



## Disciplinary Policy

Owner	John Harrison, Town Clerk
Reviewer	Emily Hastings, Corporate Services Manager
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If you require any support in understanding or applying this policy, please contact the HR Manager. This policy is designed to be inclusive and to support a culture where everyone is treated with dignity, respect and fairness. The Council is committed to upholding all equality, diversity and inclusion legislation and ensuring that no employee, worker, councillor or applicant receives less favourable treatment on the grounds of protected characteristics or personal circumstances,

## Introduction

- 1 This policy is based on and complies with the 2015 ACAS Code of Practice (<http://www.acas.org.uk/index.aspx?articleid=2174>).
- 2 It also takes account of the ACAS guide on discipline and grievances at work. [https://www.acas.org.uk/media/1043/Discipline-and-grievances-at-work-The-Acas-guide/pdf/DG\\_Guide\\_Feb\\_2019.pdf](https://www.acas.org.uk/media/1043/Discipline-and-grievances-at-work-The-Acas-guide/pdf/DG_Guide_Feb_2019.pdf)
- 3 The policy is to help and encourages employees to achieve and maintain standards of conduct, attendance and job performance. Its aim is to help improvement and to ensure consistent and fair treatment for everyone in the Council. It is not intended to be contractual and the Council may in some circumstances and at its absolute discretion deviate from the policy below. Wherever possible issues will be resolved informally before formal action.
- 4 See appendix 1 for a summary of ACAS principles
- 5 This policy confirms:
  - informal coaching and supervision will be considered, where appropriate, to improve conduct and / or attendance
  - the Council will fully investigate the facts of each case
  - the Council recognises that misconduct and unsatisfactory work performance are different issues. The disciplinary policy will also apply to work performance issues to ensure that all alleged instances of employees' underperformance are dealt with fairly and in a way that is consistent with required standards. However, the disciplinary policy will only be used when performance management proves ineffective.
  - employees will be informed in writing about the nature of the misconduct and given the opportunity to state their case
  - employees will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary hearing
  - employees may be accompanied or represented by a companion – a workplace colleague, a trade union representative or a trade union official - at any investigatory, disciplinary or appeal meeting. The companion is permitted to address such meetings, to put the employee's case and confer with the employee. The companion may not answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining their case
  - the Council will give employees reasonable notice of any meetings in this procedure. Employee must make all reasonable efforts to attend. Failure to attend any meeting may result in the meeting going ahead in their absence and a decision being taken based on the information available. An employee who does not attend a meeting will be given the opportunity to be represented and to make written submissions

- if the employee's companion is not available for the proposed date of the meeting, the employee can request a postponement and can propose an alternative date that is within 7 calendar days of the original meeting date unless it is unreasonable not to propose a later date
- any changes to specified time limits in the Council's procedure must be agreed by the employee and the Council
- information about an employee's disciplinary matter will be restricted to those involved in the disciplinary process. A record of the reason for disciplinary action and the action taken by the Council is confidential to the employee. Records will be kept for the period time that information is retained as set out in the Data Protection legislation.
- audio or video recordings of the proceedings at any stage of the disciplinary procedure are prohibited, unless agreed by all parties as a reasonable adjustment that takes account of an employee's medical condition
- employees have the right to appeal against any disciplinary decision. The appeal decision is final
- if an employee who is already subject to the Council's disciplinary procedure raises a grievance, the grievance will normally be heard after the completion of the disciplinary procedure
- disciplinary action taken by the Council can include a written warning, final written warning or dismissal
- this procedure may be implemented at any stage if the employee's alleged misconduct warrants this
- except for gross misconduct, when an employee may be dismissed without notice, the Council will not dismiss an employee on the first occasion that it decides there has been misconduct
- if an employee is suspended following allegations of misconduct, this will be on full pay and only for such time as is necessary. Suspension is not a disciplinary sanction. The Council will write to the employee to confirm any period of suspension and the reasons for it
- the Council may consider mediation at any stage of the disciplinary procedure where appropriate (for example where there have been communication breakdowns or allegations of bullying or harassment). Mediation is a dispute resolution process that requires the Council's and consent of all parties

## Examples of misconduct

- 6 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
  - poor timekeeping
  - misuse of the Council's resources and facilities including telephone, email and internet
  - inappropriate behaviour
  - refusal to follow reasonable instructions
  - breach of health and safety rules.

## Examples of gross misconduct

- 7 Gross misconduct is misconduct that is considered serious that it is likely to lead to dismissal without notice. The following list contains some examples of gross misconduct: The list is not exhaustive

- Anything related to safeguarding/child protection issues – refer to Hailsham Youth Service Safeguarding policy
- bullying, discrimination and harassment
- incapacity at work because of alcohol or drugs
- violent behaviour
- fraud or theft
- gross negligence
- gross insubordination
- serious breaches of council policies and procedures e.g. the Health and Safety Policy, Equality and Diversity Policy, Data Protection Policy and any policies regarding the use of information technology
- serious and deliberate damage to property
- use of the internet or email to access pornographic, obscene or offensive material
- disclosure of confidential information.

## **Suspension**

- 8 If allegations of gross misconduct or serious misconduct are made, the Council may suspend the employee while further investigations are carried out. Suspension will be on full pay. Suspension does not imply any determination of guilt or innocence, as it is merely a measure to enable a full and fair investigation.
- 9 While on suspension, the employee is required to continue to be available during normal hours of work in the event that the Council needs to make contact. The employee must not contact or attempt to contact or influence anyone connected with the investigation in any way or to discuss this matter with any other employee or Councillor.
- 10 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.

## **Examples of unsatisfactory work performance**

- 11 The following list contains some examples of unsatisfactory work performance: The list is not exhaustive.
- inadequate application of management instructions/office procedures
  - failure to fulfil requirement of job description or contract
  - unsatisfactory people management skills
  - unsatisfactory communication skills

## **The Procedure**

- 12 Preliminary enquiries\_ The Council may make preliminary enquiries to establish the basic facts of what has happened in order to understand whether there may be a case to answer under the disciplinary procedure.
- 13 If the employee's line manager believes there may be a disciplinary case to answer, the Council may initiate a more detailed investigation undertaken to establish the facts of a situation or to establish the perspective of others who may have witnessed the alleged misconduct.
- 14 Informal Procedures. Where minor concerns about conduct become apparent, it is the Line manager's responsibility to raise this with the employee and clarify the improvements required.

A file note will be made and kept by the Line manager. The informal discussions are not part of the formal disciplinary procedure. If the conduct fails to improve, or if further matters of conduct become apparent, the Line manager may decide to formalise the discussions and invite the employee to a first stage disciplinary hearing.

## Disciplinary investigation

- 15 A formal disciplinary investigation may sometimes be required to establish the facts and to determine whether there is a disciplinary case to answer.
- 16 If a formal disciplinary investigation is required, the Town Clerk will appoint a senior manager or impartial individual as an investigator. It would be escalated to the Staffing Committee if the investigation concerned a member of the senior management team. The Investigator will be responsible for undertaking a fact-finding exercise to collect all relevant information. The Investigator will be independent and may be a Councillor. If the staffing committee and HR Manager considers that there are no Councillors who are independent (for example, because they all have direct involvement in the allegations about the employee), it may appoint someone from outside the Council. The Investigator will be appointed as soon as possible after the allegations have been made. The staffing committee will inform the Investigator of the terms of reference of the investigation. The terms of reference should specify:
  - the allegations or events that the investigation is required to consider
  - whether a recommendation is required
  - how the findings should be presented. For example, an investigator will often be required to present the findings in the form of a written report
  - who the findings should be reported to and who to contact for further direction if unexpected issues arise or advice is needed.
- 17 The Investigator will be asked to submit their findings usually within 30 Calendar days of appointment where possible. In cases of alleged unsatisfactory performance or of allegations of minor misconduct, the appointment of an investigator may not be deemed necessary and the Council may decide to commence disciplinary proceedings at the next stage - the disciplinary meeting (see paragraph 25).
- 18 The staffing committee will notify the employee in writing of the alleged misconduct and details of the person undertaking the investigation. The employee may be asked to meet an investigator as part of the disciplinary investigation. The employee will be given sufficient notice of the meeting with the Investigator so that they have reasonable time to prepare for it. The letter will explain the investigation process and that the meeting is part of that process. The employee will be provided with a copy of the Council's disciplinary procedure. The Council will also inform the employee that when they meet with the Investigator, they will have the opportunity to comment on the allegations of misconduct.
- 19 Employees may be accompanied by a workplace colleague or a trade union representative at any investigation meeting.
- 20 If there are other persons (e.g. employees, Councillors, members of the public or the Council's contractors) who can provide relevant information, the Investigator should try to obtain it from them in advance of the meeting with the employee.

- 21 The Investigator has no authority to instigate disciplinary action. Their role is to establish the facts of the case as quickly as possible and prepare a report that recommends to the staffing committee whether or not there is a case to answer which may require invoking the disciplinary policy.
- 22 The Investigator's report will contain their recommendations and the findings on which they were based. They will recommend either:
- the employee has no case to answer and there should be no further action under the Council's disciplinary procedure
  - the matter is not serious enough to justify invoking the disciplinary procedure and can be resolved informally or
  - the employee has a case to answer and a formal hearing should be convened under the Council's disciplinary procedure.
- 23 The Investigator will submit the report to the staffing committee and HR Manager which will decide whether further action will be taken.
- 24 If the Council decides that it will not take disciplinary action, it may consider whether mediation would be appropriate in the circumstances.

### **The disciplinary meeting**

- 25 If the staffing committee decides that there is a case to answer, it will appoint a staffing sub-committee of 3 councillors, to formally hear the allegations. The staffing sub-committee will appoint a Chair from one of its members. The Investigator shall not sit on the sub-committee.
- 26 No Councillor with direct involvement in the matter shall be appointed to the sub-committee. The employee will be invited, in writing, to attend a disciplinary meeting. The sub-committee's letter will confirm the following:
- the names of its Chair and other two members
  - details of the alleged misconduct, its possible consequences and the employee's statutory right to be accompanied at the meeting
  - a copy of the information provided to the sub-committee which may include the investigation report, supporting evidence and a copy of the Council's disciplinary procedure
  - the time and place for the meeting. The employee will be given reasonable notice of the hearing so that they have sufficient time to prepare
  - that witnesses may attend on the employee's and the Council's behalf and that both parties should inform each other of their witnesses' names at least 5 working days before the meeting
  - that the employee and the Council will provide each other with all supporting evidence at least 5 working days before the meeting. If witnesses are not attending the meeting, witness statements will be submitted to the other side at least 5 working days before the hearing
  - that the employee may be accompanied by a companion - a workplace colleague, a trade union representative or a trade union official
- 27 The purpose of the disciplinary meeting hearing is for the allegations presented to the employee and then for the employee to set out their case and have the ability to respond to the allegation against them. It will be conducted as follows:

- the Chair will introduce the members of the sub-committee to the employee and explain the arrangements for the hearing
  - the Chair will set out the allegations and invite the Investigator to present the findings of the investigation report (if there has been a previous investigation)
  - the Chair will invite the employee to present their account
  - the employee (or the companion) will set out their case and present evidence (including any witnesses and/or witness statements)
  - any member of the sub-committee and the employee (or the companion) may question the Investigator and any witness
  - the employee (or companion) will have the opportunity to sum up
- 28 The Chair will provide the employee with the sub-committee's decision with reasons, in writing, within 7 calendar days of the meeting. The Chair will also notify the employee of the right to appeal the decision.
- 29 The disciplinary meeting may be adjourned to allow matters that were raised during the meeting to be further investigated by the sub-committee.

### **Disciplinary action**

- 30 If the sub-committee decides that there should be a disciplinary sanction, it may be any one of the following:  
A Verbal warning is issued for most first instances of minor misconduct. The council will notify the employee:
- of the reason for the warning, the improvement required (if appropriate) and the time period for improvement
  - that further misconduct/failure to improve will result in more serious disciplinary action
  - of the right to appeal
  - that a note confirming the Verbal warning will be placed on the employee's HR file, that a copy will be provided to the employee and that the warning will remain in force for six months.

#### First written warning

- 31 If the employee's conduct has fallen beneath acceptable standards, a first written warning will be issued. A first written warning will set out:
- the reason for the written warning, the improvement required (if appropriate) and the time period for improvement
  - that further misconduct/failure to improve may result in further disciplinary action
  - the employee's right of appeal
  - that a note confirming the written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for a period of 12 months.

#### Final written warning

- 32 If the offence is sufficiently serious, or if there is further misconduct or a failure to improve sufficiently during the currency of a prior warning, the employee will be given a final written warning. A final written warning will set out:
- the reason for the final written warning, the improvement required (if appropriate) and the time period for improvement
  - that further misconduct/failure to improve will result in more serious disciplinary action up to and including dismissal

- the employee's right of appeal
- that a note confirming the final written warning will be placed on the employee's personnel file, that a copy will be provided to the employee and that the warning will remain in force for a period of 12 months.

### Dismissal

33 The Council may dismiss:

- for gross misconduct
- if there is no improvement within the specified time period, in the conduct which has been the subject of a final written warning
- if another instance of misconduct has occurred and a final written warning has already been issued and remains in force.

34 The Council will consider very carefully a decision to dismiss. If an employee is dismissed, they will receive a written statement of the reasons for their dismissal, the date on which the employment will end and details of their right of appeal. If the sub-committee decides to take no disciplinary action, no record of the matter will be retained on the employee's personnel file. Action taken as a result of the disciplinary meeting will remain in force unless it is modified as a result of an appeal.

## **The appeal**

35 An employee who is the subject of disciplinary action will be notified of the right of appeal. Their written notice of appeal must be received by the Council within 7 calendar days of the employee receiving written notice of the disciplinary action and must specify the grounds for appeal.

36 The grounds for appeal include;

- a failure by the Council to follow its disciplinary policy
- the sub-committee's disciplinary decision was not supported by the evidence
- the disciplinary action was too severe in the circumstances of the case
- new evidence has come to light since the disciplinary meeting.

37 Where possible, the appeal will be heard by a panel of 3 members of the staffing committee who have not previously been involved in the case. This includes the Investigator. There may be insufficient members of the staffing committee who have not previously been involved. If so, the appeal panel will be a committee of 3 members of the Council who may include members of the staff committee. The appeal panel will appoint a Chair from one of its members.

38 The employee will be notified, in writing, within 14 calendar days of receipt of the notice of appeal of the time, date and place of the appeal meeting. The employee will be advised that they may be accompanied by a companion - a workplace colleague or a trade union representative.

39 At the appeal meeting, the Chair will:

- introduce the panel members to the employee
- explain the purpose of the meeting, which is to hear and consider the employee's reasons for appealing against the disciplinary decision
- explain the action that the appeal panel may take.

40 The employee (or companion) will be asked to explain the grounds for appeal.

- 41 The Chair will inform the employee that they will receive the decision and the panel's reasons, in writing, usually within five working days of the appeal hearing.
- 42 The appeal panel may decide to uphold the disciplinary decision of the staffing committee, substitute a less serious sanction or decide that no disciplinary action is necessary. If it decides to take no disciplinary action, no record of the matter will be retained on the employee's HR file.
- 43 If an appeal against dismissal is upheld, the employee will be paid in full for the period from the date of dismissal and continuity of service will be preserved.
- 44 The appeal panel's decision is final.

## Appendix 1

### Summary of Disciplinary Policy

#### Purpose & Scope

This policy sets out a clear and fair process for handling disciplinary matters in line with the ACAS Code. It applies to all employees and aims to resolve issues promptly and fairly.

#### Key Principles

- Fairness and consistency
- Confidentiality
- Right to be accompanied
- Opportunity to respond before decisions are made

#### Process Overview

*Informal → Investigation → Hearing → Decision → Appeal*

#### Step-by-Step Process

1. Informal Stage – Manager discusses concerns with the employee.
2. Investigation – Independent fact-finding within 21 days.
3. Disciplinary Hearing – Employee can respond and be accompanied.
4. Decision & Sanction – Based on evidence and seriousness.
5. Appeal – Employee can appeal within 7 days.

#### Roles & Responsibilities:

- Manager: Handles informal stage
- Investigator: Collects facts
- Staffing Sub-Committee: Makes decisions
- Appeal Panel: Reviews decisions

### Summary Table of Disciplinary Sanctions

Sanction	When Applied
Verbal Warning	Minor misconduct
Written Warning	Repeated or serious misconduct
Final Written Warning	Further misconduct after warning
Dismissal	Gross misconduct or continued failure

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#### Employee Rights

Employees have the right to:

- Be informed of allegations
- Be accompanied at hearings
- Ask for reasonable adjustments for support
- Appeal decisions