspension is an isolating experience hard not to be in school to put notes together"
(Trade Unions)

7.3.6 *Interviews*: **Trade Unions** were generally not in favour of audio recording in interviews, stating that it would be intimidating to employees. One Trade Union suggested managing audio recording in this manner: "*One way would be to give copy of tape to Trade Union, Investigator, interviewee and when the transcription is agreed, then the tape would be destroyed at an appropriate point*". The option of trained note takers was preferred by the Unions.

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¹⁴ Some investigations may have dual investigators with Servoca undertaking the Child Protection aspect

5 (62%) **Investigating Officers** were in favour of audio recording interviews. One additional Investigating Officer also agreed, but only in cases of very serious allegations. Some Investigating Officers commented that they had problems getting notes agreed and finding a suitably trained note taker. One interviewee commented that there was inadequate training in this aspect of the investigation

7.3.7 *Reports:* **Trade Unions** commented on the variability of the Investigating Officers reports, with factual inaccuracies in some of them. They felt that guidance to completing the report was required. 6(75%) **Investigating Officers** had used the current report format on the CIS system. 7 of the 8 Investigating Officers had not used Digigov for the investigation process, so were unable to comment on it

7.3.8 *Hearings:* **Trade Unions** were asked their opinion regarding the knowledge and effectiveness of the staff disciplinary and dismissal committees. The general opinion was that they were variable, and that it was a problem for how some committees were constituted in small schools. The only training available is from HRPS prior to the hearing, and they felt that knowledge can be an issue, unless the committee have experience in their outside work. The Trade Unions stated that they experienced variations in sanctions at the Hearing, as the Committee seemed to err on the side of minimal sanctions – *“there is an aversion to taking away a livelihood”*. Nearly all the **Investigating Officers** had experience of presenting at a hearing.

“There was a problem with Governors taking and supporting the employee under investigation without knowing the facts”

“It was a horrible experience as everything was from my point of view and I had to present it directly to someone I still work with on a daily basis.”
(Investigating Officers)

Trade Unions and **Investigating Officers** were in agreement with regards to the production of guidance documents in how to conduct a hearing/ present at a hearing, together with information leaflets for witnesses.

7.3.9 *Sickness:* 5 (62%) **Investigating Officers** had experienced the person that they were investigating going on sickness absence. The majority stated they had sufficient guidance from HRPS in how to deal with it .The sickness absence was dealt with by the same HRPS officer who was also the caseworker for the investigation. This is in contrast to the corporate process, where the Attendance and Wellbeing team deals with absences. There appeared to be fewer issues with the sickness being managed in this way.

SUMMARY OF FINDINGS

1. Cardiff Council produced a revised policy in May 2014 (*School Staff Procedure 1.CM.035 –Sch*), following the issuing of Welsh Government circular 002/2013. Trade Unions stated that the information was not forthcoming from HRPS regarding which school had adopted a different version of the policy.
2. The introduction of *The Staffing of Maintained Schools (Wales) (Amendment) Regulations* in July 2014 changed the duty to appoint an independent investigator to investigate allegations where a teacher or member of staff has “abused” a pupil. Welsh Government is now updating circular 002/2013. This change of Regulations appeared not to be known in HRPS until January 2015.
3. Servoca currently manage the Independent Investigation Service for child abuse allegations against school staff, and report back to the Welsh Government. The changes have resulted in Servoca managing the most serious cases only, and does not include those of a “Safeguarding” nature they formerly dealt with.
4. The list of persons considered as not being independent for the purposes of the independent investigation has been extended to include a member of the maintaining LA, a trustee of the school (if applicable), a member of the diocesan authority (if applicable) and a person who appoints the foundation governors (if applicable).
5. Education & Lifelong Learning Directorate have the largest number of recorded investigations (91) between April 2013 and October 2014.
6. The qualitative survey had a low response rate (36%) from the Investigating Officers, and any conclusions drawn from the responses should be viewed with caution.
7. Only 3(37%) of the Investigating Officers felt that there could have been opportunities for early resolution, but all welcomed the idea of a range of solutions. All respondents were unaware of the trained mediators in HRPS.
8. All Investigating Officers stated they had not received formal training in their role and favoured a range of learning methods, with equal divisions between all the methods.
9. The Education and Lifelong Learning Directorate account for 30(75%) of the total number of suspensions between April 2013 and October 2014. Of the 26 suspensions that occurred in 2013, 10 (38%) were recorded as being investigated by Servoca
10. Trade Unions felt that the knowledge and effectiveness of the staff disciplinary and dismissal committees was variable, and that it was a problem for how some panels were constituted in small schools. There were variations in sanctions at the Hearing as the Committee seemed to err on the side of minimal sanctions.

PROPOSALS

1. The Schools Disciplinary policy should be updated in a timely manner with regards to handling child protection allegations to reflect the *The Staffing of Maintained Schools (Wales) (Amendment) Regulations 2014* and the guidance in Circular 009/2014 ‘ *Safeguarding Children in Education: Handling allegations of abuse against teachers and other staff*’.
2. The list of which school has adopted which version of the disciplinary policy should be readily available in an accessible format for Trade Unions.
3. Ensure there is adequate communication to schools regarding new versions of the policy and applicable guidance
4. Opportunities for Early resolution methods (such as Restorative approaches) for use in schools should be explored.
5. The opinions gathered in the qualitative survey with schools are broadly similar to those raised during the corporate survey. The recommendations stated earlier in this report under “Themes” are therefore equally applicable in schools.

KEY RECOMMENDATIONS

RECOMMENDATION 1: CHANGES TO CARDIFF COUNCIL DISCIPLINARY POLICY

- 1.1 Amend Disciplinary policy separating the all encompassing policy from the individual guidances contained therein.
- 1.2 Increase emphasis on early resolution of issues to include:
 - Expansion of the internal mediation service
 - Introduction of Fast track Disciplinary process

RECOMMENDATION 2: CHANGES TO OTHER POLICIES

- 2.3 Amendment to the School Staff Procedure 1.CM.035 –Sch. to reflect changes to the revised Welsh Government Circular 002/2013

RECOMMENDATION 5: COMMUNICATION

- 5.2 Improve future policy review by enhanced engagement of employees and communication to Directorates/schools

8. DISCUSSION & OPTIONS APPRAISAL

8.1 The Future management of Workplace Investigations

Currently, workplace investigations are generally undertaken within the Directorate that employs the person under investigation. The main reason for this practice is the perception that the Investigating Officer would have knowledge of the role of the person being investigated, and would be able to understand the implications of the allegations in relation to the person's role. It is also suggested that Directorates need to "*own their issues*" and that this may not happen if the Investigation happens outside of a Directorate. However, it is the role of the Hearing Chair to state recommended improvement actions to a Directorate. The HRPS role (as stated in the Disciplinary policy), includes reviewing and monitoring the outcome of a disciplinary case, and supporting service areas to undertake remedial action. This practice thus ensures that a Directorate "owns its issues".

There are some disadvantages to Investigations being undertaken within a Directorate:-

- (i) *Impartiality* : There can be too much prior knowledge of a situation (or people involved) and a risk to the impartiality of the investigation, especially if a line manager has been appointed as Investigating Officer.
- (ii) *Confidentiality*. There is a risk of everyday conversations being held about the investigation outside of the process. One Investigating Officer (who was the line manager of the person under investigation and all the witnesses) described being approached in a corridor and questioned about the investigation.
- (iii) *Workplace relationships*: A further complication is the management of the workplace relationships both during, and after the investigation has concluded. It has been evidenced that there is a lack of mediation after the Hearing to return an employee to their workplace. This is further compounded if it was the line manager who undertook the investigation.

8.1.1 Opinions from Qualitative survey :

Respondents were asked their opinion of the relative merits of Investigations being undertaken within Directorates or independently. The opinions of **HRPS** officers and **Hearing Chairs**, were equally divided between investigations taking place inside or external to the Directorate, or a combination of the both. Conversely **Trade Unions** were 100% in agreement for the setting up of an independent Investigations team. This was mainly due to the loss of confidence regarding the impartiality and confidentiality of investigations within Directorates. The majority of **Investigating Officers** favoured a combination approach, with minor misdemeanours dealt with within Directorates, and more complex investigations dealt with by an "Investigations team". When respondents were asked specifically whether they agreed with an *Investigations team dealing with cases of potential gross misconduct*, there was a much higher level of agreement. 13(76%) of the **Hearing Chairs** and 43(84%) of **Investigating Officers** were in favour of it.

"The sooner we get a team the better" (Trade Unions)

*"Outside the directorate for gross misconduct to reduce risk of process flaws"
"Should be an expert to do either the presentation or the process "
(Hearing Chairs)*

"Any mistake in what is a fairly complicated process could ruin the case and a genuine misdemeanour or more serious issue could go unpunished. Costing time and money for many council departments" (Investigating Officers)

Occasionally there are examples of some reciprocal arrangements between Directorates where there is a commonality of understanding, for example, Health & Social Care and Childrens services. These arrangements have often been for cases of potential gross misconduct, thus requiring a high level of impartiality and confidentiality.

Reciprocal arrangements to date between schools have been rare. The changes to the status of an independent investigator as a result of the Regulations introduced in July 2014, has made this option even more remote, by excluding a member of the maintaining Local Authority as an independent investigator

8.1.2 *Early Resolution*

One key issue during the Early resolution phase is the consideration for whether the matter needs to proceed to a disciplinary investigation. The current process has resulted in too many cases being accelerated, so this remains a crucial point for decision making. Too often the individual manager is making this decision without recourse to consulting with Trade Unions, and sometime minimal consultation with HRPS.

The author recommends consideration for the introduction of a Disciplinary Decision Panel, if there is insufficient future improvement in the reduction of the number of disciplinary investigations. The panel would comprise of HR/ Trade Union and independent person (i.e. officer not associated with the service in which the matter has occurred). This is largely based on the model that was adopted for decision making in Job Evaluation and is a good example of managers, Trade Unions and HRPS working very co-operatively together with good outcomes. The panel would consider a preliminary report submitted to them that and make a decision based on evidence that:-

- No further action is necessary because there is no evidence to support the allegation that an incident/misconduct occurred
- Other action is appropriate to deal with the matter – this could include counselling, mentorship, training, mediation etc
- The Fast Track Disciplinary process may be appropriate
- A formal investigation will be required, with due consideration being given to the need to suspend or redeploy the employee whilst the investigation is ongoing.

Although this may appear to be a resource intensive approach, time would be saved by personnel later on as a result of not going down a lengthy investigation route resulting in “ *no case to answer*”.

8.2 Options Appraisal for change

8.2.1 Option 1: Minimal change - Maintaining the status quo, with some improvements in sanctions in Hearings due to improved internal HRPS communication, and resolution of the two issues with Trade Unions. The model includes the following elements:

- Disciplinary and Grievance Investigations would continue to be generally held within Directorates
- Continue to be in addition to the “day job” for Investigating officers and Disciplinary Hearing Chairs.
- Small adjustments to Disciplinary Policy only, with no division between policy and guidance
- Training continues to be on the policy only, with no additional training in undertaking disciplinary investigations or Disciplinary Hearings.
- No change to informal stage or other procedures
- No change to Digigov or reporting requirements
- Minor changes to policy only

BENEFITS	<ul style="list-style-type: none"> ➤ Reviewed policy may be easier to follow than former version ➤ Some staff already familiar with procedures. <p>Some improvements in sanctions in Hearings due to improved internal HRPS communication</p>
RISK	<ul style="list-style-type: none"> ➤ No reduction in numbers of investigations ➤ Insufficient improvements to length of time for investigations ➤ No change in levels of sickness absence ➤ Continued lack of visibility of investigations and suspended employees ➤ On top of “day job” for Investigators so flawed or incomplete investigations leave Council vulnerable to claims for unfair dismissal. ➤ No training available so continued levels of inexperienced staff dealing with some complex investigations ➤ No reduction in length of time for suspensions ➤ Continued high levels of stress amongst staff. ➤ Reduced level of support from HRPS as level of resource declines ➤ Continued inconsistency of HRPS advice due to lack of training & guidance ➤ Inaccurate data reporting from Digigov ➤ No improvement in staff time to complete Digigov process
FINANCIAL IMPLICATIONS	<ul style="list-style-type: none"> ➤ Local Authority staff time to establish new policy
LEGAL IMPLICATIONS	<ul style="list-style-type: none"> ➤ None

8.2.2 Option 2 : Moderate change This option would include all the changes listed in Option 1. Disciplinary Investigations would continue to generally be held within Directorates, and be in addition to the “day job” for Investigating officers and Hearing Chairs. There would be no change to early resolution procedures(apart from expansion of the Mediation service), and no changes to Digigov or reporting requirements . The new additional elements to this option would be:

- The current disciplinary policy would be separated into policy and enhanced guidance.
- Formal training provided in undertaking disciplinary investigations, including e-learning, coaching & mentorship.

BENEFITS	<ul style="list-style-type: none"> ➤ Some reduction in numbers of flawed investigations as knowledge increased ➤ Reduction in inconsistency of sanctions at Hearings as guidance available ➤ Some reduction in numbers of investigations if mediation used more frequently ➤ Staff understand roles and responsibilities better ➤ Some improvement in consistency of HRPS advice as training & guidance available ➤ Some reduction in staff stress levels due to coaching & mentorship ➤ Impact of reduced number of HRPS staff lessened as more guidance/support available from other means
RISK	<ul style="list-style-type: none"> ➤ Investigation on top of “day job” so investigations could be rushed/incomplete ➤ Insufficient improvements to length of time for investigations ➤ Insufficient improvements to numbers of investigations as limited early resolution ➤ Little reduction in sickness absence ➤ Continued lack of visibility of investigations and suspended employees ➤ Inaccurate data reporting from Digigov ➤ Does not address issues of impartiality or confidentiality ➤ No improvement in staff time to complete Digigov process ➤ School staff policy excluded from review
FINANCIAL IMPLICATIONS	<ul style="list-style-type: none"> ➤ Local Authority staff time to establish new policy ➤ Local Authority staff time to produce & establish new guidance ➤ Cost of delivering training programme ➤ Cost to Directorates of large numbers of staff undergoing training
LEGAL IMPLICATIONS	<ul style="list-style-type: none"> ➤ None

8.2.3 Option 3: Substantial Change- This option would include all the changes listed in option 2 with the addition of :-

- Early resolution procedures introduced
- Changes to Digigov investigation process
- Reporting requirements by senior management
- Internally based Investigation team to deal with cases of potential gross misconduct and people suspended from duty.

BENEFITS	<ul style="list-style-type: none"> ➤ Fewer number of investigations as more resolved earlier ➤ Fewer Investigating Officers doing investigations on top of day job ➤ Reduced level of stress on staff ➤ Improved sickness absence levels ➤ Expertise developed so fewer investigations flawed and Improved impartiality and justice ➤ Reduced cost of delivering training programme to fewer staff ➤ Reduction in inconsistency of sanctions at Hearings ➤ Staff understand roles and responsibilities better ➤ Improved consistency of HRPS advice from Investigation unit officers ➤ Reduced length of suspensions improved cost to council ➤ Reduced length of investigations improved cost to council ➤ Accurate data reporting from improved Digigov process ➤ May be income generation option
RISK	<ul style="list-style-type: none"> ➤ Long term sustainability investigation unit with reduced council resources ➤ Long term sustainability training with reduced council resources ➤ Restriction on providing Independent investigators for schools due to protocol changes
FINANCIAL IMPLICATIONS	<ul style="list-style-type: none"> ➤ Local Authority staff time to establish new policy and procedures ➤ Staff time to run the Disciplinary panel ➤ Cost to amend Digigov <p>Cost to establish Investigation unit</p>
LEGAL IMPLICATIONS	<ul style="list-style-type: none"> ➤ Legal advice may be required

Independent Investigation Team

The introduction of an Independent Investigation Team would address the issues of impartiality, confidentiality and workplace relationships. It was established during the qualitative survey, that the introduction of an Investigation unit to deal with cases of potential gross misconduct would be largely well received, especially from the Trade Unions. The potential model for an Investigation team would need further discussion & consultation, as there would be a number of options for its establishment. The Team would be based internally in the Council.

Funding options

Option 1: A “**virtual team**” comprising of staff nominated by Directorates who would deal with investigations. These nominated people would receive additional training and a range of support mechanisms.

Option 2: **Staffing seconded from Directorates** (including HRPS) to form an actual team. This would be proportionally according to demand ascertained from the numbers of investigations previously undertaken, so could include people on part time secondments.

Option 3: **Top slicing Directorate budgets**: Funding to set up a Team proportionally based on previous percentage of Investigations undertaken. No additional charging to the Directorate for usage of the service.

Option 4: **Corporate funding , with cross charging to Directorates**: Charging would be according to usage of the service. Charging Directorates for an Investigation service is likely have an impact on increasing early resolution methods, and reducing numbers accelerating to investigation..

Option 5: **Corporate funding with no charge to Directorates** : This would be an attractive option for Directorates, as there would be no spend on their individual budget. This option would potentially only be feasible if a business model was considered with income generation (see Option 6).

Option 6. **Externally funded:** An established team with sufficient capacity could also offer a service external to the council (to other Local Authorities, for example) as an income generation option, which could fund or offset costs an internal service.

Further Option for more detailed Analysis: Business case for Investigation unit as arm’s length company

A future opportunity would be the establishment of a business case to set up an Investigation unit as an arm’s length company, in a trading model. The Unit could provide cost effective investigations to other Local Authorities or organisations. The external income stream would then directly fund the level of support to independent investigations as required by Schools and Directorates within the Council. This option could be part of a staged approach following on from

8.2.3 Option 3

BENEFITS	<ul style="list-style-type: none"> ➤ Disciplinary investigation would be independent ➤ Potential for a professional service at cost effective price ➤ Potential Income generation for the council ➤ External income stream fund service to Cardiff Council ➤ Service could provide independent investigations for schools ➤ Service may be expanded to provide training & development
RISK	<ul style="list-style-type: none"> ➤ Market for investigation service not known
FINANCIAL IMPLICATIONS	<ul style="list-style-type: none"> ➤ Local authority staff time to establish business case ➤ Legal costs ➤ Local authority staff time to effect HR & Payroll changes
LEGAL IMPLICATIONS	<ul style="list-style-type: none"> ➤ Legal advice will be required

PROPOSALS

- 1. It is recommended that Option 3 is implemented, as this will provide the biggest impact in the short to medium term, and represent value for any financial investment by reduction of wasted resource and potential income**
- 2. This could be a staged approach leading to a further option for an Investigation unit as an arm's length company , as this would potentially give longer term sustainability as a business model, provide an opportunity for an external funding stream and enable delivery of a service to Schools.**

KEY RECOMMENDATIONS

RECOMMENDATION 9: FUTURE MANAGEMENT WORKPLACE INVESTIGATIONS

- 9.1 Establish an Investigation team to deal with cases of complexity and/or potential gross misconduct.**
- 9.2 Consider business case to set up an Investigation unit as an arm's length company, in a trading model for income generation and longer term sustainability**

9 CONCLUSIONS

9.1 *The case for change*

This review has evidenced that there needs to be a change to the way that workplace investigations are managed in the Council. Maintaining the status quo is not an option, as there is considerable cost in terms of wastage of staff resource on unnecessary work, and cost in terms of high sickness absence, and the length of time people are on paid suspensions from duty.

Too many investigations: Few issues are dealt with effectively at an early enough stage, which is resulting in too many investigations. The highest number of investigations (91) was in the Education & Lifelong Learning Directorate, although this represents only 1% of their headcount. The Environment Directorate had 60 of its employees under investigation in an 18 month period, which is 10% of their headcount.

Lack of early resolution: Managers are inadequately trained to deal with issues effectively at an early enough stage, and there are too few options available to them. 16 (69%) HRPS staff, 29 (57%) Investigating Officers and 10 (59%) of the Hearing Chairs, felt they could identify situations in disciplinary investigations, where early resolution would have been an option. Mediation is currently a limited option, with a general lack of awareness of the two trained mediators in HRPS.

Investigations taking too long: Of the 64 cases studied on the 2013/14 excel spreadsheet with recorded data, the mean length of time from investigation start date to hearing date is 22 weeks (adjusted figure from 26 weeks). This is often not proportionate to the allegation, with no options for dealing with matters in a quick, effective manner. Less than a third of investigations were concluded within an 8 week period. Delays are frequent, often caused by sickness absence or availability of Trade Unions and other parties.

Suspensions from duty are too long: 40 people (15%) were recorded as being suspended from duty at some stage during the study period. 30 (75%) of the suspensions occurred in the Education and Lifelong Learning Directorate. The mean length of time for paid suspensions was 39 weeks, adjusted to 32 weeks (excluding two very long suspensions). 15(37%) employees under suspension were dismissed from employment and 6(15%) people who were suspended, ended with no case to answer/ dealt with informally. There was little evidence of adequate review of suspensions to ensure continued appropriateness. An unjustified period of suspension may amount to a breach of the implied term of trust and confidence, entitling the employee to resign and claim constructive unfair dismissal. People who are suspended and subsequently report sick, are not captured on Digigov as a sickness absence.

Too many investigations have either no disciplinary action or a poor outcome:

Of the 169 cases that had recorded outcomes, 54 (32%) resulted in either “no disciplinary action/case to answer” and a further 25(15%) were abandoned/ incomplete, making a total 79 cases (47%). This indicates that potentially there are a significant number of cases that could be dealt with by means other than a disciplinary investigation. In addition, 24 (61%) Grievance cases were not upheld and only 10(26%) were either upheld or partially upheld.

Inadequate training in undertaking an investigation: 34 (67%) Investigating officers had received no training in undertaking an investigation. They are sometimes dealing with complex situations, with potentially life changing outcomes for the employee under investigation. This level of responsibility, without training, leads to a high level of stress for the Investigating officers. Both Investigating Officers and Hearing Chairs would prefer that a range of different learning methods was available including formal training, e-learning, written guidance, coaching & mentorship .

Lack of management reporting: There is no requirement to report on investigations within Directorates, so no-one has overall oversight of the issues. It is unclear who has overall responsibility for setting the standard of investigations.

Quality of data: A total of 260 Investigations were found between 04 April 2013 and 09 October 2014, recorded in three data sources in HRPS (Two excel spreadsheets and Digigov.) There were problems with missing data, and with inaccurate information entered by HRPS officers to “work - around” the inflexibilities of the Digigov system. The accuracy of the data was manually checked where feasible. 19(83%) of the HRPS staff described accuracy of data recording in all systems as “*poor/really poor*”. No data reports on investigations are regularly produced in HRPS and accurate management reports cannot be run from Digigov due to the aforementioned issues. As stated in the current disciplinary policy HRPS should review and collate corporate monitoring data in relation to discipline.

Digigov process overly complicated: The process for recording Investigations on Digigov is too complex - 19 (83%) HRPS officers, all the Hearing Chairs, and 45 (88%) Investigating Officers reported problems with it. There is a great deal of HRPS officer time spent entering and amending data on Digigov, and this situation will not improve until the process is streamlined and simplified.

Disciplinary policy is too long & not user friendly: The current document is a mixture of policy and guidance, resulting in more than half the Investigating officers interviewed finding that format hard/fairly hard to use. Nearly half HRPS staff stated that the policy was too long. Generally, staff supported the idea of the production of detailed guidance to undertake disciplinary processes. 15(65%) HRPS officers stated they had some issues with the definition of misconduct versus gross misconduct in the disciplinary rules

Roles inadequately defined: There is a lack of description and awareness of peoples’ roles in disciplinary investigations. This contributes to unnecessary delays or functions/tasks not happening. Further clarification is required for the role of HRPS, Director, Audit and the contact officer (during a suspension).

Investigating Officers Reports: Investigating Officer reports are very variable in quality. As evidenced by the number of poor reports at Hearings, Directors are not robustly applying a degree of standard setting at the stage when the decision to proceed to a hearing takes place. It is unclear who is “setting the standard” for Investigating Officer’s reports, with opinions in HRPS divided.

Sickness and Disciplinary Investigations: 97 (35%) of the 275 people under investigation had a sickness absence recorded which could be associated with their investigation. The total number of days lost was 6,155 calendar days, (about 3,633 working days) - average 37 working days per person. There is no mechanism to record in Digigov the reason for the sickness absence as being in connection with an Investigation. There are blanket referrals to Occupational Health for determination of fitness to proceed, which causes delays. Their default position is that either attendance at an interview, OR continuing the investigation without the individual, will be better for the individual's health in the longer term. It is recommended that the individual under investigation is approached and given the option of agreeing to continue with participation with the interview. Only those who are unsure, or where it is not clear, would be referred to Occupational Health.

Variation in hearing sanctions as raised by Internal Audit: This issue can be addressed by control measures described within Section 5.3.8. Rigid application of policy without taking into consideration mitigating factors is not advised.

9.2 Improving Relationships

During the qualitative survey, there were expressions of gratitude from many Investigating officers for the level of support they received from the HR officer during their investigation. However, there were also some negative comments about the relationship with HRPS, in particular by Schools and Trade Unions. There has been some apparent loss of confidence in the way that workplace investigations have been managed, with criticisms of “*procedural flaws*”, “*lack of communication*” and “*inconsistent HRPS advice*”. This has been in relation to some historic cases, but also criticisms of cases that were happening during the course of this review. This sense of “injustice” has resulted in some “challenging” behaviour from the Trade Unions, often in Disciplinary Hearings. This has led to fraught relationships at times.

9.3 Key Principles for Future Investigations :

1. Managers should be up-skilled through the Manager Development programme to resolve issues at an earlier stage -a range of resolution methods will be available
2. Fast track disciplinary process available for more minor misdemeanours
3. Trade Unions will be involved collaboratively to resolve issues at an earlier stage.
4. Robust decision making regarding which situations need investigation. If there is insufficient improvement in the reduction of the number of disciplinary investigations, a panel forum should be considered.
5. Misconduct issues that need investigating will be dealt with by staff who are trained and supported to do so.
6. Policy and guidance is clear with peoples' roles and responsibilities well defined
7. Employees under investigation have better levels of communication, support and sickness management
8. Hearings are undertaken in accordance with a code of conduct
9. More complex or potential gross misconduct investigations are dealt with by an investigation team with higher levels of training and expertise. Investigations are undertaken as quickly as possible without compromising quality
10. The whole process is backed up by a management information system that is accurate and simplified, to enable proficient monitoring and reporting arrangements.

9.4 Changing Organisational Culture

The future management of workplace investigations is set within a period of rapid organisational change and the need for changes in culture. A workforce strategy is currently being formulated and awaiting ratification. It sets out a framework of six key priority areas to create this culture, and achieve improvements.

It is suggested that implementation of all recommendations from this Review will be a key example of evidencing the workforce strategy in action.

Working in partnership with Trade Unions – a collaborative approach will be essential for the increased robustness of Early resolution of issues reducing unnecessary investigations, stress and sickness absence.

Employee voice -This review is a good example of consultation and listening to the employees to influence change and improvement. Many elements will be found in the emerging *Employee Charter*.

Learning & Development- Learning & Development will be key to “making a difference” to increased confidence in the quality and consistency of future investigations.

Performance Review- the up-skilling of managers to deal with staff behavioural issues through performance review, will be an essential early resolution mechanism.

9.5 Conclusion

More than 120 staff who had been involved in undertaking investigations over the previous 18 months, have been involved in this review, with in excess of 100 hours of face to face interview time spent actively listening to them. Their experience of undertaking investigations has shaped the recommendations.

Although this Review has focussed on Disciplinary investigations, many key principles and recommendations for improvements would apply equally to management of Grievance procedures. The findings will therefore be helpful in informing the future review of the Grievance Policy.

For future positive management of workplace investigations, the Key Recommendations listed at the front of this Review need to be implemented, together with the cultural change, for a reformed service. This will restore confidence in the disciplinary process, instil a sense of “natural justice”, and lead to improved outcomes.

10. REFERENCES

ACAS Code of Practice: Disciplinary & Grievance Procedure (2009), London HMSO

ACAS Guidance- Mediation: An Approach to resolving workplace Issues (2013), London CIPD

ACAS Research paper: *Evaluation of the ACAS Code of Practice on Disciplinary and Grievance procedure* (2011), Rahim ,N; Brown, A & Graham, J www.acas.org.uk/researchpapers

ACAS Research paper: *Accompaniment and representation in workplace Discipline and Grievance* (2008), Saundry R, Antcliff V & Jones C www.acas.org.uk/researchpapers

ACAS Research paper *Transforming conflict management in the public sector? Mediation, trade unions and partnerships in a primary care trust* (2011) Saundry R, MCardle L & Thomas P www.acas.org.uk/researchpapers

Cardiff Council Disciplinary Policy, Procedures & Guidance 1.CM.035 (September 2014) Cardiff Improvement system

Cardiff Council Fraud, Bribery & Corruption Policy 2014 (Draft)

Cardiff Council School Staff Disciplinary Policy and Procedure 1.CM.035-Sch (May 2014) Cardiff Improvement system

Disciplinary and Dismissal for school staff Guidance (2013), Welsh Government circular no 002/2013 www.cymru.gov.uk

Ethics Guidance for Occupational Health Practice (2012), Drs Paul Litchfield & Naomi Brecker (Eds), The Faculty of Occupational Medicine Ethics Committee, Royal College of Physicians ,London

Lewis, T (2010) *Facing Disciplinary Action: A guide for employees and their Representatives*. Central London Law centre publication www.londonlawcentre.org.uk

Mediation: A protocol for the use of Internal workplace mediation in Local Government in Wales (2013) Cardiff WLGA

Safeguarding children in education: Handling allegations of abuse against teachers and other staff (2014) circular no 009/2014 www.cymru.gov.uk

Saundry R & Wibberley G Mediation and Early Resolution: A Case Study in Conflict Management ACAS (2012)

Win- Win A study into the role and impact of mediation within Local Government (2014) London PMA/LGA

APPENDIX 1

Questions for HRPS Officers

1. It is for the Local Authority to maintain the standards and criteria of a sound investigation. What do you believe are those standards?
2. Who is responsible for maintaining the standards of an investigation?
3. Overall the Directorate / Board of Governors
4. During an investigation what do you consider are the essential areas of contact with HRPS?
5. Do you think that Investigations should be kept within Directorates or undertaken independently? If not, what are the exceptions?
6. What do you consider are the principles of impartiality?
7. Do you think investigations could be categorised e.g. complex/non complex? If so, how?
8. What is your opinion of investigations that take place where a person is suspended being dealt with by an expert team?
9. In your opinion, what are the main differences and similarities between investigations in schools and outside of schools
10. Have you had experience of significant delays occurring during a disciplinary investigation? If so, at what stage do they most commonly occur?
11. In your opinion what are the top three reasons for delays occurring?
12. Have you been involved in contributing to current / past policy reviews?
13. Do you have any general comments about the current disciplinary policy (Sep 2014 version)
14. Do you feel there is anything specifically missing from the policy?
15. To what degree do you consider there should be incorporation or any overlap with the schools disciplinary policy?
16. Do you think the addition of a page in the DP specifying the relevant legislative framework would be helpful?
17. Do you think the addition of a glossary of terms e.g. stockpiling would be helpful?
18. In your opinion are the timeframes for each stage in an investigation explicit in the policy and easily understood?
19. What issues, if any, have you experienced in relation to disciplinary rules as stated on page 14?
20. In your opinion, would it be useful to have any more specific examples of what constitutes e.g. gross misconduct
21. What is your opinion regarding the development of specific guidance documents e.g. for Investigating Officers?
22. Do you feel there is sufficient guidance within the policy regarding how to deal with delays?
23. Do you feel there is sufficient guidance within the policy regarding how to deal with Child protection/POVA situations?
24. Do you feel that FAQ's should sit within the policy or be located elsewhere e.g. in guidance documents or on website?
25. Do you feel the use of flow charts in the policy would be helpful?
26. What issues have you experienced in relation to the policy?
27. Do you have any issues with regards to any of the standard letters e.g. wording?
28. Do you think there is anything missing from the letters e.g. a standard phrase that you are frequently adding in?
29. Do you have any issues with regards to Digigov Investigation process. If yes please specify
30. What changes, if any do you think should be made to the Disciplinary application on Digigov?
31. What changes, if any do you think should be made to the Grievance application on Digigov?
32. Who do you feel should be responsible for monitoring and reporting the progress of investigation?
33. What is your opinion regarding the accuracy of data in HRPS on disciplinary investigations
34. What advice do you give if an allegation is withdrawn
35. What advice do you give if an individual wishes to lodge an objection to a process or procedure? Is there guidance?
36. What advice do you give if an employee is sick during an investigation?
37. Do you work in conjunction with the sickness team?
38. What is your opinion of undertaking a joint contact visit to an employee under investigation with the sickness team?
39. What advice do you give if an individual such as a witness wishes to remain anonymous?
40. Do you feel there is sufficient guidance within the policy in relation to anonymity both with regards to witnesses and or where an allegation is anonymous?
41. Do you make reference to the whistle-blowing policy?

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42. What improvements do you feel could be made to resolve issues of managing difficult staff behaviours during an informal stage to prevent acceleration to investigations?
43. What advice do you give at the informal stage?
44. Do you feel there is sufficient guidance available for this?
45. Do you feel that a template document specifying expected improvements for behaviours would be useful?
46. In your opinion, who do you feel should tell the person that they are under investigation?
47. Would a standard letter be helpful here?
48. What is your experience of the role of mediation at an informal stage in respect of prevention of escalation to investigations?
49. Have you experience of using mediation at a later stage once the formal process has begun?
50. Can you describe what would constitute a prelim investigation prior to a suspension
51. Do you feel there is sufficient guidance available for this
52. What training for managers are you aware of that you think would be relevant to deal with this informal stage?
53. What additional training for managers do you feel would be helpful?
54. Can you describe the circumstances of a case that you consider could have been resolved at an earlier stage?
55. What issues have you experienced in relation to the informal stage?
56. When making considerations for suspension of an employee from duty, do you feel that it would be useful to have specific guidance in relation to decision making?
57. Would a template to record the preliminary examination be useful?
58. Do you think that a standard script for managers to use during suspensions would be useful?
59. What advice do you give on securing property/IT account on an individual who has been suspended?
60. Do you feel this would be helpful to include in any guidance
61. What advice do you give to an employee on suspension who wishes to access information to prepare their defence?
62. Would this advice be useful to include in the suspension letter?
63. Who do you think should review the suspension?
64. How do you think the suspension review should it be done?
65. Do you think a Digigov prompt to the inbox to review the suspension would be useful?
66. What advice/guidance do you give as to the role of the person appointed as contact officer to the suspended employee?
67. Do you feel this would be helpful to include in any guidance?
68. What issues have you experienced in relation to suspensions?
69. What is your opinion of tape recording in interviews?
70. In what ways could note taking in interviews be improved?
71. What experience have you had of interview notes not being agreed?
72. What advice /guidance would be helpful here?
73. Do you feel it would be helpful to have more information in the policy and/or guidance regarding the order of people to be interviewed.
74. What advice do you give when individuals ask for friends to accompany them to interviews (When they are not members of a TU or work colleague not appropriate)?
75. What advice /guidance would be helpful here?
76. What advice do you give when individuals fail to attend interviews?
77. What advice /guidance would be helpful here?
78. What issues have you experienced in relation to investigation interviews?
79. What is your opinion of the quality of Investigating Officer's reports?
80. Approximately what percentage of reports are submitted without any involvement or oversight from HRPS?
81. In your opinion do you feel that the HRPS caseworker should see all Investigating Officer's reports prior to it being sent to the Director/Head of service?
82. What happens if the Investigating Officer's report is not fit for purpose prior to it going to the Director/Head of service?
83. Is the employee and/ or their TU representative informed when Investigating Officer's report is sent to the Director/Head of service?

APPENDIX 1

84. What happens if the Investigating Officer's report is not fit for purpose after it is sent to the Director/Head of service?
85. Who do you feel is setting standard for Investigating Officer's reports?
86. Do you feel there is any area for improvement with regards to the current format of report?
87. What is your opinion of the Director/Head of service meeting the Investigating Officer (once the report is completed) as a formal stage of the process?
88. What is your opinion of the Director/Head of service meeting the employee to give decision following the Investigating Officer's report?
89. What is your opinion of the Director/Head of service giving the employee a copy of the IO report at this stage?
90. What issues have you experienced in relation to Investigation reports?
91. Investigating Officer : what do you feel are the relevant skills required of investigators?
92. What training do you think the Investigating Officer should have?
93. Chair of Disciplinary Hearing: What do you feel are the relevant skills of the Chair
94. What training do you think the Chair should have?
95. The HRPS role is stated within the policy to *act as advisors to managers, ensure procedures correctly applied, provide employees with information and advice review and monitor disciplinary cases and outcomes supporting service areas to undertake remedial action, review and collate monitoring data, reviewing application of policy* It does not specify any role in relation to asking questions either in interviews or in hearings and appeals. What is your opinion?
96. In what ways could improvements to the relationship with TU's be made?
97. What issues have you experienced in relation to peoples' roles?
98. What has been your experience of fraud/ financial impropriety cases?
99. What has been your experience of the role of audit in (i) investigations interviews (ii) hearings
- 100 Do you feel there is sufficient advice regarding referral to the police panel in the policy?
- 101 What is your experience of running parallel investigations
- 102 Do you feel there is sufficient guidance and information in relation to involvement with police within the policy?
- 103 Who do you think should be updating legal/audit in relation to police involvement?
- 104 What issues have you experienced in relation to fraud/ financial impropriety cases or police involvement?
- 105 Do you feel that a standard script and/or procedure sheet for Chairs (similar in style to one used in POVA meetings for example) would be useful?
- 106 Do you consider that a guidance document for Chairs of Hearings would be useful?
- 107 What is your opinion of the 10 key questions for Chairs as defined in the policy?
- 108 Do you feel they could be improved, if so how?
- 109 When advising the Chair at hearing, do you have access to information detailing allegations/sanctions at previous hearings?
- 110 What is your experience of variations in sanctions at Disciplinary Hearings?
- 111 In what ways do you feel it could be improved?
- 112 Do you consider that a guidance document for Presenting officers on how to prepare a disciplinary pack for a hearing would be useful?
- 113 And on how to present a case at a hearing?
- 114 What advice do you give to the Investigating officer on how they should prepare witnesses for a hearing?
- 115 What do you think the policy should say?
- 116 Do you feel it would be helpful to have a booklet for use by witnesses on "*What to expect in a Hearing*" ?
- 117 Do you feel that management witnesses should have a support present with them at the Hearing if they request it ?
- 118 It is suggested that a formal role of "observer" at a hearing could be developed. This would be to gain experience and would equally apply to HRPS, Trade Union reps and investigating officers. Attendees would be at the discretion of the Chair. What is your opinion of this idea?
It is suggested that a formal role of "assistant" at a hearing could be developed. This would be to assist an individual deal with large volumes of information in very complex cases. It would equally apply to Trade Union reps and investigating officers. Attendees would be at the discretion of the Chair. What is your opinion of this idea? *NB the Observer/assistant role could be combined*

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- 119 What is your opinion on the use of expert witnesses at hearings e.g. audit?
- 120 Do you consider there is sufficient guidance on the use of expert witnesses?
- 121 In the policy, there is a difference regarding the necessity to attend a hearing between witnesses for management and witnesses for the respondent. What is your opinion of this?
- 122 Do you consider there is sufficient guidance within the policy with regards to engagement with solicitors?
- 123 What issues have you experienced in relation to DH
- 124 "*New evidence coming to light*" is not currently a category for grounds of appeal. What is your opinion in adding in this additional category?
- 125 What has been your experience of the amount of supporting evidence submitted for grounds of appeal?
- 126 Do you consider the grounds for appeal are consistently and rigorously adhered to?
- 127 Do you think there should be an automatic right of appeal without the qualifying grounds?
- 128 In your opinion who do you think should decide on whether an appeal should proceed?
- 129 Do you think there should be any changes to the policy with regards to appeals?
- 130 What issues have you experienced in relation to appeal hearings?
- 131 In your opinion, do lessons learned from ET's get sufficiently feedback to (i) HRPS staff
(ii) Directorates
- 132 In your opinion, do lessons learned from ET's inform policy change?
- 133 What data reporting from ET's takes place?
- 134 What guidance do you have available in relation to ET's?
- 135 What training do you think is applicable in relation to ET's?
- 136 Do you think that ET's should be included in the Disciplinary policy?
- 137 What issues have you experienced in relation to ET?
- 138 Do you consider that you have sufficient feedback in relation to the outcome of investigations?
- 139 What is your opinion regarding the merit of setting up an Investigations team?
- 140 What are the most common issues experienced by you in relation to investigations?

APPENDIX 2

Questions for HRPS Mediators

1. Has the WLGA Internal workplace Mediation protocol been adopted?
2. Do you consider there to be sufficient guidance within the Grievance policy on the use of mediation?
3. Have you any experience of working with a Resolution policy?
4. Has one been previously considered for Cardiff?
5. How is the availability of a mediation service currently communicated to managers?
6. How many mediations have you been involved in during the last 12 months?
7. How many mediations have you been involved in since undergoing mediation training?
8. Who determines when and how mediation is used ?
9. Do you undertake mediations alone or in pairs?
10. Can you describe a situation you were involved in, where effective mediation prevented escalation to a grievance/disciplinary
11. What would you estimate is the percentage success rate?
12. Do you offer coaching & support to managers?
13. Have you been involved with mediation at different points in a disciplinary investigation process?
14. Have you been involved in mediation to repair relationships after formal process over?
15. Are there joint consultative arrangements with TU's regarding mediation currently in place?
16. Where do you record use of mediation?
17. Do you collect or report on data involving mediations?
18. How often are external mediators used?
19. Where is the data recorded?
20. How is mediation effectiveness evaluated?
21. What mediation training did you undertake?
22. What training do you think any additional mediators should have?
23. Do you consider the current training for managers on conflict resolution to be appropriate and/or sufficient?
24. Are you aware of any other appropriate training for managers?
25. Are you aware of a database list of mediators kept by the WLGA ?
26. Do you have a database of trained mediators from other Local Authorities?
27. What is your opinion of the merits of an increased mediation service?
28. Guidance suggests that there should be range of mediators in a Local Authority from areas in addition to HRPS. Where do you consider other mediators should come from specifically e.g. Directorates/ service areas / all Directorates service areas?
29. Where do you think such a service should sit HRPS/OH/ L& D?

APPENDIX 3

Questions for the Attendance & Wellbeing Team

1. What is your opinion of complex investigations being dealt with by an expert team?
2. What specifically do you feel is the role of the Attendance and Well Being team in relation to investigations?
3. What is your experience of the level of your involvement during an investigation?
4. What are the most common issues experienced by you in relation to investigations?
5. Have you been involved in contributing to current / past policy reviews?
6. Do you consider there is sufficient guidance available regarding sickness absence during investigations
7. If not, specify the policy or policies that require more guidance
8. Do you have any general comments about the current disciplinary policy (Sep 2014 version)
9. Do you feel there is anything specifically missing from the policy?
10. In your opinion are the timeframes for each stage in an investigation explicit in the policy and easily understood?
11. Should the timeframes differ when a person is on sickness absence?
12. Do you feel there is sufficient guidance within the policy regarding how to deal with delays?
13. Do you feel the use of flow charts in the policy would be helpful?
14. Which policies should be cross referenced with regards to sickness and disciplinarys?
15. Is there reporting on sickness absence and Investigations together?
16. Do you have any specific data?
17. Can you suggest any improvements to Digigov processes that would enhance data collection
18. Do you feel that standard letter when person on sickness absence during an investigation would be helpful?
19. Do you share information with the Investigating Officer regarding sickness absence?
20. Do you consider that you have sufficient feedback in relation to the outcome of investigations?
21. During an investigation, what advice do you give to
22. (i)employees on sickness absence (ii) your colleagues case managing the investigation (iii) the Investigating Officer (iv) Chair of DH?
23. Do you provide advice at the informal stage of an investigation
24. If yes, under what circumstances?
25. In your opinion, who do you feel should tell the person that they are under investigation?
26. What is your experience of the role of mediation at an informal stage in respect of prevention of escalation to investigations?
27. Can you give me examples of a circumstances of a case where the investigation has increased a pre-existing illness/ chronic condition
28. Can you give me examples of a circumstances of a case where the pre-existing illness/ chronic condition has hampered or restricted an investigation?
29. What suggestions can you make the improve this situation(s)
30. Where an employee is off sick and under investigation:-
31. Who do you think should take the lead Contact officer role?
32. What is your understanding of Occupational Health guidance in this circumstance?
33. What has been your experience of people reporting sick for hearings
34. Employee?Witnesses?
35. Do you feel there should be specific training in relation to management of sickness absence and investigations ?

APPENDIX 4

Questions for Occupational Health

1. Can you describe the current process following a referral to Occupational Health where the reason for the request is to determine fitness to continue with an investigation?
2. Who usually makes the referral?
3. Do you generally have sufficient detail at the point of referral?
4. If not what detail should you have
5. What issues, if any, do you have with the current process/what is currently happening?
6. The current version of the Disciplinary policy has a paragraph on sickness which says: The Council's aim is to proceed with all disciplinary matters with the minimum of delay. The disciplinary process may therefore continue during an employee's sickness absence, which will not preclude the Council from starting or completing the process, including the collection of statements, conducting interviews or hearings. This will be on an exceptional basis depending on the nature of the illness and the likely length of the absence. Occupational Health Service advice will be sought where appropriate. What is your opinion should anything be added or amended?
7. Is there a commonality of exceptions where you advise not to proceed with the investigation ?
8. Do you have requests to determine fitness at the hearing stage of an investigation?
9. Are there any issues related to requests at this stage?
10. The disciplinary policy Sep 2014 has a FAQ which states
What if an employee becomes absent due to sickness before the hearing can take place? *Depending on the circumstances, the disciplinary process may continue during an employee's sickness absence and advice from the Council's Occupational Health Service may be sought in these cases* What is your opinion should anything be added or amended?
11. The Attendance and Wellbeing policy does not make reference to investigations. Do you feel it should?
12. Do you have data in Occ Health on referrals made to determine fitness to continue with an investigation?
13. Do you have access to digigov?
14. Do you think we should record reason on digigov to link absence for work related stress specifically linked to an investigation?

APPENDIX 5

Questions to the Trade Unions

1. Do you have any general comments about the current disciplinary policy (Sep 2014 version)
2. What issues have you experienced in relation to the current policy?
3. What are the current main areas of disagreement in relation to the current version of the policy?
4. Do you feel there is anything specifically missing from the policy?
5. In your opinion are the timeframes for each stage in an investigation explicit in the policy and easily understood?
6. In your opinion what are the top three reasons for delays occurring during a disciplinary investigation?
7. What issues, have you experienced in relation to disciplinary rules as stated on p14?
8. Do you feel there is sufficient guidance within the policy regarding how to deal with Child protection/POVA situations?
9. Do you feel that FAQ's should sit within the policy or be located elsewhere e.g. in guidance documents or on website?
10. What is your opinion regarding the development of specific guidance documents e.g. for Investigating Officers?
11. To what degree do you consider there should be incorporation or any overlap with the schools disciplinary policy?
12. What issues do you have regarding people who go sick whilst under investigation
13. And who go sick and are suspended?
14. Can you suggest any improvements?
15. Do you feel there is sufficient guidance within the policy in relation to anonymity both with regards to witnesses and or where an allegation is anonymous?
16. Any other issues in relation to the policy?
17. What improvements do you feel could be made to resolve issues e.g. difficult staff behaviours during an informal stage to prevent acceleration to investigations?
18. How do you feel matters should be dealt with?
19. What is your experience of the role of mediation at an informal stage in respect of prevention of escalation to investigations?
20. Have you experience of using mediation being used at a later stage once the formal process has begun?
21. What training for managers are you aware of that you think would be relevant to deal with this informal stage?
22. What do you feel about the idea of a resolution policy?
23. Do you have any comments in relation to preliminary assessments prior to suspensions?
24. Any comments/issues in relation to the act of suspension
25. Have you experienced any issues in relation to employees on suspension who wishes to access information to prepare their defence?
26. Have you experienced any issues in relation to the person appointed as contact officer to the suspended employee?
27. What do you think is the role of the contact person when an employee is suspended
28. Any other issues/ experiences in relation to suspensions?
29. What is your opinion of tape recording in interviews?
30. In what ways could note taking in interviews be improved?
31. What is your opinion when individuals ask for friends to accompany them to interviews (When they are not members of a TU or work colleague not appropriate)?
32. Or if individuals fail to attend interviews?
33. Have you experienced any other issues in relation to investigation interviews?
34. What issues have you experienced in relation to Investigation reports?
35. Do you feel there is any area for improvement with regards to the current format of report?
36. Do you think that the employee and/ or their TU representative should be informed when Investigating Officer's report is sent to the Director/Head of service?
37. What is your opinion of the Director/Head of service meeting the Investigating Officer (once the report is completed) as a formal stage of the process?
38. What is your opinion of the Director/Head of service giving the employee a copy of the IO report at this stage?
39. What training do you think the Investigating Officer should have?

APPENDIX 5

40. What training do you think the Chair of Disciplinary Hearing should have?
41. The HRPS role is stated within the policy to *act as advisors to managers ensure procedures correctly applied, provide employees with information and advice, review and monitor disciplinary cases and outcomes, supporting service areas to undertake remedial action, review and collate monitoring data, reviewing application of policy.* It does not specify any role in relation to asking questions either in interviews or in hearings and appeals. What is your opinion?
42. In what ways could improvements to the relationship with HRPS be made?
43. Any other issues to do with roles?
44. What has been your experience of the role of audit in (i) investigations interviews (ii) hearings
45. What is your opinion of audit attending all hearings in relation to fraud/financial impropriety
46. Do you feel there is sufficient guidance and information in relation to involvement with police within the policy?
47. What issues have you experienced in relation to fraud/ financial impropriety cases or police involvement?
48. Do you consider that a guidance document for Chairs of Hearings would be useful?
49. What is your experience of variations in sanctions at Disciplinary Hearings?
50. Do you consider that a guidance document for Presenting officers on how to prepare a disciplinary pack for a hearing would be useful?
51. And on how to present a case at a hearing?
52. Do you feel it would be helpful to have a booklet for use by witnesses on "*What to expect in a Hearing*" ?
53. In the policy, there is a difference regarding the necessity to attend a hearing between witnesses for management and witnesses for the respondent. What is your opinion of this?
54. Do you feel that witnesses should have a support present with them at the Hearing if they request it ?
55. What issues have you experienced in relation to DH
56. It is suggested that a formal role of "observer" at a hearing could be developed. This would be to gain experience and would equally apply to HRPS, Trade Union reps and investigating officers. Attendees would be at the discretion of the Chair. What is your opinion of this idea?
57. It is suggested that a formal role of "assistant" at a hearing could be developed. This would be to assist an individual deal with large volumes of information in very complex cases. It would equally apply to Trade Union reps and investigating officers. Attendees would be at the discretion of the Chair. What is your opinion of this idea?
NB the Observer/assistant role could be combined
58. What is your opinion on the use of expert witnesses at hearings e.g. audit?
59. What is your opinion of the current appeals process?
60. "*New evidence coming to light*" is not currently a category for grounds of appeal under the corporate policy, but is in the schools guidance. What is your opinion in adding in this additional category?
61. Do you think there should be an automatic right of appeal (for those who request it) without the need to provide grounds?
62. Do you think there should be any changes to the policy with regards to appeals?
63. What issues have you experienced in relation to appeal hearings?
64. Do you wish to make any comments in relation to ET's?
65. Do you wish to make any comments in relation to schools investigations?
66. Do you think that Investigations should be kept within Directorates or undertaken independently?
67. What is your opinion regarding the merit of setting up an Investigations team?
68. What is your opinion of investigations that take place where a person is suspended being dealt with by an investigations team?

APPENDIX 6

Questions for Internal Audit

1. What exactly were the issues the Audit committee raised?
2. In what ways do you feel consistency of sanctions could be improved?
3. Do you have any general comments about the current disciplinary policy (Sep 2014 version)
4. What issues if any, have you experienced in relation to the policy?
5. In your opinion are the timeframes for each stage in an investigation explicit in the policy and easily understood?
6. Do you feel there is sufficient guidance within the policy regarding how to deal with delays?
7. What is your opinion regarding the development of specific guidance documents e.g. for Investigating Officers?
8. Who do you feel should be responsible for monitoring and reporting the progress of investigation?
9. Do you feel it would be helpful to have guidance on securing property/IT account on an individual who has been suspended?
10. What is your opinion of tape recording in interviews?
11. In what ways could note taking in interviews be improved?
12. What issues have you experienced in relation to investigation interviews?
13. Who do you feel is setting standard for Investigating Officer's reports?
14. In your opinion do you feel that the HRPS caseworker should see all Investigating Officer's reports prior to it being sent to the Director/Head of service?
15. Have you experienced issues in relation to Investigation reports?
16. What do you feel is the role of audit in (i) investigations interviews (ii) hearings
17. What is your opinion on audit in a role of expert witness in a hearing?
18. What is your opinion regarding the development of a Specialist team that deals only with Investigations?
19. Do you feel there is sufficient guidance and information in relation to involvement with police within the policy?
20. What is your experience of running parallel investigations?
21. Do you feel there is sufficient advice regarding referral to the police panel in the policy?
22. Who do you think should be updating legal/audit in relation to police involvement during an investigation?
23. What issues, if any, do you experience in relation to Schools
24. What issues, if any, do you experience in relation to ET's
25. Do you receive data on investigations?
26. What training could be provided to improve management of fraud /financial impropriety case?
27. Any other issues that audit have?

APPENDIX 7

Questions for Hearing Chairs

1. Do you think that Investigations should be kept within Directorates or undertaken independently?
2. What is your opinion regarding the merit of setting up an independent Investigations team, to deal with cases of potential gross misconduct?
3. Do you feel that Directorates would pay for such an Investigation service?
4. What training do you think the Investigating Officer should have?
5. What training do you think the Disciplinary Hearing Chair should have?
6. Do you have any general comments about the current disciplinary policy ? (Sep 2014 version)
7. Is there anything in the policy that you would prefer to see elsewhere?
8. Do you feel there is anything specifically missing from the policy?
9. Have you experienced any issues in relation to disciplinary rules as stated on page 14 of the policy?
10. Do you have any issues with regards to the Disciplinary Investigation process on Digigov.?
11. Do you have any issues with regards to any of the standard letters in Digigov e.g. wording?
12. What changes, if any, do you think should be made to the Disciplinary application on Digigov?
13. What is your opinion of the quality of Investigating Officer's reports?
14. Do you feel there is any area for improvement with regards to the current format of report?
15. Do you feel that Disciplinary Investigations should be monitored and reported at senior management level within Directorates (e.g.similar to sickness absence reporting)?
16. In your experience, do you feel that there have been opportunities for early resolution in any case that you have dealt with, that would have prevented acceleration to an investigation/hearing?
17. Have you come across situations where mediation has been tried after the investigation has commenced?
18. Have you ever recommended the use of mediation after the Hearing has concluded to return the employee to the workplace?
19. In your experience do you consider that suspensions are appropriately reviewed during investigations?
20. Have you come across situations where you considered that the suspension of the employee was not justified?
21. Have you come across situations where you considered that the length of time for suspension of the employee was not appropriate?
22. Have you had experience of significant delays occurring during the arranging of a disciplinary Hearing?
23. Do you consider that a guidance document for Chairs of Hearings would be useful?
24. Do you feel that a standard script and/or procedure sheet for Chairs (similar in style to one used in POVA meetings for example) would be useful?
25. What is your opinion of the 10 key questions for Chairs as defined on
26. p 42 in the policy?
27. Do you feel they could be improved, if so how?
28. Do you use a template with the 10 key questions on to evidence decision making?
29. When being advised by HR at the hearing, do you have access to information detailing allegations/sanctions at previous hearings?
30. It has been suggested that there are variations in sanctions at Disciplinary Hearings. What is your opinion of this?
31. Do you consider that a guidance document for Presenting officers on how to prepare a disciplinary pack for a hearing would be useful?
32. Do you consider that a guidance document for Presenting officers on how to present a case at a hearing would be useful?
33. Have you experienced any issues regarding behaviour/conduct of individuals during the hearing? If yes, please describe
34. The HRPS role is stated within the policy "*to act as advisors to managers,*
35. *ensure procedures correctly applied, provide employees with information and advice, review and monitor disciplinary cases and outcomes supporting service areas to undertake remedial action , review and collate monitoring data, reviewing application of policy*". It does not specify any role in relation to asking questions either in interviews or in hearings and appeals. What is your opinion?
36. Do you feel it would be helpful to have a leaflet for use by witnesses on "What to expect in a Hearing" ?

APPENDIX 7

37. Do you feel that management witnesses should have a support present with them at the Hearing if they request it ?
38. In the policy (FAQ 37 pp 69/70), there is a difference regarding the necessity to attend a hearing between witnesses for management and witnesses for the respondent. What is your opinion of this?
39. What has been your experience of the role of audit in hearings?
40. It has been suggested that Audit attend all Hearings where the case is one of fraud /financial impropriety. What is your opinion of this?
41. It is suggested that the role of an expert witness be developed. The expert witness could be called to the Hearing by the Chair, to provide information or clarification in connection with matters relating to their professional expertise e.g. Audit/ Health & Safety etc. What is your opinion of this?
42. It is suggested that a formal role of "observer" at a hearing could be developed. This would be for an individual to gain experience and would equally apply to HRPS, Trade Union reps and investigating officers. Attendees would be by prior agreement of the Chair and require the consent of the employee. The observer would not be able to speak in the hearing and would be bound by confidentiality. What is your opinion of this idea?
43. It is suggested that a formal role of "assistant" at a hearing could be developed. This would be to assist an individual deal with large volumes of information in very complex cases. It would equally apply to Trade Union reps and investigating officers. Attendees would be by prior agreement of the Chair and require the consent of the employee. The assistant would not be able to speak in the hearing and would be bound by confidentiality. What is your opinion of this idea?
44. NB the Observer/assistant role could be combined and could work alongside one Trade union rep rather than two
45. Have you experienced any other issues in relation to disciplinary Hearings?
46. "New evidence coming to light " is not currently a category for grounds of appeal in the corporate policy but is in the Schools Disciplinary policy. What is your opinion in adding in this additional category?
47. What has been your experience of the amount of supporting evidence submitted for grounds of appeal?
48. Do you consider the grounds for appeal are consistently and rigorously adhered to?
49. Do you think there should be an automatic right of appeal without the qualifying grounds?
50. In your opinion who do you think should decide on whether an appeal should proceed?
51. Do you think there should be any changes to the policy with regards to appeals?
52. Have you experienced any other issues in relation to appeal hearings?

APPENDIX 8

Questions for Investigating Officers (Non -Schools)

1. What are the biggest issues for you when undertaking Investigations?
2. Do you think that Investigations should be kept within Directorates or undertaken independently?
3. What is your opinion regarding the merit of setting up an independent Investigations team, to deal with cases of potential gross misconduct?
4. Do you feel that Directorates would pay for such an Investigation service?
5. Did you receive help/guidance from another member of staff with the Investigation?
6. What were the main areas you received help/guidance with?
7. What is your opinion regarding the development of specific guidance documents for Investigating Officers?
8. Did you receive any training in the role of Investigating Officer/ how to conduct a Disciplinary Investigation?
9. What training do you think the Investigating Officer should have? (Options offered)
10. Do you have any general comments about the current disciplinary policy ? (Sep 2014 version)
11. How easy was it to use?
12. Do you think the addition of a glossary of terms e.g. “stockpiling” would be helpful?
13. What issues, if any, have you experienced in relation to disciplinary rules as stated on page 14 of the policy?
14. Do you feel that FAQ's should sit within the policy or be located elsewhere e.g. in guidance documents or on the website?
15. Do you feel there is anything specifically missing from the policy?
16. In your experience, do you feel that there have been opportunities for early resolution in any case that you have dealt with, that would have prevented acceleration to an investigation/hearing?
17. Have you come across situations where mediation has been tried after the investigation has commenced?
18. Have you undertaken an investigation where the person was suspended from duty?
19. In your experience do you consider that suspensions are appropriately reviewed during investigations?
20. Have you come across situations where you considered that the suspension of the employee was not justified?
21. Have you come across situations where you considered that the length of time for suspension of the employee was not appropriate?
22. Have you ever experienced significant delays to an investigation? If so what were the causes?
23. Have you experienced the person you were investigating going on sickness absence during the investigation?
24. If yes, did you receive sufficient help /guidance in relation to sickness absence?
25. What is your opinion of tape recording in interviews?
26. What experience have you had of interview notes not being agreed?
27. In what ways could note taking in interviews be improved?
28. What other issues, if any, did you experience in relation to the interviews?
29. What problems or difficulties, if any, have you experienced using the current format of Disciplinary Investigation report 4.C. 432?

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30. Do you have any issues with regards to the Disciplinary Investigation process on Digigov.?
31. Do you have any issues with regards to any of the standard letters in Digigov e.g. wording?
32. What changes, if any, do you think should be made to the Disciplinary application on Digigov?
33. Following submission of your Investigation report to the Head of service/Director, have you ever experienced significant delays before a decision has been made?
34. Do you consider that a guidance document for Presenting officers on how to prepare a disciplinary pack for a hearing would be useful?
35. Do you consider that a guidance document for Presenting officers on how to present a case at a hearing would be useful?
36. Do you feel it would be helpful to have a leaflet/booklet for use by witnesses on "What to expect in a Hearing" ?
37. Do you feel that management witnesses should have a support present with them at the Hearing if they request it ?
38. In the policy (FAQ 37 pp 69/70), there is a difference regarding the necessity to attend a hearing between witnesses for management and witnesses for the respondent. What is your opinion of this?
39. It is suggested that a formal role of "observer" at a hearing could be developed. This would be for an individual to gain experience and would equally apply to HRPS, Trade Union reps and investigating officers. Attendees would be by prior agreement of the Chair and require the consent of the employee. The observer would not be able to speak in the hearing and would be bound by confidentiality. What is your opinion of this idea?
40. It is suggested that a formal role of "assistant" at a hearing could be developed. This would be to assist an individual deal with large volumes of information in very complex cases. It would equally apply to Trade Union reps and investigating officers. Attendees would be by prior agreement of the Chair and require the consent of the employee. The assistant would not be able to speak in the hearing and would be bound by confidentiality. What is your opinion of this idea?
NB the Observer/assistant role could be combined and could work alongside one Trade union rep rather than two
41. Have you experienced any other issues in relation to Disciplinary Hearings?
42. What has been your experience of the role of audit in Fraud/Financial Impropriety cases
43. Do you feel there is sufficient guidance and information in relation to involvement with police e.g. running parallel criminal/ civil investigations within the policy?
44. What issues have you experienced in relation to fraud/ financial impropriety cases or police involvement?

APPENDIX 9

Questions for Investigating Officers (Schools)

1. Do you have any general comments about the current schools disciplinary policy ? (1.CM.035-Sch May 2014 version)
2. Have you seen/ used this version of the policy?
3. Were you involved in the consultation of this policy?
4. Has your school formally adopted this version of the policy?
5. Do you feel that the addition of FAQ's would be helpful?
6. Do you feel there is anything specifically missing from the policy?
7. In your experience, do you feel that there have been opportunities for early resolution in any case that you have dealt with, that would have prevented acceleration to an investigation/hearing?
8. Have you used a mediator from HR to resolve any issues at the informal stage?
9. Have you used an external mediation service e.g. ACAS?
10. Would you welcome the opportunity of more options for early resolution?
11. What are the biggest issues for you when undertaking Investigations?
12. Do you think that Investigations should be kept internally within school or undertaken independently?
13. What is your opinion regarding the merit of setting up an independent Investigations team, to deal with, for example, cases of potential gross misconduct or complex cases?
14. Do you feel that schools would pay for such an Investigation service?
15. Have you undertaken an investigation where the person was suspended from duty?
16. In your experience do you consider that suspensions are appropriately reviewed during investigations?
17. Have you come across situations where you considered that the suspension of the employee was not justified?
18. Have you come across situations where you considered that the length of time for suspension of the employee was not appropriate?
19. Have you ever experienced significant delays to an investigation? If so what were the causes?
20. Have you experienced the person you were investigating going on sickness absence during the investigation?
21. If yes, did you receive sufficient help /guidance in relation to sickness absence?
22. Were two HR officers involved- one managing the sickness absence and one managing the disciplinary investigation?
23. What is your opinion of tape recording in interviews?
24. What experience have you had of interview notes not being agreed?
25. In what ways could note taking in interviews be improved?
26. What other issues, if any, did you experience in relation to the interviews?
27. Do you use the current format of Disciplinary Investigation report 4.C. 432?
28. Have you had any experience of using the Disciplinary Investigation process on Digigov.?
29. Do you have any issues with regards to using the Disciplinary Investigation process on Digigov.?
30. Did you receive help/guidance from another member of staff with the Investigation?
31. What were the main areas you received help/guidance with?

APPENDIX 9

32. What is your opinion regarding the development of specific guidance documents for Investigating Officers?
33. Did you receive any training in the role of Investigating Officer/ how to conduct a Disciplinary Investigation?
34. What training do you think the Investigating Officer should have?
35. Have you had experience of presenting at a governing body's staff disciplinary and dismissal committee?
36. Did you experience any issues whilst presenting at a governing body's staff disciplinary and dismissal committee?
37. Do you consider that a guidance document for Presenting officers on how to prepare a disciplinary pack for a hearing would be useful?
38. Do you consider that a guidance document for Presenting officers on how to present a case at a hearing would be useful?
39. Do you feel it would be helpful to have a leaflet/booklet for use by witnesses on "*What to expect in a Hearing*" ?
40. It is suggested that a formal role of "observer" at a hearing could be developed. This would be for an individual to gain experience and would equally apply to HRPS, Trade Union reps and investigating officers. Attendees would be by prior agreement of the Chair of the Committee and require the consent of the employee. The observer would not be able to speak in the hearing and would be bound by confidentiality. What is your opinion of this idea?
41. It is suggested that a formal role of "assistant" at a hearing could be developed. This would be to assist an individual deal with large volumes of information in very complex cases. It would equally apply to Trade Union reps and investigating officers. Attendees would be by prior agreement of the Chair of the Committee and require the consent of the employee. The assistant would not be able to speak in the hearing and would be bound by confidentiality. What is your opinion of this idea? NB the Observer/assistant role could be combined and could work alongside one Trade union rep rather than two
42. Have you had any experience of the role of audit in Fraud/Financial Impropriety cases?
43. Do you feel there is sufficient guidance and information in relation to involvement with police e.g. running parallel criminal/ civil investigations within the policy?
44. What issues, if any, have you experienced in relation to fraud/ financial impropriety cases or police involvement?
45. Do you have any other comments about Investigations?

APPENDIX 10

Questions for Trade Unions (Schools)

1. Who is responsible for maintaining the standards and criteria of a sound investigation?
2. What do you believe are those standards?
3. During an investigation what do you consider are the essential areas of contact with HRPS?
4. Do you have any general comments about the current disciplinary policy ?
5. Do you have any issues regarding the clarity of which policy has been adopted by an individual school?
6. In your opinion are the timeframes for each stage in an investigation explicit in the policy and adhered to?
7. In your opinion what are the top three reasons for delays occurring during a disciplinary investigation?
8. What is your opinion regarding the development of specific guidance documents e.g. for Investigating Officers?
9. What issues do you have regarding people who go sick whilst under investigation
10. And who go sick and are suspended?
11. Can you suggest any improvements?
12. Any other issues in relation to the policy/procedure?
13. What improvements do you feel could be made to resolve issues e.g. difficult staff behaviours during an informal stage to prevent acceleration to investigations?
14. How do you feel matters should be dealt with?
15. What is your experience of the role of mediation at an informal stage in respect of prevention of escalation to investigations?
16. Have you experience of using mediation being used at a later stage once the formal process has begun? Or after a hearing?
17. What training are you aware of that you think would be relevant to deal with this informal stage?
18. Have you come across the sue of a resolution policy in other authorities?
19. Do you have any comments in relation to preliminary assessments prior to suspensions?
20. Any comments/issues in relation to the act of suspension
21. Have you experienced any issues in relation to employees on suspension who wishes to access information to prepare their defence?
22. What Is you opinion regarding the use of a contact officer to the suspended employee?
23. Any other issues/ experiences in relation to suspensions?
24. What is your opinion of tape recording in interviews?
25. In what ways could note taking in interviews be improved?
26. What is your opinion when individuals ask for friends to accompany them to interviews (When they are not members of a TU or work colleague not appropriate)?
27. Or if individuals fail to attend interviews?
28. Have you experienced any other issues in relation to investigation interviews?
29. What issues have you experienced in relation to Investigation reports?
30. Do you feel there is any area for improvement with regards to the current format of report?
31. What training do you think the Investigating Officer should have?

APPENDIX 10

32. The HRPS role is stated within the policy to *act as advisors to managers, ensure procedures correctly applied, provide employees with information and advice, review and monitor disciplinary cases and outcomes supporting service areas to undertake remedial action, review and collate monitoring data reviewing application of policy.* It does not specify any role in relation to asking questions either in interviews or in hearings and appeals. What is your opinion?
33. How would you describe the relationship with HRPS?
34. Any other issues to do with roles?
35. What has been your experience of the role of audit in investigations relating to Fraud /Financial Impropriety
36. Do you feel there is sufficient guidance and information in relation to involvement with police ?
37. What issues have you experienced in relation to fraud/ financial impropriety cases or police involvement?
38. What is your experience of the quality of the Chairing at the staff disciplinary and dismissal committees?
39. Have there been any issues regarding the engagement of Committee members in the process?
40. Have there been any issues regarding the appropriate knowledge of Committee members in the process?
41. What is your experience of variations in sanctions at Disciplinary Hearings?
42. Have there been any issues relating to the Clerking at staff disciplinary and dismissal committees?
43. What training do you think the staff disciplinary and dismissal committee should have?
44. Do you consider that a guidance document for staff disciplinary and dismissal committee would be useful?
45. Do you feel it would be helpful to have a booklet for use by witnesses on "*What to expect in a Hearing*" ?
46. What is your opinion on the use of expert witnesses at hearings e.g. audit?
47. What is your opinion of the current appeals process?
48. Do you think there should be any changes with regards to appeals?
49. What issues have you experienced in relation to appeal hearings?
50. Do you wish to make any comments in relation to ET's?
51. Do you think that non Child protection Investigations should be undertaken independently?
52. What is your opinion regarding the merit of setting up an Investigations team?
53. Are you aware of any policy or process changes that works well in other Local Authorities ?

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The City of Cardiff Council Disciplinary Procedure:

An Investigating Officer's Guide DRAFT

2015

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How to use this guidance

1. This guidance is designed to give you an overview to the Disciplinary Procedure.
2. It should be read in conjunction with the Council's Disciplinary policy 1.CM.035.
3. References to other policies or documents which will provide additional help and guidance can be found on page 35.
4. It is recommended that this guidance is read in conjunction with undertaking other forms of learning e.g. E-Learning, mentorship.
5. Details of training courses: refer to Cardiff Council Academy & Union Learning <http://studentsv3.coursesforyou.com/unionlearningpartnership> .

1. Conducting the Investigation

1. Your Responsibilities

1. Familiarise yourself with the Council's Disciplinary Policy 1.CM.035 and related procedural guidance.
2. As an Investigating Officer your role is to establish the facts concerning the alleged misconduct. You will conduct an investigation that includes:
 - a) Interviewing and obtaining statements from the employee(s) against whom the allegation(s) of misconduct has/ have been levelled and other relevant people.
 - b) Obtaining any other relevant documentary evidence.
 - c) Preparing a comprehensive report that contains all the factual information, relevant documents, and interview records/statements. The report will contain an evaluation of the facts and make recommendations as appropriate, which will include whether or not the matter should proceed to a Disciplinary Hearing.
 - d) Presenting the Management case if the matter proceeds to a Disciplinary Hearing.
3. To conduct the investigation in a timely manner, within the recommended timescales. The progress of the investigation should be regularly reviewed, advising of the reasons for any potential delays.
4. Attend any relevant corporate skills course (s) relating to the Disciplinary policy & investigations, ensuring your knowledge and skills are updated.

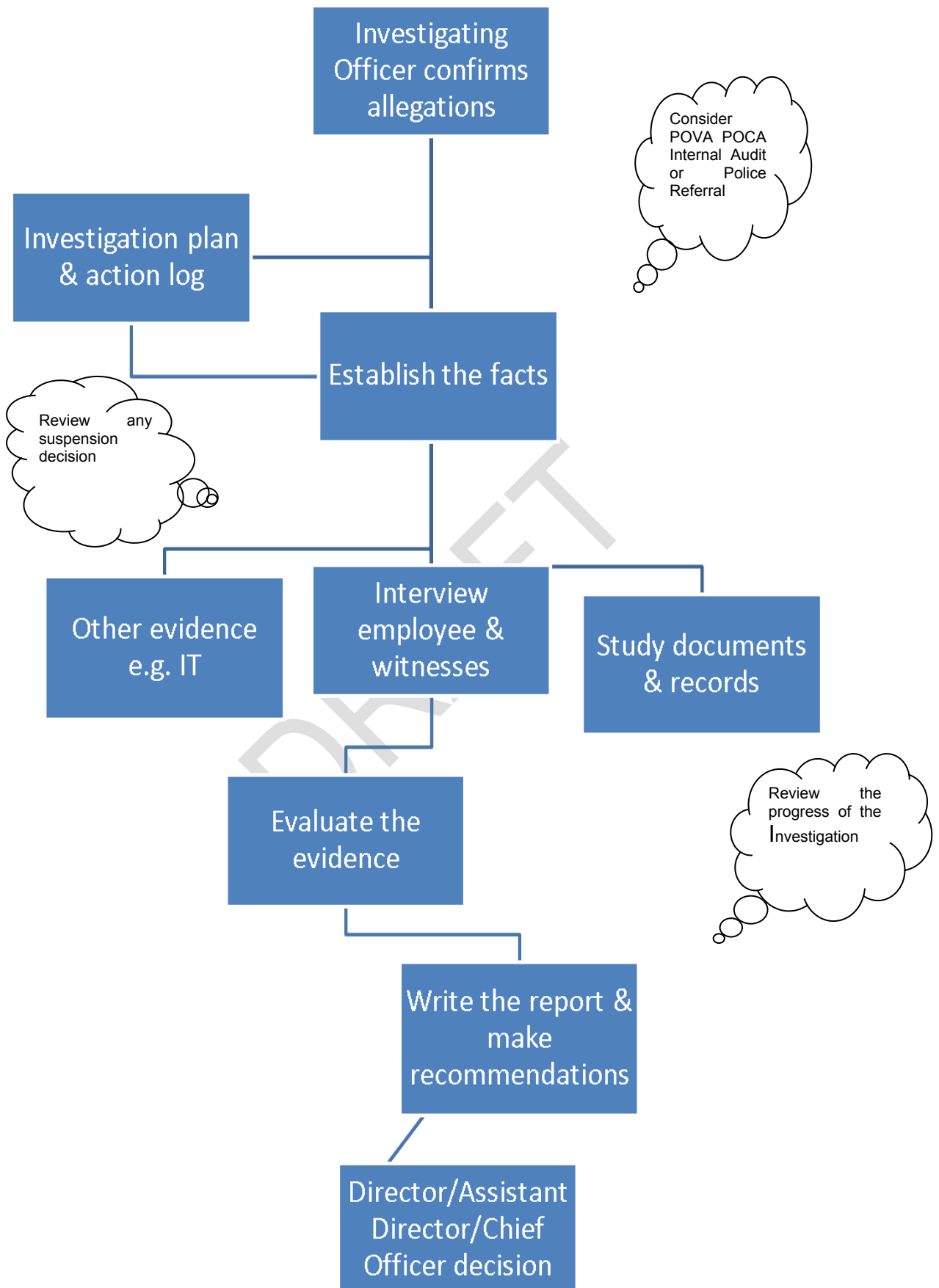
2. Your Judgment

Throughout your Investigation you will need to be:

- a) As objective and impartial as possible, keeping an open mind and not pre-judging the situation or making snap decisions.
- b) Fair, acting in the spirit of natural justice, looking for evidence which supports the employee's case as well as evidence against, and considering whether there are mitigating circumstances.
- c) Thorough and methodical, keeping accurate records and entering information onto Digigov (*refer to How to use Digigov- Disciplinary*).
- d) Maintaining confidentiality at all times and ensuring that the employee and witnesses are aware of their responsibilities to maintain confidentiality .
- e) Achieving proportionality – an Investigating Officer only has to do as much investigation as is reasonable. Exhaustive detail is only required if the investigation is particularly complex.
- f) Balancing the need to gather information with the right for the employee to be treated fairly and reasonably.
- g) Regularly reviewing the appropriateness of the decision to suspend an employee, where applicable. This should be done in conjunction with the manager who made the preliminary assessment for suspension.

HR People Services Role is to:

- a) Assist you to carry out the Investigation and prepare the management case, by attending all formal meetings.
- b) Be available at all stages in the process to advise you on policy and procedure.
- c) Advise you on the preparation of all letters in connection with disciplinary matters (refer to Additional Guidance & Support: Standard Letters).



3. Planning and Preparing for the Investigation

1. Clarify the allegation(s), as more information may have come to light since they were first formulated. This is so you know exactly what you are trying to establish, and which part of the Disciplinary rules may have been breached. Your HR People Services allocated caseworker can advise you on this matter.
2. If the allegation is in relation to Fraud /Financial Impropriety, a referral to **Internal Audit** should already have been made by the Manager. Make contact with the Group Auditor (Investigations) to discuss matters, and commence joint planning of the Investigation.
3. If the issue is in relation to a potential criminal matter and there has been a referral to the **Police**, then you should make contact with them to advise that an internal Investigation is proceeding.
4. The Council's own investigations and disciplinary procedures should continue concurrently where possible with any ensuing police investigation. It is for the Council to determine disciplinary action for an employee, and for the police and courts to determine legal action. Where no legal action is pursued by the police, it will still be necessary for you to undertake an internal workplace investigation.
5. The Police may ask you to delay or defer the internal investigation, pending the completion of their criminal investigation. The Council's action is not determined or bound by any police or court decision. Contact the Council's Legal service for advice where there is a possibility that disciplinary investigations may impede the police investigation.
6. If during the course of your Investigation any issue comes to light in relation to **Protection of Vulnerable Adults (POVA)**, contact the POVA team for guidance. If the issue is in relation to **Protection of Children**, contact the Childrens Access Point for guidance.
7. Develop an Investigation action plan to help you set out how you will:
 - a) Obtain the required information and documents.
 - b) Define the order in which the interviews will be conducted.

- c) Identify the witnesses (and/ or members of the general public) that may need to be interviewed.
 - d) Decide the questions you need to ask and the areas to cover.
 - e) Identify and secure the resources necessary to support the investigation, e.g. who will take notes of the interviews, etc.
 - f) Visit a location that may be useful.
 - g) Establish a timeline for completion of various stages of the investigation.
8. Set up a **4 weekly prompt to review** the progress of the investigation (and where appropriate a suspension decision), updating the Chief Officer/ Director/ Assistant Director, and employee under investigation accordingly.
9. Keep a log during the investigation of meeting times & dates, verification of notes and any other relevant activities. A log is available in Digigov, if preferred.
10. It is essential that you maintain confidentiality at all stages of the disciplinary process, by ensuring that only those people who need to know have access to details of the case. You should only discuss the case with your direct line manager and/ or the allocated HR People Services caseworker.

2. Establishing the Facts

1. Securing Evidence

1. It is vital to secure any records and documents that potentially form part of evidence at an early stage.
2. Check with the employee's line manager to see if any evidence was secured prior to your appointment as Investigating Officer. Do not conduct a search of desks /cupboards without inviting the employee and their companion to be present. If that is not practical, then the manager, (or your allocated HR People Services caseworker) should be present to witness the search. It is advisable to make an inventory/list of items you see during your search.
3. If the search reveals a possible criminal offence, then the desk/cupboard should be made secure until the police have been informed and given the opportunity to view it.
4. If a council owned IT asset potentially holds some information that may aid an investigation, then you should make contact with the IT department for guidance and help.
5. If you decide that a period of monitoring the employee under investigation is required, (e.g. covert surveillance), you must read the Codes of Guidance on the Use and Conduct of Covert Surveillance on the intranet, and contact Internal Audit (OM Audit and Risk Management) for advice.

2. Getting Background Information

1. Use the manager's preliminary assessment as a basis for your background information and /or cross reference it in your report.
2. Information of the employee's service history (length of service, job description) will be available in Digigov.
3. The employee's line manager will be able to provide information on the team /service area structure, supervision records, and the employee's knowledge, skills and experience in their job.
4. The employee's training records should be obtainable through the Council Academy or their line manager.

5. Contact the allocated HR People Services caseworker to obtain details of the employee's sickness record with the Council. Obtain details of any current warnings on the employee's disciplinary record. Expired warnings should only be referenced for contextual reasons, and where they are relevant to the current allegations.
6. You must make a detailed and thorough examination and consideration of any relevant Council policies, procedures, work instructions, job descriptions, structure charts, codes of practice, work performance standards or other documents relating to the matter(s) being investigated.
7. List and number all your items of documentary evidence on a spreadsheet, as you proceed with the investigation, as it will help you later on when you are writing the report.

3. Preparing to Interview

1. It is best to try and interview people as early as possible, to gather information before memories fade, including anything the employee concerned has to say.
2. You will need to interview and obtain statements from:-
 - a) The employee and/ or the individual or the general public who made the allegation(s).
 - b) Any known witnesses to the alleged act(s) of misconduct.
 - c) Other individuals where there is a reasonable belief that, although they may not have actually witnessed the act(s) of misconduct complained of, they may nevertheless be able to provide additional, helpful information to the investigation.
3. You should consider whether it is appropriate to interview the line manager and/ or supervisor, of the employee being investigated.
4. Other potential interviewees may come to light during the course of interviewing. You will need to decide on the relevance of interviewing those people, whilst balancing proportionality to the allegation and the need to undertake a reasonable level of investigation.

4. Choosing the Venue for the Interview

1. Select a meeting room that is private, free from interruptions and neutral i.e. preferably away from the employee's place of work, to maintain confidentiality.
2. Meetings rooms at a number of Council venues can be booked on the intranet through the online council booking system. There is no charge for rooms booked through this online system. There will be a charge to the Directorate for rooms booked at City Hall or the Committee Rooms/Council Chamber at County Hall. Meeting rooms for interviews (and especially Hearings) need to be booked well in advance. Your allocated HR People services caseworker, may have experience of using other suitable venues.
3. Consider whether reasonable adjustments should be made to the meeting venue or process, to prevent a disabled employee from being put at a disadvantage. You may also need to make special provisions for any witness whose first language is not English, or who have disabilities or learning difficulties.

5. Planning the Order of Interviews

1. There is no right or wrong order to the interviews, and it is for you as Investigating Officer to decide. These are some advantages and disadvantages:
 - a) Interviewing the employee under investigation first may be advantageous, if you are aware that they may admit to the alleged misconduct, or help you establish any disputed facts.
 - b) However, if this is unlikely, then it would be advantageous to plan to interview other staff members /witnesses first. That way you may learn things that you need to discuss with the employee under investigation, which otherwise would require a second interview.
 - c) Try to plan the order of interviews so that each witness is interviewed only once, although repeat interviews are sometimes unavoidable.
 - d) The employee under investigation, should be given the opportunity to suggest further witnesses they would like you to consider interviewing.

6. Prior to the Interview

1. Having decided on the order of interviews, make contact with all the relevant parties to establish mutually convenient interview dates. These will include:-
 - a) The employee under investigation.
 - b) Witnesses.
 - c) Your allocated HRPS caseworker.
 - d) The employee's line manager (if applicable).
 - e) Internal Audit: Group Auditor (Investigations) (Fraud/Financial Impropriety cases only).
2. The employee under investigation may choose to bring a companion with them. A companion is defined as an employee of the Council, a trade union representative or an official employed by a trade union. As long as their choice is from this list it should be agreed, unless the companion is someone who may be a witness and interviewed independently as part of your investigation. The employee should advise you the name of their chosen companion, and whether they are a fellow worker or a Trade union representative. It is the employee's responsibility to liaise with their companion regarding the date for interview, so ensure that you have advised them of this to prevent any delay. An employee may choose to alter their choice of companion if they wish.
3. Allow a notice period for the interview of **7 calendar days** for the employee under investigation, to ensure that they have sufficient time to prepare for the meeting. If the employee's companion is not available to meet, and cannot supply an alternative date within **7 calendar days** of the original meeting date, you can request that the employee makes alternative choice of companion in order not to prolong the process.
4. You must inform the employee under investigation in writing what is the purpose of the interview, the general nature of the allegations concerned, possible outcomes and their right of representation. There is a standard letter format "**Employee under Investigation – Letter to Attend Investigatory Interview**" available for this purpose. Your allocated HRPS caseworker can advise on wording within a letter, if required.
5. You must ensure that the employee receives a copy of the Council's Disciplinary Policy 1.CM.035 with the letter to attend investigatory interview. Check that they already have a copy of the *Disciplinary Procedure: Guidance for Employees*.
6. Ensure that a copy of the *Disciplinary Procedure: Guidance for Witnesses* is provided to any witness, in advance of the interview. There is a standard letter format "**Invite Witness to Attend Investigatory Interview**" available.

7. You will also need to arrange for a minute taker to be present, to keep detailed records of what is said during interviews. Minute takers would usually be from within your Service Area, they should be able to take accurate minutes of the meeting, and must maintain confidentiality at all times.
8. Establish a list of core questions to cover the main facts that you wish to ascertain. It is likely that you will also ask supplementary questions on points of clarification.

Arranging to record an Interview

1. There may be occasions when you would like to tape record an interview, **or** you have received a request from the employee under investigation, or a witness, to arrange a tape recording.
2. There are advantages to having an interview recorded, as the information captured will be more accurate, and less likely to cause disputes later on. It also negates the need for a note taker to be present at the interview, although a transcript copy would need to be made after the interview.
3. You must respect the employee's rights if they refuse to give their consent. A recording of an individual at work made without that employee's knowledge and consent may constitute a breach of their right to privacy under Article 8 of the Human Rights Act 1998. Although the right to respect privacy is a qualified right, rather than an absolute one, it is unlikely that tape recording a meeting without the employee's consent could be justified as an appropriate and necessary means of achieving a legitimate aim.
4. Firstly, obtain initial verbal consent from all parties. Liaise with your allocated HR People services caseworker, who will provide you with the necessary information, advice and equipment for the tape recording to take place.
5. Matters must proceed in accordance with the Procedure for Recording an Investigatory Interview as there are **strict guidelines to be followed** with regards to the handling of personal data.
6. You must seek the written consent of the employee and their companion to the recording, on the day of the interview and before the meeting begins (**Appendix 1**). Ensure that they have a copy of the procedure, and confirm that they have read and understood it.
7. Two simultaneous recordings of the interview will take place, with one copy sealed and retained as a master copy. The second copy is used for transcription purposes.
8. All data should be handled, stored and destroyed in accordance with the procedural guidance.

7. The Interview

You may like to use a checklist during the interview to cover all the following points (Appendix 2).

At the beginning of the interview you should:

1. Introduce all parties present, explaining their role and purpose.
2. Clarify the role of the Companion (if present) and confirm that the employee is happy to proceed if they do not have one.
3. Confirm with all parties present that confidentiality is essential.
4. Explain the purpose (fact finding) and format of the interview.
5. Advise the interviewees that a record of the interview will be taken, and that a copy of the record will be provided. The interview notes do not need to be a verbatim record but contain sufficient detail to be useful to the investigation. A template for the interview record can be found in **Appendix 3**.
6. You will be asking them to check it for accuracy, and agree and sign that record. If a particular aspect of the note cannot be agreed, then the differing views/versions should be recorded into the note.
7. Advise the interviewees that records will be treated in confidence; however, information of a personal nature is subject to the Data Protection Act. Access to personal data can be granted under the provisions of the Act and requests must be handled in accordance with the Council's Data Protection Act Policy and Procedure.
8. Advise all those witnesses who are interviewed that they may be required to attend a disciplinary hearing to give evidence and that the notes of the interview and/ or any written statements they provide may also feature at a future disciplinary hearing.
9. Advise witnesses that information provided would be subject to disclosure if the individual(s) named within the statement or allegations submit a request for such information.
10. Where a witness is providing details of allegations about more than one person, you must record statements on a case by case basis against each individual and not recorded as one record. This is because the notes would be subject to disclosure if the individual(s) named within the statement or allegations submit a request for such information. **N.B. Recording statements on a case by case basis can take place during one interview.**

11. Inform the interviewee that there may be a need to re-interview them should further information come to light.

8. Questioning

1. An investigatory interview is not a disciplinary hearing and must not be converted into one.
2. Think about the allegations that have been made and what facts you need to gather.
3. The questions you formulate should reflect what you have encountered as a result of previous interviews, and a review of relevant documentation.
4. Your allocated HR People Services officer can help you with this, if required.

9. Your Approach

1. During the interview you should:
 - a) Not be accusatory.
 - b) Not ask leading questions (Questions that attempt to guide the interviewee's answer).
 - c) Challenge, but in a non- adversarial manner.
 - d) Query and probe in order to clarify and obtain full and accurate information.
 - e) Separate fact from opinion.
 - f) Separate direct observation from third part information e.g. "*I heard that..*" as opposed to "*Bill told me that he heard*"
 - g) Be sensitive and responsive, so that if questions do not produce disclosure, ease the pace of questioning.
 - h) Keep an open mind.

10. Types of Questions useful in Investigations

1. **Open questions** (Questions that don't have a yes/no answer) enable the interviewee to elaborate on their experience. They can be useful in situations where there is some reluctance to share experiences.

Examples include “ *In your own words describe everything you can remember about...*” “*What happened next?*” “*Tell me more?*” “*How did that affect you?*”

2. **Closed Questions** (Questions that tend to have a yes/no answer) enable the interviewee to focus and confirm more facts. They are quick and easy to answer and the control of the conversation remains with the Interviewer.

For example “*Have you always worked for this team?*” “*Do you get on with xx ?*”

3. **A challenging question-** “ *Can you think of anything you might be doing to contribute to this situation?*”

11. Interviewing Technique

1. Start the interview with “ice breaking” questions to build rapport.
2. Use open questions to allow the interviewee to tell the story, facts and feelings.
3. Funnel down with more closed questions to ascertain examples, evidence or elaboration of the facts.
4. Summarise at intervals by checking, clarifying and confirming with the interviewee what you have heard “ *So what you have told me is xxxx*”.
5. This has the effect of showing the interviewee you are actively listening, ensuring that you have grasped the facts correctly and slowing the pace down if the person is talking too quickly.
6. Establish any mitigating circumstances.
7. Closing questions at the end of the interview should be used to establish exactly what the key issues are “ *so you are convinced x was doing it deliberately.....*”
8. Ask the interviewee at the end if there is anything they would like to add.

12. Further Questioning

After you have finished questioning, invite questions from:-

- a) Your allocated HRPS caseworker.
- b) Internal Audit: Group Auditor (Investigations) (*Fraud /Financial Impropriety cases only*).

13. Dealing with unsigned notes of the interview

Following the issuing of the interview record, where you cannot get a response from the person interviewed, send a letter stating that if no response is received within **7 calendar days**, then it will be assumed that the notes represent a true record and reflection of what took place during the interview.

14. Dealing with failure to attend the interview

1. Contact the employee and find out his or her reasons for failing to attend the disciplinary interview.
2. If the failure to attend is due to short-term illness, postpone the meeting until the employee is well enough to attend.
3. Rearrange the interview at least once, and possibly more than once depending on the employee's reasons for non-attendance. Seek advice from your allocated HR People Service's caseworker.
4. If the employee fails to make any contact, then send a standard letter requesting they attend an investigatory interview once more, adding the following:-

'As you have failed to make contact previously then I must notify you that if you fail to attend the investigatory interview without providing prior notification then it will proceed in your absence'.
5. If there is still no contact, proceed with the interview in their absence, as there is a requirement for a record to be produced.

6. Should the employee not attend the interview, and still fail to make contact then request they attend a disciplinary hearing. They should be advised that their companion could act on their behalf at a hearing in their absence. The following should be added to this letter:

'As you have failed to make contact previously and failed to attend the investigatory interview without providing prior notification then I must notify you that if you fail to attend the disciplinary hearing without providing prior notification then it will proceed in your absence'.

7. Should the employee not attend the hearing then **the Chair** will issue them with a letter for the termination of their employment without notice (See letter Dismissal on the Grounds of Prolonged Unauthorised Absence).

15. Dealing with reluctant or anonymous witnesses

1. There is an expectation that employees observe and abide by the Council's rules, regulations and standards. This extends to an expectation of co-operation with a Disciplinary procedure, including providing a witness statement.
2. Where witnesses have requested to remain anonymous, or are reluctant to participate, you must establish what the reasons for the reluctance are:-
 - a) Is there another way of gathering the evidence other than using witness evidence?
 - b) Consider proportionality- does the seriousness of the allegation(s) warrant that level of investigation?
 - c) Can you obtain corroborating evidence? There may be an ulterior motive for the witness to remain anonymous.
3. If an employee believes distress or harm could be caused by the release of information in their statement ask them to provide a statement to this effect, with evidence which the Council can consider if a subject access request is submitted in the future.
4. Would a Fast Track Disciplinary process be applicable? (Witnesses are not called in this process).

16. The problem with remaining anonymous

1. A witness may not be identified only in exceptional cases. Advice from HR People Services must be sought as to what is considered to be an exceptional case. However, even where the Council agrees to respect the anonymity of witnesses, if the matter led to any subsequent Employment Tribunal proceedings, it is unlikely that they will continue to remain anonymous.
2. It could be considered against the rules of natural justice to deny the employee or their companion (without reasonable cause) the opportunity to question witnesses in a hearing.
3. A witness may agree to be interviewed, and then refuse to sign the statement, and they cannot be compelled to sign it. Unsigned (unvalidated) statements will carry less weight in the hearing.
4. Where reluctant witnesses have been part of an investigation you should recommend the use of mediation to repair any damage to working relationships.

17. Dealing with sickness absence during the investigation

1. The line manager of the employee under investigation has the responsibility for managing their sickness absence, including contact visits.
2. If the reason for the sickness absence is "stress" then in the majority of situations, individuals are likely to be fit to attend an interview. The Occupational Health service states:-

"Even if a person is signed off from work with stress, that does not mean they are unfit to meet, as 'fitness for work' and 'fitness to meet' are different levels of fitness. In the majority of situations, individuals are likely to be fit to meet with management, and that doing so, is in their best interests to facilitate a resolution."

3. As it is in their best interests to facilitate a resolution, you should not delay matters, as this is known to be counterproductive.
4. Establish whether the employee is willing to attend for an Investigation interview.
5. If there are any issues, contact the line manager to request a referral to the Occupational Health Service.

6. The Council's aim is to proceed with all disciplinary matters with the minimum of delay. The disciplinary process may therefore continue during an employee's sickness absence, which will not preclude the Council from starting or completing the process, including the collection of statements, conducting interviews or hearings. However, this will be on an exceptional basis depending on the nature of the illness, and the likely length of the absence.

Refer to Attendance & Wellbeing policy 1.CM.049 for further guidance

18. Dealing with new allegations that come to light during the Investigation

1. If this happens before the Investigation has been concluded, you must:-
 - a) Notify the employee of the new allegation(s).
 - b) The Chief Officer/ Director/Assistant Director will make the decision whether or not to proceed with further investigation into the new allegations.
 - c) Following authorisation, fully investigate any new allegations and undertake a further investigatory interview.
 - d) Inform the employee that the investigation into the new allegations will result in a brief delay in the process.
 - e) All allegations can then be subject of one investigation report.
2. If this happens after the investigation has been concluded, and the investigation report has been submitted to the Director/Chief Officer:-
 - a) The allegations would be the subject of a separate investigation.
 - b) If the new allegations concern other employees, there will be an investigation in respect of those employees. There should be consideration if new allegations concerning other employees could amount to mitigation for the first employee's actions.

3.Reviewing during the Investigation

1. Progress of the Investigation

1. The Service Area is responsible for making arrangements to closely monitor the progress of the investigation.
2. Every **4 weeks** you should review the progress of the investigation and update the Chief Officer/Director/ Assistant Director. Update the employee under investigation of the progress in writing (**Letter: Review of Progress in Disciplinary Investigation**).
3. The investigation must be proportionate to the concerns or allegations being considered, and carried out as quickly as possible. The length of time for the investigation from your appointment as Investigating Officer, to the date of any Disciplinary Hearing deemed necessary should be no more than **16 weeks** (unless you request an extension -**see Delays to the Investigation**).

Delays to the investigation

1. If you anticipates a delay to the progress of the investigation, you should write to the employee informing them of the delay, and the reasons for the delay. Extending the investigation beyond **16 weeks** is allowed, but only in exceptional circumstances, and with reasonable justification. Reasonable justification for a delay could be, for example, police involvement, who can request the temporary halting of an internal investigation in Cardiff Council, pending their criminal investigation. In such exceptional circumstances, you should request an extension to the investigation timescale.

2. Review of a Suspension

1. Suspensions shall not be time limited but there is a clear expectation that all investigations and/ or disciplinary hearings arising from the suspension shall be completed in a timely manner.
2. From the outset, you must carefully monitor and review the suspension decision. You should undertake a review after **4 weeks** (and then at least every **4 weeks**) in consultation with the line manager of the employee under Investigation.
3. The review should take the form of a re-examination of ***the Preliminary Assessment to consider appropriateness of Suspension from Duty***. All alternative courses of action should be appropriately considered, and the decision evidenced by completing a new proforma heading it (First review/ Second review etc.), which you will both sign.
4. Upload the review into Digigov, and send it to the relevant senior manager who authorised the suspension, who will then inform the employee in writing. (**Letter: Review of Suspension from duty without prejudice**).
5. Update the employee's contact officer (who was appointed at the time of the suspension) regarding the progress of the investigation.
6. Where the employee is transferred as an alternative to suspension, the same provisions will apply, i.e. conducting the investigation as quickly as possible, advising of delays, no financial disadvantage, etc. (**See - Temporary Transfer letter**).

4. Evaluating the Evidence

1. Make sure you look into all aspects of the case, whether stated at the outset or discovered whilst undertaking the investigation. If during your investigation you feel you need to speak to unanticipated witnesses or gather physical evidence, then do so. You must be thorough.
2. When you have concluded your investigation, you need to review and evaluate all the evidence that you have gathered. This includes physical evidence such as CCTV footage or computer records for example, as well as witness statements.
3. You need to highlight what is, and is not, in dispute. Different individuals' perceptions of the same event may differ, particularly when emotions are running high. You must be able to take a view on all disputed matters.
4. You need to state where there is no evidence or insufficient evidence.
5. Consider the case on its merits. It is essential to take account of the individual circumstances and people involved. Personal details such as length of service, past disciplinary history and current warnings will be relevant considerations. Any provocation or other mitigation also needs to be taken into account.
6. Finally you need to decide whether there is "a case to answer" i.e. whether it is likely that the misconduct did occur, and it is appropriate for the matter to proceed to a disciplinary hearing to determine the relevant sanction.
7. In employment law, it is sufficient that your opinion is **based on the balance of probabilities, so that you are acting on a reasonable belief, after a reasonable investigation has been conducted.**

1. Tips for weighing up the evidence

1. Direct witness evidence (particularly from eye witnesses) who have no evident reason to be biased either way, will usually be stronger than indirect evidence.
2. **Evidence will be questionable** where:
 - a) It is inconsistent with documents produced at the time.
 - b) Contains contradictions, is vague or omits significant details.
 - c) It is anonymous.

2. Writing the Report

1. You must then prepare a written report for the Chief Officer/ Director/ Assistant Director, marking it private and confidential.
2. There is an Investigation Report Template (**Appendix 4**) available on the intranet 4.C.432 (or on HR People Services A-Z), which should be uploaded into the Digigov record. The template includes more guidance (in italics) on what goes into each section.
3. All pages should be numbered and the contents page should detail where each section of the report, including appendices, can be found.
4. Advice can be provided by your allocated HR People Services caseworker, if there are any areas of clarification needed regarding the information to be provided in the report.
5. The report should:
 - a) Set out, in detail, the allegation(s) investigated and how the allegation(s) came to the attention of the Service Area/ Council.
 - b) Disclose the identity of the individual that made the allegation(s) [if known] subject to any confidentiality requirement that may arise under the Council's Whistle Blowing Procedure.
 - c) Indicate when the investigation began and when you were appointed as Investigating Officer.
 - d) Indicate how the investigation was conducted.
 - e) Personal details of the employee under investigation such as length of service, past disciplinary history and current warnings will be relevant considerations.
 - f) List all the documents examined and relied upon during the course of the investigation.
 - g) List all the individuals who were formally interviewed during the course of the investigation summarising, the key points of their testimony/ evidence. This will include a list of any individuals that the employee and/ or their companion suggested ought to be interviewed but who were not interviewed together with an explanation as to why.
 - h) Attach copies of all statements obtained during the course of the investigation. This must also include statements that the employee could use in their defence.

- i) Show how you have evaluated the evidence and where there is no evidence or insufficient evidence. Any provocation or other mitigation also needs to be taken into account. This section must lead into how the conclusions were drawn.
 - j) Be clear about which findings relate to which allegations.
 - k) Make any recommendations as appropriate which will include whether or not the matter should proceed to a Disciplinary Hearing, and whether the act is misconduct or gross misconduct.
6. The report and accompanying papers must not contain any personal details of individuals (e.g. address, date of birth, etc.), and any service users must be referred to by initials only to maintain confidentiality.
7. Following receipt of your report, the Chief Officer/Director/ Assistant Director will make a determination within **14 calendar days** (unless there are exceptional circumstances) whether or not to instigate disciplinary proceedings against the employee. There will be one of the following outcomes:

Either

- a) You recommend that the allegations are unfounded, and that there is no case to answer, and the Director /Assistant Director/ Chief Officer agrees with you. The employee would then be notified that there is no further action

OR

- b) You recommend that there is sufficient evidence to instigate disciplinary proceedings against the employee, and the Director/Assistant Director/ Chief Officer agrees with you. A disciplinary hearing will then need to be arranged

OR

- c) The Director/Assistant Director/ Chief Officer disagrees with your recommendation. In this case the Director/Assistant Director/ Chief Officer has the final say over the next course of action.

8. Where matters are proceeding to a Disciplinary hearing, you are responsible for making the arrangements.

3. Requesting to Observe at an alternative Hearing

1. If you have not previously attended a hearing, and wish to gain some experience/understanding of one, it may be possible for you to observe another hearing, in advance of the one at which you have to present..
2. Speak to your allocated HR People services caseworker, to see if they are able to suggest a suitable forthcoming hearing that you could apply to attend.
3. Contact the Chair of the nominated hearing with your request to attend at **least 7 calendar days** prior to the hearing date.
4. The Chair must seek the consent of the employee under investigation, prior to the hearing. The Chair has the final say over the number of people attending the hearing in the role of Observer, which would be strictly limited.
5. If your attendance at the hearing is agreed, you should be seated away from the main seating of the hearing, so as to be unobtrusive.
6. During the hearing you are bound by confidentiality, and must neither take notes, nor speak, nor address the hearing.
7. The Chair has the right to refuse admission to the hearing for any Observer who did not seek prior consent.

5. The Disciplinary Hearing

1. Preparing for the Hearing

1. As Investigating Officer, you are responsible for making arrangements for a Disciplinary hearing, as soon as possible after the decision to proceed.
2. A Hearing Chair will be appointed by the Chief Officer / Director / Assistant Director.
3. An HR People services officer will be nominated to support the Chair at the hearing. This will usually be a different officer from the allocated HR People Services caseworker that supported you during the investigation.
4. You should make arrangements for someone from the Service Area to take notes throughout the hearing.
5. Where you intend to call witnesses to the Hearing, ensure that they have a copy of the *Disciplinary Procedure: Guidance for Witnesses*, in advance of the hearing.
6. Prepare for the hearing carefully by considering what explanations may be put forward by the employee. Study any relevant Council policies, procedures, codes of practice, rules etc. (which may have any bearing on the allegations), and have copies available at the Hearing for reference.
7. Prepare a “script” in advance for you to use at the Hearing, as it may not be appropriate for you to read your report word for word.

2. Requesting an Assistant at the Hearing

1. Where you have been dealing with a **very complex** case that has produced large volumes of information, you may make a request to the Chair, **7 days** in advance of the hearing, for you to have an Assistant to aid you with papers during the hearing. The Assistant would be bound by confidentiality, and would not be able to speak, take notes or address the hearing.

2. The Chair must consider the request, and if in agreement, gain the consent of the employee under investigation. The Chair has the right to refuse any person from attending the hearing where prior agreement has not been given, or where the volume of information is insufficient to warrant an Assistant.
3. A companion for the employee under Investigation may also request an Assistant.

3. The Venue

1. You must make arrangements to book the venue for the hearing. You will need to allow plenty of time for booking the rooms, as suitable venues can be in short supply. Refer to section 2.4 of this guidance "*Choosing the venue for the Interview*" for general advice on venues.
2. An additional room will be required to facilitate a break out area for the employee under investigation (and their companion).
3. There should be areas for witnesses to wait, preferably keeping any witnesses called by management separate from any witnesses called by the employee to give evidence.
4. Consideration should also be made, where appropriate, for the provision of reasonable adjustments to accommodate disabled employees. Other circumstances may warrant an interpreter or facilitator if there are understanding or language issues.

4. The Date for the Hearing

1. You must give **at least 14 calendar days** notice of the disciplinary hearing.
2. Once you have options for venue availability, contact all parties (by phone or email) in order to gain feedback as to their available/ unavailable dates to agree a mutually convenient date for the hearing. It is the responsibility of the employee under investigation to liaise with their companion regarding an appropriate date, so ensure that you have advised them of this, to prevent delays.
3. Suggest a provisional date to all parties, where possible suggesting a couple of

alternative dates. Make every effort to accommodate the availability of all parties.

4. If any party cannot attend on any of the proposed dates, then request they provide at least **1 alternative date**, one of which should fall within **7 calendar days of the previous date**.
5. Where possible, in order to provide a positive framework, hearings should be accommodated within these alternatives.
6. Once this process as outlined above has been exhausted, then ask the Chair of the Hearing to provide one final date, which is the final alternative, and only under exceptional circumstances (e.g. away on a pre-booked holiday, in-patient within a medical establishment) will any further alternative be provided.
7. Where fixing the date of the Hearing becomes fraught with difficulty, you can request that an alternative Chairperson, HR People Service representative or companion is sought.
8. Once the date for the Disciplinary hearing has been finalised, confirm the arrangements in writing to all parties. (**Employee Under Investigation – Letter To Attend Disciplinary Hearing & Invite Witness to Attend Disciplinary Hearing**) & (**Letter- Invite Witness to Attend Disciplinary Hearing**).
9. Careful thought must go into the letter to the employee under investigation which details the allegations, as what is detailed in the letter are the only allegations that can be considered at the hearing. Other allegations cannot be brought forward at the hearing.
10. In the letter, list the names of the witnesses that you intend calling to the hearing.
11. You are required to submit a disciplinary pack with this letter. The pack is a bundle of all relevant documents to be used as evidence at the hearing.
12. Notify the employee that they have to submit any documents and names of witnesses **7 calendar days** in advance of the hearing.

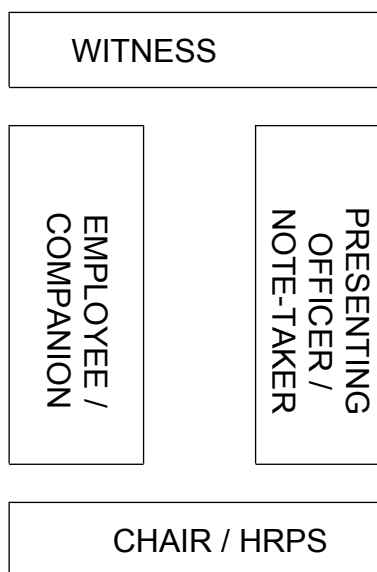
5. The Disciplinary Investigation Pack

1. It is your responsibility to ensure that:-

- a) Where the disciplinary pack contains excessive amounts of information this should be provided to the employee (and their companion) **more than 14 calendar days** in advance of the hearing, wherever possible.
- b) The disciplinary pack should be provided to the Chair of the Hearing between **2 and 5 calendar days** prior to the hearing.
- c) The content of the pack includes all available facts, such as statements from all witnesses, documentary evidence, the employee's personal details such as disciplinary record, current warnings, attendance record, etc.
- d) The pack must not contain any personal details of other individuals (e.g. address, date of birth, etc) and any service users must be referred to by initials only to maintain confidentiality. You **must take care to redact** any personal information from letters sent to employees and witnesses.
- e) It is essential that all packs provided for the hearing have been accurately photocopied, and **are identical in content**.
- f) Ensure that you include in the pack the document "**Key principles for confidentiality and code of conduct for hearings**" (Appendix 5). The chair will check at the hearing that this has been received.

6. Presenting at a Hearing

1. When you arrive at the hearing, you should wait in a separate area until the Chair calls all parties into the meeting room.
2. The seating in the hearing room should be arranged in a non-confrontational manner (e.g. Chairs placed at angles rather than facing each other). You will be invited to sit opposite the employee under investigation.
3. Opposite is an example of a seating arrangement at a hearing, for illustrative purposes only.



4. The Chair will introduce all those present, read out the key principles of confidentiality and the code of conduct, explain the purpose of the hearing and outline the hearing process making sure all present understand. You will be asked to sign an attendance sheet, confirming you understand the key principles.
5. You will then present the Management Case. You will hear the term “Presenting Officer” used for this role.
6. Use your script to begin explaining how it is intended to substantiate the case, and indicate what witnesses you intend to call. Keep this brief and to the point.
7. Confirm to the Chair how you have correctly followed the disciplinary procedure, including outlining the details, and circulating copies of correspondence such as letters instructing attendance at the hearing, and confirming suspension, etc. that you have sent.
8. You then need to present the case using documentary evidence where available. You do not need to read your investigation report word for word, and the Chair may advise you that sections are taken “as read”.
9. Give details of previous unspent disciplinary warnings as part of your presentation. Expired warnings should only be referenced for contextual reasons, and where they are relevant to the current allegations. To be regarded as “spent” the warning must have expired at the date of the further offence, rather than the date of the disciplinary hearing.
10. Call witnesses one by one into the hearing at the appropriate time (or refer to witness statements). You will need to ask the witness to confirm their witness statement and signature.

11. The Chair will ask you and your witnesses questions, and will direct questions from the employee and their companion.
12. Once a witness has given their evidence, they leave the room. The Chair will confirm whether they wish the witness to remain at the venue, in case they are required to clarify anything.
13. The employee and/ or their companion will then present their case, call any witnesses and present any documentation relevant to the defence.
14. You will be invited by the Chair to ask questions of the employee and their witnesses.
15. Following this you will be asked to sum up and conclude your case. No new evidence will be allowed at this stage. Give information on the employee's work record, disciplinary record, any unspent previous disciplinary warnings, any relevant previous reprimands and any mitigating factors.
16. Following the summing up by the employee and/ or their companion, the Chair will then adjourn the hearing to make their decision.
17. No further discussion will be allowed.
18. After the summing up has been completed, both sides withdraw to allow the Chair to deliberate in private. The HR People Services representative can remain to assist the Chair with their deliberations, advise what penalties, if any, are appropriate, and what penalties have been given in similar cases in the Council.
19. If in the course of deliberation, the Chair needs to seek further clarification and/or further information from one side or the other, then in the interests of natural justice, **both** sides will be invited back into the hearing to hear the discussion.
20. The Chair may find that further information is required, and decide to adjourn the hearing. In this case, they will advise both parties of the adjournment and the reasons for it.
21. If the Chair is able to reach a decision you and the employee under investigation (and their companion) will be recalled. The Chair will state whether the allegations are substantiated, what disciplinary action is to be taken and the rationale behind the outcome.
22. The Chair will then advise the employee of their appeal rights and will confirm the decision in writing within **7 calendar days**.

6. Appeals

1. An employee has a right of appeal against the decision of a Disciplinary hearing. Appeals must be made within **7 calendar days** from receipt of the written decision from the original hearing.
2. Appeals will be considered by a higher level of management, who has had no prior involvement in the decision against which the employee concerned is appealing.
3. An Appeal will take the form of a **Review Appeal** or a **Re-Hearing Appeal**, depending on the sanction given at the Disciplinary Hearing.
4. **REVIEW APPEALS** are used for appeals against verbal, written and final written warnings.
 - a) **As Presenting Officer, you are not expected to attend this and the appointed Review Appeal Chair makes the practical arrangements for the Appeal Hearing.**
 - b) No witnesses are called.
 - c) The employee (or their companion) will detail their grounds for appeal against the decision made.
 - d) The Chair of the original hearing will present the reasons and rationale for their decision.
 - e) There are opportunities for questioning and summing up before the Chair makes their decision.
5. **RE-HEARING APPEALS** are used for appeals against dismissal or demotion.
 - a) **As Presenting Officer, you are expected to attend this, and you make the practical arrangements for the Re-Hearing appeal. (Letter-Acknowledgement of Receipt of Appeal and Advising Appeal Arrangements) & (Invite witness to attend Appeal Hearing)**
 - b) The procedure for the Re-Hearing appeal is as per the original Disciplinary hearing and runs in the same way.
6. The Appeal decision is confirmed in writing to the employee as soon as is reasonably practicable. The Chair of the Appeal's decision will be final and there are no further appeal rights within the Council .

Frequently Asked Questions

1. What if the employee or companion object to the person appointed as the investigating officer or Hearing Chair?

Where this happens they must provide full details of the reason for the objection. The Chief Officer/ Director/ Assistant Director who allocated the investigating officer or hearing chair will fully consider the information provided, and if appropriate reallocate an alternative person.

2. Must a disciplinary hearing be held during an employees working hours?

There are no statutory requirements in relation to the timing of disciplinary hearings only that meetings should be held "without unreasonable delay" and that employers and employees "should make every effort to attend the meeting". Wherever possible meetings should be held within an employee's contracted hours. However, if you cannot make arrangements for this then they can be required to attend a meeting outside their contracted hours.

3. What happens when an employee raises a grievance during the disciplinary procedure?

If an employee raises a grievance during a disciplinary process then either the disciplinary process will be temporarily suspended or where they are related it may be appropriate that they are dealt with concurrently. Advice should be sought from HR People Services.

4. What if an employee offers to resign during the disciplinary process?

In cases of alleged theft, it may be appropriate to continue with the process so that a clear and transparent procedure and outcome remains recorded on the individual's file. In matters relating to child protection and vulnerable adults where an employee resigns in circumstances that could have led to dismissal a referral to the Disclosure and Barring Service (and in some cases to the General Teaching Council for Wales or the Care Council for Wales) must take place and it is appropriate to continue with the process so an outcome can be recorded. Once the individual has left our employment they may not attend or cooperate with any future proceedings and letters inviting them to any investigatory interview or disciplinary hearing should state that if they fail to attend without providing prior notification then the meeting will proceed in their absence. Where any employee resigns during a process then a note should be placed on their file to this effect to ensure that this is taken into account for any future reference requests.

Additional Guidance & Support

1. Standard Letters and Documents

1. General

- a) Disciplinary letters, forms, etc will be produced by Service Areas, with advice from HR People Services.
- b) Letters confirming disciplinary action must be signed by the Chair of the hearing and copied to the HR People Services.
- c) The Chair of the Disciplinary or Appeal Hearing will receive copies all documents that both sides will rely upon at the hearing at **2-5 days** ahead of the hearing date.
- d) Copies of all disciplinary letters will be retained in Digigov.
- e) Where standard letters contain sections/ words to be deleted the appropriate words should not be struck through but should be omitted from the letter. Italics in the documents show where details need to be added.
- f) Copies of all letters to employees will be provided to the companion (Trade Union representative) where this has been requested by the employee.

2. Employee under Investigation – Letter to Attend Investigatory Interview

A copy of Council's Disciplinary Policy and Procedures should be attached to this letter.

3. Invite Witness to Attend Investigatory Interview

This letter should be sent to witnesses to attend an investigatory interview. It notifies them that they will be required to either sign a note of the meeting or provide a written statement and that they may be required to attend a disciplinary hearing as a witness.

4. Employee under Investigation – Letter to Attend Disciplinary Hearing

- a) At least **14 calendar days** notice must be given of a disciplinary hearing.

- b) Careful thought must go into the detail of the allegation as what is detailed in this letter are the only allegations that can be considered at the hearing and other allegations cannot be brought forward at the hearing.
- c) Any documents to be used as evidence at the hearing should be attached, and the names of any witnesses listed.
- d) Employee to be notified that they have to submit any documents and names of witnesses **7 calendar days** in advance of the hearing.

5. Invite Witness to Attend Disciplinary Hearing

This letter is self explanatory.

6. Temporary transfer as an alternative to suspension

Alternative options to suspensions should be reviewed **4 weekly** during the investigation.

7. Letter: Review of Progress in Disciplinary Investigation.

- a) This letter confirms that a review has taken place.
- b) It also states when the anticipated date for completion of the investigation is, and whether there is any potential delay to the process.

8. Letter: Review of Suspension from duty without prejudice

- a) This letter confirms that a review has taken place.
- b) It confirms whether the suspension remains valid or whether there are no options for alternatives to suspension.
- c) Where suspension continues, it reminds the employee of the terms and conditions of the suspension.

9. Acknowledgement of Receipt of Appeal and Advising of Appeal Arrangements

At least 14 calendar days must be given of an appeal hearing.

10. Invite Witness to Attend Appeal Hearing

This letter is self explanatory

2. Associated Policies

- ◆ 1.CM.049 Attendance & Well Being Policy
- ◆ 1 CM.120 Fraud, Bribery & Corruption Policy
- ◆ 1.C.015 Whistleblowing Policy
- ◆ 2.AS.ACM.021 Wales Adult Protection policy and Procedure – Summary
- ◆ All Wales Child Protection procedure 2008
- ◆ 5.HR.026 Guidance for Safer working practice with Children, Young People and Vulnerable Adults
- ◆ Data protection Policy and Procedure
- ◆ Data Protection Requests for Information Policy

3. Additional Guidance

- ◆ Discipline & Grievances at Work: An ACAS guide
Available from Cardiff Improvement System, Intranet
- ◆ POVA: VA1 referral form 4.AS.ACM.001Y
- ◆ POVA Guidance VA1 5.AS.ACM.GN.002
- ◆ Request for Disclosure Data Protection Act 1998 s 29 or 35
- ◆ Privacy Impact Assessment Guidance
- ◆ Data Protection Employee Code of Practice
- ◆ Cardiff Council Disciplinary Procedure: A Manager's Guide
- ◆ Cardiff Council Disciplinary Procedure: Guidance for Witnesses
- ◆ Cardiff Council Disciplinary Procedure: A hearing Chair's Guide

Appendix 1: Consent for Recording a Disciplinary Interview

1. I confirm that I have been provided with a copy of the Procedure for Recording an Investigatory Interview.

2. I confirm that I have read and understood this procedure, and am fully aware of how the data from the interview will be handled securely, including arrangements for storage and disposal.

3. I consent to the recording of the Investigatory Interview that will take place on: *(insert date)*

(All parties present at the interview to sign below)

1. SIGN:
- PRINT NAME:
2. SIGN:
- PRINT NAME:
3. SIGN:
- PRINT NAME:
4. SIGN:
- PRINT NAME:
5. SIGN:
- PRINT NAME:

Date:

Appendix 2: Checklist for use during interviews (if desired)

1. If the interview is to be tape recorded, ensure that the Procedure for Recording Interviews has been followed, and consent from the employee obtained.
2. Ensure that mobile phones are switched off/ silent and phones diverted, to limit interruptions.
3. Water should be available for all parties.
4. Provide a draft of the core questions to the note taker and HRPS officer.
5. You may choose to provide a copy of the core questions to the employee under investigation/ companion.
 - Welcome and introduction of all parties present, explaining what their role and purpose is. Clarify the role of the companion, if present, or confirm the employee is happy to proceed if they are not represented.
 - Confirm with all parties present that confidentiality is essential, and must be maintained by all present.
 - Explain the purpose of the interview and check that they have received a copy of the Disciplinary policy and had been able to read it.
 - Explain what the format of the interview will be and that a break can be taken if required.
 - Advise the interviewee that a record of the interview will be taken, and that a copy of the record will be provided. You will be asking them to check it for accuracy, and agree and sign that record. If a particular aspect of the note cannot be agreed, then the differing views/ versions should be recorded into the note.
 - Advise the employee/witnesses that the notes of the interview and/ or any written statements they provide will feature at any potential future disciplinary hearing. Any statement/record that is unsigned will usually be given less weight at any hearing.
 - Advise witnesses that information provided would be subject to disclosure if the individual(s) named within the statement or allegations submit a request for such information.
 - Advise that records will be treated in confidence, and only circulated to authorised personnel. Information of a personal nature is subject to the Data Protection Act. Access to personal data can be granted under the provisions of the Act.

- Check how they would like to receive the copy of the record and confirm how you would like to be communicated with.
- Inform the interviewee that there may be a need to re-interview them should further information come to light.
- Explain what happens next and, if possible, the timescale of the investigation.
- Any Questions?

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Appendix 3 :

Record of Interview template for Employees & Witnesses

Date:	
Allegations being investigated:	
Employee/Witness being interviewed:	
Investigating Officer:	
Others Present:	
Start time of Interview	
End time of interview	
Include information read out at start of interview	
<u>Details of interview</u>	
<ul style="list-style-type: none">◆ Include the interview questions asked (numbered)◆ Answers given◆ Whether there were any breaks◆ Confirm arrangements for return of notes	

I confirm these are an accurate record of the meeting and that I may be called (as a *witness*) to a disciplinary hearing.

Signed (employee): _____ Date: _____

Appendix 4

PRIVATE AND CONFIDENTIAL

INVESTIGATING OFFICER'S REPORT (4.C.432)

To be used for Disciplinary Investigations.

- *Words in italics are for guidance and should be deleted from actual report.*
- *Number all paragraphs, number all pages and include a contents list detailing the report and all appendices.*

INTRODUCTION

1. As a result of an allegation made by (*complainant – name and job title*) against (*respondent – name and job title*), an investigation was undertaken in accordance with the Council's/School's Disciplinary Investigations Policy and Procedure.
2. The investigation was carried out at the request of (*Name*) and was supported by (*Name of HR People Services Officer*), and (*Name of person taking minutes*). The complaint was received by the investigating officer on *DATE*.
3. When conducting this investigation all employees were informed of their right to be represented by up to two trade union representatives or a work colleague.

BACKGROUND INFORMATION

Describe employment history – where employed, dates of employment, post title etc.

Give details of any current disciplinary warnings on file/record.

THE ALLEGATIONS

Details of the specific allegations/complaints. Number each allegation for ease of cross referencing with the details of the investigation, the findings and recommendations. Allegation 1, Allegation 2 etc.

THE EVIDENCE

All documentary evidence and statements referred to in this report are listed on the attached contents summary. Examples are:

- *Names and post titles of witnesses*
- *Detail all relevant policies and/or Codes of Practice*
- *Notes of relevant meetings*
- *Relevant correspondence*
- *Job Descriptions/Work performance standards*
- *Training records*
- *Absence records*
- *Work Instructions*
- *Risk Assessments*
- *Room Layouts*
- *Photographs*

Allocate each document an appendix number for cross referencing. All appendices should be referred to and some point in the report and the investigating officer should explain why they are relevant to the issues under consideration.

INVESTIGATION FINDINGS

Here describe what the investigator found, how the evidence was evaluated, and what are believed to be the contributing factors to the situation. If there are mitigating factors that have contributed in some way to the situation, they should be described in full, and relevant contribution evaluated. Say if a particular version of events was preferred by the investigator when conflicting views were given, AND why. Outline consistencies and inconsistencies and give explanations if known. Where the findings present risks to the Council/school then these should be detailed. Risks could be legal, reputational, financial, health and safety, employee relations.

For each specific allegation state whether or not the complaint is supported, whether by inference or fact, with full reasons:

From interviews and statements from the complainant, respondent and witnesses, and the consideration of all documentary evidence available to the investigator, on the balance of probability, the findings are as follows:

Allegation 1. It is found that, on the evidence available,

Include reference to the relevant specific evidence that supports each finding

CONCLUSION AND RECOMMENDATIONS

Make a concluding statement that is relevant to the individual case and the complainant.

Deal with each allegation and state whether, following the findings the investigation is conclusive or not, and what the conclusions are. Include any specific recommendations for each allegation i.e. if a policy is needed, training of staff etc....

If fault is to be attributed, it should be outlined here. If a process or procedure was not followed, or an individual behaved inappropriately, this is where the investigator should outline exactly what went wrong and what should have happened instead. The investigator should make it clear what is believed to have happened. Any management actions considered necessary should be reflected.

All those who gave evidence and support with documentation and their time are thanked for their cooperation and assistance.

I have reached a genuine belief based on reasonable grounds and on the balance of probabilities, after having carried out as much investigation into the matter as was reasonable in the circumstances

It is recommended based upon the investigation that this matter (proceed to a disciplinary hearing/ be dealt with under the informal counselling stage of the disciplinary procedure/ be disregarded as it is felt the allegations were not substantiated)

Signed: (Investigating Officer)

Date:

Appendix 5:

Key principles for confidentiality and code of conduct for disciplinary hearings

Confidentiality

1. This hearing is confidential, and a record will be made of the discussion, which is subject to access requests under the Data Protection Act 1998
2. All parties should ensure that the minutes are retained in a confidential and appropriately restricted manner.
3. Information discussed within this hearing is strictly confidential and must not be disclosed to third parties.

Code of Conduct during the hearing

1. We understand and act in accordance with the Council's Core values of being Open & Honest, Fair & Together, as defined in the Employee Charter.
2. The Council has a duty of care to its staff, and is responsible for ensuring that the behaviour and conduct of its staff in the course of their work is acceptable.
3. We act with dignity, and treat all others with courtesy and respect, to ensure that the behaviour of all parties attending the Disciplinary Hearing is appropriate, and normal social courtesies are observed.
4. **Unacceptable behaviour** is any behaviour or language that unjustifiably causes distress, patronises, offends, belittles or insults an individual. All parties should not get involved in raised voices, arguments, physical contact, or gestures which could be misinterpreted. Inappropriate behaviour or conduct will not be tolerated.
5. This hearing will be adjourned if there are incidents of unacceptable behaviour or a high level of individual distress. Dependant on circumstances, I, as the Chair of this hearing will have the final decision when to reconvene the Hearing.

By signing the attendance sheet all parties are agreeing to abide by these principles.

DRAFT

**CITY AND COUNTY OF CARDIFF
DINAS A SIR CAERDYDD**

**POLICY REVIEW & PERFORMANCE
SCRUTINY COMMITTEE**

3 November 2015

CORRESPONDENCE – INFORMATION REPORT

Background

1. Following Scrutiny Committee meetings, the Chair writes a letter to the relevant Cabinet Member or senior officer, summing up the Committee's comments, concerns and recommendations regarding the issues considered during that meeting. The Committee are offered an opportunity to comment on a draft of the letter before it is forwarded to the Cabinet Member. The letter usually asks for a response from the Cabinet Member to any recommendations made, and sometimes requests further information.

Issues

2. A copy of the ***Correspondence Monitoring Sheet*** detailing the Committee's correspondence, and analysing responses received since the October meeting, is attached at **Appendix 1**. Also attached to this report are copies of all relevant correspondence.

6 October 2015 Meeting Correspondence

Employee Survey

3. The Committee considered the results of the 2015 Employee Survey; including an outline of what measures will follow as a direct consequence of the Survey findings; and an opportunity to question Staff Ambassadors involved in frontline delivery of services. A copy of the Chair's letter to the Cabinet Member Corporate Service & Performance following the scrutiny is attached at **Appendix 2**. A response is outstanding.

Statutory Equalities Plan

4. The Committee had an early opportunity to inform consultation on the Council's draft Strategic Equality Plan for 2016/20, at the start of a two month consultation programme to shape the final Scheme, which will be presented to Cabinet in March 2016. The item also included a Third Sector Question on the topic of equality impact assessment, asked by the Cardiff Third Sector Council. A copy of the Chair's letter to the Cabinet Member for Safety, Skills, Democracy and Engagement following the scrutiny is attached at **Appendix 3**. A response is outstanding.

Legal Implications

5. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

6. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this

report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

Recommendation

The Committee is recommended to note the content of this report and appendices, and decide whether it wishes to take any further actions, or request any further information.

MARIE ROSENTHAL
Director of Governance and Legal Services
28 October 2015

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Policy Review and Performance Scrutiny Committee

Correspondence update 2015 - 16

Committee date & topic	Recipient	Comments/Information requested	Response received	Response	Future Action
<p>6 October 2015</p> <p>Employee Survey & Employee Engagement</p>	<p>Cllr Hinchey</p>	<p>There is clear evidence of improvement and the Committee is broadly content with the strategic approach and practical implementation of the work, the benchmarking activity and the widening of consultation and engagement with employees.</p> <p>The methodology behind a reduced number of questions risks losing a data set of information on the issues beneath the headline, to assist in interpreting and designing improvement actions in response</p>			

		<p>to the findings. The Committee urge you go beyond relying on the headline figures.</p> <p>It is encouraging to note that the Ambassadors are being given a key role in designing the Corporate Commitments.</p> <p>Committee will return to this topic when analysing a future round of quarterly performance, to see what is changing on the ground within Directorates as an outcome from this work.</p> <p>Whilst levels of completion; free text comments, suggestions for improvement; and the scores themselves appear to have improved, Members feel strategic</p>			
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		<p>lessons could be learnt from the results themselves to assist with forecasting or developing targets for improvement.</p> <p>Members felt there was little value in asking if employees would recommend the Council as an employer to a friend in future surveys.</p> <p>Members understand the practical value of deriving mean scores from responses to each of the questions but feel particular effort should be invested in how to address the negative range of answers to each question.</p> <p>engage the significant number of school-based staff who were not</p>			
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		<p>included in this survey. The Committee recognise the different employment relationship of schools staff and the need for more specific relevant questions to this staff group, but want the organisation to be able to run an organisation-wide survey and compare as far as possible the results of this significant segment of the City's workforce alongside that of the existing respondent sample. We urge you to do all you can to avoid a two tier data set, which would feel like a wasted opportunity.</p> <p>Members suggest that next time employees who provided specific suggestions for improvement should receive an individual</p>			
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		<p>response from the Chief Executive.</p> <p>It will be important to communicate widely across the workforce to ensure that employees who made suggestions can see that their suggestion is being considered, and how that consideration is turning into improvement.</p> <p>The Committee look forward to you sharing the list of employee suggestions.</p> <p>STAFF AMBASSADORS</p> <p>The engagement around this Staff Survey was the best they had encountered. The quality of</p>		
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		<p>engagement is improving, employees are opening up and do more trust that their views will be listened to.</p> <p>Note that Ambassadors feel there is a need to drill down to a greater level of detail in interpreting the survey results and understanding employee perspectives. There is still a perception of “them” and “us”, and that messages about improvement need to be tailored to the individual job roles of front line employees.</p> <p>Communication improving at a corporate and Directorate level, but it was at the Team and individual line management level</p>			
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		<p>that messages were being lost, or not being correctly applied.</p> <p>Clear that some Directorates are more effective at communicating with their employees than others but consistency is emerging.</p> <p>Note PPDRs are much more widely and consistently undertaken. The focus needs to shift onto the quality of the reviews, the clarity of performance objectives and the usefulness of the reviews to prompt meaningful development plans.</p> <p>We will be pleased to receive the list of Ambassadors by Directorate.</p>			
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Correspondence Monitoring Sheet

Appendix 1

<p>Draft Strategic Equality Plan 2016/20</p>	<p>Cllr D'Ath</p>	<p>Members were supportive of the arrangements set out in the draft Strategic Equality Plan and requested that the Cabinet:</p> <p>Reflect on the aspirations stated for the improvements to <i>equality impact assessment</i>, and factor these arrangements into the equality action plan;</p> <p>Ensure that the four yearly Equality Objectives are resilient to and capable of transcending immediate Corporate Plan priorities;</p> <p>Ensure that senior management</p>			

		<p>and Cabinet Members explicitly champion equalities work and drive mainstreaming of equalities into everything we do;</p> <p>Reflect on the useful comments made by Martyn Jones and factor these into the equality action plan; For example continue pre-consultation with Diverse Cymru and a number of other local groups; continue exemplar linking of the Council's equality and scrutiny functions.</p> <p>Avoid a potential over-emphasis on younger people in the draft Plan, when Welsh Government is developing a more age-neutral approach in its work?</p> <p>Seek opportunities to develop</p>			
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		<p>shared equality objectives with local health and criminal justice partners;</p> <p>Embrace the learning from Prudent Healthcare, from the Wellbeing of Future Generations Act, and from the need to consider the linkage between equality and socio economic deprivation</p> <p>Continue to develop effective partnerships with third sector expertise, and consider the adoption of a more formal advisory arrangement between the Council and local third sector organisations to shape Cardiff's equalities work;</p>			
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Correspondence Monitoring Sheet

Appendix 1

		<p>Undertake work during the consultation period to gain a clear picture of what outcomes the Council wants to see emerging from the Plan, to facilitate the process of action planning;</p> <p>Ensure consultation with citizens and employees is inclusive and effective.</p>			
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My Ref: T: Scrutiny/PRAP/Comm Papers/Correspondence

Date: 12 October 2015

Councillor Graham Hinchey,
Cabinet Member, Corporate Service & Performance,
Cardiff Council,
County Hall
Cardiff
CF10 4UW



County Hall
Cardiff,
CF10 4UW
Tel: (029) 2087 2087

Neuadd y Sir
Caerdydd,
CF10 4UW
Ffôn: (029) 2087 2088

Dear Councillor Hinchey,

**Policy Review & Performance Scrutiny Committee: 6 October 2015
Employee Survey and Employee Engagement**

Thank you for attending Committee on 6 October 2015 to present the Council's work on the Employee Survey and the wider Employee Engagement agenda. Members felt the contribution of all officers accompanying you, including the four staff ambassadors, was clear, informative and honest. I will be grateful if you can pass on my appreciation to Philip Lenz and his officers Katie Richards and Helen Witham, and to staff ambassadors Theo Callender, Lorraine Gilmore, Julie Reed and Tye Whithear, for giving up their time to attend the meeting.

As Chair I have been asked to pass on the Members' comments and observations raised during discussion at the Way Forward. First, they have asked me to convey their opinion that from the wide range of views presented, there is clear evidence of improvement underway in the conduct and arrangements for the Employee Survey, and on the efforts made to widen communication and general engagement of employees. This appears to be paying dividends in a number of areas.

So, in general terms we are broadly content with the strategic approach and practical implementation of the work, the benchmarking activity undertaken and the pains taken to widen consultation and engagement with employees.

As you are aware, our role is that of a critical friend, and Members shared a number of suggestions based on the evidence presented at the meeting, designed to further stretch improvement. I hope that these comments will be useful to you and officers in further optimising performance on this agenda.

EMPLOYEE SURVEY

Members were initially keen to test what methodology lay behind your choice of questions within the survey. They understood why you have chosen to reduce the number of questions, and your wish to take the “pulse” of the organisation on a number of issues intrinsic to the Workforce Strategy at a time of change.

The risk behind this approach is that you do not receive a rich data set of information on the issues beneath the headline, to give granularity in interpreting and designing improvement actions in response to the findings. We understand that through your officers’ efforts, led directly by the Chief Executive, you now have a whole new set of opportunities for qualitative follow up with Ambassadors, Cardiff Manager Forum and other employee engagement to dig beneath the headline, and we urge you to ensure that you go beyond relying on the headline figures.

It is encouraging to note that the Ambassadors are being given a key role in designing the Corporate Commitments, and we will be interested to return to this topic when analysing a future round of quarterly performance, to see what is changing on the ground within Directorates as an outcome from this work.

Results seem to have improved in three ways in 2015: levels of completion; the wealth of free text comments and suggestions for improvement; and the scores themselves. This is to be commended. But had these first two welcome outcomes not been delivered, Members wondered whether strategic lessons could be learnt from the results themselves. We were not sure whether there had been much forecasting or developing expectations of targets for improvement, or what those targets would look like. Perhaps you could consider this when planning your next iteration – for instance how far should the percentages increase, what might constrain this, and what might good look like?

Members remained sceptical of the value of asking if employees would recommend the Council as an employer to a friend. Although somewhat encouraged that the results of this question have marginally increased since it was last asked in 2013, it is difficult to discern what conclusions to draw from the 0.36% increase. Unless your

follow on work clearly uncovers key findings from the way employees have responded to this headline question that can be translated into compelling actions to improve staff morale, we do not see much value in its continuation in future surveys.

Members understand the practical value of deriving mean scores from responses to each of the questions as a communication tool within the organisation, but would be disappointed if efforts were not invested to consider the range of answers to each question. In particular, where detailed analysis of responses showed a measurable number of employees diverging from the mean (particularly to the more negative ends of the scoring spectrum) particular effort should be invested in exploring how to address this negativity, its causes and potential solution.

A Member asked about how the organisation was planning to engage the significant number of school-based staff who were not included in this survey. The Committee recognise the different employment relationship of schools staff and the need for more specific relevant questions to this staff group, but want the organisation to be able to run an organisation-wide survey and compare as far as possible the results of this significant segment of the City's workforce alongside that of the existing respondent sample. We urge you to do all you can to avoid a two tier data set, which would feel like a wasted opportunity.

Members understand the rationale for the "confidential", anonymised approach taken in encouraging honesty and openness in the answers provided. They did feel however, that a potential trick had been missed in not offering employees who provided specific suggestions for improvement the chance to have an individual response from the Chief Executive – perhaps you could consider this next time around. It will now be important to communicate widely across the workforce to ensure that employees who made suggestions can see that their suggestion is being considered, and how that consideration is turning into improvement.

The Committee welcomed Philip Lenz' offer to share the suggestions received with this Committee, and will be grateful if this could be provided to Paul Keeping as soon as available.

STAFF AMBASSADORS

Members gathered from the valued contributions of the four Staff Ambassadors that:

- The engagement around this Staff Survey was the best they had encountered. The quality of engagement is improving, employees are opening up and are more trusting that their views will be listened to.
- The survey is just one tool of engagement, and there is a need to drill down to a greater level of detail in interpreting the survey results and understanding employee perspectives.
- Staff on the front line may not be noticing the improvements as much as centrally-based staff. There is still a perception of “them” and “us”, and that messages about improvement need to be tailored to the individual job roles of front line employees (particularly if they are part time or specialised staff).
- Communication was definitely improving at a corporate level, and there were signs of improvement at a Directorate level, but it was at the Team and individual line management level where the messages were being lost, or not being correctly applied.
- At the start of the Ambassador Programme, it was clear that some Directorates were more effective at communicating with their employees than others. Initially, for instance in Highways there were few staff ambassadors, and employees needed to rely on ambassadors based in other Directorates for their information. This is now changing, with consistency emerging.
- PPDRs are much more widely and consistently undertaken. The focus now needs to shift onto the quality of the reviews, the clarity of performance objectives and the usefulness of the reviews to prompt meaningful development plans.
- It might be useful for Members to spend more time directly meeting employees to hear their views.

These are generally positive views, and even the negative comments give you the opportunity to build improvements into your engagement work. We will be pleased to receive the list of Ambassadors, indicating which Directorate they work for, which you said you could provide to Paul Keeping for distribution to Members.

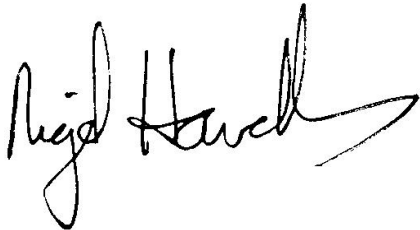
To re-cap, the Committee will be pleased to receive:

- the list of employees suggestions received through the Survey.
- The list of Staff Ambassadors, broken down by Directorate.

Please can you arrange for this to be sent to Paul Keeping when available.

Finally, on behalf of the Committee, I wish to thank you and the officers for your continued support for the internal challenge of important issues that can improve the quality of services the Council is delivering to its customers.

Yours sincerely,



**COUNCILLOR NIGEL HOWELLS
CHAIR, POLICY REVIEW AND PERFORMANCE SCRUTINY COMMITTEE**

cc

Members of the Policy Review & Performance Scrutiny Committee ;
Philip Lenz, Chief Human Resources Officer
Joanne Watkins, Cabinet Business Manager;
Matt Swindell, Principal Administrative Officer
Katie Richards, Human Resources
Helen Witham, Corporate Communications and Media
Staff Ambassadors: Theo Callender, Lorraine Gilmore, Julie Reed and Tye Whithear

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My Ref: T: Scrutiny/PRAP/Comm Papers/Correspondence

Date: 15 October 2015



Councillor Dan De'Ath,
Cabinet Member for Skills, Safety, Engagement and Democracy,
Cardiff Council,
County Hall
Cardiff
CF10 4UW

Dear Councillor De'Ath

Policy Review & Performance Scrutiny Committee: 8 October 2015
Draft Strategic Equality Plan 2016/20

Thank you for attending Committee on 8 October 2015 to help Members of the Policy Review & Performance Scrutiny Committee scrutinise the Council's draft Strategic Equality Plan 2016/20. Please can you also pass on my thanks to Marie Rosenthal, Andrew Lucas and Caryle Alleyne for presenting the draft Scheme, and for providing honest and full answers to Members' questions? I will write separately to Martyn Jones of Diverse Cymru to thank him for his independent contribution to the item.

As Chair I have been asked to detail in this letter the Members' comments and observations raised during discussion at the Way Forward. Before I do this, I will also provide feedback on the question on Equality Impact Assessment asked at the meeting by Mrs Sheila Hendrickson-Brown of Cardiff Third Sector Council.

THIRD SECTOR QUESTION: Equality Impact Assessment

Members felt that the inclusion of a Third Sector question on this Committee's agenda, posed by Sheila Hendrickson Brown of Cardiff Third Sector Council, to have been helpful in developing useful and productive debate on the topic.

The question was:

“The Council is having to make very difficult decisions and choices about cuts to local services. There is potential for specific groups of vulnerable people to experience disadvantage as a result of these decisions. Could you therefore give your view on how effective the Council’s arrangements for assessing the equality impacts of these decisions are, how do Equality Impact Assessments feed into and inform service planning, and how is the effectiveness of the agreed mitigating actions monitored once the decisions are implemented?”

We noted from your answer that while you felt that the Council is still on a learning journey in developing its equalities practice, the Council’s practice had improved in recent years. The quantity of assessments undertaken had increased significantly, and the resultant documents provide a good point of reference for Cabinet Members, scrutiny Councillors and citizens campaigning on individual issues to ensure that the Council makes effective, evidence-based decisions.

We also gathered that you felt our process and practice could further improve, and that you were planning to invest effort in ensuring that this happened. Particular points we noted were that:

1. the EIA process should extend beyond the budget process to encompass decisions made at other points in the year;
2. The Council should work to a consistent level of quality in the assessments undertaken;
3. EIAs should evidence the input and advice of third sector organisations and data; and
4. the impacts and mitigation measures identified in EIA documents should be explicitly referred to when decisions were subsequently brought for review and monitoring, so that Scrutiny Committees, officers and Cabinet Members could

see how effective they had been, and so that the EIAs have a legacy through the life cycle of the decision.

You felt that these issues could be picked up by our Strategic Equality Plan consultation, and actions built into our action plan to continue improving our performance in this area.

You also welcomed the suggestion in Sheila's supplementary question to build co-operation between the Council and its third sector partners in working together to proactively identify and manage potential impacts before budget proposals had been published, and generally support the process of co-production.

We support your aims to see improvement in this area, and will seek to monitor the progress of the Council's work on equality impact assessment during the coming budget cycle.

STRATEGIC EQUALITY PLAN 2016/20

Members were in general supportive of the arrangements set out in the draft Strategic Equality Plan, and wish you success in consulting upon and finalising the Plan in coming months. The points shared by Members at the Way Forward which emerged from Member questioning and evidence received during the item were:

- **Linkage between Objectives and the Corporate Plan:** Members queried the move away from the previous Plan's linkage between the Council's Equality Objectives and the What Matters! Strategy towards linkage with the Corporate Plan priorities. They noted officers' views that the linkage with What Matters! still remains, and that the objectives in question are ones that have tended to remain in place in successive corporate plans, but would want to ensure that our four year Equality Plan objectives will transcend topical administration priorities.
- **Resources to deliver:** I asked whether – given reductions in specialist personnel to drive equality work in recent years – the Council's current and

foreseen financial and resource pressures would be sufficient to deliver the Strategic Equality Plan. Members noted and welcomed your commitment and that of the Director of Governance and Legal Services to drive mainstreaming via managerial and political leadership. We trust that managers and Cabinet Members will deliver that leadership and make the difference in their own areas of responsibility, and will be interested to monitor this when we next review the Council's equality agenda.

- **Martyn Jones' commentary:** Members felt that Martyn Jones made a number of helpful comments in his commentary on the draft Plan. We were pleased to hear that the Council had already undertaken pre-consultation with Diverse Cymru and a number of other local groups, and also his view that the Council's linkage of its equality and scrutiny functions was an exemplar that should be considered by other local authorities.

Please can you take on board the points raised by Martyn about the potential over-emphasis on younger people in the draft Plan, when Welsh Government is developing a more age-neutral approach in its work? Martyn also made helpful suggestions around the opportunities to develop shared equality objectives with local health and criminal justice partners, the learning from Prudent Healthcare and from the Wellbeing of Future Generations Act, and the need to consider the linkage between equality and socio economic deprivation.

- **Partnership between the Council and the Third Sector:** Picking up on the earlier question from Cardiff Third Sector Council, Members can see the value of the Council working closely with its third sector partners, in providing early intervention to ensure that adverse impacts can be avoided by planning services that are inclusive and meet citizens' needs. We can see that this is likely to save money in the long run and mitigate against the need to incur cost in producing an equality impact assessment. We recognise that this partnership is enshrined in the principles of the Local Service Board, and will be interested to return to this theme when we scrutinise What Matters! Later this year.

More specific to the equalities agenda, we welcome the continuing partnership between the Council, C3SC, Diverse Cymru, Race Equality First and other local charities in delivering the Council's equality work, and hope that this will continue to thrive. We noted from Martyn Jones' evidence that Welsh Government had developed a formal relationship with third sector equality advisors, and would consider a similar forum useful for the Council to develop its strategic approach to diversity. Please could you explore this idea and advise on your views?

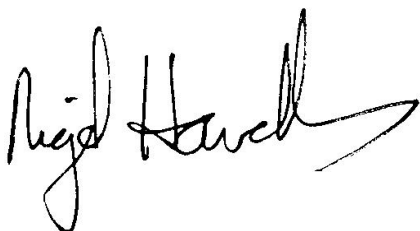
- **Focussing on outcomes:** Members noted your intention that the consultation would allow citizens and local organisations to identify actions that could usefully deliver the Council's Equality Objectives. We welcome this, and acknowledge that the action plan will have a four year duration allowing the Annual Review to measure progress and refine and review next steps. We also feel, however, that – as the equality objectives are not SMART – it will be useful for you and officers to work during the consultation period to identify what success might look like, to optimise the relatively narrow time window between the end of the consultation and the adoption of the final Plan, so that actions are identified and agreed and the Council can “hit the ground running” from the beginning of the Plan period.
- **Reaching seldom-heard citizens and employees:** Members welcome the fact that this Plan is shorter than its predecessor, and that you have produced a six page summary Plan. We hope that you will be able to use this to reach communities and parts of the workforce that have not previously been reached by previous Equality Plans. We note that you will be working through trades unions and staff ambassadors, and urge you to arrange an inclusive and wide-reaching consultation.

The Committee has no further or formal recommendations on this piece of work, but we hope that the points made above will help you to optimise the consultation and finalisation of the Plan. If Committee has agenda time to consider a final version, we will ask for this to come forward to our March agenda. Otherwise we will consider monitoring outcomes in the 2016/17 financial year.

To recap, the Committee is asking you to:

- Reflect on the aspirations you stated for the improvements to equality impact assessment, and factor these arrangements into the equality action plan;
- Ensure that our four yearly Equality Objectives are resilient to and capable of transcending immediate Corporate Plan priorities;
- Ensure that senior management and Cabinet Members explicitly champion equalities work and drive mainstreaming of equalities into everything we do;
- Reflect on the useful comments made by Martyn Jones (summarised above) and factor these arrangements into the equality action plan;
- Continue to develop effective partnerships with third sector expertise, and consider the adoption of a more formal advisory arrangement between the Council and local third sector organisations to shape Cardiff's equalities work;
- Undertake work during the consultation period to gain a clear picture of what outcomes the Council wants to see emerging from the Plan, to facilitate the process of action planning; and
- Do all you can to make the consultation with citizens and employees inclusive and effective.

Yours sincerely,



COUNCILLOR NIGEL HOWELLS
CHAIR, POLICY REVIEW AND PERFORMANCE SCRUTINY COMMITTEE

cc Members of the Policy Review & Performance Scrutiny Committee
Marie Rosenthal, Director of Governance and Legal Services
Paul Keeping, Operational Manager responsible for Equality and Diversity
Martyn Jones, Chief Executive, Diverse Cymru
Sheila Hendrickson-Brown, Chief Executive, Cardiff Third Sector Council