

Extract from Disciplinary Procedure – Appendix 1

Disciplinary Rules

Disciplinary rules set standards of conduct at work and it is important that employees know what standards of conduct are expected of them so as not to undermine supervisory control and / or impair the effective exercise of the council's duties and responsibilities.

It is unlikely that any set of disciplinary rules can cover all circumstances that may arise, and the examples detailed are not intended to be either exhaustive or exclusive. Moreover, the rules required may vary according to particular circumstances. In drawing up the rules, the aim has been to specify as clearly and concisely as possible, those necessary for the:

- efficient and safe performance of work;
- legitimate expenditure and use of council resources; and
- for the maintenance of satisfactory employment relations between employees and the Council.

The rules, which apply to everyone employed by the Council, give guidance on how various types of behaviour are to be treated so that each individual is aware of the consequences of unsatisfactory conduct or performance. Breaches of disciplinary rules will lead to appropriate disciplinary action, taking into account:

- the seriousness and nature of the offence;
- the employee's previous record;
- mitigating circumstances
- in some instances - the nature of the job

Definitions

Gross misconduct is conduct of such a serious nature that the Authority cannot allow the employee to continue in their job. Employees found guilty of gross misconduct will usually be dismissed without notice.

Misconduct is conduct of a lesser degree than gross misconduct and if found will result in the employee being issued a warning. Recurring or repeated acts of misconduct may be considered as gross misconduct.

The following are examples of disciplinary offences only and not intended as an exhaustive list. What is listed under “misconduct” may also be considered as “gross misconduct” (and vice-versa) according to the seriousness of the case.

Managers must take advice from Human Resources as to whether an alleged offence is considered as gross misconduct or misconduct.

1. Gross misconduct

The following are examples of offences that would normally be considered as a fundamental breach of contract and gross misconduct. However they may also be considered as misconduct according to the seriousness of the offence and the nature of the employee's job:

1.1 Code of Conduct

- Failure to follow the provisions in the Employees Code of Conduct
- Any breach of the Employees Code of Conduct or the Council's rules that brings the Council into disrepute
- Unauthorised absence from work.

1.2 Absence and time-keeping

- Deliberate failure to obey reasonable instructions or to follow the Council's sickness absence and reporting arrangements, (including unauthorised absence from work).

1.3 Criminal offences in/outside of work

- Any act which could be subject to criminal proceedings and/or the failure to notify the Council of any such action.
- Failure to disclose a conviction/caution for a criminal offence whilst employed by the Council.
- Criminal offences committed inside/outside of work will be considered according to the particular circumstances of the case, but dismissal will result where: -
 - Where there is theft against the public purse (fraud)
 - Employment by the Council in any way enabled or assisted in the commission of the offence.
 - Council property was used to aid the commission of the offence.
 - Continued employment would put at risk those served or employed by the Council.
- Offences which would affect the member of staff's ability to undertake contractual duties or obligations under the Council's Code of Conduct, including failure to declare conflicts of interest

1.4 Data and information protection

- Failure to follow the Council's policies and requirements and which leads to a loss of confidential or personnel information relating to the Council, its clients or fellow employees.
- Misuse of data of confidential or personnel information relating to the Council, its clients or fellow employees

1.5 Discrimination, bullying and harassment

- Sexual misconduct at any time with any person for whom you have a responsibility and is in your care in your capacity as an employee of the council.
- Deliberate acts of bullying and /or harassment that involve physical or mental intimidation or assault and discrimination on any grounds including; age, disability, gender, faith or religion, marital status or civil partnership, maternity or pregnancy, race, sexual orientation, socio-economic status, caring responsibilities in: -
 - The provision of facilities and services
 - Recruitment and employment
 - Failing to make reasonable adjustments where agreed for disabled people
- Deliberate acts of bullying and / or harassment against anyone raising concerns with good reason under the Council's Whistle-blowing Policy.

1.6 Finance regulations and Council procedures

- Stealing from the Council, it's Members, its staff or the public, offering or accepting bribes
- Deliberate contravention of Standing Orders and Financial Regulations or neglect of duty (deliberate or otherwise) in failure to follow procurement rules etc that results in a financial loss to the Council or damage to its reputation or affects staff employment
- Fabrication of any document, for financial gain.
- Deliberate fabrication of qualifications or information which is a stated requirement of employment or which could result in financial gain.
- Acceptance of gifts or gratuities except where allowed under the Council's Conferences, Visits and Hospitality Rules.
- Attempted use of an official position for private advantage, including the employment of people to whom you are related to or have a close personal relationship outside work; dishonest or improper use of information obtained in the Council's employment.
- Doing unauthorised private work (whether paid or not) during hours when contracted to work for the Council or during periods of sick leave.
- Making a knowingly false, misleading or inaccurate oral or written statement in respect of official business or for personal gain.
- Communicating to persons outside the Authority proceedings of any Committee meeting or the contents of any document unless required by law or authorised to do so.
- Providing employment or business references unless authorised to do so.

1.7 General misconduct

- Deliberate failure to obey reasonable instructions or to follow the Council's financial procedures when submitting and approving claims for expenditure.
- Making a false, malicious or vexatious complaint or accusation.
- Posting defamatory, offensive, incorrect or improper comments or disclosing confidential information about the Council, its clients, or fellow employees through any media including social networking sites
- Offensive or abusive behaviour.
- Being under the influence of alcohol or drugs (other than those that have been medically prescribed) so that performance of work duties is detrimentally affected or, which could endanger anyone's health and safety.

Note: Managers should refer to the drug and alcohol dependency policies and take advice from Human Resources before taking any action under this Procedure.

1.8 Health and Safety

- Failure to comply with the obligation placed upon the member of staff under the terms of the Health and Safety at Work Act 1974 and any subsequent amendments.
- Failure to wear appropriate protective clothing or use necessary safety equipment provided by the council for particular duties.
- Failure to comply with accident reporting procedures.
- Fighting or physical assault at work either with fellow employees or other persons; including maltreatment of persons in the care of the Authority; threatening behaviour; intimidation or assault. This does not include reasonable self-defence in cases of assault on an employee.
- Serious breaches of health and safety regulations, endangering yourself or other people, including deliberate damage to, neglect or misappropriation of safety equipment.
- Dangerous or reckless behaviour involving risk of injury to the member of staff or to other persons or other conduct at work likely to diminish safety standards, for example using mobile phones whilst driving.
- Neglecting to carry out any instructions of a medical officer appointed by the authority or, while absent from duty on account of sickness, committing any act, undertaking any private work, or adopting any conduct calculated or liable to postpone return to duty.

1.9 Misuse of Council equipment, material and resources

- Accessing or downloading pornographic or offensive material from the web, intranet and/or any other sources etc
- Deliberate damage to or deliberate neglect of Council property.
- Misuse of materials, equipment or resources that is likely to endanger the health and safety of employees or any other persons or result in a financial loss to the Council.
- Using the Council's facilities and equipment, including e-mail, and mobile devices etc, to threaten, bully or harass employees, or Council clients.
- Unjustifiable waste of Council materials, equipment or resources.
- Failure to report any loss or damage to any property of the Council, within your area of responsibility.
- Use of waste Council material without express authority, including waste food.
- Use of Council labour, materials, equipment or resources for private purposes.

1.10 Neglect of duty

- Failure to renew or maintain accreditations, licenses or qualifications, GSCC/HSPC or CRB etc that are a requirement for the post or the responsibility of the post-holder.
- Failure to discharge obligations in accordance with a legal statute or contract of employment without sufficient cause.
- Negligent, careless or wilfully inadequate standards of work.
- Failure to account properly for or to make a prompt and true return of any money or property which comes into the possession of a member of staff during the course of duty.
- Failure to follow financial procedures when submitting and approving claims for expenditure, including the provision and checking of receipts
- Negligent, careless or wilfully downloading from an unsecured website or electronic communication resulting in any loss to the Council

2. Misconduct

The following are examples of offences that would normally be considered as misconduct. They may also be considered as gross misconduct according to the seriousness of the offence and the nature of the member of staff's job.

1.1 Absence and time-keeping

- Failure to report absence from work and the reason for such absence.
- Failure to provide an absence certificate as required under sick leave procedures.
- Failure to complete flexible hours records or time recording sheets each day or period as required.
- Bad timekeeping.

1.2 General misconduct

- Sleeping on duty unless expressly permitted as a requirement of the job role.

1.3 Health and Safety

- Failure to comply with departmental hygiene requirements.
- Smoking in areas designated as no smoking.
- Failure to comply with health and safety guidance or requirements when working from home

1.4 Misuse of Council equipment, material and resources

- Unauthorised use of any Council documentation, facilities or equipment including work telephones, electronic portable devices, photocopying or scanning, stationery or supplies, web access etc for private purposes.

Human Resources will automatically update the Procedure to comply with any changes to legislation or ACAS guidance and notify employees of the amendments.