

Corporate Policy and Strategy Committee

10.00am, Tuesday 25 February 2014

Revised Disciplinary and Grievance Procedures and Disciplinary Code

Item number	7.5
Report number	
Wards	

Links

Coalition pledges	P27
Council outcomes	CO24; CO26; CO27
Single Outcome Agreement	

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Revised Disciplinary and Grievance Procedures and Disciplinary Code

Summary

The current Disciplinary Procedure, Grievance Procedure and Disciplinary Code have been updated to:

- focus on achieving resolution of employment issues at an early stage through dialogue and agreement;
- ensure they reflect current employment legislation, case law and best practice;
- provide an updated, streamlined and responsive approach to assist in the management of these areas; and
- ensure compliance with the current suite of regulatory policies and procedures, e.g. Employee Code of Conduct, Anti Bribery and Fraud Prevention.

The Disciplinary Procedure and Grievance Procedure have been confirmed as Local Collective Agreements.

The Disciplinary Code provides further guidance and does not require to be a collective agreement. The Code should be read in conjunction with the Disciplinary Procedure.

Recommendations

The Corporate Policy and Strategy Committee is recommended to:

1. note the contents of this report; and
2. approve the revised Disciplinary Procedure, Grievance Procedure and Disciplinary Code for implementation.

Measures of success

The success of the Disciplinary Procedure, Grievance Procedure and Disciplinary Code will be measured by:

- an increase in the number of grievance cases resolved at the informal stage and a corresponding decrease in the number of grievances heard at the formal stages;
- an increase in the number of disciplinary cases resolved at the informal stage and a corresponding decrease in the use of formal disciplinary warnings and sanctions;
- increased staff awareness on the need for compliance with Council policies, procedures and the Disciplinary Code; and

- early resolution in terms of the streamlined procedures.

Financial impact

None.

Equalities impact

The revised procedures support the principles of:

- eliminating unlawful discrimination, harassment and victimisation;
- advancing equality of opportunity; and
- fostering good relations.

The revised procedures provide mechanisms for managers and employees to openly communicate and identify areas for improvement and agree and arrange support as required.

The record of the Equality and Rights Impact Assessment will be published on the Council's website in due course. It revealed no adverse impact on employees with protected characteristics.

Sustainability impact

None.

Consultation and engagement

Consultation has included:

- focus groups with representatives from all service areas to obtain feedback and views from operational managers on the proposed procedures;
- focus groups with colleagues in Organisational Development to benefit from their knowledge and experience in supporting managers with grievance and disciplinary issues;
- discussions with the Employment Law Team to confirm legal compliance; and
- Trade Union discussion, feedback and agreement.

Background reading / external references

ACAS - Code of Practice - Discipline and Grievance Procedures ('ACAS Code of Practice')

Revised Disciplinary and Grievance Procedures and Disciplinary Code

1. Background

- 1.1 The current Discipline and Grievance procedures are Local Collective Agreements approved by Committee in 1996. They apply to all employees, except the Chief Executive, Chief Officers and Teaching Staff, for whom separate arrangements apply.
- 1.2 The new procedures provide an updated, streamlined and responsive approach to assist managers with discipline and grievance matters. There is a clear focus on achieving early resolution through dialogue and agreement.
- 1.3 The Disciplinary Procedure, Grievance Procedure and Disciplinary Code have been reviewed as part of the ongoing policy review programme for the City of Edinburgh Council's employment and regulatory policies.
- 1.4 The Disciplinary Procedure and Grievance Procedure have been confirmed as Local Collective Agreements.
- 1.5 The Disciplinary Code provides further guidance and does not require to be a collective agreement. The Code should be read in conjunction with the Disciplinary Procedure.

2. Main report

- 2.1 The key changes to the Disciplinary Procedure are:
 - emphasis on improved conduct during informal stages;
 - removal of oral warnings to reflect the provisions of the ACAS Code of Practice;
 - a structured investigation process;
 - a streamlined 3 stage process of investigation, hearing and appeal; and
 - a requirement to produce a note of the disciplinary hearing.
- 2.2 These changes will ensure the Council is adopting best practice and will assist managers with effective implementation.
- 2.3 The benefits will include:
 - resolving issues through dialogue and informal resolution techniques to reduce reliance on formal staged warnings;
 - clarity of roles and responsibilities for both employees and managers; and

- the implementation of clear guidance to supplement the Disciplinary Procedure, Grievance Procedure and Disciplinary Code.
- 2.4 The key changes to the Grievance Procedure are:
- a streamlined 3 stage process;
 - emphasis on the use of dialogue and communication to resolve grievances at the earliest stage;
 - clarity on when to use the procedure and when to use other procedures e.g. Fair Treatment at Work, Whistleblowing;
 - a definition of a vexatious grievance; and
 - the consequences of raising vexatious grievances.
- 2.5 The benefits will include:
- early resolution of grievances before they escalate to formal stages of the procedure;
 - a reduction in time spent hearing formal stages to the benefit of employees and managers; and
 - the ability to manage vexatious or malicious grievances.
- 2.6 The Disciplinary Code has been updated to cover all employees including teachers and chief officers. It explicitly refers to bribery, fraud and the ICT Acceptable Use Policy making it easier for managers to identify which Council policies and procedures have been breached and determine the appropriate action required.
- 2.7 The Disciplinary Procedure and Grievance Procedure have been confirmed as Local Collective Agreements.
- 2.8 The Disciplinary Code provides further guidance and does not require to be a collective agreement. The Code should be read in conjunction with the Disciplinary Procedure.
- 2.9 Comprehensive toolkits for the Disciplinary Procedure and the Grievance Procedure have been developed in conjunction with the Trade Unions and will be available to all staff on the Orb following Committee approval. The toolkits contain guidance for managers and employees on how the application of the procedures and also provide standard template documents to ensure consistency of practice.
- 2.10 A joint implementation plan is in development with the Trade Unions. This will include manager and staff briefing sessions, Trade Union briefing sessions, e-learning and modules in the LM1 courses for front line supervisors and managers.
- 2.11 The new procedures will also be incorporated into the mandatory induction programme.

3. Recommendations

- 3.1 The Corporate Policy and Strategy Committee is recommended to:
- 3.1.1 note the contents of this report; and
 - 3.1.2 approve the revised Disciplinary Procedure, Grievance Procedure and Disciplinary Code for implementation.

Alastair Maclean

Director of Corporate Governance

Links

Coalition pledges	P27 - Seek to work in full partnership with Council staff and their representatives
Council outcomes	CO24 - The Council communicates effectively and internally and externally and has an excellent reputation for customer care CO26 - The Council engages with stakeholders and works in partnership to improve services and deliver on agreed objectives. CO27 - The Council supports, invests in and develops our people
Single Outcome Agreement	
Appendices	Appendix 1 Disciplinary Procedure Appendix 2 Grievance Procedure Appendix 3 The Disciplinary Cod

DISCIPLINARY PROCEDURE

(Covering all employees except the Chief Executive,
Chief Officers and teaching staff)

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22 January 2014

1 INTRODUCTION

1.1 This procedure is designed to:

- support employees in meeting the Council's rules and standards of conduct; and
- support managers in managing misconduct issues.

1.2 The purpose of the procedure is to improve conduct where a need to do so has been identified, either through the implementation of the informal or formal stages of the procedure.

2 SCOPE

2.1 This procedure applies to all employees excluding the Chief Executive, Chief Officers and teaching staff.

2.2 Issues about an employee's performance should be dealt with using the Managing Work Performance Procedure.

2.3 Issues about an employee's absence for reasons of ill-health should be dealt with using the Managing Attendance Procedure.

3. ROLES AND RESPONSIBILITIES

3.1 All **Employees** are responsible for:

- meeting and maintaining the Council's required standards of conduct; and
- meeting and maintaining any externally set occupational registration requirements and/or professional standards of conduct.

3.2 All **Managers** are responsible for:

- making sure that they and their employees are aware of the Council's required standards of conduct;
- making sure that they and their employees are aware of any externally set occupational registration requirements and / or professional standards;
- enforcing these and taking action to improve conduct where necessary; and
- handling any disciplinary issue that arises sensitively, fairly and promptly.

3.3 Disciplinary processes must be given high priority by managers and employees to make sure that they are completed as quickly as possible.

4. MISCONDUCT

4.1 The standards of conduct required by employees include those outlined in the Employee Code of Conduct ([add hyperlink to Code of Conduct](#)). Further information

on the standards of conduct can also be found in the Disciplinary Procedure Toolkit which supplements this procedure ([add hyperlink to toolkit](#))

4.2 Examples of misconduct are detailed in the Disciplinary Code. ([add hyperlink to Disciplinary Code](#)).

5 REPRESENTATION

5.1 At all formal stages of the procedure an employee has the right to be represented by:

- an accredited workplace trade union representative;
- another Council employee; or
- an official employed by a trade union.

5.2 If your companion is another Council employee, they will be allowed reasonable time off with pay to act as your companion. Separate arrangements apply to trade union representatives and full time officials ([add hyperlink to TU Time off Guidance](#)).

6. DISCIPLINARY PROCEDURE - STAGES

6.1 The disciplinary procedure must be used when a manager has identified a misconduct issue that has not been resolved through normal day to day supervision arrangements, or where more serious allegations arise.

6.2 The process to be followed for all stages of the procedure is outlined in the flow chart in the **Disciplinary Procedure Toolkit** ([add hyperlink to toolkit](#)).

6.3 INFORMAL RESOLUTION

6.3.1 Before deciding to progress a misconduct or behaviour issue to the formal stages of the procedure, informal resolution will be used to improve behaviour and/or conduct.

6.3.2 Informal resolution must only be used to rectify minor misconduct issues.

6.3.3 Informal resolution involves the employee and their line manager exploring the reasons why the poor behaviour and/or misconduct occurred, discussing and confirming the improvements and actions that are required, how these will be reviewed and the timescale for achieving them.

6.3.4 Informal resolution is not formal disciplinary action so an employee does not have the right to be accompanied by a work colleague or trade union representative.

Further information on achieving informal resolution is detailed in the **Disciplinary Procedure Toolkit**. ([add hyperlink to toolkit](#)).

6.4 FORMAL STAGES

- 6.4.1 Where more serious or repeated misconduct occurs, the issue must be dealt with using the formal stages of this procedure.

Where serious or gross misconduct is alleged, a nominated officer will consider temporarily redeploying the employee, or where this is not appropriate, suspending the employee on full pay, as a precautionary measure. Please refer to the **Disciplinary Procedure Toolkit** for further information on appointing the nominated officer, redeployment and suspension) (add hyperlink to toolkit).

The formal stages must be managed as follows:

- **Investigation:** a nominated officer will decide whether an issue(s) is serious enough to warrant further enquiry and, if it is, will ask for an investigation to be carried out. S/he will nominate another employee (the investigating officer) to conduct an investigation. The role of the investigating officer is to establish the facts relating to the allegations, not to decide whether disciplinary action is appropriate.
- **Hearing:** the nominated officer will receive the investigating officers' report and will decide whether a disciplinary hearing is required, and if so, will chair the disciplinary hearing.

- 6.4.2 A disciplinary hearing will not be scheduled until a reasonable investigation has been carried out.

6.5 REQUESTING AN INVESTIGATION

- 6.5.1 Where serious or repeated misconduct occurs, and the nominated officer has decided that the issue is serious enough to warrant further investigation, the nominated officer will ask for an investigation and:

- set the terms of reference for the investigation;
- appoint an investigating officer, making sure they will not be a witness at any hearing;
- make sure adequate resources are allocated to enable the investigation to be completed without unreasonable delay;
- inform the employee (and confirm in writing) that there will be an investigation to establish the facts of the case, detail the allegations and explain the process that will be followed; and
- if appropriate, suspend the employee on full pay. See the **Disciplinary Procedure Toolkit** (add hyperlink to toolkit) for further information on when this may be appropriate.

6.6. CARRYING OUT AN INVESTIGATION

- 6.6.1 The investigating officer must explore the reasons why the alleged misconduct occurred and establish the facts and circumstances of each allegation.

6.6.2 A report of the investigating officer's findings will be provided to the nominated officer who asked for the investigation. Further information on carrying out an investigation is contained in **Disciplinary Procedure Toolkit**. (add hyperlink to toolkit).

6.7 INVESTIGATION OUTCOME

6.71 The nominated officer who is responsible for deciding if there is a case to answer at a disciplinary hearing after receiving the investigating officer's report.

6.7.1 Where it is decided that there is **no** disciplinary case to answer the nominated officer must inform the employee of this decision in writing. In some circumstances, the manager may decide that whilst there is no requirement to take the allegations to a disciplinary hearing, it may still be appropriate to consider other action. In these circumstances the nominated officer will apply the processes for Informal Resolution as outlined in the **Disciplinary Procedure Toolkit**. (add hyperlink to toolkit).

6.8 DISCIPLINARY HEARING

6.8.1 If it is decided that there **is** a disciplinary case to answer, then the nominated officer will chair the disciplinary hearing and decide the outcome.

Further information on arranging and conducting a Disciplinary Hearing is contained in the **Disciplinary Procedure Toolkit**. (add hyperlink to toolkit).

6.8.2 Following any further investigations, if required, and the conclusion of the hearing the nominated officer will adjourn to consider his or her decision.

6.8.3 If, following the adjournment, the nominated officer decides that formal disciplinary action is **not justified**; they will inform the employee within seven calendar days of the date of the hearing. This will be confirmed in writing. A copy of the note of the hearing will be enclosed.

6.8.4 If the nominated officer decides that formal disciplinary action **is justified**, they will advise the employee of the disciplinary warning and/or sanction applicable within seven calendar days of the date of the hearing. Also, where applicable the nominated officer will clarify the standard of conduct required going forward. This will all be confirmed in writing. A copy of the note of the hearing will be enclosed.

Please refer to the **Disciplinary Procedure Toolkit** for further information on the levels of disciplinary warnings/sanctions available under this procedure and for delivering outcomes. (add hyperlink to toolkit).

7. APPEALS STAGE

- 7.1 Employees have a right of appeal against formal disciplinary action. Employees are required to lodge an appeal within seven calendar days of receipt of the disciplinary outcome letter. (add hyperlink to toolkit)
- 7.3 Further information on Appeals can be found in the **Disciplinary Procedure Toolkit**. (add hyperlink to toolkit).

8. LOCAL COLLECTIVE AGREEMENT

- 8.1 This policy is a local collective agreement between the Council and the recognised trade unions. Every effort will be made by both parties to make sure that this policy will be reviewed regularly and amended by agreement, if required to meet future needs. In the event of a failure to reach agreement both parties reserve the right to end this local agreement by giving four months notice in writing. In such circumstances the terms of the local agreement will no longer apply to existing and future employees.

Final Draft

GRIEVANCE PROCEDURE

(Covering all employees except the Chief Executive,
Chief Officers and teaching staff)

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10. REVIEW

22 January 2014

GRIEVANCE PROCEDURE

(Covering all employees except the Chief Executive,
Chief Officers and teaching staff)

1. INTRODUCTION

- 1.1 The Council recognises the importance of creating a working environment in which all employees feel confident about raising matters of concern relating to their employment.
- 1.2 The Grievance Procedure provides a process to deal with concerns wherever possible at an early stage, through discussion and agreement.
- 1.4 This procedure will be applied in accordance with the Council's Equalities Policies.

2. SCOPE OF PROCEDURE

- 2.1 This procedure applies to current employees of the Council and is designed to deal with employment related concerns, such as:
 - your work or working arrangements;
 - your office and its equipment (including health and safety concerns);
 - relationships at work;
 - your employment contract; or
 - equal opportunities issues.
- 2.2 Sometimes an issue you want to raise is better dealt with using another process, policy or procedure, for example:
 - complaints of harassment or bullying should be raised through the Council's Policy on Fair Treatment at Work;
 - grading appeals should be raised through the Council's Grading Appeals process; and
 - appeals against disciplinary action should be raised through the appeal process in the Council's Disciplinary Procedure.
- 2.3 The Council is confident that the majority of grievances raised by staff are genuine and made in good faith. However, if a grievance is found to be deliberately vexatious or malicious this will be treated as a serious disciplinary offence and may constitute gross misconduct.

2.4 A vexatious or malicious grievance includes one that:

- is not made in good faith, e.g. is based on deliberate misrepresentations or untruths; or
- can be considered unreasonable, e.g. where an individual continues to raise the same issues that have been formally addressed previously.

2.5 You cannot use this procedure if you have left the Council's employment.

2.6 You cannot use this procedure to challenge decisions that are made outside the Council, such as on tax and national insurance matters or changes in the law.

3. ROLES AND RESPONSIBILITIES

3.1 All **employees** are responsible for:

- making sure you understand the Grievance Procedure;
- trying to deal with grievances informally in the first instance;
- raising a grievance in writing if it has not been settled at the informal stage; and
- stating the outcome that you are seeking.

3.2 All **managers** are responsible for:

- undertaking training in the Grievance Procedure;
- making sure they understand the Grievance Procedure;
- making sure their employees are aware of and understand the Grievance Procedure;
- dealing with grievances promptly and informally where possible; and
- handling grievances sensitively and confidentially, making sure standards of fairness, objectivity and consistency are followed in all cases.

Grievance processes must be given a high priority by managers, employees and trade union representatives so they can be completed as quickly as possible.

4. REPRESENTATION

4.1 At any formal meeting under this procedure an employee will have the right to be represented by:

- an accredited workplace trade union representative;
- a Council employee; or
- a full time official employed by a trade union.

4.2 If your representative is a Council employee, they will be allowed reasonable time off with pay to accompany you. Separate arrangements apply to trade union representatives. [\(add link to guidance on Time Off for TU Reps\)](#)

4.3 Your representative cannot answer any questions put directly to you. However, they can help you to present your case. You may talk privately with them at any time during the meeting.

5. STAGE 1 - INFORMAL GRIEVANCE

5.1 You should normally raise any concerns informally in the first instance with your line manager. Both you and your line manager should aim to deal with any problems at this stage.

5.2 You may raise your concerns informally in one of the following ways:

- discuss the issue with your line manager;
- if the subject of the grievance is your line manager, and you do not feel comfortable or able to discuss the issue with him/her, you should discuss the issue with your line manager's manager; or
- if your concern relates to another employee, and it is appropriate to do so, you should speak directly to the employee concerned.

5.3 During these informal discussions, you should discuss your grievance in detail. Often issues can be sorted out at this point through discussion and clarification.

5.4 Your line manager will attempt to settle your grievance by discussing with you:

- what you are concerned about and why i.e. what impact is it having on you;
- the outcome you are looking for and whether this is possible or appropriate; and
- the implications of adopting any particular course of action.

5.5 If the issue is more complex, your line manager may need time to investigate the circumstances of your grievance. This will be done without unreasonable delay.

5.6 At the conclusion of the investigation, or within five working days of you raising the issue, your manager should inform you verbally of any action that will be taken.

5.7 Your manager will monitor the situation to make sure that any action or decision taken as a result is effective.

6. STAGE 2 - FORMAL GRIEVANCE

6.1 If the informal discussion does not resolve your concerns you can progress the issue to a formal grievance.

6.2 If your grievance is not resolved at the informal stage, you should raise the matter within 10 working days in writing to your line manager, or another manager, if appropriate.

- 6.2 You should set out the details of your grievance in writing using the Stage 2 grievance form in the toolkit ([add hyperlink to the toolkit](#)). You can also include additional information for consideration by the manager dealing with the grievance.
- 6.3 The Stage 2 grievance form should be sent to your immediate line manager who will hear the grievance. A grievance cannot be automatically referred to the line manager's manager simply because your line manager has already considered the matter informally at Stage 1.
- 6.4 If your grievance is about your line manager you should send the Stage 2 grievance form to your line manager's manager who will hear the grievance.
- 6.5 Following receipt of the Stage 2 grievance form and any supporting documents, the appropriate manager will arrange a Stage 2 meeting to consider the grievance. The meeting will be arranged within 10 working days of receiving the written grievance unless there is joint agreement to extend this timescale.
- 6.6 The manager conducting the grievance meeting will make sure that all relevant information is presented and considered. Where appropriate, other managers/employees involved at an earlier stage will attend the meeting to help discussions.
- 6.7 In particularly complex cases, the manager conducting the meeting may be advised by a representative from Organisational Development.

7. POSSIBLE OUTCOMES

7.1 After the grievance meeting, a decision will be sent to you in writing, within 10 working days. There are five possible outcomes to a grievance:

7.2 Grievance Upheld

If your grievance is upheld, the manager who heard it will explain any action that will be taken to settle the concern(s) you raised and will also put this in a letter to you. This may include:

- clarifying or changing working practices;
- providing additional training and/or support for you or other employees;
- agreeing to put right any identified failing; and
- an action plan to sort out the issues you raised.

7.3 Grievance Partially Upheld

If your grievance is partially upheld, the manager who heard it may decide that only some of the concern(s) you raised requires action. S/he will explain which part of your concern(s) have been upheld and the action that will be taken to

settle them and which have not been upheld. S/he will also put this in a letter to you.

7.4 Grievance Not Upheld

Alternatively, the manager may decide that your grievance has not been upheld because the issues you raised cannot be supported. The manager will also put this in a letter to you.

7.5 Further Investigation Required

7.5.1 The manager may decide that further information is required before a decision on your grievance can be made. The manager will adjourn the meeting and start an investigation. The manager will explain this to you and will also put this in a letter to you, indicating how long the investigation will take.

7.5.2 If another employee is the subject of your grievance and further investigation is required, they will be provided with a copy of any relevant information being considered.

7.5.3 When the investigation is finished the manager will make a decision about your grievance and inform you of their decision in writing. The possible outcomes are those described in paragraphs 7.2, 7.3 and 7.4 above and 7.6 below.

7.6 The Grievance is Vexatious

If it the manager hearing the Stage 2 grievance decides that your grievance is vexatious s/he will decide whether to start the process to take disciplinary action against you.

8 STAGE 3 - APPEAL

8.1 If you disagree with the decision made at Stage 2 you may submit an appeal at Stage 3. An appeal must be sent in writing to the Head of Legal, Risk and Compliance, within 10 working days of you receiving the Stage 2 outcome letter. You should also send a copy of your appeal letter to your Service Director. Your appeal will be considered by the Personnel Appeals Committee.

8.2 An appeal can only be submitted if some or all of the following are true:

- the grievance procedure followed was not a fair process and/or was not followed correctly;
- additional evidence was not considered;
- evidence was considered but misinterpreted; and
- the conclusion reached was incorrect given the evidence presented.

No new issues or concerns can be added at this stage. The issues must be the same as those originally raised at Stage 2. If you have new issues or concerns, then a new grievance must be started.

- 8.3 A Stage 3 appeal must include:
- details of what you are concerned about and why;
 - why you are making an appeal;
 - why you disagree with the Stage 2 outcome;
 - the outcome that you are seeking; and
 - any other relevant information.

A checklist of information to be included in the written statement is included in the toolkit ([add link to toolkit](#)).

- 8.4 The Head of Legal, Risk and Compliance will arrange for your appeal to be heard by the Personnel Appeals Committee within 20 working days of receiving your written appeal submission or as soon as possible if that timescale cannot be met.
- 8.5 The Personnel Appeals Committee will review the original decision in light of your specific grounds of appeal – see paragraph 8.2. It is not an opportunity to rehear the grievance and evidence is not heard again at the hearing.
- 8.6 Normally, the Committee will decide that your grievance has either been upheld, partially upheld or is not upheld.

The Committee can also ask the Service Director to:

- arrange to consider your grievance again; or
- to make further investigations into your issues or concerns.

If further investigation is required, the Committee will provide reasons for this in writing. If the Personnel Appeals Committee decides that either of these is required you will have an additional right of appeal at Stage 3.

- 8.7 The Personnel Appeals Committee decision will be confirmed in writing to you and your representative by the Head of Legal, Risk and Compliance within 10 working days of the date of the meeting. There is no further right of appeal.

9. TIME LIMITS

- 9.1 The time limits relating to Stages 1, 2 and 3 of this procedure may be varied by joint agreement.

10. LOCAL AGREEMENT

- 10.1 This policy is a local collective agreement between the Council and the recognised trade unions. Every effort will be made by both parties to make sure that this policy is reviewed regularly and amended by agreement, if required to meet future needs. In the event of a failure to reach agreement both parties reserve the right to end this local agreement by giving four months notice in writing. In such circumstances the terms of the local agreement will no longer apply to existing and future employees.

DISCIPLINARY CODE

(Covering all employees)

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APPENDIX 1 Related Policies and Procedures

final draft

22 January 2014

DISCIPLINARY CODE

(Covering all employees)

1. INTRODUCTION

- 1.1 All Council employees are required to adhere to and maintain the professional and reasonable standards of conduct expected of them at work.
- 1.2 The standards of conduct we require from our employees are set out in the Employee Code of Conduct [\(add link to Code of Conduct\)](#).
- 1.3 All employees must also make sure they read, understand and observe all the relevant rules, regulations and procedures that apply to them. These can be found in:
 - your Statement of Particulars,
 - the Scheme of Conditions of Service as adopted by the Council relating to specific employee groups;
 - the list of policies noted in **Appendix 1**, which may be added to from time to time and notified to you;
 - locally agreed standards of behaviour and other procedures specific to your service area which are available from your line manager; and
 - regulatory and professional bodies codes of conduct that apply to specific posts/professions.
- 1.4 If you are in any doubt as to your responsibilities or the standards of conduct expected you should speak to your line manager.
- 1.5 You should read the Disciplinary Code in conjunction with the Disciplinary Procedure. The aim of the Code and the Procedure is to set out the standards of conduct expected of all staff and to provide a framework within which managers can work with staff to maintain those standards and encourage improvements. [\(add link to Disciplinary Procedure.\)](#)
- 1.6 The Disciplinary Code details the types of behaviours and conduct that are considered unacceptable and the different levels of disciplinary action that may be taken if your conduct or behaviour falls short of the required standards.
- 1.7 It is the Council's policy to ensure that any disciplinary matter will be dealt with fairly and consistently in accordance with the Disciplinary Procedure.

2. MISCONDUCT

- 2.1 Misconduct is behaviour that is unacceptable at work. It can also include unacceptable behaviour outside of work if it impacts on your contract of employment.
- 2.2 The following list gives examples of misconduct that could result in disciplinary action short of dismissal being taken. The list is intended as a guide and is not exhaustive:

Behaviour

- not obeying a reasonable instruction;
- minor breaches of contract
- inappropriate language or gestures;
- using language or behaviour which is offensive, abusive or threatening to colleagues, service users or members of the public (**NB** this may also constitute gross misconduct depending on the specific circumstances);
- careless damage to council property or to property not belonging to the Council whilst engaged on Council business;
- unauthorised use of council property or to property not belonging to the Council whilst engaged on Council business; carelessness or negligence in carrying out the duties and responsibilities of the post; and
- being unfit for work because of the misuse of alcohol, drugs, legal highs or other substances (**NB** this may also constitute gross misconduct depending on the specific circumstances). [\(add hyperlink to ADSM Policy\)](#)

Council Governance and Regulation

- minor breaches of health and safety procedures; and
- failure to declare a small gift and/or hospitality.

Regulatory Bodies

- failure to comply with regulatory bodies standards and codes of practice.

Attendance

- unauthorised absence from work;
- persistent lateness;
- time wasting;
- failing to comply with flexi-time rules or other working hours arrangements;
- failing to comply with absence reporting procedures; and
- failing to comply with sickness certification rules.

Equalities Issues

- minor breaches of equality legislation or the Council's Equality and Diversity in Employment Policy or associated policies and procedures.

Computer or Technology Related Issues

- unreasonable personal use of ICT equipment;
- misuse of the Council's e-mail, intranet or internet system; and
- minor breaches of social media both in and out of work.

Data Protection

- minor breaches of data protection.

3. GROSS MISCONDUCT

3.1 Gross misconduct is behaviour and or conduct that is so serious that your employment with the Council will normally be brought to an end without notice or pay in lieu of notice (summary dismissal). Gross misconduct can occur outwith the workplace.

3.2 The following list gives examples of the types of behaviour and misconduct that are normally considered gross misconduct and which would normally result in dismissal. The list is intended as a guide and is not exhaustive:

Attendance:

- significant and prolonged unauthorised absence from work; and
- significant breaches of flexi-time rules or other working hours arrangements.

Theft and Fraud:

- theft of any kind from the council or its employees, service users or any member of the public;
- deliberately damaging or misusing council property or to property not belonging to the Council whilst engaged on Council business;
- fraud, forgery or other dishonesty including but not limited to:
- falsifying any document, record, claim or account;
- providing false information in support of an application for employment or promotion;
- fraudulent claims for payment of any kind;
- asking for or accepting bribes;
- accepting unauthorised gifts and/or hospitality; and
- falsely claiming money or benefits from any local authority or Government office.

Behaviour:

- repeated or serious failure to obey instructions
- a serious or deliberate breach of contract
- assault;
- physical or serious verbal abuse, bullying or other mistreatment of employees, service users or members of the public;
- indecent behaviour;
- violent or dangerous behaviour, including fighting at work;
- serious negligence in work performance;
- serious negligence in safeguarding council property;
- using council vehicles without authority;
- engaging in unauthorised employment, paid or unpaid during working hours or during periods of sick leave;
- behaviour which brings the reputation of the council into disrepute, either carried out at work, outwith work or using social media; and
- being unfit for work because of the misuse of alcohol, drugs, legal highs or other substances.

Governance and Regulations:

- a significant failure to comply with the Employee Code of Conduct, the Council's financial regulations, or service specific procedures;
- serious and/or deliberate breaches of health and safety regulations or requirements, including neglecting safety equipment or deliberately damaging safety equipment;
- working in an unsafe manner or in any way which may put others in danger;
- breaching confidentiality that seriously prejudices the interests of the Council, service users, employees or member of the public;
- deliberate non-disclosure of a conflict of interest, either direct or indirect, as described in the Employee Code of Conduct ([add hyperlink to Code of Conduct](#));
- a significant breach of the council's ICT Acceptable Use Policy;
- knowingly making a malicious or vexatious disclosure under the Whistleblowing Policy
- knowingly lodging a malicious or vexatious grievance under the Grievance Procedure
- knowingly lodging a malicious or vexatious complaint under the Fair Treatment at Work Procedure
- Victimising a colleague who has raised concerns under Council Policy
- any other unacceptable conduct or behaviour that would make continued employment with the council impossible whether or not the conduct or behaviour occurred at work;
- gross carelessness or negligence in carrying out the duties and responsibilities of the post; and
- abuse of authority vested in a post.

Regulatory Bodies:

- a breach of statutory rules;
- failure to meet and maintain registration requirements or standards set by external regulatory bodies which apply to specific posts; and/or
- significant breaches of or a failure to comply with the standards and codes of practice set by regulatory bodies.

Equalities Issues:

- unlawful discrimination
- unfair treatment in the workplace e.g. harassment, bullying or victimisation of any employee, service user or member of the public;
- inciting bullying, harassment or victimisation and/or condoning this behaviour;
- any serious breach of equality legislation; and
- a serious or repeated breach of the Council's Policy on Equality and Diversity in Employment.

Computer or Technology Related Issues:

- serious misuse of, or deliberate damage to, any council computer hardware or software;
- any deliberate attempt to breach data protection or computer security rules e.g. misusing passwords;
- misuse of council information systems which hold staff, customer, service user or pupil information;
- accessing, storing or circulating offensive material via e-mail, the intranet or internet;
- offensive behaviour using social media; and
- deliberately breaching a software copyright or licence.

Data Protection

- a serious breach of data protection.

Criminal Convictions

- conviction for a criminal offence that may affect the Council's reputation or relationship with employees, service users or the public ;
- non disclosure of any criminal conviction obtained whilst in employment of the council;
- conviction for any criminal or road traffic offence, which makes an employee unsuitable for continued employment; and
- not disclosing an unspent criminal conviction.

4. REVIEW OF DISCIPLINARY CODE

- 4.1 This Code will be added to the Council's policy register and will be reviewed annually taking.
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final draft

Related Policies and Procedures

Anti-Bribery Policy

Anti-Bribery Procedure

Policy on Fraud Prevention

Code of Conduct for Employees

Workplace Policy on Alcohol, Drug and Substance Misuse

Policy on Domestic Abuse

Council Financial Regulations

Corporate Health & Safety Policy

Disciplinary Procedure

Disciplinary Procedure for Teachers

Disciplinary Procedure for Heads of Department

Fair Treatment at Work Procedure

Grievance Procedure

Grievance Procedure for Teachers

Managing Attendance Procedure

Managing Work Performance Procedure

Electronic and Information Security Policy

Equality and Diversity in Employment Policy

ICT Acceptable Use Policy

Risk Management Policy and Strategy

Scheme of Delegation to Officers

Member/Officer Relations Protocol

Whistleblowing Policy

Control of Smoking at Work Policy

final draft