

## Disciplinary Policy and Procedure

### INTRODUCTION

This policy is designed to help and encourage Council employees to achieve and maintain high standards of conduct whilst at work or representing the Council. The aim is to ensure consistent and fair treatment for all.

The policy sets out the action which will be taken when disciplinary rules are breached. Wherever possible, the Council will try to resolve its concerns about employees' behaviour informally, without starting the formal procedure below. This policy is based on and complies with the 2015 ACAS Code of Practice and will be applied in accordance with the Equality Act 2010.

### PRINCIPLES

- No disciplinary action will be taken against an employee until the case has been fully investigated;
- At every stage in the procedure the employee will be advised of the nature of the complaint against him, her or them and will be given the opportunity to state his, her or their case before any decision is made;
- At all formal stages the employee will have the right to be accompanied by a trade union representative, a work colleague or other companion during the disciplinary interview;
- No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty of dismissal without notice or payment in lieu of notice may be applied;
- An employee will have the right to appeal against any disciplinary penalty imposed;
- The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

### MISCONDUCT and GROSS MISCONDUCT

Misconduct is employee behaviour that can lead to the employer taking disciplinary action. The following list contains some examples of **misconduct**. The list is not exhaustive:

- Unauthorised absence from work
- Persistent short-term and/or frequent absences from work without a medical reason
- Poor time keeping
- Minor breaches of Health and Safety or other Council rules or procedures
- Inappropriate behaviour
- Misuse of the Council's facilities (e.g. telephones, computers, email or the internet)
- Refusal to carry out reasonable requests or instructions

Gross misconduct is misconduct so serious that it is likely to lead to dismissal without notice. The following list provides examples of offences which are normally regarded as **gross misconduct**. The list is not exhaustive:

- Bullying, discrimination and harassment;
- Theft, fraud, deliberate falsification of records, or other acts of dishonesty;
- Violent behaviour;
- Gross negligence;
- Gross insubordination;
- Serious and deliberate damage to property
- Being under the influence of illegal drugs or excessive alcohol at work;
- Serious breaches of Council policies and procedures e.g. Health and Safety Policy, Equality and Diversity Policy, Data Protection Policy and any policies regarding the use of information technology;
- Use of the internet or email to access pornographic, obscene or offensive material;
- Disclosure of confidential information

## THE DISCIPLINARY PROCEDURE

The stages of the procedure that apply when discipline or dismissal is being contemplated comply with the statutory dismissal and grievance procedures and are based on the ACAS protocol.

### INFORMAL ACTION

Minor cases of misconduct and most cases of poor performance may be dealt with by informal advice, coaching and counselling. An informal oral warning may be given, which does not count as part of the formal (or statutory) disciplinary procedure.

### FORMAL ACTION

If there is no improvement or the matter is serious enough, the employee will be invited to a disciplinary meeting at which the matter can be properly discussed. The Committee at the meeting will be formed of three Councillors with no direct involvement in the allegations.

- A letter will be given to the employee advising him/her/them of the allegation(s) and reasons why this is unacceptable;
- The letter should invite the employee to attend a meeting at which the alleged misconduct will be discussed and will inform the employee of their right to be accompanied to the meeting;
- The letter will specify at which stage the disciplinary procedure is being invoked. For Gross Misconduct the letter will warn that a potential outcome could be dismissal;
- The time, date and venue of the meeting will also be advised. Any documents to be produced at the meeting will also be provided;
- The time and location of a disciplinary meeting should be agreed with the employee and it should be held in a private location with no interruptions. This will normally be without undue delay but allowing the employee to prepare their case e.g. within 5 days of the letter being sent, where practically possible;
- At the meeting, the Chair of the Committee (formed of the three Councillors) will state the complaint against the employee and go through the evidence which has been gathered;
- The employee or the companion will also be allowed to ask questions, present evidence and call witnesses if advance notice has been given that they will do so;
- If the employee is unable to attend the meeting due to unforeseeable reasons out of their control (e.g. illness) then the Council will reasonably rearrange the meeting;
- However, if the employee fails to attend the meeting without good reason the meeting can be held in the employee's absence;
- The outcome of the meeting will be communicated to the employee within 5 days of the meeting;
- The Chair will also notify the employee of the right to appeal the decision;
- Action taken as a result of the disciplinary meeting will remain in force unless it is modified as a result of an appeal.

### OUTCOMES AND PENALTIES

If the Committee decides to take no disciplinary action, then no record of the matter will be retained on the employee's file. However, if the Committee decides that there should be disciplinary action, it could be any of the following:

#### Formal Oral Warning:

In the case of minor infringements, the employee may be given a formal oral warning. He, she or they will be advised of the reason for the warning, the improvement that is required, the timescale for achieving this improvement together with a review date. A note of the oral warning will be kept on file, but will be disregarded for disciplinary purposes after six months. The employee has the right to appeal against a formal oral warning.

#### Written Warning:

If the infringement is more serious or there is no improvement in conduct after a formal oral warning, the employee will be given a formal written warning giving details of the complaint, the improvement or change in behaviour required, the timescale allowed for this, the right of appeal and the fact that a final written warning may be given if there is no sustained satisfactory improvement or change. A copy of the written warning will be kept on file but will be disregarded for disciplinary purposes after 12 months.

### Final Written Warning:

Where there is a failure to improve or change behaviour during the currency of a prior formal written warning or where the infringement is sufficiently serious, the employee may be given a final written warning. This will give details of the complaint, warn that failure to improve may lead to dismissal and refer to the right of appeal. The final written warning will be kept on file but will normally be disregarded for disciplinary purposes after 12 months.

### Dismissal:

If conduct is still unsatisfactory and the employee fails to reach the prescribed standards or where the Council reasonably believes gross misconduct has occurred, dismissal may result. Only the appropriately convened Committee can take the decision to dismiss an employee. The employee will be given a written statement of allegations against him/her/them and invited to a meeting. The meeting will be held without undue delay, but only when the employee has had a reasonable opportunity to consider a response to the written statement. The employee will then be notified in writing of the reasons for the decision taken at the meeting. Penalties at this stage may include dismissal with notice or summary dismissal (i.e. without any notice). The employee will be advised of the date on which employment will terminate. In all cases, the employee has a right of appeal. Very exceptionally, if an offence of gross misconduct is extremely serious, an employee can be dismissed immediately without a meeting. In this situation, a letter setting out reasons for dismissal would be sent to the employee offering the opportunity for an appeal hearing.

## SUSPENSION

If allegations of serious or gross misconduct are made, the Council may suspend the employee while further investigations are carried out. Suspension will be on full pay and does not imply any determination of guilt or innocence. While on suspension, the employee is required to be available during working hours in the event the Council needs to make contact. The employee must not contact or attempt to contact or influence anyone connected with the investigation. The employee must not attend work. The Council will make arrangements for the employee to access any information or documents required to respond to any allegations.

## APPEALS

The Appeals stage of the disciplinary process is part of the Code of Practice to which an employee has a right. It can be exercised after any of the stages of disciplinary action for Misconduct or Gross Misconduct. An employee who wishes to appeal against a disciplinary decision should inform the Chairman of the Council in writing within five working days of receiving written notice of the disciplinary action and must specify reasons for the appeal.

Grounds for an appeal include:

- failure by the Council to follow its disciplinary procedure
- the disciplinary decision was not supported by the evidence
- the disciplinary action was too severe in the circumstances
- new evidence has come to light since the disciplinary meeting

Where possible the appeal will be heard by a separate panel of elected members who have not been involved in the original disciplinary meeting. The employee will have the right to be accompanied by a colleague or accredited Trade Union official or other companion at the appeal meeting. The outcome of the appeal and reasons for it will be advised to the employee in writing within five days of the appeal meeting. At the appeal meeting, any disciplinary penalty previously imposed will be reviewed, but it cannot be increased. The decision taken at the appeal meeting will be final.

This document was adopted by the Council at its meeting held 21<sup>st</sup> March 2024.

Signed \_\_\_\_\_ Chair