

## **Disciplinary and Grievance Procedure**

### **Disciplinary Procedure**

The Council always tries to deal with disciplinary issues fairly and promptly. This procedure sets out the framework under which allegations of misconduct will be investigated and considered. While the procedure set out in this policy will be appropriate in most cases, there may be situations in which it is not practicable to comply with a particular requirement of it. When this happens, the Council will do its best to deal with the matter fairly and will pay particular attention to the need to give the employee every opportunity to explain their version of events.

The Council reserves the right not to follow this procedure in full for employees who are within their first two years of employment with the Council.

#### **Definition of Misconduct**

Behaviour which is disruptive, disrespectful to colleagues, or which falls short of the requirements set out in the employee handbook will be treated as misconduct under the disciplinary procedure. While employees will not usually be dismissed for a first offence a failure to remedy the behaviour or to adhere to required standards may ultimately lead to dismissal once appropriate warnings have been given.

#### **Definition of Gross Misconduct**

Gross misconduct is behaviour which is fundamentally at odds with the employee's duty to the Council and their colleagues. In accordance with the disciplinary procedure, gross misconduct will usually result in dismissal without notice, or payment in lieu of notice, even in cases of a first offence.

It is not possible to list every example of gross misconduct which may arise, but the following provides an illustration of the sort of conduct that will fall into this category – some of which are then explained in more detail below:

- Theft
- Deliberate acts of discrimination or harassment
- Refusal to carry out reasonable instructions
- Violent or intimidating behaviour
- Willful damage to property
- Reckless behaviour posing a risk to health and safety
- Any act or omission constituting serious or gross negligence/or dereliction of duty
- Sleeping on duty
- Any illegal act during working time or on Council premises; and
- Any act described as gross misconduct elsewhere in this handbook

## **Informal Action**

Most minor acts of misconduct can be dealt with informally through discussions between an employee and their line manager. This may consist of management guidance or an informal warning given orally or in writing. These steps are an everyday part of the management process and no formal procedure needs to be followed in respect of them.

Where informal action of this kind fails to resolve an issue, or where the misconduct alleged is considered too serious, then the matter will be dealt with formally under this procedure.

## **Investigation**

If it is alleged that an employee has committed misconduct, an appropriate investigation will be carried out aimed at gathering all of the relevant evidence. Investigations will be carried out by the Chair. The employee may be interviewed as part of this investigation and will have the opportunity to point the investigator towards any evidence that the employee feels is relevant. The right to be accompanied (see below) does not apply to any investigatory interview.

## **Suspension**

If an allegation of misconduct is made against an employee, then the employee may be suspended from their duties on full pay while the matter is being dealt with. The Council will make every effort to ensure that any period of suspension is kept as short as possible. The purpose of a suspension is either to allow an unhindered investigation to take place, or to protect the interests of the Council and its employees. During any period of suspension, the employee may be instructed not to contact other members of staff except for the purposes of preparing for any disciplinary hearing, where specific arrangements will be made with you. This is not a disciplinary sanction and should not be seen as a predetermination of any disciplinary process.

## **Hearing**

Once the investigation has been carried out, the Chair will make a decision about whether there is sufficient evidence to warrant a disciplinary hearing. If there is, the employee will be informed of this and an appropriate date for the hearing will be arranged. This will take place within normal working hours wherever possible.

To ensure that the employee has adequate time to prepare for the hearing, the Council will provide them in advance with a copy of all of the written evidence that will be considered at the hearing. In exceptional cases the Council may need to withhold the identities of certain witnesses or hold back sensitive items of evidence. This will only be done where it is considered necessary to protect individuals or the essential interests of the Council and every effort will be made to ensure that the employee is given as much information as possible so that a fair hearing can be conducted.

The employee will be given sufficient notice of any hearing to allow them to prepare for it. While this will vary from case to case, the Council will generally try to give at least two days' notice of any hearing and in complicated cases a longer period of notice may be given.

The purpose of the hearing will be to consider the evidence gathered during the investigation and to consider any representations made by the employee or on their behalf. The hearing will usually be conducted by the Chair; however, in some cases, where appropriate (e.g. if the issue relates to a senior staff member) by a panel of councillors including the personnel representatives.

## **The Right to be Accompanied**

Employees are entitled to be accompanied at any disciplinary hearing by a fellow employee or trade union official of their choice. The Council will provide any chosen companion with appropriate paid

time off to allow them to attend the hearing. It is, however, up to the employee in question to arrange for a companion to attend the hearing.

If the chosen companion cannot attend on the day scheduled for the hearing, then the Council will agree a new date. This will usually be within 5 working days of the date originally scheduled. If the companion is not available within that timescale, then they may need to find someone else to take their place.

The companion's role is to advise the employee during the hearing and make representations on their behalf; it is not to answer questions for the employee. However, both the employee and their companion are required to cooperate in ensuring a fair and efficient hearing. The companion cannot answer questions on the employee's behalf.

### **Evidence**

The hearing will consider any evidence the employee chooses to present. Should witnesses be prepared to appear on the employee's behalf they will be permitted to do so provided that their evidence is relevant to the issues that need to be decided. The Council will not compel or require any employee to appear as a witness and in most circumstances, evidence arising from the investigation will be presented in written form. An employee will be entitled to challenge any of the evidence presented but will not be entitled to cross-examine witnesses.

### **Disciplinary Action**

After considering all of the evidence, including any submissions made by the employee or on their behalf, the member conducting the hearing will decide on the outcome. If misconduct is found to have taken place, then the usual outcome will be a **written warning** which will be placed on the personnel file.

A warning will stay active for a period of 1 year, after which it will not be taken into account in any future disciplinary action.

If, however a further instance of misconduct is found to have occurred (in accordance with this procedure) during the currency of a warning – or if any misconduct is considered to be serious enough to warrant it – then, subject to the formal process above being followed, the employee will be issued with a **final written warning**.

A **final written warning** will usually remain active for one year, but a longer period may be specified if the manager conducting the hearing feels that the circumstances warrant it.

An employee who is found to have committed further misconduct during a period covered by a final written warning will, following a hearing conducted in accordance with this procedure, generally be dismissed.

### **Dismissal**

An employee will not normally be dismissed under this procedure for a single instance of misconduct unless a final written warning is already in place. However, where gross misconduct is found to have occurred then dismissal without notice or payment in lieu will be the usual outcome.

Gross misconduct is misconduct that is so serious that it fundamentally undermines the relationship between employer and employee. If an employee is accused of gross misconduct this will be made clear when they are invited to a disciplinary hearing. A wide range of behaviours can amount to gross misconduct but the most common involve dishonesty, violent or aggressive behaviour, the willful destruction of Council property or a deliberate refusal to obey a reasonable instruction.

## **Appeal**

An employee may appeal against the outcome of a disciplinary hearing by doing so in writing within one week of being notified of the outcome. The person to whom an appeal should be directed will be detailed in the disciplinary outcome letter. An appeal hearing will be convened and conducted by a senior manager or panel of councillors with no prior involvement.

The appeal will consider any grounds the employee chooses to put forward and they will have the same right to be accompanied as at a disciplinary hearing. The result of the appeal hearing will be final.

## **Employee Absence**

It is important that disciplinary issues are dealt with promptly. The Council may therefore need to proceed with a disciplinary hearing even if the employee is absent due to ill health or simply does not attend. Before hearing the matter in an employee's absence, the Council will attempt to arrange the hearing in such a way that the employee will be able to attend or to submit written representations to the hearing and/or to arrange for an appropriate representative to attend the hearing on their behalf.

## **Grievance Procedure**

The Council aims to be responsive to concerns raised by employees and if an employee is unhappy with something affecting them at work, they are encouraged to raise this with the Chair. If that is not possible then the employee should speak to a personnel representative who will try to assist in resolving any issue the employee may have. The following procedure is designed to be used when these informal attempts to resolve any dispute have not been successful.

Any written complaint or grievance raised which alleges that a member or co-opted member of the authority has failed to comply with the authority's Code of Conduct will be dealt with under the Code of Conduct Procedure.

### **Raising a Grievance**

If it is felt that the matter needs to be raised formally the employee should raise a grievance by making a written complaint, stating that it is being made under this procedure. The employee should give as much information about the grievance, including any relevant dates and times, as they can, so as to allow for any investigation into the concerns to take place.

A grievance will normally be dealt with by the Chair and should be addressed to them directly. Where the grievance is directly concerned with the Chair's behaviour, however, the employee should submit the grievance to a personnel representative who will arrange for somebody who is not directly involved in the issue to deal with it.

### **Grievance Hearing**

A grievance hearing will then be arranged so that the employee can explain the issue and suggest how it can be resolved. The employee will have the right to be accompanied by a fellow employee or trade union official as described previously. The member conducting the hearing will consider what has been said and may either deal with the matter immediately or decide to carry out further investigations. In that case the hearing will be adjourned until the investigation has been completed.

Once the investigations are concluded, if new information comes to light, if it is considered appropriate, the employee may be invited in to a reconvened meeting, to have the opportunity to consider and respond to the findings of the investigation. Following this a decision on the outcome of the grievance will be made.

### **Allegations of Misconduct – N/A**

Where an employee is making allegations of misconduct on the part of other employees then the Council may need to carry out an investigation into the allegations and pursue the matter through the disciplinary procedure. Where this happens, the grievance will be held over until the disciplinary process has been concluded.

## **Relationship with Other Procedures**

Where a grievance relates to the conduct of other procedures such as the disciplinary or performance management procedures then the Council may choose to either delay the consideration of the grievance until that procedure has been completed or to deal with the grievance in the course of that procedure or by way of appeal if that appears to be a fairer or more straightforward way of dealing with the issue.

## **Appeals**

If an employee is dissatisfied with the outcome of a grievance, then they may appeal. The employee should submit their appeal in writing within one week of being informed of the outcome of the grievance. The appeal should be directed to the Chair of the Council. An appeal hearing will then be convened and conducted by a Panel drawn from the Full Council. The employee will have the right to be accompanied at the appeal by a fellow employee or trade union official as described previously. The outcome of any appeal will be final.

The Council aims to be responsive to concerns raised by employees and if an employee is unhappy with something affecting them at work, then they are encouraged to raise this with their line manager. If that is not possible then the employee should speak to a member of the management team who will try to assist them in resolving any issue they may have. The following procedure is designed to be used when these informal attempts to resolve any dispute have not been successful.

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Disciplinary and Grievance Procedure:

July

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To be reviewed Annually

Next review due July 2025