

DISCIPLINARY POLICY

1.0 Purpose

The purpose of this policy is to:

- ensure all employees have an understanding of the standards of conduct and behaviour expected of them;
- help and encourage employees to achieve and maintain acceptable standards of conduct;
- ensure that fair, consistent and reasonable action is taken where acceptable standards of conduct are not maintained; and
- enable issues to be raised and dealt with promptly, ensuring no unreasonable delay in arranging meetings, making decisions or confirming decisions.

This Policy applies to conduct issues only and should be read in conjunction with the Disciplinary Procedure. For issues of performance or capability refer to the **Attendance Policy** or **Capability Procedure**.

This Policy applies to all employees save for those who are within a probation or extended probation period (refer to the **Probation Policy and Probation Procedure** as necessary).

2.0 Key Principles

- Peterborough City Council expects and is committed to ensuring that all employees maintain expected standards of behaviour.
- Employees are expected to comply with the **Council's Code of Conduct** for Employees as well as any professional codes or other policies specific to their roles.
- In circumstances where allegations involve improper conduct towards children or vulnerable adults the **Safeguarding Board Policy** will also apply.
- All allegations of improper conduct will be treated seriously and addressed promptly and sensitively in accordance with the **Disciplinary Procedure**.
- Examples of improper conduct likely to result in a finding of misconduct or gross misconduct are detailed at Annex 1.
- In circumstances where an allegation of improper conduct is upheld Peterborough City Council will take all appropriate and recommended action.
- Where the employment ends due to a criminal, negligent, fraudulent act or omission, or grave misconduct the council may decide to apply its discretions under the local government pension scheme or teachers pension scheme regulations.

This policy is non-contractual in effect and does not form part of an employee's terms and conditions of employment. The Council reserves the right to change the terms of this policy from time to time and deviate from any procedure should the circumstances justify this need.

ANNEX 1

Examples of misconduct which could lead to disciplinary action

The following are examples of behaviour which would ordinarily be considered to be gross misconduct or misconduct. These lists are neither prescriptive nor exhaustive and other types of behaviour which are of a comparable nature may also amount to misconduct or gross misconduct:

Gross Misconduct

- Physically or verbally threatening or abusive behaviour, physical violence or the threat of physical violence;
- A serious or unlawful act of discrimination, bullying, harassment or victimisation whether on grounds of sex, race, disability, sexual orientation, religion or belief, age or otherwise;
- Serious acts of insubordination, rudeness or inappropriate behaviour towards or in the presence of council members or employees, contractors or partnership workers, service users or members of the public;
- Theft or unauthorised removal of property belonging to the council, council members or employees, contractors or partnership workers, service users or members of the public;
- Fraud, deception, deliberate falsification of timesheets, bonus or expense claims, or abuse of the Flexible Working Hours scheme;
- False statements made in support of an application for employment or promotion and which are material to the success of the application or the level of remuneration payable;
- Failure to disclose unspent convictions (or, in respect of posts which are exempt from the provisions of the Rehabilitation of Offenders Act 1975, any conviction, whether spent or otherwise) whether incurred before or after appointment;
- Requesting or accepting money or other consideration as an inducement or in return for use of council property or resources, the provision of council services, the making of council adjudications or decisions, the placing of council orders/contracts or the showing of favour or otherwise the conferring a benefit by or on behalf of the council;
- Abuse of position for private advantage or satisfaction of self or others;
- Deliberate damage to or misuse or sabotage of property, equipment or systems belonging to the council, its members, employees, contractors, partnerships or service users;
- Deliberate damage to or misuse of council property or name, deliberate damage to the council's interests or conduct likely to discredit the council or bring it in to disrepute;
- Inappropriate use of social networking websites, causing a detriment to the council's reputation or damage to working relationships between employees, members, contractors, partners or service users;
- Serious misuse of council property or systems, including inappropriate use of the internet or intranet, use of unauthorised software, unauthorised access to systems or files, or sending offensive or inappropriate e-mails;
- Unauthorised absence from work where permission to be absent has been withheld;
- Breach of confidence or trust, the forging or unauthorised alteration of records or documents, or the disclosure of information for financial or personal gain of the employee or others or which could be harmful to the council, its members, employees, contractors, partnerships or service users;
- Deliberately providing false, misleading or inaccurate information or other statements orally or in writing;

APPENDIX A

- Deliberate or sustained refusal to carry out reasonable, lawful and safe instructions, contractual requirements or to comply with council policies;
- Deliberate or reckless infringements of safety rules or practices which place the health and safety of the employee or others at serious risk;
- Gross negligence in carrying out (or failing to carry out) the duties of the employee's job;
- Sexual misconduct at work or sexual relationships with persons for whom the council has a specific responsibility by those who have contact with them in the course of complying with that responsibility;
- Incapability for work caused by the use of alcohol or drugs which have not been prescribed or driving or operating machinery whilst impaired due to the influence of alcohol or any drugs;
- Possession, use or supply of illegal drugs or other items on council premises;
- Aiding or procuring any act of gross misconduct;
- Off-duty behaviour which is inconsistent with the employee's relationship with the council and/or which seriously undermines the council's trust and confidence in the employee, including but not limited to:
 - the commission of offences of dishonesty;
 - the commission of sexual, drug or violence offences by those whose duties involve them in social care or bring them into contact with young or otherwise vulnerable persons.
 - Undertaking additional work where permission to do so has been withheld.

Misconduct

- Less serious acts of insubordination, rudeness or inappropriate behaviour towards or in the presence of council members or employees, contractors or partnership workers, service users or members of the public;
- Regular/persistent lateness or contravention of the Flexible Working Hours scheme;
- Unauthorised absence from work or a failure to comply with absence reporting procedures;
- Abuse of the facility to make private telephone calls, use computers, send private e-mails or sending private mail at the council's expense;
- Failure to comply with a reasonable, lawful and safe instruction or request, whether verbal or written;
- Failure to comply with the terms of the contract of employment or neglecting the duties of the post;
- Less serious breaches of any provision of the Council's Code of Conduct or other policies or procedures;
- Less serious carelessness or neglect in carrying out (or failing to carry out) the duties of the employee's job;
- Failure to adopt and conform to safe working practices or to use or wear protective or safety equipment issued to the employee;
- Failure to comply with security procedures or guidelines;
- Failure to report loss of or damage to council property (including vehicles) issued to or used by the employee;
- Failure to report a direct reporting relationship with a relative, cohabitee or person with whom there exists or is developing a close personal relationship;
- Aiding or procuring any act of misconduct or unreasonable failure to report any form of misconduct or gross misconduct;
- Unauthorised use of council equipment, clothing or other property whilst off-duty.

Disciplinary Procedure

These guidelines are to provide helpful information to assist the management of disciplinary issues and are not intended to amount to legal advice.

1. Introduction

This Procedure should be read in conjunction with the [Disciplinary Policy <insert link>](#).

2. Definitions

Improper conduct is any conduct amounting to gross misconduct or misconduct. Examples of improper conduct are contained within Annex 1 of the [Disciplinary Policy <insert link>](#).

For the purposes of this procedure the 'Disciplinary Manager' is defined as the line-manager except in cases where this procedure is being applied to a Director or Head of Service (Tier 1 and 2) in which case the 'Disciplinary Manager' will be the Chief Executive.

3. Preliminary Considerations

In all circumstances where an employee is alleged to have engaged in improper conduct their line-manger ('the Disciplinary Manager') should instigate this Procedure.

Upon becoming aware of or receiving allegations of an employee's improper conduct, the Disciplinary Manager should make preliminary enquiries to establish:

- The general nature of the improper conduct sufficient to determine whether this is likely to give rise to an allegation of gross misconduct, misconduct or both;
- Whether or not the matter can be appropriately dealt with informally;
- The need to suspend the employee pending the outcome of the Disciplinary Procedure; and
- The form and extent of the investigation required.

Informal Action

Minor conduct issues should, where appropriate, be resolved informally through discussion between the employee and the Disciplinary Manager. Where appropriate the Disciplinary Manager may issue an informal verbal warning.

A written record should be kept and forwarded to HR Support in accordance with the Document Retention requirements at part 10 of this Procedure.

Where informal discussion does not resolve the issue or is not appropriate in the circumstances, the formal procedure should be followed.

Suspension

In some circumstances it may be necessary for the Disciplinary Manager to suspend the employee from work. Suspension is not a disciplinary penalty and does not imply that any decision has already been made about the allegations of improper conduct.

The following is a list of non-exhaustive examples of when the need for suspension may arise:

- where it is perceived that the employee's continued presence in the workplace could result in a risk to them, other employees, the Council's service users or the delivery of services;
- where the employee's continued presence at the place of work is likely to impede or interfere with the investigation;
- where gross misconduct is alleged; or
- for some other substantial concern.

The decision to suspend an employee will be carried out without delay. The employee will be given written confirmation of the suspension as soon as possible and where possible at the point of suspension.

In exceptional circumstances consideration may be given to either allowing the employee to continue working or allowing the employee to return to work in their role, or placing the employee in another role/department/section/division, as an alternative to suspension whilst the investigation is conducted. This must be authorised by the Head of HR.

Throughout the period of suspension from duty, the employee will be paid full contractual remuneration.

When suspended from duty, the employee must not visit or otherwise contact the workplace, work colleagues, council members, service users (including the families, carers, and friends of service users) other than in compliance with proper instructions and as necessary for purposes of the investigation. If the employee needs to make contact with a work colleague or witness in order to assist with their case then contact should be made through their representative or an HR Business Partner.

The employee must make themselves available during normal working hours or at any other reasonable time in order to cooperate with the investigation to include attendance at meetings.

The employee will be required to telephone an appropriate contact at a given time and date at least once every week to ensure that regular contact is maintained. This will normally be a designated HR Business Partner.

Normal leave arrangements may proceed during a period of suspension, subject to prior authorisation by the Disciplinary Manager and provided such arrangements do not in any way jeopardise the investigation.

APPENDIX A

If an employee falls sick during the period of suspension they must notify the Disciplinary Manager on the first day of incapacity. During any period of sickness the employee must continue to comply with the [Attendance Policy <insert link>](#).

The Disciplinary Manager shall keep periods of suspension under review and will only continue for as long as is necessary.

Investigation

Method

The Disciplinary Manager will determine the most appropriate means of investigation to include conducting their own investigation or appointing an internal or external investigator. In all cases guidance should be sought from the relevant HR Business Partner before making this decision.

Investigations should be carried out without unreasonable delay and should incorporate both the employee's account as well as that of any relevant witnesses.

The amount of any investigation required will depend on the nature of the allegations and will vary from case to case.

Employees must co-operate fully and promptly in any investigation. This may include providing the names of any witnesses, disclosing relevant documents and attending interviews.

Employees may be accompanied at an investigative interview by a work colleague or trade union representative in an observer capacity to provide support, but not in the role of an advocate. The investigating officer may at their discretion allow the employee to bring a companion who is not a work colleague or trade union representative if this will help overcome a disability or if the employee has difficulty understanding English. In allowing this support the investigation must not be unreasonably delayed.

In all cases involving children and vulnerable adults, managers must contact their HR Business Partner who will refer to the Safeguarding Board Procedures before acting. In cases where there is a conflict between the Safeguarding Board procedures and the Disciplinary Policy/Procedures the Safeguarding Board procedures take precedence.

Notification

When the method of investigation and appropriate investigator has been selected, the Disciplinary Manager must inform the employee either verbally or in writing and explain what will happen next.

Outcome

At the outcome of the investigation, the Disciplinary Manager will consider whether on the facts there is a need for the formal procedure to be followed.

If it is decided that no further formal action is necessary the employee must be informed of this and a written record forwarded to HR Support in accordance with the Document Retention requirements at part 10 of this Procedure.

Grievances

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance.

Where a grievance triggers a disciplinary investigation the grievance process may be temporarily suspended in order to deal with the disciplinary matter.

In any circumstance where both the grievance and disciplinary procedures apply in relation to the same facts it may be appropriate to deal with both matters together. This decision will be made by the Grievance and/or Disciplinary Manager.

4. Right to be Accompanied

Employees may bring a companion to any Disciplinary Meeting under this procedure. The companion may be a trade union representative or a work colleague.

The Disciplinary Manager may at their discretion allow the employee to bring a companion who is not a work colleague or trade union representative if this will help overcome a disability or if the employee has difficulty understanding English.

Companions may make representations and ask questions but should not answer questions on the employee's behalf. The employee may talk privately with their companion at any time.

Acting as a companion is voluntary and no employee is required to fulfil this role unless they are happy to do so.

If the employee's choice of companion is unreasonable they may be asked to choose someone else for example:

- If there is a conflict of interest or the companion's attendance may prejudice the Disciplinary Meeting; or
- If the companion's unavailability will undermine the Disciplinary Manager's ability to call a Disciplinary Meeting within the prescribed timeframes unless exceptional circumstances exist.

5.0 Arranging the Disciplinary Meeting

The Disciplinary Meeting will be held as soon as possible after the decision to follow the formal procedure.

At least 1 week prior to the Disciplinary Meeting the employee should be sent a letter requesting their attendance and dealing with the following matters:

- Confirming the date, time and venue;
- Confirming the allegations and a summary of the factual basis for them;
- Providing a copy of any relevant documentation supporting the allegations and a copy of the Disciplinary Policy and this Procedure;
- Asking for details of any witness or companions they intend to bring with them;
- In more detailed or complex matters, inviting them to submit written representations

- Informing them of any other persons who will be attending to give evidence e.g. where an investigation has taken place, the investigating officer; and
- Confirming the likely range of consequences if it is decided after the meeting that the allegations are true.

If the employee or their companion is unable to attend the meeting they must notify the Disciplinary Manager as soon as possible. They should be asked to suggest an alternative date so long as it is reasonable and unless exceptional circumstances exist not more than 1 week after the original date proposed.

The employee and/or their companion (if any) should make every effort to attend the Disciplinary Meeting.

If an employee continues to be unable to attend scheduled Disciplinary Meetings, a meeting may take place in their absence and a decision will be made on the evidence available. Where the Disciplinary Manager intends to hold the meeting in the employee's absence, the employee will be notified (where time permits in writing) beforehand.

In this procedure references to employee within the context of a Disciplinary Meeting or Appeal Meeting will be taken to also include references to their companion.

6.0 Disciplinary Meeting

The purpose of the Disciplinary Meeting is to enable the employee an opportunity to respond to the allegations of improper conduct before a decision is taken as to whether any further action is required.

If at any stage it becomes apparent to the Disciplinary Manager that further investigation is required, the Disciplinary Meeting should be adjourned to enable this.

Where dismissal is a possible outcome of the meeting, the Disciplinary Manager must be a Head of Service or Director.

Meeting format

- The Meeting will be chaired by the Disciplinary Manager and where appropriate an HR Business Partner will also be present.
- The Disciplinary Manager will present the allegations against the employee referring to the evidence that has been gathered.
- Where an Investigating Officer has been appointed and is required to attend the Disciplinary Meeting, they will take the role of Presenting Officer and will normally present first. The employee should be given an opportunity to ask questions at the end of that presentation.
- Where any other relevant witnesses attend to give evidence, including those called by the Presenting Officer, the employee should be given an opportunity to ask them questions at the end of each presentation.
- The employee will then present their response to the allegations referring to any evidence that has been gathered.

- Where the employee invites witnesses to attend to give evidence, the Disciplinary Manager will have an opportunity to ask them questions at the end of each presentation.
- Once the evidence has been explored, and the employee has been given an opportunity to comment and respond, the meeting should be adjourned for the Disciplinary Manager to reach a decision.
- The Disciplinary Meeting should be reconvened on the same day, unless there are matters arising which require further consideration or investigation which will take longer than the remainder of the day to complete.
- Where the Disciplinary Meeting cannot be reconvened on the same day, a future date will be arranged without undue delay. In such circumstances the employee should be given written notice of the date, time and venue at the earliest opportunity and not less than 3 days beforehand unless otherwise agreed.

7.0 Reaching a decision

Potential Outcomes

Warnings

Verbal Warning

This will usually only be appropriate in circumstances where improper conduct is being dealt with informally. Nevertheless, it may also be appropriate at the conclusion of the formal procedure for minor acts of misconduct where the employee has no other active warnings on their disciplinary record.

First Written Warning

This will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.

Final Written Warning

This will usually be appropriate for:

- Misconduct where there is already an active written warning on the employee's disciplinary record;
- Misconduct which is considered sufficiently serious to warrant a final written warning even though there are no other active warning on the employee's disciplinary record.

Content and time limits for warnings

Following receipt of a warning an employee should be clear on:-

- the nature of the misconduct;
- the change in behaviour required;
- the period for which the warning will remain active and
- the likely consequences of further misconduct during that period

A verbal and first written warning will usually remain active for 6 months and a final written warning for 12 months.

In exceptional cases e.g. those verging on gross misconduct, a final written warning may remain active indefinitely.

After the active period the warning will remain on the employee's personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

Dismissal

The decision to dismiss an employee can only be taken by a Head of Service, Director (Tier 1 or 2) or above.

Dismissal will usually only be appropriate for:

- Further misconduct where there is an active final written warning on the employee's disciplinary record. In such circumstances the employee will usually be given notice in accordance with their terms and conditions;
- Any gross misconduct whether or not there are active warnings on the employee's disciplinary record. In such circumstances the dismissal will usually be immediate without notice or payment in lieu of notice (summary dismissal).

Alternatives to Dismissal

In some cases and entirely at the Disciplinary Manager's discretion, alternatives to dismissal may be considered and will usually be accompanied by a final written warning. Any such proposals should be permitted by the employee's contract and/or with the employee's agreement.

7.0 Communicating the decision

The Disciplinary Manager should reconvene the Disciplinary Meeting whether on the same or a different day to explain the decision and the reasons for it.

In appropriate circumstances and with the agreement of the employee it may be possible to agree for the decision to be communicated in writing only but in any event all decisions should be confirmed to the employee in writing within 1 week of the Disciplinary Meeting.

Where a decision is confirmed in writing the employee should be contacted by telephone on the day the letter is sent advising of the decision verbally and confirming that a letter is being sent or the letter must be hand delivered directly to the employee or they must be asked to collect the letter.

The decision letter should contain the following information:

- The decision made and the reasons for reaching it;
- Any required improvements or agreed actions;
- Confirming the employee's right to appeal and to whom.

If the employee is being dismissed the Disciplinary Manager should also explain any notice period that will apply and confirm any other relevant termination arrangements.

If the employee is being summarily dismissed, the Disciplinary Manager will make arrangements for the employee to be accompanied to their workstation and ensure that all Council property, including access cards/keys, mobile telephone and laptop computer is returned before they leave the premises. These situations will be handled in a sensitive and respectful manner.

The Disciplinary Manager should immediately notify payroll of an employee's dismissal and any relevant notice period.

8.0 Review Progress

The Disciplinary Manager will ensure that any dates set to review the employee's conduct are followed up and where the required standard is reached the employee should be advised of this.

If, at the review stage, the employee's conduct is not acceptable the Disciplinary Manager will decide on the appropriate course of action to take.

9.0 Appeal

If the employee is dissatisfied with the outcome of the disciplinary meeting, they may appeal in accordance with the [Appeals Policy and procedure <insert link>](#).

10.0 Document Retention

The Disciplinary Manager should forward copies of all paperwork relating to the investigation and Disciplinary Meetings to HR Support, Manor Drive. Any such correspondence should be labelled for the attention of the relevant HR Business Partner for the service area and marked as 'Strictly Private and Confidential'

Any paperwork provided will be stored and/or destroyed in accordance with the Council's records retention and management policies.

11.0 Further Information

For further advice and/or template letters please discuss with the HR Business Partner for your service area.

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