

Policy and Sustainability Committee

Tuesday 12 March 2024 Employee Code of Conduct and Chief Officer Disciplinary Policy

Executive/routine
Wards

1. Recommendations

- 1.1 The Committee is asked to:
- (i) approve the new Chief Officer Disciplinary Policy
 - (ii) approve the updates to the Employee Code of Conduct.

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Report

2. Executive Summary

- 2.1 Following introduction of the Scottish Joint Negotiating Committee (SJNC) Model Framework into practice in 2022, it was agreed that a full review should be undertaken of the disciplinary policies which apply to Chief Officials including the Chief Executive.
- 2.2 At Full Council on 14 December 2023, it was agreed that the Employee Code of Conduct would be reviewed to ensure further clarity and expansion on the behaviours required of colleagues in respect of honesty aligned to Our Behaviours.
- 2.3 This paper provides an overview of the work and presents new and revised policies accordingly.
- 2.4 The Chief Officer Disciplinary Policy replaces the Disciplinary for Heads of Service.
- 2.5 The Employee Code of Conduct updates the existing Code which was approved by Policy & Sustainability Committee on 17 January 2023.

3. Background

Employee Code of Conduct

- 3.1 In response to the findings from the Independent Inquiry and Whistleblowing Culture Review in 2021 (“Inquiry and Review”), several employment policy recommendations were made including a review of all conduct related employment policies and, where appropriate to revise.
- 3.2 In addition to this overarching expectation, there were also a number of specific recommendations requiring the Council to put in place policies or practices to manage personal relationships between employees which could result in a potential conflict of interest.
- 3.3 As the key guide to employee behaviour and standards within the Council as well as existing practices on Conflicts of Interest, the Employee Code of Conduct was reviewed and refreshed taking into considerations the recommendations of the Inquiry and Review. The Code was approved by Policy & Sustainability in January 2023, and launched in May 2023.
- 3.4 Following publication of the Edinburgh Tram Inquiry Report in September 2023, a response to the report was considered by Full Council on 14 December 2023. One of the recommendations from the response was to review the Employee Code of Conduct to ensure it was clear on the expectations from colleagues with respect to honesty. A further addendum requested that the review focus on strengthening and clarifying the aspects related to officer candour with the benchmarking to specifically include the Civil Service Code (www.gov.scot) with a particular focus on the section entitled “Honesty”. The review should consider how to make clear in the Code or in Disciplinary Policies that a serious breach of this duty of candour will be considered

as Gross Misconduct and that this could equally apply within management structures should officers breach the code when providing information to senior colleagues.

Chief Officer Disciplinary Policy

- 3.5 The Disciplinary for Heads of Service Policy outlines how misconduct of senior officers will be managed and addressed within the Council, however it does not include misconduct by the Chief Executive.
- 3.6 In March 2022, Policy & Sustainability Committee approved the adoption of the Scottish Joint Negotiating Committee (SJNC) Model Framework (the “Gold Book”) into practice in situations where misconduct by the Chief Executive occurs, this framework outlines the protocols to follow in cases of potential misconduct as well as appropriate delegation of responsibilities.
- 3.7 As part of this approval, it was also agreed that the Disciplinary for Heads of Service policy would also be fully reviewed to ensure it reflects current good practice, that clarity is provided to all colleagues on how misconduct will be responded to and addressed within the Council as well as incorporating the requirements outlined in the Gold Book.

4. Main report

Employee Code of Conduct

- 4.1 As the Employee Code of Conduct was reviewed in 2023, we have recent benchmarking from other local authorities and other public bodies on their respective Codes and in particular how they address ‘Honesty’.
- 4.2 The majority of responses cited within their Codes, the Seven Principles of Public Life, and defined Honesty as:

“You have a duty to declare any private interests which might affect your work with the Council”.
- 4.3 Within the Council’s new Employee Code of Conduct, we also refer to the Seven Principles and have defined Honesty as:

“You have a duty to declare any private interests which might affect your work with the Council and to ensure the appropriate and proper use of all Council equipment, materials and resources.”
- 4.4 The Civil Service Code sets out the standards of behaviour expected of civil servants within Government. These are based on the core values which are set out in legislation of Integrity, Honesty, Objectivity and Impartiality. The definition of Honesty within the Civil Service Code is:
- 4.5 *“You must:*
 - *set out the facts and relevant issues truthfully and correct any errors as soon as possible.*
 - *use resources only for the authorised public purposes for which they are provided.*

You must not:

- *deceive or knowingly mislead ministers, Parliament or others.*
- *be influenced by improper pressures from others or the prospect of personal gain.”*

4.6 Taking this into consideration, we have made amendments to the Council's definition within the Code to now read as:

“You have a duty to declare any private interests which might affect your work with the Council and to ensure the appropriate and proper use of all Council equipment, materials and resources. You must set out the facts and relevant issues truthfully, correct any errors as soon as possible and you should not deceive or knowingly mislead Council.”

4.7 While honesty is covered in specific allegations within the Council's Disciplinary Code such as fraudulent claims, providing misleading information on working hours, providing false information with respect to recruitment / right to work, there is nothing explicitly relating to deliberately misleading Council or decision makers.

4.8 Therefore we have also updated the Disciplinary Code to include, under Gross Misconduct, allegations of:

‘Deliberately providing misleading information as part of operational or Council decision making processes.’

Chief Officer Disciplinary Policy

4.9 The Chief Officer Disciplinary Policy replaces the Disciplinary Policy for Heads of Service and updates and brings together disciplinary procedures for Chief Officers (including the Chief Executive) within one policy.

4.10 The Scottish Joint Negotiating Committee (SJNC) for Chief Officials Scheme of Salaries and Conditions of Service for Chief Officials (also known as the ‘Gold Book’) is incorporated within the Chief Officer Disciplinary Policy.

4.11 The Chief Officer Disciplinary Policy aligns with the ACAS Code of Practice on Disciplinary Procedures and in order to ensure continuity across the Council's staff groups, the Chief Officer Disciplinary Policy aligns with the Council's Behaviours. Policies relating to conduct, such as the Employee Code of Conduct and Disciplinary Code, are also aligned with the Policy, so far as possible. Further, the Chief Officer Disciplinary Policy aligns (as far as possible) the sanctions where misconduct has found to have occurred with the Council's process for LGE employees including the expiry of warnings.

4.12 The importance of informal resolution was considered, as well as the provisions available to LGE colleagues therefore the Chief Officer Disciplinary Policy outlines an informal resolution stage for Chief Officers including the Chief Executive. The Policy includes a formal stage for Chief Officers including the appropriate appeal stage and a formal stage for the Chief Executive and the appropriate appeal stage. The formal stage for the Chief Executive incorporates the requirements of the Gold Book.

4.13 Consideration was given to adequately dealing with a situation where the Chief Executive is unable, for any reason (for example, but not limited to, a conflict of interest) to take a decision or be part of a process involving a Chief Officer falling to

be dealt with under the Policy. The Policy now outlines the process that will be followed in such situations and the matter will accordingly require to be dealt with by Elected Members in terms of the Policy.

- 4.14 The Policy clarifies that it applies to misconduct only and does not apply to performance management issues. The Council already has in place appropriate policies to deal with performance management issues.
- 4.15 Appeals from Chief Officials and the Chief Executive are to be made to the Personnel Appeals Committee (PAC) and it is clarified that the decision of PAC is final.

5. Next Steps

- 5.1 An implementation plan, including communications, will be put into effect to launch the Chief Officer Disciplinary Policy in May 2024.

6. Financial impact

- 6.1 There is no material impact arising from this report.

7. Equality and Poverty Impact

- 7.1 An integrated impact assessment was carried out on the Employee Code of Conduct as part of the fuller review in 2023 and the introduction of the Managing Relationships within the Workplace guide did highlight some potential areas for impact. For example, colleagues within a same sex relationship who are not 'out' at work and are required to declare. Through consultation with the IIA working group these have been mitigated through language used in the Code and supporting documentation and reassurance of confidentiality.
- 7.2 An integrated impact assessment was carried out on the Chief Officer Disciplinary Policy, and no negative implications have been identified and a consistent, clear approach for colleagues was seen to positively impact groups.

8. Climate and Nature Emergency Implications

- 8.1 Not applicable.

9. Risk, policy, compliance, governance and community impact

- 9.1 In the relevant ACAS Code of Practice as well as the Gold Book, the Council is expected to have in place provisions for managing the misconduct of all employees including the Chief Executive.
- 9.2 The development of the Code of Conduct last year met our legal obligations in relation to formal consultation and the Trade Unions have been engaged on the latest updates to the Code and are content with the proposed changes. The Code remains a collective agreement.

9.3 The Trade Unions have been engaged on the Chief Officer Disciplinary Policy, and their feedback taken on board. Not all unions negotiate on the Gold Book, and therefore were unable to comment either way.

10. Background reading/external references

10.1 None

Appendices

Appendix One – Employee Code of Conduct

Appendix Two – Chief Officer Disciplinary Policy

Employee Code of Conduct

The citizens of Edinburgh are entitled to have high expectations of those who are employed by the City of Edinburgh Council (the Council), and the way in which they conduct themselves in undertaking their duties.

Our shared purpose as employees of the City of Edinburgh Council is that we work together for the people of Edinburgh. Building their trust and confidence in our reputation and what we do is key for our continued success as a Council. Our Employee Code of Conduct (the Code) should be given the highest priority in delivering our services, in our decision making as well as working with each other and our citizens.

In delivering our services, and adhering to this Code, we will demonstrate [Our Behaviours](#) of:

- **Respect:** We're inclusive, we promote equality, we treat people with fairness, understanding and kindness and we consider others in all our decisions and actions.
- **Integrity:** We're open and honest, we take responsibility, we build trust, and we pull together to do what's right for our citizens, colleagues and our city.
- **Flexibility:** We're open minded, we keep it simple, we adapt to provide great service and find better ways of doing things, and we embrace opportunities for shared working and learning.

This Code of Conduct builds upon our shared organisational purpose and Our Behaviours and sets out the standards of conduct which govern our relationship with the citizens of Edinburgh and with each other. It is designed, first and foremost, to protect you and your colleagues from being placed at risk. You are expected to carry out your work reasonably and according to the law, to conduct yourself according to high professional and ethical standards, and in a way that promotes our behaviours and maintains our reputation.

In addition to this, as a public body, we also expect you to practice the [Seven Principles of Public Life](#) as identified by the Nolan Committee and adopted by COSLA. We expect all colleagues to adhere to these principles in all their activities.

This Code should be read in conjunction with the Council's disciplinary policies and user guides.

Author

Employee Relations & Policy, Human Resources,
Corporate Services.

Scope

This policy applies to all Council employees.

Purpose

This document sets out the Code of Conduct for all employees, along with supporting guidance about their rights, responsibilities and duties whilst at work.

Review

The policy will be reviewed as and when a change to the existing policy deems this necessary, primarily as a result of changes to legislation or statute; agreement of new national terms and conditions of service or Government Policy; organisational change; or resulting from changes agreed through Trade Union consultation.

Local Agreement

This policy is a local collective agreement between the Council and our recognised Trade Unions. We will make every effort to ensure that it is maintained as a local collective agreement. Any changes will be made by agreement. If we cannot agree, either party can end the local collective agreement by giving four months' notice in writing, with the policy ceasing to apply to staff at the end of that period.

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1. Your responsibilities

- 1.1 All colleagues are expected to familiarise themselves with the Employee Code of Conduct, the Disciplinary Code and the Disciplinary User Guide to ensure they understand their responsibilities, rights and duties as a Council employee. To ensure our continued success and to protect yourself from any scrutiny, you should ensure you adhere to the responsibilities as outlined and make the appropriate declarations to avoid conflicts of interests where necessary.
- 1.2 You should always behave professionally and courteously towards colleagues, citizens and service users and conduct yourself in a manner that maintains the Council's good reputation. You're responsible for your own behaviour within work, however you should also be aware of your conduct out with work, and how this may impact the Council's reputation.
- 1.3 You're expected to comply with the reasonable instructions of your line manager or other senior managers.
- 1.4 Where your behaviour falls below this standard or you act in a way which breaches this Code, this will be treated seriously and may lead to disciplinary action being taken, up to and including dismissal. If you're in any doubt about whether a course of action is appropriate, you should speak to your line manager.

2. Equality, Diversity and Inclusion

- 2.1 We want to attract and retain a diverse workforce to deliver better outcomes across a range of services and can respond to the range of needs of the citizens of Edinburgh and is reflective of the people we serve.
- 2.2 The Council aims to provide a safe working environment where employees are treated fairly and with respect. As an employer, we're committed to ensuring equality of opportunity, fair treatment for all colleagues and to building a more inclusive culture which values and celebrates the diverse nature of our workforce.
- 2.3 **All our colleagues are entitled to be treated with dignity and respect in the workplace.** Discrimination, bullying, victimisation or harassment of any kind is not tolerated.
- 2.4 All our managers have an important leadership responsibility to promote dignity and respect in the workplace and take steps to advance equality and address concerns in their service area.

3. Professional registration requirements

- 3.1 In addition to this Code, certain occupations within the Council, for example those within education and social care, are also governed by externally set registration requirements and professional standards of conduct. It is your responsibility to ensure that you're registered with the appropriate body, that this registration is kept up to date, and that you continue to adhere to the expected standards.
- 3.2 If you fail to meet and maintain these registration requirements and standards, this may result in disciplinary action, up to and including dismissal, being taken by the Council.
- 3.3 Additionally, the Council is required to comply with certain duties to notify external registration bodies of issues concerning misconduct and/or disciplinary action taken. Where this occurs, colleagues concerned would be notified by the Council.

4. Use of resources

- 4.1 You're responsible for safeguarding Council resources, systems, and information under your control or accessed as part of your work. Resources can include (but are not limited to) property, information, equipment, vehicles, or financial transactions.
- 4.2 In your role, you may be permitted access to telephones, intranet / internet, and email systems, as well as other equipment and information systems. Your use of these must be for a legitimate Council business purpose and comply with relevant policies and codes including the [ICT Acceptable Use Policy](#).
- 4.3 Some of the information you encounter in the course of your work with the Council may be privileged or confidential in nature. This information should be held in the strictest confidence and must not be divulged to other parties without authorisation.
- 4.4 Misuse of Council resources may lead to disciplinary action and in certain cases may constitute a criminal offence. It's important that you use these resources reasonably, with integrity and in accordance with the relevant Council policy.

5. Alcohol and drugs

- 5.1 The Council is committed to providing a safe, healthy and productive working environment for all colleagues, contractors and customers. This includes ensuring that people are fit to carry out their jobs safely and effectively in a working environment which is free from alcohol, drug and substance misuse.
- 5.2 Being under the influence of alcohol, illegal drugs or other substances during working hours is not permitted.
- 5.3 Any employee who is found to be unfit to undertake the contractual duties of their post because they are under the influence of alcohol or drugs will be sent home for the remainder of that working day, this is to ensure the highest standards of health and safety for all colleagues.
- 5.4 The matter will then be managed in accordance with the Council's Policy on Alcohol and Drugs, and appropriate strategies and arrangements will be put in place which offer help and support to employees.

However, misuse of substances that impact upon the workplace may also result in disciplinary action, up to and including dismissal.

6. Inappropriate conduct outside of work

- 6.1 As a Council employee, you should be aware that your behaviour outside of work may be subject to scrutiny if it impacts negatively on your job role or the Council.
- 6.2 Inappropriate conduct outside of work may result in disciplinary action if it impacts, or has the potential to impact, your ability to do your job, and brings, or has the potential to bring, the Council into disrepute.
- 6.3 If you're arrested or charged by the Police, served with a summons on a criminal charge, issued with a fixed penalty notice or convicted of any criminal offence you must disclose this in writing to your manager as soon as possible. Failure to do so may result in disciplinary action being taken against you, up to and including dismissal. A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to your employment.
- 6.4 Conviction for a criminal offence that, in the Council's opinion, may affect our reputation or our relationships with our colleagues, customers or the public, or otherwise affects your suitability to continue to work for us may result in disciplinary action.
- 6.5 All information on criminal convictions may be verified and will be treated in strict confidence. Line managers should retain a copy of the notification in line with the Council's Retention Policy.

7. Conflicts of interest

- 7.1 In line with this Code, you should conduct yourself with integrity and not misuse your position, or any information obtained in the course of your employment to further your own interests or the interests of others who don't have a right to benefit under the Council's policies. Such misuse may result in disciplinary action, up to and including dismissal, and in certain cases may constitute a criminal offence.
- 7.2 You should never use your position with the Council to seek special favour or preferential treatment for yourself, relatives or those with whom you have a close personal relationship.

What is a Conflict of Interest?

- 7.3 A conflict of interest can arise if your personal relationships or outside activities – including private, personal or financial interests - influence or interfere with the decisions you make in the course of your work for the Council. This includes perceived and potential, as well as actual, conflicts. This can include interests of close or extended family members, those who live in the same household or personal contacts.
- 7.4 Some examples can include (but are not limited to) financial investment in a business which is contracted with the Council, involvement in a company, club, voluntary organisation or business, that is being funded or supported in some way by the Council or having a personal relationship with someone who has applied for a role within your team or for whom you have line management responsibility.

7.5 A conflict may also occur where you have access to Council information and could be seen to be using this information for personal gain or advantage. This includes passing such information without authorisation to someone out with the Council, who then gains or could be perceived to gain an advantage or benefit by receiving this information.

Declaration

7.6 It's **your** responsibility to declare any **actual** or **potential** conflicts of interest. If you're in any doubt about whether an actual or potential conflict of interest exists, you must report it.

7.7 Reporting it will safeguard you from the possibility of future criticism and allows your manager to plan the work you're involved in accordingly to avoid actual or potential conflicts of interest arising.

7.8 Guidance on how to declare a conflict of interest and management action can be found in the supporting guide along with the Conflicts of Interest Declaration form.

7.9 If information comes to light and the Council considers that you should have made a declaration but chose not to, or that you didn't fully disclose details of any potential conflict of interest, then your line manager will meet with you to discuss. Where you have intentionally not made a disclosure or there is a clear conflict of interest, disciplinary action may be taken.

8. Business integrity

Legal and regulatory compliance

8.1 You're required to comply with all applicable legal requirements and regulations relevant to the work you undertake. These can include (but are not limited to) compliance with externally set registration requirements and professional standards of conduct.

Bribery and coercion

8.2 The Council does not tolerate bribery or coercion of any kind.

8.3 Bribery occurs when you offer, pay, seek or accept a payment, gift, offer of hospitality or favour to influence a business outcome. Bribery and corruption can be direct, or indirect through third parties, such as family or friends. You should never accept any offer that may influence or appear to influence your actions or behaviour.

8.4 Coercion occurs when someone tries to influence your decision making in a certain direction that benefits them by issuing threats or promises. Coercion can come from Council colleagues, current or potential contractors or elected officials. You should never feel intimidated to make decisions in a certain way due to the behaviour of other parties and should raise any attempts at coercion with your line manager, or senior manager, as appropriate. This behaviour may constitute bullying.

8.5 You're liable to disciplinary action including dismissal, legal proceedings and possibly imprisonment if you're involved in bribery and corruption. Even ignoring any suspicions of bribery and corruption can result in liability for the Council, and for you personally. You must raise any concerns as soon as possible if you believe or suspect that bribery or corruption is occurring.

8.6 Further guidance can be found in the Council's [Anti-Bribery Policy and Procedure](#) as well as our Whistleblowing or Grievance policies.

Gifts and hospitality

8.7 In certain limited circumstances, and in connection with your official duties, you may receive an offer of hospitality, gifts of limited value, or small tokens of gratitude from customers or contractors. You should not accept such offers if you can't reasonably justify it, or where you may be placed under an obligation. You must act with integrity in all such decision-making. Cash gifts should not be accepted.

8.8 If you're unsure, speak to your manager on the appropriateness of accepting such hospitality or gifts. Consistency should be applied across the service area. Hospitality and gifts received must be recorded in the service area's register of gifts and hospitality, in accordance with departmental arrangements.

9. Benefiting from a will or bequest

9.1 Under this Code, anything left to you in the will of a service user is considered to be a gift. These are also known as bequests. In certain circumstances, it may be acceptable for this to happen.

9.2 If you're named as a beneficiary in the will of a service user, you must declare this to your manager as soon as you become aware of this.

9.3 Failure to declare this information immediately may lead to disciplinary action. If you're aware that there may be a possibility that you'll be named as a beneficiary in a will in the future, you must disclose this information to your manager.

9.4 Each case will be investigated for evidence of coercion or behaviour designed to obtain favourable treatment. A decision on each case will be made by the appropriate Chief Officer and your manager will advise you of the outcome of these investigations.

9.5 If there's evidence of coercion or behaviour designed to obtain favourable treatment on your part, this will lead to disciplinary action up to and including dismissal.

9.6 If, prior to a decision being made, you choose to accept the bequest, this may lead to disciplinary action up to and including dismissal.

9.7 Where approval is given for you to accept a bequest, all bequests received should be recorded in the departmental register of gifts and hospitality.

10. Use of social media

10.1 'Social media' is the term commonly given to websites and online tools that allow users to share content, express opinions or interact.

10.2 Social media sites such as (but not limited to) Facebook and Twitter are a useful way to keep in touch with friends, family and colleagues and a useful way to exchange information and news. However, employees who use social media should be mindful that they may be more vulnerable due to the public profile of the Council. As an employee of the Council, you must not post anything (whether the forum is open to the public or not) which may bring the Council into disrepute, result in legal action

against the Council or will clearly cause distress or offence to colleagues or members of the public. You must not publish any comments or information that may undermine public confidence in the Council.

- 10.3 Whilst there's no intention to restrict any proper and sensible exercise of an individual's rights and freedoms, it is expected that all employees will conduct themselves in such a way as to avoid bringing the Council into disrepute or compromising its effectiveness or the security of its operations and assets.
- 10.4 If you use the internet or social media during your 'personal time' to post offensive material, to harass, to bully or victimise employees or members of the public, this will be considered as seriously as if it had occurred in the workplace or during working time.
- 10.5 The [Council's ICT Policy](#) outlines appropriate use of social media for employees which everyone should familiarise themselves with.
- 10.6 If you are using social media as part of your role as an employee, for example, publicising activities of your department, it is particularly incumbent on you to ensure posts do not cause offence, even unintentionally. Ensuring you have appropriate training, and follow advice from your line manager, is essential. Further information is available in the [Social Media Policy and Guidance](#).
- 10.7 Misuse of social media may lead to disciplinary action and in certain cases constitute a criminal offence.

11. Media contact

- 11.1 You should only have contact with the media in the course of your employment where this has been approved in advance.
- 11.2 Contact from the media should, in the first instance, be referred to the Council's Communications team.
- 11.3 If an aspect of your work requires contact with the media to be made, you should contact the [Council's Communications team](#).

12. Working relationships

Colleagues

- 12.1 You're entitled to expect fair and reasonable treatment from your colleagues and managers. All our colleagues are entitled to be treated with dignity and respect in the workplace and we're committed to building an inclusive culture which values and celebrates the diverse nature of our workforce.
- 12.2 We will not tolerate harassment, bullying, discrimination or abuse in any form. If you feel that you have been unfairly treated or have been discriminated against, you are entitled to raise your concerns under the [appropriate policies](#).

The Public and service users

- 12.3 The way we treat our citizens matters because they may judge us on a single experience. If that experience is poor, it affects the way they see us. To our customers, **you** are the Council.
- 12.4 Providing good service is a priority. Even when we're telling the customer something they don't want to hear, we can do it in a way that makes them feel valued and listened to.

Elected Members

- 12.5 Mutual respect between Councillors and employees is essential to good local government. However, close personal familiarity between employees and Councillors can damage the relationship and should therefore be avoided. If you have a relationship with a Councillor outside of work, this should be declared by following the Managing Relationships at Work guidance.
- 12.6 Employees must serve all Councillors and not just those of the Administration. If you're required to advise political groups, you must do so impartially and without compromising your political neutrality.
- 12.7 You must never allow your own personal or political opinions to influence or interfere with your work.
- 12.8 Further guidance can be found in the [Council's Member/Officer Relations Protocol](#) available from your line manager.

13. Personal relationships

- 13.1 We recognise that colleagues who work together can also be in a personal relationship. Whilst such relationships seldom interfere with work, there is potential for a conflict of interest, breach of confidentiality or fraudulent activity to occur.
- 13.2 This section should be read in conjunction with the Managing Relationships at Work Guidance.
- 13.3 Where a family or personal relationship exists or develops between colleagues who work together in the same area, or where one employee is in the line management chain, both individuals must declare their relationship in confidence to their line managers. This is intended for the protection of both parties.
- 13.4 As a result, you should not be involved in appointments or decisions that relate to discipline, grievance, promotion or grading, or payment of additional expenses /overtime where you're related to the individual or have a close personal relationship with them outside work.
- 13.5 'A close personal relationship' in this context could include any colleague who is a close or extended family member or be someone that you're in an intimate relationship or a close friendship with, however this list is not exhaustive.
- 13.6 To decide whether to declare a relationship or not, ask yourself if you're acting in line with Our Behaviours and the Seven Principles of Public Life, and if you're protecting yourself and others from potentially valid criticism.
- 13.7 If information comes to light and the Council considers that you should have made a declaration but chose not to, or that you didn't fully disclose details of any potential conflicts of interest within a relationship, then disciplinary action may be taken.

14. Contractors

- 14.1 If you, a member of your family or a personal contact have an interest with a contractor or potential contractor, then you must declare this as detailed in the Section 7 - Conflict of interest.
- 14.2 Orders and contracts must be awarded on merit, by fair competition and without unfair discrimination. If you're involved in a tendering process, or if you're an employee who has both a 'client' and 'contractor' responsibility in the tendering process, you must follow the Council's procedures and rules about tenders and contracts.
- 14.3 If you have access to confidential information on tenders or costs for either internal or external contractors, you must never disclose that information to any unauthorised individual or organisation.

15. Politically restricted posts

- 15.1 The public expects you to carry out your duties in a politically neutral way, and this must be respected by Councillors. The political activities of a small number of employees are "politically restricted" under the Local Government and Housing Act 1989 and they will have been advised of this restriction. You must serve the Council and all Councillors, regardless of their political outlook. The Chief Executive and senior officers have ultimate responsibility to ensure that the policies of the Council are implemented. You must implement the policies of the Council irrespective of your personal views.
- 15.2 Certain posts are 'politically restricted' which means that individuals who hold them are prevented from having any active political role either inside or outside the workplace. Postholders in these posts can't:
- stand for or hold an elected office (i.e., MP, MSP, MEP, Councillor etc) whilst retaining their post within the Council.
 - participate in political activities, publicly express support for a political party or undertake other activities such as canvassing on behalf of a person who is seeking to be a candidate.
 - speak to the public at large or publish any written or artistic work that could give the impression that they advocate support for, or are an authorised representative of, a political party.
- 15.3 Politically restricted posts include specified posts detailed in the legislation as well as those who give advice on a regular basis to the Council and posts involving regular contact with the media. A list of the impacted posts can be sought from HR.

16. Employees as Constituents

- 16.1 Many council employees are also residents of Edinburgh therefore have dual sets of rights and responsibilities (as a worker and as a resident). It is important that these different sets of rights and responsibilities are not confused or come into conflict with each other.
- 16.2 Criticism of ideas and opinion is part of democratic debate. As such, the Council may seek the views of the citizens of Edinburgh on proposals or policy through public consultation processes. If you're both a citizen and employee of the City of Edinburgh Council, then the potential for a conflict of interest can occur.
- 16.3 Whilst participation in local democratic debate as a citizen is to be encouraged, you should ensure that your participation doesn't impact on or conflict with the role you deliver for the Council. For example, it may be appropriate for you as a citizen to participate in a Council meeting as part of a deputation on a national or regional matter, or to attend a Councillor's surgery, as long as the issue under debate is unrelated to the specific role you do with the Council and that you do this in your own time.
- 16.4 Particular care must be taken to avoid situations where your personal views (including a political opinion) could be perceived as representing the Council's position.
- 16.5 Within this context, you must never release information that is not yet in the public arena or promote viewpoints that may undermine public confidence in the Council.
- 16.6 In your capacity as an employee, you must never criticise the Council through any form of media, at a public meeting, in any written communication with members of the public or in any other context likely to cause harm to the Council's reputation.
- 16.7 If you have a complaint about Council services you have received as a citizen, you're entitled to raise this with your local Councillor. However, if your complaint concerns any aspect of the service you deliver, or the work you do with the Council, it is more appropriate that this is raised internally with your line manager and/or use the Council's Grievance Procedure.
- 16.8 If you're in any doubt about what actions you can or can't take in this context, you should speak to your line manager or HR.

17. Secondary employment

- 17.1 The Council recognises that employees may wish to undertake secondary employment.
- 17.2 For the purposes of this Code, secondary employment includes:
- secondary employment within the Council itself;
 - engaging in contracted work on a voluntary basis;
 - fee-paying roles such as appointments to Boards or tribunals;
 - self-employment; or
 - engaging in any other business activity.
- 17.3 If you're a Headteacher / Grade 8 or above, you're not permitted to undertake other employment

without the written approval of your Service Director.

- 17.4 If you're Depute Teacher / Grade 7 or below, then you must tell your manager of any secondary employment that you undertake or intend to undertake.
- 17.5 Where there may be a conflict of interest in undertaking secondary employment, for example, there may be possibility that it has an adverse effect on your work, or it might impact adversely on the work of the Council - then the secondary employment will not be permitted.
- 17.6 Employee appointments as Councillors to other local authorities, membership of the Territorial Army, appointment as a Justice of the Peace, do not constitute secondary employment. While volunteer work for an organisation or charity is also not considered as secondary employment, you should consider any potential conflicts of interest with your role within the Council before taking up the activity.
- 17.7 The Council expects that an employee's total working time shouldn't exceed an average of 48 hours per week and this total includes hours worked in any other jobs either with the Council or secondary employment. To comply with the Working Time Regulations and to support your wellbeing, we may ask you to disclose your total working hours.
- 17.8 Communications (this includes the use of personal email accounts or social media) or the conducting of any business activity which relates to secondary employment are not permitted during working hours with the Council.

18. Raising concerns

- 18.1 If you believe that your own or another colleague's behaviour contravenes this Code of Conduct and related policies, it's vital that you raise the issue with the appropriate person. If your concerns relate to your line manager, you should raise the issue with their manager. If your concerns relate to others in the management structure, above your line manager, you should raise the issue with an appropriate manager within your service, or with Human Resources (HR).
- 18.2 There may be circumstances where you feel you can't raise a concern with management or HR. In these circumstances, the Council's [Whistleblowing Policy](#) sets out the steps you can take to raise concerns.
- 18.3 All concerns raised will be taken seriously. Employees should feel they're able to raise genuine concerns without fear of reprisals or other adverse treatment, even if they turn out to be mistaken.
- 18.4 Any disclosure you make under the Council's Whistleblowing Policy will be treated sensitively and we're very aware of the importance of confidentiality. However, there may be times when not all matters can be kept confidential. For example, there may be a court order that means that we have to disclose information, or a criminal or public safety issue may be raised. The Council's Whistleblowing Policy contains further information on confidentiality.
- 18.5 The Council takes allegations of bullying, harassment or discrimination very seriously and it should be noted that all allegations of a sexual nature, domestic abuse, physical violence, harassment or stalking (whether occurring during the course of work hours or on work premises or not) will be reported to the Monitoring Officer and investigated thoroughly in line with our procedures.

The Seven Principles of Public Life

The Seven Principles of Public Life outline the ethical standards those working in the public sector are expected to adhere to.

Selflessness

You should not take decisions which will result in any financial or other benefit to yourself, your family or your friends. Decisions should be based solely on the Council's best interests, which will reflect the best interests of the communities it serves.

Integrity

You should not place yourself under any financial or other obligation to an individual or an organisation which might influence you in your work with the Council.

Objectivity

Any decisions that you make in the course of your work with the Council, including making appointments, awarding contracts, or recommending individuals for rewards or benefits, must be based solely on merit.

Accountability

You are accountable to the Council as your employer. The Council, in turn, is accountable to the public.

Openness

You should be as open as possible in all decisions and actions that you take. You should give reasons for your decisions and should not restrict information unless this is clearly required by Council policy or by the law.

Honesty

You have a duty to declare any private interests which might affect your work with the Council and to ensure the appropriate and proper use of all Council equipment, materials and resources. You must set out the facts and relevant issues truthfully, correct any errors as soon as possible and you should not deceive or knowingly mislead Council.

Leadership

If you are a manager, you should promote and support these principles by your leadership and example.

More information is available on the [Government website](#)

Chief Officer Disciplinary Policy

The Council (we) strive to maintain effective working relationships with and between colleagues and Chief Officers (including the Chief Executive). We have a responsibility to maintain acceptable standards of behaviour at work and are committed to supporting and encouraging Chief Officers to achieve these standards. Where behaviours fall below what is considered acceptable, the Chief Officer Disciplinary Policy provides a framework to ensure standards of behaviour are applied in a fair, consistent and sympathetic manner.

The Chief Officer Disciplinary Policy should only be used when management advice and guidance has failed to produce the required improvement or when the matter is serious enough to require formal action.

For the purposes of this policy, reference to Chief Officer includes the Chief Executive, unless otherwise stated.

For conduct issues relating to Local Government Employees paid in accordance with the LGE pay structure (Grades 1 – 12) the Disciplinary Policy for LGE colleagues will apply and this policy will not be used.

Author

Corporate Services

Scope

This policy applies to all Chief Officers including the Chief Executive, Executive Directors and Service Directors.

Purpose

The purpose of this policy is to provide direction and support to Chief Officers with conduct issues, and where appropriate, take disciplinary action against such Chief Officers in a firm, fair and consistent manner to ensure there is a change in behaviour.

Review

The policy will be reviewed as and when a change to the existing policy deems this necessary, primarily as a result of changes to legislation or statute; agreement of new national terms and conditions of service or Government Policy; organisational change; or resulting from changes agreed through Trade Union Consultation.

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1. Policy Aims

- 1.1 The aim of this policy is to ensure there is a fair, effective and consistent method in place to deal with concerns surrounding conduct and to encourage improvement where conduct is believed to have fallen below acceptable standards, either through the implementation of the informal or formal stages of this process.
- 1.2 This policy is designed to:
- support Chief Officers, including the Chief Executive, in meeting the Council's standards of conduct;
 - provide a framework for establishing whether misconduct has occurred; and
 - support the management of misconduct issues.
- 1.3 "Chief Officer" is a Council employee who is within the scope of the Scottish Joint Negotiating Committee for Chief Officials and its Scheme of Salaries and Conditions of Service for Chief Officials including Executive Directors, Service Directors and the Chief Executive (unless expressly excluded in this policy). A "Chief Officer" is paid in accordance with the Chief Executive or Chief Official pay scales.
- 1.4 This Chief Officer Disciplinary Policy must be followed when a potential misconduct issue has been identified and not resolved through normal day to day supervision arrangements, or where more serious allegations arise. No disciplinary outcome will be decided until the appropriate steps outlined in this policy have been followed and the facts have been established. This policy relates only to matters of conduct and behaviour (see 1.9 below).
- 1.5 As this policy deals with Chief Officers, the Council Leader shall be notified by the Chief Executive or the Service Director HR (or another appropriate Chief Officer if a conflict of interests exists) if this policy is to be used in relation to the Chief Executive or an Executive Director.
- 1.6 The Chief Executive (or a designated Depute Chief Executive) will be responsible for the management and discipline of Chief Officers (with the exception of the Chief Executive). The Chief Executive may issue verbal or written warnings or take punitive disciplinary action in terms of this policy.
- 1.7 Where the Chief Executive is unable for any reason (for example – but not limited to – a conflict of interest) to take a decision or be part of a process under this procedure, the matter will require to be considered by Elected Members in accordance with this policy. Examples of conflicts of interest can be found in (but are not limited to) the Employee Code of Conduct.
- 1.8 The Council Leader, in consultation with the Service Director HR, will be responsible for the management and discipline of the Chief Executive. This will be in accordance with this Policy and the provisions contained within Appendix A of the Scottish Joint Negotiating Committee for Chief Officials Scheme of Salaries and Conditions of Service for Chief Officials (also referred to as the 'Gold Book').
- 1.9 This policy does not cover concerns regarding performance or capability as these are addressed within our Performance Management Policy. For the avoidance of doubt, the Council's Performance Management Policy applies to all Chief Officers including the Chief Executive.

2. Roles and Responsibilities

2.1 Relevant senior managers of Chief Officers and Chief Officers themselves must give high priority to both informal and formal aspects set out in the policy to ensure that they are completed as quickly as possible.

2.2 All Chief Officers are responsible for:

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

2.3 All managers of Chief Officers are responsible for:

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

3. Standards of Conduct

3.1 The standards of conduct all Chief Officers are expected to follow are set out in the Employee Code of Conduct and Disciplinary Code. It is expected that Chief Officers maintain these professional and reasonable standards of conduct at work. We also expect all colleagues to live Our Behaviours of Respect, Integrity and Flexibility.

3.2 The standards of conduct required from Chief Officers are set out in a range of policies including (but not limited to) the:

- Employee Code of Conduct;
- Anti-bribery Policy;
- Policy on Fraud Prevention;
- ICT Acceptable Use Policy; and
- Disciplinary Code.

3.3 The above policies are available on the Orb along with supporting guidance.

3.4 Occupations which are governed by rules and professional standards of conduct set by external regulatory bodies must also be adhered to. Failure to meet and maintain these may result in disciplinary action being taken, up to and including dismissal.

3.5 The Council has a statutory duty to notify some external registration bodies and professional bodies when misconduct has taken place or when disciplinary action has been taken. These external bodies include (but are not limited to):

- The Scottish Social Services Council;
- The Care Inspectorate;
- Police Scotland; and
- Disclosure Scotland.

3.6 If you think you need to contact a regulatory body surrounding disciplinary action that's been taken you can find out more about this on the Orb.

Misconduct

3.7 Misconduct is behaviour that is considered unacceptable at work. It can also include unacceptable behaviours outside work if it impacts on your contract of employment.

Gross misconduct

3.8 Gross misconduct is behaviour and/or conduct that is so serious that your employment could be brought to an end following an appropriate process without notice or pay in lieu of notice (summary dismissal). Gross misconduct can also occur out-with the workplace.

3.9 There are more details surrounding misconduct and gross misconduct in the Disciplinary Code, including examples of each.

4. Informal Resolution

4.1 Managers should consider whether it is possible to resolve minor conduct issues informally. This is most likely to be possible and appropriate where the alleged misconduct is not of a serious nature.

4.2 Informal resolution under this policy in relation to any Chief Officer (other than the Chief Executive) should be a one-to-one discussion between the Chief Officer and another Chief Officer, or between a Chief Officer and the Chief Executive. During informal resolution the required standards should be discussed, the manner in which the Chief Officer has failed to meet those standards and the possible reasons for that failure including the identification of any underlying problems within or out with the workplace. The Chief Officer leading the informal resolution and/or Chief Executive may seek guidance from the Service Director HR working closely with Legal Services in relation to any such discussion.

4.3 Informal resolution should indicate clearly to the Chief Officer the improvement required and considerations should include whether there are actions or support (other than disciplinary action) which might assist the Chief Officer to achieve this improvement.

4.4 It should also be made clear how the Chief Officer's progress is to be monitored and when the position will be reviewed. Informal resolution does not form part of the formal disciplinary procedure therefore no formal warnings can be given as part of the informal resolution process.

4.5 The Chief Executive or Chief Officer shall make a record on the relevant HR database showing the date of and reason(s) for the informal resolution interview and shall inform the Chief Officer accordingly.

4.6 Informal resolution under this policy in relation to the Chief Executive should be a one-to-one discussion between the Chief Executive and the Council Leader. The process noted above should

be followed in relation to the Chief Executive with support from the Council Leader. The Council Leader may seek guidance from the Service Director HR working closely with Legal Services in relation to any such discussion.

- 4.7 Where informal resolution does not result in the required improvement or where the alleged failure to meet the required standards is considered to be of a more serious nature, the formal procedure should be followed.

5. Formal Stages – Chief Officers (excluding the Chief Executive)

DISCIPLINARY PROCEDURE - GENERAL

- 5.1 Where disciplinary action is contemplated regarding a Chief Officer; the Chief Executive or other relevant Chief Officer shall act as nominated officer. Where the Chief Executive is unable for any reason to take a decision or be part of a process under this procedure (for example, where there is a conflict of interest or other unfairness), the matter will require to be dealt with by Elected Members in accordance with Part 6 of this policy (Formal Stages – Chief Executive).
- 5.2 Where the Chief Executive or other relevant Chief Officer is unable to be part of a process under this policy and the process cannot therefore be fairly or practically followed, the process at Part 6, Formal Stages – Chief Executive, will apply to the Chief Officer.
- 5.3 The Service Director HR and/ or Monitoring Officer, in consultation with the Council Leader, will determine whether a conflict exists, or that the process cannot be fairly or practically followed.

Investigation

- 5.4 A disciplinary hearing shall not be convened until the circumstances of the case have been fully investigated.
- 5.5 The Chief Executive or other relevant Chief Officer (the Nominated Officer) may suspend a Chief Officer on full pay where it is considered necessary to enable a full investigation to take place.
- 5.6 The Nominated Officer shall appoint a suitable officer(s) to act as the investigating officer. This officer may be a Council officer or a special appointment from outside the Council. In selecting the investigating officer, the Nominated Officer shall consider the extent to which professional advice (related to the Chief Officer's position) is required.
- 5.7 The officer conducting the investigation shall seek to establish the facts by carrying out investigatory interviews with relevant persons and, where possible, shall obtain written, signed statements from witnesses who will be advised that they may be requested to appear at any subsequent disciplinary hearing.
- 5.8 Chief Officers have the right to be accompanied at investigation interviews by an accredited trade union representative/official or work colleague.
- 5.9 Where it is considered appropriate, due to the nature of investigation, the investigating officer may also agree to requests from other witnesses in the investigatory process to be accompanied by a colleague or trade union representative.

5.10 If following investigations, a disciplinary hearing is deemed by the Nominated Officer to be unjustified then they shall inform the Chief Officer accordingly and, in these circumstances, the relevant documents shall be held on the relevant HR database to ensure that the Council can meet all its future responsibilities and obligations.

5.11 Where the investigation concerns matters relating to the safety and wellbeing of young and/or vulnerable people in receipt of client services the documents shall be available for inspection by the Chief Officer who may add a personal note to the record. If there is a further disciplinary investigation relating to the Chief Officer, the documents shall be examined and, where considered relevant, may be taken into account to the extent required by the circumstances of the case. Where a previous allegation is taken into account in any disciplinary decision, the written notification shall indicate this fact and the reasons for doing so.

5.12 The investigating officer will usually be required to prepare a report of their findings.

Convening a Disciplinary Hearing

5.13 If, following investigations, a disciplinary hearing is deemed necessary, the Chief Officer concerned shall be given at least seven calendar days' notice in writing of the hearing and shall also be informed in the same letter of:

- the fact that it will be a formal disciplinary hearing;
- the nature of the complaint(s) together with the relevant supporting documentation including Investigation Report;
- the name(s) of any witness(es) who will present evidence at the hearing and copies of their written statements. Copies of any written statements made by individuals who are not available to give evidence in person at the disciplinary hearing will also be enclosed;
- the right to call witnesses or submit statements or other documentation subject to the names of any such witnesses and/or any written submissions being provided in advance to the Chief Executive or other relevant Chief Officer;
- that it is the Chief Officer's responsibility to request the attendance of any witnesses they wish to call at the hearing;
- the right to be accompanied/represented at the hearing by a trade union official/representative or work colleague (who must not be involved in the same disciplinary proceedings);
- Whether dismissal is a possible outcome.

Conducting a Disciplinary Hearing

5.14 The Chief Executive or other relevant Chief Officer who is acting as the Nominated Officer shall ensure that the facts gathered during the investigation are presented to the Chief Officer who is the subject of the Disciplinary Hearing. These facts may be presented by the investigating officer and, if so, this officer shall remain in attendance at the hearing until the presentation of evidence is completed.

5.15 The Nominated Officer will be advised by the Executive Director of Corporate Services and/or the Service Director HR.

5.16 Witnesses, if any, shall be called to give their evidence and, after questioning by both parties, shall withdraw but shall be subject to re-call.

5.17 The Chief Officer, assisted by their representative, if any, shall be given adequate opportunity to put forward an explanation and/or defence.

5.18 The Nominated Officer shall consider all the evidence presented with a view to arriving at a decision which is reasonable in all the circumstances.

Action following a Disciplinary Hearing

- 5.19 Except in the case of verbal warnings, any disciplinary action shall be notified or confirmed in writing within seven calendar days of the hearing and the outcome notifying or confirming such action shall be handed to the Chief Officer personally, sent electronically or sent by recorded delivery.
- 5.20 A copy of this outcome shall be sent to the Chief Officer's representative, if any.
- 5.21 If, following a disciplinary hearing, the Nominated Officer considers that no formal disciplinary action is justified they shall inform the Chief Officer accordingly and in these circumstances the documents shall be held on the relevant HR database to ensure that the Council can meet all its future responsibilities and obligations.

VERBAL WARNINGS

- 5.22 In the case of a minor conduct issue the Nominated Officer may give a verbal warning to the Chief Officer and inform them that this warning constitutes the first stage in the formal procedure.
- 5.23 The Chief Officer shall be informed of the reason(s) for the warning and of the likely consequences of further conduct issues. The Chief Officer shall also be informed of the date from which the warning will normally be disregarded for disciplinary purposes and the right of appeal against a verbal warning.
- 5.24 The Nominated Officer shall make a written record of the warning. A copy of this record shall be placed on the Chief Officer's personal file and a further copy given to the Chief Officer.
- 5.25 A verbal warning will be disregarded for disciplinary purposes after 6 months.

WRITTEN WARNINGS

- 5.26 A written warning may be issued:
- where a Chief Officer who has been issued with a verbal warning fails to achieve and maintain the required improvement in conduct or where a further act or omission warranting disciplinary action occurs, or
 - where the misconduct is considered to be sufficiently serious to warrant this form of disciplinary action.
- 5.27 A letter of formal written warning shall be issued by the Nominated Officer following the disciplinary hearing and shall state:
- that a formal written warning is being given;
 - the nature of the unsatisfactory matter(s) dealt with at the hearing;
 - the date of any previous verbal warning where appropriate;
 - the action required by the Chief Officer to remedy the matter;
 - that subsequent failure(s) in conduct will normally result in more serious disciplinary action;
 - that a copy of the warning letter will be placed on the Chief Officer's personal file;
 - the date from which the warning will normally be disregarded for disciplinary purposes. A written warning will be disregarded for disciplinary purposes after 9 months; and
 - the Chief Officer's right of appeal.
- 5.28 A written warning will be disregarded for disciplinary purposes after 9 months.

FINAL WRITTEN WARNINGS

- 5.29 A final written warning may be issued:
- where a Chief Officer who has been issued with a written warning fails to achieve and maintain the required improvement in conduct or where a further act or omission warranting disciplinary action occurs; or
 - where the misconduct is of a serious nature warranting this form of disciplinary action.
- 5.30 A letter of final written warning shall be issued by the Nominated Officer following the disciplinary hearing.
- 5.31 A final written warning will be disregarded for disciplinary purposes after 12 months.

DISCIPLINARY ACTION SHORT OF DISMISSAL

- 5.32 Disciplinary action short of dismissal may be taken where:
- following a final warning, the Chief Officer fails to achieve and maintain the required improvement in conduct or a further act or omission warranting disciplinary action occurs, or
 - a failure in conduct occurs of a sufficiently serious nature to justify such disciplinary action without prior warning(s).
- 5.33 Disciplinary action short of dismissal refers to any of the following sanctions:
- demotion and/or transfer to another job, place of work or service area, in conjunction with a final written warning.
- 5.34 Where disciplinary action short of dismissal is taken, the decision shall be notified or confirmed in writing by the Nominated Officer and the letter shall:
- refer to previous warnings, if appropriate;
 - state clearly the disciplinary action taken and the effective date;
 - specify the reason(s) for this action;
 - refer to the Chief Officer's right of appeal to the Personnel Appeals Committee and indicate the date by which notice of appeal should be received.
- 5.35 A warning in relation to disciplinary action short of dismissal is to be disregarded for disciplinary purposes after 18 months. If the action is demotion or transfer to another job, the demotion or transfer is permanent.

DISMISSAL

- 5.36 Dismissal may be taken where:
- following a final warning, the Chief Officer fails to achieve and maintain the required improvement in conduct or a further act or omission warranting disciplinary action occurs, or
 - a failure in conduct occurs of a sufficiently serious nature to justify such disciplinary action without prior warning(s).
- 5.37 Dismissal refers to:
- dismissal with due notice; or
 - summary dismissal i.e. dismissal without notice. This should only be in cases of gross misconduct.
- 5.38 Where a decision to dismiss is taken, the decision shall be notified or confirmed in writing by the Nominated Officer and the letter shall:

- refer to previous warnings, if appropriate;
- state clearly the disciplinary action taken and the effective date;
- specify the reason(s) for this action;
- refer to the Chief Officer's right of appeal to the Personnel Appeals Committee and indicate the date by which notice of appeal should be received.

Criminal Offences

- 5.39 In all cases where disciplinary action is being contemplated due to an alleged or proven criminal offence, the matter shall be investigated as thoroughly as the circumstances permit. Further information regarding criminal offences and disciplinary matters can be found in the Council's Disciplinary Code and Employee Code of Conduct.
- 5.40 In cases of suspected irregularities relating to the finances of the Council or to any other funds managed by the Council, the Service Director of Finance and Procurement (or other appropriate senior officer) shall be informed and, if appropriate, an audit investigation shall be carried out. The Nominated Officer may suspend the Chief Officer on full pay.

Appeals

Appeals to the Personnel Appeals Committee

- 5.41 Appeals against warnings, verbal or written, and punitive disciplinary action shall be considered by the Personnel Appeals Committee in accordance with the Council's Procedure for Hearing Disciplinary Appeals at the Personnel Appeals Committee.
- 5.42 Appeals shall be submitted in writing, indicating the grounds of the appeal, within fourteen calendar days of the Chief Officer receiving written notification of the warning or disciplinary action. In the case of appeals against dismissal, appeals shall be submitted in writing within fourteen calendar days of the effective date of dismissal.
- 5.43 The decision of the Personnel Appeals Committee is final and there is no further right of appeal.

Effect of Appeals on Disciplinary Record

- 5.44 If, as a result of an appeal any disciplinary action is withdrawn or modified, any written reference thereto on the Chief Officer's personal file shall be appropriately amended and the Chief Officer and their representative, if any, notified accordingly.
- 5.45 The Chief Officer will have a right of access to their personal file to ensure the written reference has been removed or appropriately amended.

Expiry of Warnings

- 5.46 Warnings and other formal disciplinary action short of dismissal shall normally be disregarded for disciplinary purposes after a period of satisfactory employment. The relevant periods in respect of verbal, written, final written and punitive action short of dismissal are contained in this policy.
- 5.47 Disciplinary warnings are cumulative. If the Chief Officer has a current live warning any further disciplinary action taken could have the effect of leading to a higher-level warning being issued, or to the Chief Officer being dismissed.

- 5.48 If the sanction short of dismissal - demotion and/or transfer to another job, place of work or service area is issued however there is no alternative suitable vacant post available or the Chief Officer refuses the alternative post, consideration will require to be given to potential dismissal.
- 5.49 A decision not to disregard a warning for disciplinary purposes may be taken in circumstances where:
- a Chief Officer's persistent misconduct warrants such action; or
 - the misconduct for which the warning was issued related to the safety and well-being of young and/or vulnerable people in receipt of client services from the Council and is considered to be relevant to the individual circumstances under consideration.
- 5.50 In the case of 5.49, a decision to have regard to a warning out-with the above time scales may be taken only if the warning was issued in accordance with paragraph 5.51 below. Where such a decision is taken, the written notification shall indicate that the earlier warning has been taken into account and the reasons for doing so.
- 5.51 The timescales for warnings to subsist as captured within this policy shall not apply to a warning where, in the view of the Chief Executive or other relevant Chief Officer following consultation with the Service Director, Human Resources, the sensitivity of the particular misconduct gives rise to such concern that the warning should be available for future consideration. A decision not to disregard the warning or punitive action short of dismissal shall be notified to the Chief Officer at the time the warning or punitive action short of dismissal is issued.

Trade Union Officials

- 5.52 Where a disciplinary investigation involves a Chief Officer who is an accredited trade union representative, a senior official of the appropriate Trade Union should be notified at the earliest possible time. Any subsequent disciplinary hearing involving a Chief Officer who is an accredited trade union representative shall not be convened until the circumstances have been discussed with a senior official of the Trade Union concerned.
- 5.53 Where a Chief Officer who is an accredited trade union representative is suspended on full pay a senior official of the Trade Union concerned shall be informed of the suspension as soon as possible and written confirmation of the suspension shall be sent to the Trade Union.

Time Limits

- 5.54 The time limits contained within this procedure may be varied by mutual agreement.

6. Formal Stages - The Chief Executive

- 6.1 When faced with an allegation(s) of misconduct against the Chief Executive, initial consideration will be given to the allegation(s) by Chief Official Personnel Assessment Committee (the Assessment Committee) to determine whether the matter should be formally investigated and whether suspension is appropriate.
- 6.2 Elected members, professional advisers and any other individual involved with the investigation or disciplinary process will declare any personal interest they have in the case and consideration will be given to them not taking part in any proceedings depending on the nature of that interest.

- 6.3 The allegation(s) will initially be discussed between the Service Director HR and / or the Monitoring Officer and the Council Leader or any other appropriate senior officer/Elected Member if any of these individuals are unavailable, or if a conflict of interest exists.
- 6.4 The Council Leader will appoint an Assessment Committee. This group will be made up of a cross party group of elected members representing, as far as is practicable, the political balance of the Council from time to time. Members of the group will not participate in the remaining stages of the disciplinary procedure, unless the size of the council is such that there are insufficient numbers of elected members to resource each of the stages independently. The Assessment Committee will be constituted in accordance with the City of Edinburgh Council Committee Terms of Reference and Delegated Functions.
- 6.5 The Service Director, HR will be available to assist the Assessment Committee. An external adviser may be appointed should the Service Director, HR be unavailable or if a conflict of interest exists.
- 6.6 The Service Director, HR will verbally make the Chief Executive aware of the allegation(s) against them and that an Assessment Committee is being called to consider the matter. The Chief Executive may wish to make initial observations to the Service Director HR. If agreed with the Chief Executive the Service Director HR will share these observations with the Assessment Committee.
- 6.7 The Assessment Committee will be advised of the allegation(s) against the Chief Executive, and if previously agreed, initial observations from the Chief Executive. The purpose of the Assessment Committee at this stage is solely to decide whether a formal investigation is required. If the decision is taken to proceed to formal investigation the Assessment Committee will also, depending on the nature of the allegation(s), consider whether suspension, on full pay, is appropriate.
- 6.8 A note of the meeting and decision will be taken.
- 6.9 The decision of the Assessment Committee will be communicated in writing to the Chief Executive.

Formal Investigation

- 6.10 Should the matter proceed to formal investigation, an Investigating Officer will be appointed to conduct a formal investigation into the allegation(s).
- 6.11 The Investigating Officer will be agreed between, and be independent of both, the Council and the Chief Executive. In the event of a failure to agree it will be for the Joint Secretaries to the SJNC to recommend an Investigating Officer.
- 6.12 The investigation should be conducted within a reasonable period. If the investigation is likely to extend beyond 4 weeks following appointment of the Investigating Officer, the Chief Executive will be kept informed of progress.
- 6.13 It is for the Investigating Officer to determine how best to investigate the allegation(s). However, the Investigating Officer will be expected to:
- Meet the Chief Executive to question the Chief Executive on, the allegation(s). The Chief Executive should be given a minimum of 5 working days' notice of such a meeting and be advised of the right to be accompanied at that meeting.
 - Meet with and interview any witnesses to or parties associated with the allegation(s), a statement being prepared to record each interview.
 - Review any documentation associated with the allegation(s).
- 6.14 At the conclusion of the investigation, the Investigating Officer will prepare a report for the Assessment Committee outlining the findings of the investigation. The report will include a recommendation as to whether the Investigating Officer considers there are sufficient grounds to the allegation(s) to warrant proceeding to a disciplinary hearing.

- 6.15 The Assessment Committee will be reconvened to consider the report from the Investigating Officer.
- 6.16 The group, following consideration of the report from the Investigating Officer, will decide if a disciplinary hearing should be convened. The group will also indicate whether, having considered the report, they consider the allegation(s), if substantiated, constitute misconduct or gross misconduct. If gross misconduct and the Chief Executive has not already been suspended, then they will reconsider suspension at this stage, such suspension being on full pay.
- 6.17 The Chief Executive will be advised in writing of the decision of the Assessment Committee no later than 5 working days following the meeting of the group. A copy of the report from the Investigating Officer will accompany that letter.
- 6.18 Where the Assessment Committee decision is that no further action is necessary, an appropriate record will be retained by the Service Director HR.

Disciplinary Hearing

- 6.19 Should the Assessment Committee consider that the matter should proceed to a disciplinary hearing, a Chief Official Personnel Hearing Committee (the Hearing Committee) will be set up and formal notification of the hearing issued to the Chief Executive.
- 6.20 The Hearing Committee will exclude members of the Assessment Committee and, as far as is practicable, will be made up of a cross party group of elected members representing the political balance of the Council from time to time. The Hearing Committee will be constituted in accordance with the City of Edinburgh Council Committee Terms of Reference and Delegated Functions.
- 6.21 The Service Director HR will advise the Hearing Committee. An external adviser may be appointed should the Service Director HR be unavailable or if a conflict of interest exists. A record of the meeting and decision reached will be taken.
- 6.22 The Chief Executive will be given a minimum of 5 working days prior notice in writing of the Hearing. The letter will provide full details of the allegation(s), an indication of whether the allegation(s) if substantiated, may constitute misconduct or gross misconduct and the implications of this, i.e. gross misconduct may result in dismissal, advise that the Hearing Committee will refer to the report from the Investigating Officer and advise of any witnesses that may be called.
- 6.23 The letter will also advise the Chief Executive of their right to be represented at the hearing by a trade union official/representative or a work colleague [and ask the Chief Executive (or their representative) to provide in advance of the hearing any relevant papers that they may present as part of their case and the names of any witnesses they may wish to call.
- 6.24 The Chief Executive may seek a postponement of the hearing to enable representation; such postponement should be for no more than 10 working days.

Conduct of the Hearing

- 6.25 The purpose of the Hearing Committee is to ensure that a fair hearing is conducted into the allegation(s) so that a reasonable decision can be made, based on the information presented. The conduct of the hearing will be as follows:
- A representative on behalf of the Assessment Committee will present their case.
 - Members of the Hearing Committee and the Chief Executive (or their representative) will have the opportunity to question the Assessment Committee representative and any witnesses called.
 - The Chief Executive (or their representative) will present their case.

- Members of the Hearing Committee and the Assessment Committee representative will have the opportunity to question the Chief Executive (or their representative) and any witnesses called.
- The representative of the Assessment Committee will summarise their case, introducing no new evidence.
- The Chief Executive (or their representative) will summarise their case, introducing no new evidence.
- Both parties will withdraw to enable the Hearing Committee to make a decision in private.
- Following the recess, the parties will reconvene and the convener of the Hearing Committee will advise the Chief Executive of the Committee's decision. If the Hearing Committee is unable to provide a decision on the day of the hearing, they will reach a decision as soon as possible but, in any event, the decision will be confirmed in writing to the Chief Executive within 5 working days. The letter will also include details of how to appeal the decision of the Hearing Committee, should they wish to do so, together with the associated timescale.

Sanctions

- 6.26 If the allegation(s) against the Chief Executive are considered to have been substantiated, any disciplinary action taken should be reasonable in the circumstances taking into account the seriousness and any mitigation presented.
- 6.27 In the case of a first offence, other than for gross misconduct, the sanction should normally be a written or final written warning.
- 6.28 Where a written warning had previously been issued and the Chief Executive has committed a similar offence or a subsequent different but equally serious offence, the Hearing Committee may issue a final written warning or more serious sanction.
- 6.29 A Chief Executive should normally be given a final written warning regarding their conduct before dismissal is contemplated. However, it should be noted that there may be cases of gross misconduct so serious that summary dismissal without notice is appropriate.
- 6.30 Notwithstanding the above, the disciplinary action taken will be in line with the sanctions contained within the relevant sections within this policy for all other Chief Officers.
- 6.31 Similarly, examples of what constitutes gross misconduct will be as per the Employee Code of Conduct, the Disciplinary Code and the relevant sections within this policy for other Chief Officers.

Appeal

- 6.32 Should the Chief Executive appeal the decision of the Hearing Committee, the Council's Personnel Appeals Committee will consider the appeal. The Personnel Appeals Committee will exclude members of the Hearing Committee and, as far as is practicable, be made up of a cross party group of elected members representing the political balance of the Council.
- 6.33 The Service Director HR will advise the Personnel Appeals Committee. An external adviser may be appointed should the Service Director HR be unavailable or if a conflict of interest exists. A record of the meeting and decision reached will be taken.
- 6.34 The Personnel Appeals Committee will ideally be held within 20 working days of receipt of the appeal.

- 6.35 The Chief Executive will be given a minimum of 5 working days prior notice in writing of the date of the Appeal Hearing and be provided with a copy of any associated paperwork that will be presented on behalf of the Hearing Committee. The letter will advise the Chief Executive of their right to be represented at the Appeal, advise of any witnesses that may be called and ask the Chief Executive (or their representative) to provide in advance of the appeal any documentation that they intend to refer to and the names of any witnesses they may call.
- 6.36 The appellant will have the right to be represented at the appeal hearing by:
- an accredited workplace trade union representative;
 - another Council employee; or
 - an official employed by a trade union.
- 6.37 The conduct of the Appeal Hearing will follow the Council's Procedure for Hearing Disciplinary Appeals at the Personnel Appeals Committee.
- 6.38 It is the responsibility of the Personnel Appeals Committee to determine whether the appeal from the Chief Executive should be upheld, upheld in part or dismissed. If upheld in part the Personnel Appeals Committee must also determine the impact of this decision on any sanction implemented by the Hearing Committee.
- 6.39 The convener of the Personnel Appeals Committee will advise the Chief Executive of the decision of the Personnel Appeals Committee. If the committee is unable to reach a decision at the conclusion of the Hearing, they will do so as soon as possible but in any event the decision will be confirmed in writing to the Chief Executive within 5 working days of the date of the hearing.
- 6.40 The decision of the Personnel Appeals Committee is final and there is no further right of appeal.