

Disciplinary Procedure

Guidance for Employees

General

The Procedure is intended to ensure that any allegations of misconduct are dealt with fairly and consistently. It applies to all Council employees, (excluding those employed directly by schools where separate arrangements apply).

The Procedure is to be used to deal with issues concerning conduct in work and should not be seen primarily as a means of punishing employees but as a way of helping and encouraging the improvement of anyone whose conduct is unsatisfactory.

Disciplinary issues

Most minor issues can be resolved informally without recourse to the formal procedure through the normal line-management process including supervision, "1-1's" and appraisal etc. Employees are required to fully cooperate in that process.

The formal procedure is intended to ensure that repeated and / or serious allegations of misconduct are dealt with promptly, fairly and consistently in accordance with the Council's policies, employment legislation and "Best Practice"; this includes:

- Gross misconduct – which is conduct of such a serious nature that the Council cannot allow employees to continue in their job. Employees found guilty of gross misconduct will usually be dismissed without further warnings or notice.
- Misconduct – which is conduct of a lesser degree than gross misconduct and if found guilty will result in the employee being issued a warning.

Examples of what may constitute gross misconduct/misconduct are detailed in the Council's Disciplinary Rules and vary according to the seriousness of the offence and the nature of the employee's job. The Disciplinary Rules are available on Intranet at:

<http://lbbd/hr/employee-relations/disciplinary-rules.htm>

Employee responsibilities

Employees must fully co-operate with the arrangements detailed in the Procedure which have been designed to ensure that disciplinary issues are dealt with fairly and objectively; you must:

- Maintain confidentiality
- Attend meetings at the time and place designated
- Give as much notice as possible if you or your representative cannot attend formal meetings and be reasonable when suggesting alternatives, (which must be within 5 working days of the original date)
- Follow the terms of any suspension

Sickness Absence

Disciplinary investigations will not automatically be delayed nor formal meetings and hearings cancelled as a result of sickness absence, whether uncertified or certified. Managers will treat each case on its merits after taking advice from Human Resources.

If you cannot attend any investigation meeting or disciplinary hearing under the formal stages of the Procedure, you must notify the Investigating or Hearing Officer as soon as possible so consideration can be given as to re-arranging the meeting.

- If the manager decides to proceed with the meeting or hearing, you will be given the opportunity to arrange to be represented by a work place colleague or trade union representative in your absence and/or to submit written evidence/representations.
- If you fail to attend and do not provide notice or a satisfactory explanation, the meeting may still go ahead in your absence.

Suspension

In some instances, managers may decide it is necessary to suspend employees during the investigation.

Suspension does not imply guilt and if you are suspended you will continue to be paid as normal. You will also be given the name of a work colleague who you can contact to be kept informed of the progress of the investigation and for support as appropriate.

You will be notified of the conditions attached to the suspension and that you must not contact work colleagues or any one working for or on behalf of the Council without the prior consent of the investigating officer or, in their absence, the Head of Human Resources. You will also be required to return:

- your ID/security pass and uniform (as appropriate)
- any work papers or files (paper or electronic)
- any work equipment and software (mobile 'phones, portable devices and laptops etc)

The manager will normally notify key managers and your work colleagues of the fact of the suspension in order to avoid rumour and speculation.

Note: Managers may need to remove an employee from the workplace whilst they take advice on the allegations and possible suspension; in this situation, you will be sent home on paid special leave.

Formal procedure

Representation

You have the right to be represented at the formal stages of the Procedure by a trade union representative or work colleague and are advised to do so.

At Disciplinary Hearings and Appeals, your representative is allowed to address the hearing to put and sum up your case, respond on your behalf to any views expressed and confer with you during the meeting. They are not entitled to answer questions on your behalf, address the hearing if you do not want them to or prevent management from explaining their case.

Attendance

If you are unable to attend any meetings under the Formal Procedure, you or your representative should inform the relevant person as soon as possible in writing stating the reason for being unable to attend. Where you are unable to arrange representation at an investigation meeting or disciplinary hearing, the meeting will be re-arranged within 5 working days of the date originally given.

If the Investigating/Hearing Officer believes that the request to postpone is unreasonable, they may proceed in your absence e.g. where there has already been an adjournment. If you cannot attend in person, you may submit written statements or arrange to be represented in your absence. Absence for sickness will not automatically result in a meeting/hearing being postponed

Investigation process

It is important that allegations of misconduct are investigated promptly before recollections fade. It is not possible to give timescales for carrying out an investigation as that will depend on the nature and complexity of the case but these are monitored by Human Resources.

The Investigating Officer's role is to establish all the relevant facts, not to decide upon the outcome of the case. They will decide the appropriate way to carry out the investigation, which may involve consideration of documentary and written evidence, questioning of background facts and interviewing witnesses, etc

The Investigating Officer will notify you in writing of the arrangements for an investigation meeting to discuss the matter. The purpose of the meeting is to try and ascertain the facts and you will be provided with details of the allegations, and any evidence at the meeting, and given the opportunity to respond.

Once the investigation is completed the Investigation Officer will then decide whether or not there is a case to be answered at a disciplinary hearing. You will be notified in writing of the outcome of the investigation and the recommendation(s).

Disciplinary Hearings

If the Investigating Officer decides there is a case to be heard, a Hearing will be convened where the allegations will be considered by a Corporate Director, Divisional Director or Group Manager not previously involved with the case.

You will be notified in writing of the arrangements for the Hearing and any evidence to be presented as well as your right to be represented etc. The possible outcomes following a Disciplinary Hearing are:

- Adjournment - pending further investigation of issues raised at the Hearing.
- No Action - Where there is no case to answer.
- Counselling/Advice/Referral to Occupational Health - Where inappropriate behaviour or misconduct can be dealt with through additional support etc.
- 1st written warning (for 6 months) - for minor cases of misconduct.
- 2nd written warning (for 12 months) - for a more serious offence or an accumulation of minor offences.
- Final written warning (for 12 or 18 months) – for further instances of misconduct or a first instance of gross misconduct, depending on the seriousness of the case.
- Dismissal - in gross misconduct cases where the Authority cannot allow the employee to continue in their job.
- Disciplinary Transfer / Demotion - in exceptional cases as an alternative to dismissal where agreed by the Head of Human Resources.

You will be notified in writing of the outcome of the Disciplinary Hearing including any recommendations, normally within 5 working days, along with the right to appeal as appropriate.

Records

Records will be kept detailing the nature of any breach of disciplinary rules, your response and any action taken.

A record will also be kept of any informal disciplinary discussions and all meetings under the formal stage of the procedure. In this situation, your manager will write to you following any informal discussions to confirm this took place e.g. the date; the issue and the outcome etc and a copy of the letter will be forwarded to Human Resources to be stored securely on your personnel file.

Records should be confidential and kept in accordance with the requirements of the procedure and the Data Protection Act 1998.

Note: Electronic recording of meetings is prohibited. Only in exception circumstances as a reasonable adjustment for disabled employees will recording be allowed and then only with the full consent of everyone attending; this must be agreed in advance of the meeting via Human Resources.

Appeals

If you are unhappy with the outcome of a hearing and want to appeal against the decision, you should write to Human Resources within 10 working days of receiving the letter confirming the outcome of the Hearing, stating the grounds for the appeal.

A Corporate Director, Divisional Director or Group Manager, will usually hear appeals against 1st and 2nd written warnings and a Personnel Board will hear appeals against final written warnings and dismissal.

This is the final stage of the Procedure.