

DISCIPLINARY PROCEDURE

(Covering all employees except the Chief Executive,
Chief Officers and teaching staff)

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Effective from 1 May 2014

1 INTRODUCTION

1.1 This procedure is designed to:

- support employees in meeting the Council's rules and standards of conduct; and
- support managers in managing misconduct issues.

1.2 The purpose of the procedure is to improve conduct where a need to do so has been identified, either through the implementation of the informal or formal stages of the procedure.

2 SCOPE

2.1 This procedure applies to all employees excluding the Chief Executive, Chief Officers and teaching staff.

2.2 Issues about an employee's performance should be dealt with using the Managing Work Performance Procedure.

2.3 Issues about an employee's absence for reasons of ill-health should be dealt with using the Managing Attendance Procedure.

3. ROLES AND RESPONSIBILITIES

3.1 All **Employees** are responsible for:

- meeting and maintaining the Council's required standards of conduct; and
- meeting and maintaining any externally set occupational registration requirements and/or professional standards of conduct.

3.2 All **Managers** are responsible for:

- making sure that they and their employees are aware of the Council's required standards of conduct;
- making sure that they and their employees are aware of any externally set occupational registration requirements and / or professional standards;
- enforcing these and taking action to improve conduct where necessary; and
- handling any disciplinary issue that arises sensitively, fairly and promptly.

3.3 Disciplinary processes must be given high priority by managers and employees to make sure that they are completed as quickly as possible.

4. MISCONDUCT

4.1 The standards of conduct required by employees include those outlined in the [Employee Code of Conduct](#). Further information on the standards of conduct can also be found in the [Disciplinary Procedure Toolkit](#), which supplements this procedure.

4.2 Examples of misconduct are detailed in the [Disciplinary Code](#).

5 REPRESENTATION

5.1 At all formal stages of the procedure an employee has the right to be represented by:

- an accredited workplace trade union representative;
- another Council employee; or
- an official employed by a trade union.

5.2 If your companion is another Council employee, they will be allowed reasonable time off with pay to act as your companion. Separate arrangements apply if your representative is a trade union official. These are covered in the Council's agreement on [Time Off and Provisions for Facilities for Trade Union Representatives](#).

6. DISCIPLINARY PROCEDURE - STAGES

6.1 The disciplinary procedure must be used when a manager has identified a misconduct issue that has not been resolved through normal day to day supervision arrangements, or where more serious allegations arise.

6.2 The process to be followed is outlined in the flow chart in the [Disciplinary Procedure Toolkit](#).

6.3 INFORMAL RESOLUTION

6.3.1 Before deciding to progress a misconduct or behaviour issue to the formal stages of the procedure, informal resolution will be used to improve behaviour and/or conduct.

6.3.2 Informal resolution must only be used to rectify minor misconduct issues.

6.3.3 Informal resolution involves the employee and their line manager exploring the reasons why the poor behaviour and/or misconduct occurred, discussing and confirming the improvements and actions that are required, how these will be reviewed and the timescale for achieving them.

6.3.4 Informal resolution is not formal disciplinary action so an employee does not have the right to be accompanied by a work colleague or trade union representative.

Further information on achieving informal resolution is detailed in the [Disciplinary Procedure Toolkit](#).

6.4 FORMAL STAGES

6.4.1 Where more serious or repeated misconduct occurs, the issue must be dealt with using the formal stages of this procedure.

Where serious or gross misconduct is alleged, a nominated officer will consider temporarily redeploying the employee, or where this is not appropriate,

suspending the employee on full pay, as a precautionary measure. Please refer to the [Disciplinary Procedure Toolkit](#) for further information on appointing the nominated officer, redeployment and suspension.

The formal stages must be managed as follows:

- **Investigation:** a nominated officer will decide whether an issue(s) is serious enough to warrant further enquiry and, if it is, will ask for an investigation to be carried out. S/he will nominate another employee (the investigating officer) to conduct an investigation. The role of the investigating officer is to establish the facts relating to the allegations, not to decide whether disciplinary action is appropriate.
- **Hearing:** the nominated officer will receive the investigating officers' report and will decide whether a disciplinary hearing is required, and if so, will chair the disciplinary hearing.

6.4.2 A disciplinary hearing will not be scheduled until a reasonable investigation has been carried out.

6.5 REQUESTING AN INVESTIGATION

6.5.1 Where serious or repeated misconduct occurs, and the nominated officer has decided that the issue is serious enough to warrant further investigation, the nominated officer will ask for an investigation and:

- set the terms of reference for the investigation;
- appoint an investigating officer, making sure they will not be a witness at any hearing;
- make sure adequate resources are allocated to enable the investigation to be completed without unreasonable delay;
- inform the employee (and confirm in writing) that there will be an investigation to establish the facts of the case, detail the allegations and explain the process that will be followed; and
- if appropriate, suspend the employee on full pay. See the [Disciplinary Procedure Toolkit](#) for further information on when this may be appropriate.

6.6 CARRYING OUT AN INVESTIGATION

6.6.1 The investigating officer must explore the reasons why the alleged misconduct occurred and establish the facts and circumstances of each allegation.

6.6.2 A report of the investigating officer's findings will be provided to the nominated officer who asked for the investigation. Further information on carrying out an investigation is contained in [Disciplinary Procedure Toolkit](#).

6.7 INVESTIGATION OUTCOME

6.7.1 The nominated officer is responsible for deciding if there is a case to answer at a disciplinary hearing after receiving the investigating officer's report.

- 6.7.1 Where it is decided that there is **no** disciplinary case to answer the nominated officer must inform the employee of this decision in writing. In some circumstances, the nominated officer may decide that whilst there is no requirement to take the allegations to a disciplinary hearing, it may still be appropriate to consider other action. In these circumstances, the nominated officer will apply the processes for Informal Resolution as outlined in the [Disciplinary Procedure Toolkit](#).

6.8 DISCIPLINARY HEARING

- 6.8.1 If it is decided that there **is** a disciplinary case to answer, then the nominated officer will chair the disciplinary hearing and decide the outcome.

Further information on arranging and conducting a Disciplinary Hearing is contained in the [Disciplinary Procedure Toolkit](#).

- 6.8.2 Following any further investigations, if required, and the conclusion of the hearing the nominated officer will adjourn to consider his or her decision.
- 6.8.3 If, following the adjournment, the nominated officer decides that formal disciplinary action is **not justified**; they will inform the employee within a week of the date of the hearing. This will be confirmed in writing. A copy of the note of the hearing will be enclosed.
- 6.8.4 If the nominated officer decides that formal disciplinary action **is justified**, they will advise the employee of the disciplinary warning and/or sanction applicable within a week of the date of the hearing. Also, where applicable the nominated officer will clarify the standard of conduct required going forward. This will all be confirmed in writing. A copy of the note of the hearing will be enclosed.

Please refer to the [Disciplinary Procedure Toolkit](#) for further information on the levels of disciplinary warnings/sanctions available under this procedure and for delivering outcomes.

7. APPEALS STAGE

- 7.1 Employees have a right of appeal against formal disciplinary action. Employees are required to lodge an appeal within a week of receiving the letter confirming the outcome of their disciplinary hearing. There is more information about this in the [Disciplinary Procedure toolkit](#).

8. LOCAL COLLECTIVE AGREEMENT

- 8.1 This policy is a local collective agreement between the Council and the recognised trade unions. Every effort will be made by both parties to make sure that this policy will be reviewed regularly and amended by agreement, if required to meet future needs. In the event of a failure to reach agreement both parties reserve the right to end this local agreement by giving four months notice in writing. In such circumstances the terms of the local agreement will no longer apply to existing and future employees.