

# Managing Discipline Policy

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## Document Control

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## 1. Purpose Statement

- 1.1 The Council requires acceptable standards of conduct and behaviour at work and it is committed to supporting and encouraging employees to achieve these standards, at all times. Maintaining effective working relationships within the Council is important.
- 1.2 Where an employee's conduct or behaviour falls below what is considered acceptable, the Managing Discipline policy provides a framework in an accompanying procedure to ensure that matters are addressed in a fair and consistent way.
- 1.3 The policy also recognises that each case must be treated on its merits taking account of individual circumstances. In the interest of good employee relations, issues of discipline should be dealt with as speedily and practically as possible.

## 2. Application and Scope Statement

- 2.1 This policy applies to all employees of the Council, including Chief Officers and Teachers; a separate procedure applies to the Chief Executive.

All individuals working on behalf of the Council under other arrangements, such as agency or casual workers, are not subject to the policy and accompanying procedure, but are required to comply with the standards outlined within.

- 2.2 Its main aim is to apply a formal way to deal with an employee's unacceptable or improper behaviour ('misconduct').
- 2.3 All investigations will be carried out with sensitivity, discretion, and confidentially.
- 2.4 In using this policy, special allowance should be made for those whose first language is not English or who have difficulty expressing themselves. The same applies to those with a disability.
- 2.5 This policy and accompanying procedure are in line with the ACAS Code of Practice on disciplinary procedures.

## 3. Core Principles

- 3.1 A disciplinary policy and procedure is necessary for fairness and consistency in the treatment of employees. They set standards of conduct at work and ensure these standards are adhered to and there is a fair process of dealing with alleged failures.
- 3.2 The purpose of disciplinary action should be to encourage employees to correct their behaviour at work. However, in cases of gross misconduct leading to dismissal, the action taken is, by its very nature, punitive.

- 3.3 In certain cases, it may be deemed appropriate for an employee may be suspended with full pay on precautionary grounds. This should be introduced only after careful consideration of other reasonable options, and regularly reviewed to ensure that it does not last longer than necessary.
- 3.4 Cases of minor misconduct should be dealt with promptly using informal advice, guidance and counselling, except where earlier informal action has failed to bring about an improvement.
- 3.5 Employees will be offered the right to be accompanied by a trade union representative or work colleague at all stages of the disciplinary procedure, including investigatory meetings. The employee will not normally be permitted to be accompanied by a legal practitioner, partner, spouse or family member.
- 3.6 No disciplinary action will be taken until the matter has been fully investigated, including giving accused employees the opportunity to fully respond to any allegations made against them and to present any mitigation in support of their case.
- 3.7 No disciplinary action will be taken against a trade union representative until the matter has been discussed with a full-time official of the union concerned.
- 3.8 The chair of the disciplinary hearing will be someone with no prior involvement in the case.
- 3.9 Once the hearing has been held the chair of the hearing will consider all evidence presented before deciding whether to take disciplinary action. There are three levels of disciplinary sanction:
- Level 1: First warning (verbal or written)
  - Level 2: Final warning (written)
  - Level 3: Dismissal or other punitive action e.g. demotion
- 3.10 In cases of misconduct, an employee will not be dismissed for a first breach of discipline.
- 3.11 In cases of gross misconduct, the Council will consider all the circumstances of the case, including any mitigating factors, before deciding on the appropriate disciplinary sanction, with dismissal not being inevitable. Where dismissal is identified as the appropriate action, it will be without notice or pay in lieu of notice.
- 3.12 Employees will receive a written explanation for any disciplinary action taken, and where relevant, the improvement expected and the consequences of failing to improve.
- 3.13 In cases of dismissal, the individual will be advised in writing of the reasons for the termination of their contract of employment and of their right of appeal.
- 3.14 Employees have the right to appeal against any disciplinary action taken.
- 3.15 An appeal will not be heard by the same person who issued the disciplinary sanction.

3.16 All matters will be dealt with promptly and in confidence.

## 4. Responsibilities

4.1 The Council will adhere to all its statutory responsibilities in relation to the provisions of this policy.

4.2 Chief Officers are responsible for the application of this policy and accompanying procedure within their service delivery remit.

4.3 Line Managers have responsibility for applying this policy, its provisions and managing their employees conduct. Line Managers should also:

- Make every effort to ensure fairness and consistency in decision-making in relation to the application of the policy.
- Maintain confidentiality.
- Endeavour to try to resolve conduct issues informally in the first instance.
- Ensure that employees are treated fairly throughout the process.
- Create an environment where employees are aware of this policy, its expectations and the consequences of not meeting required standards of conduct and behaviour.

4.4 Employees have a responsibility to:

- Familiarise themselves with the contents of this policy and accompanying procedure.
- Co-operate with the requirements of the policy.
- Act in a manner that is consistent with the Council's reputation and undertake work tasks and activities, as set out in job profiles.
- Maintain good working relationships with colleagues and managers.
- Comply with all statutory requirements, for example, all health & safety regulations and observe all rules affecting their service area, regulations and operating policies and procedures.

4.5 Non-compliance with this policy should be reported to the employee's line manager or People and Organisational Development.

4.6 Any feedback on the policy or suggestions for improvement can be communicated to the policy author or owner in the first instance.

## 5. Supporting Procedures & Documentation

5.1 Accompanying guidance on Managing Discipline has been put in place to support adherence to this policy. The procedure for dealing with disciplinary matters is detailed within the accompanying guidance.

5.2 This policy also links to:

- Employee Code of Conduct
- Investigations procedure
- Framework Agreement for Industrial Relations (FAIR)

- Diversity and Equality Policy
- The Council's Guiding Principles
- Managing Grievances policy and procedure
- Dignity and Respect at Work policy and procedure
- Whistleblowing policy and procedure
- ICT Acceptable Use policy
- Managing Substance Misuse policy and procedure
- Using Social Media guidance

## 6. Policy Statement/s

The policy is not creating any specific regulations or requirements other than what is stated under 3 above.

## 7. Definitions

7.1 Misconduct is defined as unacceptable or inappropriate behaviour in the workplace that will normally result in disciplinary action short of dismissal being taken in the first instance. The action taken will depend on the degree of seriousness of the misconduct, the employee's current disciplinary record and any other relevant factors.

7.2 Gross misconduct is defined as unacceptable and improper behaviour in the workplace of a serious nature and has the effect of potentially destroying the employment relationship between the employee and Council, making trust and a continued working relationship impossible. The employer must consider all the circumstances of the case, including any mitigating factors, before deciding on the appropriate disciplinary sanction, with dismissal not being inevitable. Where dismissal is identified as the appropriate action, it will be without notice or pay in lieu of notice.

7.3 Examples of what can constitute as employee misconduct and gross misconduct can be found in Appendix 1.

## 8. Risk

8.1 The policy is designed to reduce compliance, operational, financial, and reputational risks. Compliance risk is the risk that may prevent the Council adhering with laws and regulations. Operational risk is concerned with the risk of disruption to Council services and service users. Financial risk is where unexpected costs could be incurred that have not been budgeted for. Reputational risk concerns the threat of adverse media coverage for the organisation which could affect its standing in the community.

8.2 By having a discipline policy in place this helps ensure that the Council is compliant with the ACAS Code mentioned in 2.5 above, by setting out a discipline policy and accompanying procedure and sharing it with all employees. Operational risks will be reduced, as this policy should assist employees to follow the rules and standards set, and for any issues to be

addressed accordingly, and in turn assist with performance and attendance levels at work and meeting service requirements. Financial risks should be mitigated by this policy as it should help ensure that concerns in the workplace are addressed, meaning that any associated claims against the Council should not occur (which can be a significant cost). The policy will also contribute towards reducing reputational risks as it should help ensure that any issues relating to misconduct are dealt with fairly and consistently and issues promptly addressed meaning that negative publicity should not happen. It will also enhance the Council's reputation as an employer of choice and one which applies good employment practices.

8.3 There have been no unintended effects, consequences and risks identified resulting from the introduction of the policy.

8.4 The risks identified will be managed and mitigated through application of the policy across the Council. This will be undertaken by ensuring the policy is readily available to managers and employees and that support is provided from People and Organisational Development in the interpretation of the policy, where required.

## 9. Policy Performance

9.1 The main factors determining the effectiveness of the policy and whether it adds the value intended is the usage of the policy to address misconduct at work, the consistency in its application by managers and the improvement in employees' conduct and behaviours.

9.2 The effectiveness of the policy will be measured through gathering data on the volume of formal disciplinarys and their outcome, and through collecting feedback from users of the policy.

9.3 The Chief Officer – People and Organisational Development will decide where and when data is reported on the effectiveness of the policy, ensuring that confidentiality is maintained.

## 10. Design and Delivery

10.1 The policy links to the 'Workforce Design' principle of the Target Operating Model (TOM) in that it is concerned with organisational culture and promotion of equality in the workplace. The application of the policy and procedure on a fair and consistent basis should help ensure alignment with this principle. It also links to the Council's Guiding Principles, particularly in relation to the commitment to valuing and supporting staff.

10.2 The policy also links to the 'Prosperous People' theme in the Local Outcome Improvement Plan (LOIP) which indicates that all people in the City are entitled to live in a manner in which they feel safe and protected from harm and supported where necessary. All citizens are equally entitled to enjoy these aspirations, including employees of the Council. Having an effective policy and procedure in place to address unacceptable conduct and behaviour should assist in ensuring a safe and healthy workplace for staff.

## 11. Housekeeping and Maintenance

11.1 The Policy will be reviewed annually, and any necessary updates made to it and the accompanying guidance document.

## 12. Communication and Distribution

12.1 The policy will be communicated through the Council's Intranet, Leadership Forum and any other relevant measures to ensure that all relevant parties are aware of its content.

## 13. Information Management

13.1 Information generated by the application of this policy will be managed in accordance with the Council's Corporate Information Policy and Supporting Procedures.

# Appendix 1: Misconduct and Gross misconduct examples

## 1. Misconduct

1.1 See section 7.1 for a definition of misconduct

1.2 The following list is neither exhaustive nor exclusive but gives an indication of the types of misconduct which can result in disciplinary action short of dismissal:

- refusal to follow reasonable instructions, comply with procedures or otherwise fulfil contractual obligations
- carelessness or negligence in carrying out the duties and responsibilities of the job
- minor breaches of health and safety rules and requirements
- willful or deliberate under performance of duties
- persistent poor timekeeping
- unauthorised absence from work and failure to comply with sickness reporting procedure
- persistent short-term sickness absences
- acts of discrimination, bullying and harassment
- unauthorised use of Council property
- improper use of organisational facilities such as the Council's telephone, email system and the internet
- inappropriate behaviour/conduct outside work that has a bearing on role within the Council.

## 2. Gross Misconduct

2.1 See section 7.2 for a definition of gross misconduct

2.2 The following list is neither exhaustive nor exclusive but gives an indication of the types of gross misconduct which can result in dismissal:

- dishonesty, theft, fraud and deliberate falsification of records and/or benefit claims administered by the Council
- fighting, assault on another person
- deliberate damage to Council property
- under the influence of illegal drugs and/or alcohol whilst at work
- serious bullying and harassment
- serious negligence which causes unacceptable loss, damage or injury
- serious insubordination
- major breaches of health and safety rules and requirements
- serious breach of the Council's ICT Acceptable Use Policy
- unauthorised entry to computer records
- indecent, abusive or threatening behaviour to any person whilst engaged, or purporting to be engaged, on Council business

- willful provision of false or misleading information, or willful non-disclosure of information, either during the recruitment process or in subsequent employment which materially affects the contract of employment
- breach of confidentiality (subject to the Public Interest Disclosure Act) or breach of authority vested in a job
- non-disclosure of an interest (conflict of interest), whether direct or indirect, in a contractual agreement between an agency and the Council
- serious breach of Standing Orders or Financial Regulations
- serious discriminatory acts or omissions contrary to or inconsistent with the Council's policy on equality of opportunity
- Removal from, or lapsed registration with, a professional body, where that registration is a condition of employment.