



Disciplinary Policy

1. Policy Statement

The Council's Disciplinary Policy and supporting procedure has been developed to ensure that, where there is an alleged breach of the Council's rules, regulations or standards, the employee is treated in a fair and consistent manner in accordance with the principles of natural justice and in line with the ACAS Code of Practice.

The Council will endeavour, wherever possible, to ensure that all employees are aware of and fully understand the rules, regulations and standards operating within the organisation.

2. Background

It is necessary for the proper operation of the Council's business and the health and safety of employees that the organisation operates a disciplinary procedure.

The policy and procedure allows for issues to be dealt with both informally and formally as appropriate. Informal action may take form of a management instruction where appropriate.

There are a number of levels of potential misconduct:

2.2 Misconduct

A breach of rules, regulations or standards, which may warrant the issuing of a formal warning.

Examples of allegations of misconduct

- Persistent poor timekeeping
- Unauthorised absence and/or poor attendance
- Disruptive or unacceptable behaviour
- Contraventions of health and safety or hygiene regulations
- Failure to comply with organisation rules and/or procedures
- Maladministration
- Unreasonable refusal to follow an instructions issued by a Manager or Team leader
- Smoking in non-designated areas

This list is neither exclusive nor exhaustive and in addition there may be other offences of similar gravity which would constitute misconduct.

2.3 Gross Misconduct

Gross misconduct is an act of misconduct that is considered to be so serious for the Council to justify the employee's immediate dismissal as it may represent a breakdown in trust between employer and employee.

Examples of allegations of gross misconduct

- Unauthorised removal of the Council's property
- Stealing from the Council, its members, members of staff, or the public and other offences of dishonesty
- Misappropriation of Council property/money
- Sexual offences/misconduct
- Conduct at work likely to offend common decency
- Fighting / Physical / Verbal assault
- Falsification of time sheets, bonus sheets, subsistence or expense claims, etc
- Falsification of qualifications which are a stated requirement of employment
- Malicious damage to the Council's property
- Serious breaches of safety regulations endangering other people, including deliberate damage to, neglect of, or misappropriation of safety equipment
- Criminal conduct
- Being on duty under the influence of drink or drugs, other than those which have been medically prescribed
- Serious Breach of Confidentiality (excluding disclosure governed by the Public Interest Disclosure Act 1998)
- Improper disclosure of information and misconduct in relation to official documents including breaches of new technology systems' security
- Serious Breaches or abuse of the Council's sickness procedure/scheme
- Breaches of the Council's Internet (ICT) Security Policy in relation to unauthorised or unacceptable use of facilities.
- Neglect of duty
- Bullying/Harassment/Victimisation
- Breaches of the Council's Equality and Diversity Policy
- Failure to disclose a Conflict of Interest or declare Gift or Hospitality in accordance with Council policies
- Failure to disclose previous convictions as required
- Breach of the Council's Employee Code of Conduct
- Breach of the Council's Domestic Violence/Abuse Policy
- Bribery offences under the Bribery Act 2010
- Inappropriate use of social networking sites
- Failure to adhere to the Safer Working Practices for adults who work with children and young people document
- Failure to uphold public trust and maintain high standards of ethics and behaviour within and outside of work.
- Failure to maintain proper and professional regard for the ethos, policies and practices of the Council

This list is neither exclusive nor exhaustive and in addition there may be other offences of similar gravity which would constitute gross misconduct.

Any action against a branch official, departmental representative or trade union steward of a recognised trade union should first be the subject of consultation with the paid official of the relevant trade union and Human Resources.

The Council reserves the right to suspend employees for allegations of misconduct where appropriate. Suspension is not an automatic response to a gross misconduct allegation, but may be appropriate in circumstances where a preliminary examination suggests there is some credible evidence to support the allegation. Under these circumstances the employee should be immediately suspended and sent away from the workplace on **full pay** by a Chief Officer (whilst the investigation proceeds)

Similarly, if during the course of an investigation it is considered that gross misconduct may have occurred, the employee may be suspended and sent off the site, again on **full pay**.

There may be situations where an employee is instructed to leave or not attend the workplace in advance of any formal suspension being confirmed if that is considered to be appropriate. This would be in response to situations of risk or concerns where immediate action is required to ensure that the employee does not remain on Council premises. A decision about suspension should be made at earliest opportunity.

In limited circumstances, the Council may suspend an employee on medical grounds to ensure that the Council as the employer exercises its duty of care to the employee under the Health & Safety at Work Act 1974 and its Regulations and Approved Codes of Practice. Some suspensions on medical grounds will be required in accordance with statutory legislation.

2.4 Dismissal

Gross Misconduct

In the case of gross misconduct the employee may be summarily dismissed i.e. dismissed without notice or pay in lieu of notice. To justify summary dismissal, the misconduct must be so grave as to go to the root of the contract and be such that no reasonable employer could tolerate the continued employment of the employee.

'Totting up' Dismissal

A totting up dismissal may occur, in the absence of gross misconduct, where misconduct or serious misconduct occurs after a current 'live' final written warning has been issued, and such dismissal will be subject to notice pay

2.5 Criminal Charges or convictions outside of work

All employees are required to declare their criminal convictions. Employees are required to inform their Line Manager if they are charged subject to a police investigation for criminal offence(s) at any time during their employment.

Line Managers should seek advice from Human Resources.

Any employees who work with children and / or vulnerable adults must inform their Head of Service of any police investigations they are subject to.

A charge or conviction may result in an investigation / action and could result in disciplinary proceedings being taken against the employee where, in the opinion of the Council, the charge or conviction is such as to affect, or be likely to affect, the suitability of the employee for the position in which he/she is employed, or the business or reputation of the Council, or where the existence of the charge or conviction could, in the opinion of the Council, otherwise seriously undermine the trust and confidence that the Council has in the employee.

2.6 Definition of Roles

<i>Nominated Officer</i>	<p>Disciplinary hearings for gross misconduct hearings where the outcome may be dismissal will only be conducted by a Nominated Officer, i.e. Strategic Director, Director, Head of Service or most senior manager in service area</p> <p>Disciplinary hearings for Misconduct hearings where the outcome will not result in dismissal will be conducted by an appropriate manager/team leader</p>
<i>Investigating Officer</i>	<p>In cases of Gross Misconduct and, where appropriate, in cases of Misconduct, an Investigating Officer will normally be appointed by the Nominated Officer.</p> <p>The role of the investigating officer is to gather information and/or take statements to establish the facts surrounding any allegations, produce a fair, balanced and objective report with recommendations as to suitable actions. They will present or support the presentation of any disciplinary case to a nominated officer. They should ensure that the employee is updated on progress of the investigation.</p> <p>NB The investigating officer should undertake the investigation without any unreasonable delays.</p>
<i>Trade Union</i>	<p>The Trade Union is responsible for supporting employees through the disciplinary process, including representing</p>

	employees at relevant meetings, including investigatory meetings
<i>Employee</i>	The employee should co-operate fully in the disciplinary process, including investigatory meetings and disciplinary hearings. The employee is responsible for contacting and liaising with trade union representatives, or work colleague.
<i>Human Resources</i>	An appropriate Human Resources Officer will advise the Chief Officer/Manager and provide support and advice to the appointed Investigating Officer in relation to procedure and ensure the application of fairness and consistency. In addition, Human Resources will be consulted throughout the procedure in order to ensure fair and consistent application of the policy. A Human Resources Officer will be present at any hearing where there is a potential for dismissal.

2.7 Disciplinary sanctions

A number of sanctions are available where the Manager concludes that the alleged misconduct is more likely than not to have occurred (i.e. on the balance of probabilities).

The table below outlines the Local Authority recommended delegation of responsibilities for disciplinary matters.

	Person responsible for investigating and /or presenting the allegation(s)	Person responsible for Hearing the Disciplinary case
Informal/Pre-Disciplinary Management Instruction	Line manager/team leader	n/a
Misconduct	Investigating Officer	Chief officer/ Senior Manager/Manager
Misconduct Appeals	Chief officer/ Senior Manager /Manager, who made the decision on the sanction to be issued	Chief officer/ Senior Manager
Gross Misconduct or Totting up Dismissal	Senior Manager/Manager	Head of Service or most senior manager in service area and above
Disciplinary Dismissal Appeals	Head of Service or most senior manager in service area and above	Director/Strategic director appeal panel

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- *Senior Manager is normally manager reporting to Head of Service. If no Head of Service in structure, most senior manager may undertake role for gross misconduct or totting up dismissal hearings*

The table below outlines the time limits of the disciplinary sanctions:

Sanction	Time limit
Recorded Verbal Warning	6 months
First Written Warning	12 months
Final Written Warning	12 months

2.8 The Right to be Accompanied

In any formal hearings under this procedure an employee has the statutory right to request to be accompanied by a work colleague or Trade Union representative. The Council does not permit family members or legal representatives to be present at any stage of the process.

3. Commitment to Equality

Please identify which, if any, of the following Equality Duties this policy addresses:

Eliminate unlawful discrimination, harassment and victimisation

To advance equality of opportunity

To foster good relations between different groups of people

4. Procedures

There are different levels of misconduct set out within the policy and there are procedures for each. There is also an appeals procedure.

This policy applies to all Council employees; however the terms and conditions of service agreed by the Joint Negotiating Committee for Chief Officers of Local Authorities and the Joint Negotiating Committee for Chief Executives contain model disciplinary procedures.

5. Supporting Documentation

- Disciplinary Procedure
- Format of Disciplinary hearing
- Misconduct Checklist
- Misconduct Flowchart
- Gross Misconduct Checklist
- Gross Misconduct Flowchart
- Nominated Officers Role
- Nominated Officers Guidance
- Investigating Officers Role
- Investigating Officer's Guidance
- Investigating Officer – Template Report
- Template Letters
- Support Officer guidance
- Frequently asked Questions (FAQs)

6. Related Policies

- Grievance Policy
- Capability Performance Policy
- Dignity at Work (Bullying and Harassment)
- Officer Appeals Procedure

7. Consultation

Trade Unions were consulted on when policy was originally implemented by the Council.

8. Communication and Awareness

This policy is considered:

Internal
[For Members, Officers and
Contractors]

External
[For our Residents, Customers
and Service Users]

All managers must be aware this Policy. It is an integral part of a manager's job to address any issues of misconduct in the workplace and follow the correct procedures in doing so.

All employees must be aware of what may constitute misconduct in the workplace.

All employees and managers are expected to comply with the terms of this Policy.

9. Monitoring and Review

The table below sets out the ownership and review schedule for this policy. However it may be necessary to review as and when required, for example, due to legislative changes or if an issue arises around its effectiveness.

Document Ownership	
Policy owned by:	Head of Human Resources & Organisational Development
Policy written by:	Tony Williams Senior Human Manager, Human Resources & Organisational Development, Transformation & Resources
Date policy written:	June 2015
Policy due for 1st review:	June 2018

Version Control Table			
All changes to this document are recorded in this table.			
Date	Notes/Amendments	Officer	Next Scheduled Review Date
December 2014	<ul style="list-style-type: none"> Revised Policy Format 	Tony Williams	Jan 2014
February 2015	<ul style="list-style-type: none"> Revised Policy wording and refreshed policy to incorporate best practice 	Tony Williams	February 2017