

Disciplinary Procedures

Introduction

- 1) The main purpose of the procedures is to help and encourage employees to achieve and maintain standards of conduct and performance expected by the Council. It is not primarily a means of imposing sanctions but should be viewed as a way of encouraging improvement in cases where an employee's standard of conduct or performance is unsatisfactory. When the procedures are used their purpose is to provide for fair, consistent and orderly handling of these issues.

Principles

- 2) A key principle behind this disciplinary procedure is the setting and maintaining of the standards of conduct and behaviour expected of our staff. The procedures are there to guide managers and staff through this process.

Standards can be communicated via a number of mechanisms such as:

- i) Staff hand book
- ii) Recruitment packs
- iii) Information provided at interview
- iv) Induction
- v) One-to-one discussions
- vi) Appraisals
- vii) Policies and procedures
- viii) Updates

It is the responsibility of Managers/Supervisors not only to make staff aware of what is expected of them, but also, and as importantly, to act as a role model in setting and maintaining high standards.

- 3) The other key principle is one of natural justice. All parties involved will ensure the disciplinary procedure is used both fairly and equitably. The procedures try to provide a full range of guidance, but there will always be circumstances they do not cover. Common sense and clear communication are key requirements of making these procedures effective. These procedures are based on the ACAS code of practice.

What is a Disciplinary Issue?

- 4) A disciplinary issue arises where the Council has a concern regarding some aspect of a member of staff's conduct or performance. Examples of a disciplinary issue include:
 - i) Poor performance
 - ii) Bullying/harassment
 - iii) Contravening Council policy/procedures

This list is not exhaustive.

- 5) In certain circumstances a disciplinary issue will be very serious and could result in the staff member losing their job (gross misconduct). Examples include:
- i) Physical violence or bullying
 - ii) Abusive or unacceptable behaviour
 - iii) Serious failure to follow Council policies
 - iv) Theft, fraud or deliberate falsification of records
 - v) Deliberate and serious damage to the Council's property or name
 - vi) Abuse of the internet, including downloading inappropriate material (e.g. pornographic, offensive or obscene material)
 - vii) Serious insubordination
 - viii) Unlawful discrimination or harassment
 - ix) Bringing the organisation into serious disrepute
 - x) Serious incapability at work brought on by alcohol or being under the influence of illegal drugs
 - xi) Causing loss, damage or injury through serious negligence
 - xii) A serious breach of health and safety rules
 - xiii) A serious breach of confidence
 - xiv) Dishonesty.

This list is not exhaustive.

If, on completion of an investigation and the full disciplinary procedure, the conclusion is that gross misconduct has occurred, the result will normally be summary dismissal, i.e. dismissal without notice or payment in lieu of notice.

Informal Discussions

- 6) It is always best to try to sort out minor conduct or performance related issues informally. In these circumstances managers will meet with the member of staff to discuss the problem. The aim will be to coach/support in achieving the desired improvement. This informal stage is outside the Council's disciplinary procedures.
- 7) An informal warning may be given at this stage. Informal warnings are not part of the formal disciplinary process but should always be discussed with HR if being considered. If this does not result in a satisfactory outcome then formal procedures are the next step. It is essential that the employee understands this is the stage prior to implementing the disciplinary procedure and that further issues of a similar nature could lead to a formal disciplinary meeting.
- 8) A management file note should be written covering the meeting, any agreed actions/plan and the improvement required. This should be copied to the employee, so everyone is clear on the outcome of the informal discussion.

Investigation and suspension

- 9) Should formal disciplinary action be considered then this should start with an investigation. In many cases this investigation would be fairly straightforward. It could simply involve speaking to those parties involved or verifying evidence put forward. In some more complex instances a broader, more in-depth investigation maybe required. This could involve:

- i) Witness statements from employees party to the incident
 - ii) Witness statements from external parties e.g. customers
 - iii) Assessment of records, emails, systems, timesheets etc
- 10) If an employee is interviewed as part of this investigation then it should be made clear that the purpose of the investigation is to establish facts. The aim is to see whether there is a case to answer and an investigative interview is not in itself disciplinary action. Any investigation should be completed as quickly as possible. A report of the investigation should be prepared.
 - 11) The investigation will normally be carried out by the employee's management but can be carried out by HR or Internal Audit.
 - 12) It may be necessary to suspend an employee who is suspected of misconduct. If suspension is being considered it should always be discussed with HR. Suspension will be on full pay and for as short a period as is possible. The suspension of an employee is a neutral act and is not indicative of guilt.

Formal Procedures - Notification Letter

- 13) The employee will receive a letter giving formal indication of the disciplinary meeting. This will be sent by the Service Manager and will state what the disciplinary issue is. A date will be arranged by HR for the disciplinary meeting which will normally be conducted by an Executive Director. Once a meeting date is set, an earlier date will be set by HR for submission of papers. This is to enable the Executive Director, and both sides, to read any evidence before the meeting (allowing the opportunity to prepare questions about this evidence and saving much time in preliminary reading). Papers submitted will be distributed to all parties shortly after this date. This date is very important as the Executive Director can refuse to have information submitted after this. Both sides will also be asked to identify any witnesses they wish to be called.
- 14) In a formal disciplinary meeting the staff member has the right to be accompanied by a companion. This companion can either put the case for the staff member, or simply be there to support and advise them. The Executive Director will ask for their role to be identified at the start of the meeting and in particular who will be presenting the case (it cannot be both the companion and staff member). The companion cannot answer questions on behalf of the staff member or prevent the employer from explaining their case and the request for a companion must be a reasonable one.

Companions can be:

- Another member of staff (or manager)
- A local union representative
- An area union representative.

Companions cannot be:

- From outside the organisation (unless an area union representative)
- Friends or family (unless a member of staff)
- A legal representative (unless a member of staff)

Employees are strongly advised to have a companion.

Meeting Procedure

- 15) The Executive Director will conduct the meeting and will be responsible for deciding whether any disciplinary action should be taken. The Executive Director will be supported at the meeting by a representative from HR. There will be an introduction in which the Executive Director will set out the procedure for the meeting which will normally be:
- i) Introduction in which the Executive Director will set out the procedure for the meeting.
 - ii) The management side will be asked to put their case. The officer responsible for preparing the investigation report will usually present the case on behalf of management.
 - iii) The staff member (or companion) will be given the opportunity to question management's case
 - iv) The Executive Director will be able to question both sides.
 - v) The staff member (or companion) will be asked to put their case.
 - vi) The management side will be given the opportunity to question the staff member's case.
 - vii) The Executive Director will be able to question both sides.
 - viii) Both sides will be asked to sum up their case (Management first).
 - ix) There will be an adjournment after which the Executive Director will give his/her decision. Where necessary the Executive Director may adjourn the meeting for a longer period in order for further investigation to be carried out or to allow for further deliberation. Where further investigation takes place both sides will be given the opportunity to comment on any new information disclosed.

Staff, management or the Executive Director can ask for reasonable short adjournments to have private discussions at any time in the meeting.

Procedural Issues

- 16) Some procedural clarification is helpful for all involved.

A meeting will be arranged, where possible, between 5 and 20 working days of the notification letter. Any appeal will be arranged, where possible, within 20 working days of the request to appeal. These timescales can be varied with mutual agreement.

If the employee cannot reasonably attend a disciplinary meeting, another meeting will be arranged, to take place within 5 working days of the original date, where possible. This timescale may be extended with mutual agreement.

Witnesses are often called to the disciplinary meeting and can be asked questions about the issues. Where witnesses are called by either side a statement should be prepared by the party calling the witness before the meeting, to be included in the documents submitted, which should be read out as part of the meeting.

Notes of any disciplinary meeting should be taken by HR and should be circulated as soon after the meeting as is possible.

If disciplinary action is considered against a trade union representative of a recognised union, the case should be discussed with the Service Manager for Human Resources who will ensure the full time Unison area officer is aware (subject to the employee's agreement).

These procedures apply to all employees of the Council with the exception of the Head of Paid Service, the Council's Section 151 Finance Officer and the Council's Monitoring Officer, who are covered by a separate procedure. The procedures do not apply to staff during their probationary period.

Where the Executive Director is unable to conduct a disciplinary hearing he or she may authorise another Service Manager to deal with a disciplinary issue and determine the outcome.

Outcome

- 17) Where possible, the Executive Director will give a decision at the end of the meeting. This will be followed up by a written statement (after the meeting) of the outcome. There are likely to be three possible outcomes:
 - a) The Disciplinary will be fully upheld.
 - b) The Disciplinary will be partially upheld.
 - c) The Disciplinary will not be upheld and there will be no further action.

Warnings / Dismissal

- 18) When a disciplinary has reached the formal stage there is a range of possible sanctions which can be given (depending on the seriousness of the issue):
 - a) Written Warning – the length of this warning will be decided on at the meeting depending on the seriousness of the issue, but will not be more than 18 months.
 - b) Final Written Warning – this warning will last for 24 months.
 - c) Dismissal with or without notice.
 - d) Demotion.

Appealing

- 19) The staff member can appeal against the outcome of a disciplinary meeting. To appeal they should write to HR within 5 working days of receiving the written statement stating their grounds for appeal. Another Executive Director or Service Manager will hear the appeal. He/She can uphold the original outcome, reduce the outcome or decide the disciplinary is not upheld. The same procedural rules apply in relation to the conduct of the appeal meeting.

Disciplinary Flow Chart

Stage	Guidance	Possible Outcomes
Informal - For minor issues, early problems		
Prior to formal procedures	<p>Management have informal meeting/s with staff member to explore failings</p> <p>Input from HR where informal warning considered</p> <p>No representation is allowed (it is a management meeting)</p> <p>This is the first point for emerging issues, and minor infringements</p>	<p>No Issue</p> <p>Coaching/Support</p> <p>Requested Improvements</p> <p>Informal warning of future disciplinary action</p>
Formal - For more serious issues and moving to the disciplinary process		
Investigation	<p>Pre requisite to formal disciplinary action</p> <p>Usually undertaken by Management</p> <p>Can be undertaken by Audit or HR</p> <p>Should establish whether there is a case for a formal disciplinary meeting</p>	<p>No Issue</p> <p>Referral back to informal stage</p> <p>Setting up of formal meeting</p>
Formal Disciplinary Meeting	<p>Meeting with Executive Director</p> <p>Usually presented by Management</p> <p>Can be presented by Audit or HR</p> <p>Staff entitled to be accompanied</p>	<p>Case dismissed</p> <p>Written warning (length of which is decided by Executive Director)</p> <p>Final Written Warning (24 months)</p> <p>Dismissal</p> <p>Demotion</p>
Appeal	<p>Meeting with another Executive Director</p> <p>Usually presented by Management</p> <p>Can be presented by Audit or HR</p> <p>Staff entitled to be accompanied</p>	<p>Case dismissed</p> <p>Level of Warning reduced</p> <p>Written warning or dismissal upheld</p>