

DISCIPLINARY AND GRIEVANCE PROCEDURE

1. DISCIPLINARY RULES Misconduct

1.1 The following are examples of matters that will normally be regarded as misconduct and will be dealt with under our Disciplinary Procedure:

- (a) Minor breaches of your Contract of Employment;
- (b) Poor timekeeping;
- (c) Time wasting;
- (d) Persistent absenteeism without good reason;
- (e) Unauthorised absence from work;
- (f) Refusal to follow instructions;
- (g) Obscene, offensive or abusive language or other offensive or rude behaviour or objectionable or insulting behaviour to, or in the presence of, councillors or members of the public;
- (h) Negligence in the performance of your duties;
- (i) Unsatisfactory standards or output of work;

This list is intended as a guide and is not exhaustive.

Gross misconduct

1.2 Gross misconduct is a serious breach of contract and includes misconduct which, in our opinion, is likely to prejudice the Council or its reputation or irreparably damage the working relationship and trust between us. Gross misconduct will be dealt with under our Disciplinary Procedure and will normally lead to immediate dismissal without notice or pay in lieu of notice (summary dismissal).

1.3 The following are examples of matters that are normally regarded as gross misconduct:

- (a) Theft of money or property;
- (b) Fraud or forgery or other dishonesty;
- (c) Physical violence, assault, dangerous behaviour, bullying, abuse or intimidating behaviour including actual or threatened violence or behaviour which provokes violence;
- (d) ~~Obscene language or~~ Seriously offensive or rude behaviour;
- (e) Deliberate, malicious or serious damage to property, buildings, fittings or equipment;
- (f) Serious misuse of the Council's property, equipment, facilities;
- (g) Serious insubordination or repeated or serious failure to obey instructions;
- (h) Deliberate or serious breaches of our standards/rules/regulations;
- (i) Grossly indecent or immoral behaviour or behaviour that brings us into serious disrepute;
- (j) Discrimination; harassment or victimisation;
- (k) Having on your possession, being under the influence of, ~~consuming, supplying or attempting to supply whilst at work or on work premises~~ any alcohol or drugs;
- (l) Causing loss, damage or injury through serious negligence;
- (m) Serious or repeated breach or failure or wilful failure to comply with any health and safety rules or any serious act or omission which is likely to endanger your health and safety or that of others;
- (n) Abandoning duty without notification;
- (o) Serious breach of confidence, or unauthorised use or disclosure of confidential information or documentation to third parties, the press, media or the public generally or failure to ensure that confidential information in your possession is kept secure;

- (p) Conviction of a criminal offence that in our opinion may affect our reputation or otherwise affects your suitability or legality to continue to work for us;
- (q) Serious neglect or dereliction of duties, or a serious or deliberate breach of your Contract of Employment;
- (r) Knowing breach of statutory rules affecting your work or abuse of safety ~~permit regulations~~ rules or procedures or smoking prohibitions;
- (s) Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy;
- (t) Giving or taking of any bribe, secret commission or favour in any form or by any manner whether in cash or in kind;
- (u) Refusal to disclose any information required by your employment or any other information that may have a bearing on the performance of your duties;
- (v) Giving false information as to qualifications or entitlement to work in order to gain employment or other benefits;
- (w) Carrying out private work on our premises;
- (x) Making untrue allegations in bad faith against a councillor; or
- (y) Taking part in activities which result in adverse publicity to ourselves, or which cause us to lose faith in your integrity.

This list is intended as a guide and is not exhaustive and in addition there may be other offences of similar gravity which would constitute gross misconduct. This list may be amended at any time.

2. DISCIPLINARY PROCEDURE

2.1 This procedure does not form part of your Contract of Employment. It is our policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give you the opportunity to respond before taking any formal action.

2.2 Minor conduct issues can often be resolved informally. Discussions will be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on your personnel file but will be ignored for the purposes of any future hearings.

2.3 In some cases an informal verbal warning may be given, which will not form part of your disciplinary records. Any decision to proceed in this way however is a matter for our discretion and will depend entirely on the circumstances in each case. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate.

2.4 You will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct.

Confidentiality

2.5 Our aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. You must treat as confidential any information communicated to you in connection with an investigation or disciplinary matter.

Investigations

- 2.6 The purpose of an investigation is for us to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents.
- 2.7 Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.
- 2.8 You do not have the right to bring a companion to an investigative interview.
- 2.9 You must co-operate fully and promptly in any investigation. This will include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending investigative interviews if required.
- 2.10 If you fail to attend an investigatory disciplinary meeting without notice or good reason the investigation may proceed in the absence of any information provided by you and this could be taken into account in any future disciplinary decision.

Criminal charges

- 2.11 Where your conduct is the subject of a criminal investigation, charge or conviction we will investigate the facts before deciding whether to take formal disciplinary action.
- 2.12 We will not usually wait for the outcome of any prosecution before deciding what action, if any, to take.
- 2.13 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to your employment.

Suspension

- 2.14 In some circumstances we may need to suspend you from work. The suspension will be for no longer than is necessary, to investigate the allegations. We will confirm the arrangements to you in writing.
- 2.15 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. You will continue to receive your full basic salary and benefits during the period of suspension and you will remain bound by your Contract of Employment.

Notification of a hearing

- 2.16 Following any investigation, if we consider there are grounds for disciplinary action, you will be required to attend a disciplinary hearing. We will inform you in writing of the allegations against you, the basis for those allegations, and what the likely range of consequences will be if we decide after the hearing that the allegations are true. We will also include the following where appropriate:
 - (a) A summary of relevant information gathered during the investigation;
 - (b) A copy of any relevant documents which will be used at the disciplinary hearing; and
 - (c) A copy of any witness statements.
- 2.17 We will give you written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as possible, but you will be given a reasonable amount of time to prepare your case based on the information we have given you.

The right to be accompanied

2.18 You may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion may be either a trade union representative or **any person** colleague (not involved in the investigation). You must tell us who your chosen companion is, in good time before the hearing.

2.19 We may require you to choose someone else if your choice of companion is unreasonable because there is a conflict of interest or because they are unavailable or unwilling to attend.

Procedure at disciplinary hearings

2.20 If you or your companion cannot attend the hearing you should inform us immediately and we will arrange an alternative time. You must make every effort to attend the hearing. Failure to attend without good reason may be treated as misconduct in itself and we may have to take a decision based on the available evidence in your absence.

2.21 We may, at our discretion, postpone the hearing at your reasonable request if you require further time to prepare your case. Only one postponement or adjournment will be granted and only in cases where notice and a good reason have been given.

2.22 At the disciplinary hearing we will go through the allegations against you and the evidence that has been gathered. You will be able to respond and present any evidence of your own. Your companion may make representations and ask questions, but should not answer questions on your behalf.

2.23 You may ask relevant witnesses to appear at the hearing, provided you give us sufficient advance notice to arrange their attendance. You will be given the opportunity to respond to any information given by a witness. Where a thorough investigation has taken place and all witnesses have been interviewed as part of the investigation and those witness statements have been supplied to you in advance of the disciplinary hearing there will generally be no need to ask those witnesses to attend the disciplinary hearing.

2.24 We may adjourn the disciplinary hearing if we need to carry out any further investigations such as re-interviewing witnesses in light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

2.25 We will inform you in writing of our decision and our reasons for it, usually within one week of the disciplinary hearing. You will also be sent a copy of the minutes from the hearing. If we cannot make a decision in that time we will write to you to confirm that and with an estimated time scale to conclude matters.

Disciplinary penalties

2.26 **Stage 1 - First written warning.** A first written warning will usually be appropriate for a first act of misconduct where there are no other active written warnings on your disciplinary record.

2.27 **Stage 2 - Final written warning.** A final written warning will usually be appropriate for:

- (a) Misconduct where there is already an active written warning on your record;
or

- (b) Where there is already an active written warning on your record and you have failed to make the necessary adjustments or improvements to your performance or conduct; or
 - (c) Misconduct that we consider sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.
- 2.28 **Stage 3 - Dismissal.** Dismissal will usually only be appropriate for:
- (a) Any misconduct during your probationary period;
 - (b) Further misconduct where there is an active final written warning on your record; or
 - (c) Any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal).
- 2.29 **Alternatives to dismissal.** In some cases we may at our discretion consider alternatives to dismissal. These will usually be accompanied by a final written warning. Examples include:
- (a) Demotion.
 - (b) A period of suspension without pay for a period not exceeding 14 days.
- The effect of a warning**
- 2.30 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
- 2.31 A first written warning will usually remain active for 6 months and a final written warning will usually remain active for 12 months. In exceptional cases verging on gross misconduct, a final written warning may state that it will remain active indefinitely. Your conduct may be reviewed at the end of a warning's active period and if it has not improved sufficiently we may decide to extend the active period.
- 2.32 After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.
- Appeals against disciplinary action**
- 2.33 If you feel that disciplinary action taken against you is wrong or unjust you should appeal in writing, stating your full grounds of appeal, including whether you are appealing against the conduct of the hearing, its findings, the penalties imposed or a combination of these together with supporting evidence and/or reasons to the Deputy Chair or other Council Member within seven calendar days of the date on which you were informed of the decision.
- 2.34 If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful you will be reinstated with no loss of continuity or pay.
- 2.35 If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light we will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the appeal hearing.
- 2.36 We will give you written notice of the date, time and place of the appeal hearing.

- 2.37 At our discretion we reserve the right to call in a third party who has not been involved in the original disciplinary decision to hear your appeal.
- 2.38 The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in light of the procedure that was followed and any new information that may now be available. This will be at our discretion depending on the circumstances of your case. In any event the appeal will be dealt with as impartially as possible.
- 2.39 We may adjourn the appeal hearing if we need to carry out any further investigations. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 2.40 Following the appeal hearing we may:
 - (a) Confirm the original decision;
 - (b) Revoke the original decision; or
 - (c) Substitute a different penalty.
- 2.41 We will inform you in writing of our final decision as soon as possible, usually within one week of the appeal hearing. You will also be sent a copy of the minutes from the hearing. There will be no further right of appeal.

3. GRIEVANCE PROCEDURE

Who is covered by the procedure?

- 3.1 It is our policy that you should have a ready means of presenting complaints and grievances so that you can be assured of fair and equitable treatment.
- 3.2 This procedure does not form part of your Contract of Employment. It may be amended at any time and we may depart from it depending on the circumstances of any case.

Using the grievance procedure

- 3.3 Most grievances can be resolved quickly and informally through discussion. If this does not resolve the problem you should initiate the formal procedure.

Step 1: written grievance

- 3.4 You should put your grievance in writing and submit it, without unreasonable delay, to the Chair.
- 3.5 The written grievance should set out the nature of the complaint, including any relevant facts, dates and names of individuals involved so that we can investigate it.

Step 2: meeting

- 3.6 We will arrange a grievance meeting with you to discuss your grievance and you should make every effort to attend.
- 3.7 You may bring a companion to the grievance meeting provided that you tell us the name of your chosen companion in advance. The companion may be either a trade union representative or a colleague (not involved with the grievance).
- 3.8 If you or your companion cannot attend at the time specified you should let us know as soon as possible and we will try, within reason, to agree an alternative time. Only one postponement will be granted.

- 3.9 We may adjourn the meeting if we need to carry out further investigations, after which the meeting will usually be reconvened.
- 3.10 We will write to you, usually within one week of the last grievance meeting, to confirm our decision and notify you of any further action that we intend to take to resolve the grievance. You will also be sent a copy of the minutes from the meeting. We will also advise you of your right of appeal.

Step 3: appeals

- 3.11 If the grievance has not been resolved to your satisfaction you may appeal in writing to the Deputy Chair or other Council Member, stating your full grounds of appeal, within seven calendar days of the date on which the decision was sent or given to you.
- 3.12 We will hold an appeal meeting, normally within one week of receiving the appeal. You have a right to bring a companion as set out above.
- 3.13 At our discretion we reserve the right to call in a third party who has not been involved in the original decision to hear your appeal.
- 3.14 We will confirm our final decision in writing, usually within one week of the appeal hearing. You will also be sent a copy of the minutes from the meeting. There is no further right of appeal.