

<b>Meeting:</b>	<b>Employment panel</b>
<b>Meeting date:</b>	<b>Monday 26 February 2018</b>
<b>Title of report:</b>	<b>Code of Conduct Policy - (Schools)</b>
<b>Report by:</b>	<b>Chief executive</b>

## **Classification**

Open

## **Decision type**

This is not an executive decision

## **Wards affected**

(All Wards);

## **Purpose and summary**

To seek the views of the panel on a new Code of Conduct Policy (schools), so that the policy can be adopted by governing bodies in schools (maintained and voluntary-controlled). However, a recommendation will be made to voluntary aided and academy schools to adopt the same policy for consistency in Herefordshire's schools.

The policy has been developed to meet an audit recommendation that there should be a Code of Conduct Policy that is specific to schools. The policy clarifies expectations regarding the required standards of behaviour for all staff working within schools.

## **Recommendation(s)**

**That:**

- (a) the panel determine any recommendations it wishes to make to the chief executive regarding the draft employee Code of Conduct Policy (schools).**

## **Alternative options**

1. To continue to use the existing Code of Conduct Policy, which isn't school specific and doesn't clarify expectations regarding the required standards of behaviour. The current

Code of Conduct in use in schools is dated February 2010 and is no longer fit for purpose. Also, audit has requested that a new Code of Conduct Policy be developed for schools that meet the needs of the school environment.

2. To allow schools to create their individual Code of Conduct Policy. Governing bodies are required to set out a Code of Conduct for all school employees that has been negotiated with trade unions and recommended for adoption by the governing body. There is insufficient funding in the trade union facility budget or resources available to enable maintained schools to consult on an individual basis with union representatives. Union representatives would also question why there is not a common Code of Conduct Policy for governing bodies to adopt which is the case for all other HR policies that schools use.
3. To recommend that governing bodies adopt Herefordshire Council's Code of Conduct Policy or a similar style policy. However, as school staff are role models and as such in a unique position of influence, they must adhere to behaviour that sets a good example to all pupils within the school. As a member of a school community, each employee has an individual responsibility to maintain their reputation and the reputation of the school, whether inside or outside working hours. The proposed Code of Conduct Policy (schools) clarifies what is expected in terms of professional behaviour; it gives clear advice about what constitutes illegal behaviour and what might be considered as misconduct. It also describes safe practice and which behaviours should be avoided. The aims of the Code of Conduct Policy (schools) therefore are to safeguard young people and reduce the risk of staff being falsely accused of improper or unprofessional conduct.

## Key considerations

4. This policy is required to meet the 'keeping children safe in education' statutory guidance, which refers to two policies – Code of Conduct and Whistleblowing. The Code of Conduct Policy is not up-to-date for schools.
5. A number of schools have been audited and an issue raised that the current Code of Conduct Policy does not sufficiently relate to the school environment. The current policy being used by schools is dated February 2010 (HR0008) and does not give clear advice about what constitutes illegal behaviour and what might be considered as misconduct and has remained largely unchanged.
6. The new policy ensures that all employees are fully aware of safe practice and which behaviours should be avoided. This will help staff establish the safest possible learning and working environment and therefore help to safeguard young people and reduce the risk of staff being falsely accused of improper or unprofessional conduct.
7. There have been a number of disciplinary cases involving improper or unprofessional conduct, which would have benefitted from being able to use a policy which addresses inappropriate behaviour.
8. The policy will be sent to schools for formal adoption by the governing bodies. Staff will also be made aware of the policy.
9. The public is entitled to expect the highest standards of behaviour from council employees (school based employees) and the Code of Conduct Policy should set out, in clear and unambiguous terms, what those standards are.
10. The proposed Code of Conduct Policy (schools) reflects the Nolan principles in respect of standards in public life; applies to all employees; establishes clear and consistent

procedures across all maintained schools; is clear and easy to understand; complies with the law and best practice.

11. The Employment Panel is invited to comment on the proposed code and determine any recommendations it wishes to make to the chief executive.
12. It is intended that, once approved, the final policy will be circulated to schools for governing bodies to adopt with immediate effect. Headteachers will be advised that it is essential that all employees are made aware of the requirements of the code and uphold the expected standards.

## **Community impact**

13. As set out in the code of corporate governance, Herefordshire Council is accountable for how it uses the resources under its stewardship, including accountability for outputs and outcomes achieved. In addition, the council has an overarching responsibility to service the public interest in adhering to the requirements of legislation, including school specific legislation and government policies.
14. A clear and effective employee Code of Conduct Policy, specifically designed for school based employees, will help the council to uphold the code of corporate governance principle of “behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law”. It will also support the council’s corporate plan priority to keep children and young people safe and give them a great start in life.

## **Equality duty**

15. Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
16. A workforce equality impact assessment has been completed and no negative impact has been identified.

## **Resource implications**

17. There are no financial implications for schools or impact on the council’s budget arising from the recommendations.
18. The resourcing of communication and training arising from the adoption of the new code will be the responsibility of governing bodies with HR support, which will be met from the existing HR budgets.

## Legal implications

19. The Department for Education statutory guidance 'keeping children safe in education' (updated in September 2016) is statutory guidance to which all schools and colleges must have regard when carrying out their duties to safeguard and promote the welfare of children. This policy requires all schools to adopt and enforce a staff Code of Conduct / Behaviour Policy.
20. As set out in the Education Act 2002 and the Children's Act 2004, the council has general statutory duties to safeguard and promote the welfare of children in the area.

## Risk management

21. The current policy used by schools is not compliant with the statutory guidance document 'keeping children safe in education'.
22. If the new policy is not implemented in schools, it is probable that this will be raised by our auditors as an issue.
23. There is the potential for a reduced disciplinary sanction to be issued to an employee, if there is no supporting policy framework on which to base the alleged misconduct. This is only likely to apply to low level misconduct.

## Consultees

24. Teacher and support staff trade union representatives have been consulted at a meeting and via e-mail. A draft policy was circulated and comments/amendments incorporated as appropriate. A final draft was circulated to all consultees for final review and approval.
25. Headteacher representatives were also present at the meeting with trade union representatives and their comments/amendments were incorporated as appropriate. The feedback was as follows:
  - a. Union request not to be as prescriptive on clothing and jewellery, i.e. to remove 'tattoos and piercings may not be acceptable'. This was agreed.
  - b. Union request to strengthen the section in the Code of Conduct in relation to contacting pupils outside of school hours, so that it was explicit this should only be in absolute exceptional circumstances. This was agreed.
  - c. Union request to amend the wording for staff consuming alcohol on school trips. This was not amended as staff are responsible for the safety and wellbeing of pupils and it is not possible to quantify what alcohol intake would be acceptable.
  - d. Union request to remove the stipulation that staff can only tutor pupils that they teach outside of school with the headteacher's approval. This was not agreed as headteachers are responsible for pupils and also to protect staff from false or malicious allegations.
  - e. No comments were received from headteachers that required any changes to the proposed policy. However, at the meeting their views were that the policy was 'great' and 'fit for purpose'.

## **Appendices**

Appendix 1 – Code of Conduct Policy (schools)

Appendix 2 – Equality Impact Assessment

## **Background papers**

None