



DISCIPLINARY PROCEDURE

Introduction

The Council accepts its responsibility to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance. The Council and the staff will be guided by the principles of natural justice and the requirements of relevant legislation in dealing fairly and equitably with disciplinary situations.

Procedure

1. Where formal disciplinary action is used, it should encourage improved standards of performance/conduct and employee effectiveness.
2. Where an employee's work, performance, conduct or omissions warrant improvement that employee's line manager (in the case of a Clerk: three Members of the Audit and Governance Committee) must discuss the problem with the employee concerned and, if desired by the employee, the employee's representative.
3. Where, as a result of the discussion, shortcomings are discovered which are attributable to management then immediate action must be taken to rectify that situation.
4. If, as a result of the discussion, the problem is not resolved, then a verbal warning may be given. An informal warning from the line manager to the employee (in the case of the Clerk – three members of the Audit and Governance Committee) is the first stage in the Disciplinary Procedure.
5. It should be a considered decision and must describe the fault found, the steps necessary to rectify it and a warning as to the consequences of a failure to improve.
6. Where an employee's work, performance, conduct or omissions gives rise to more serious concern the matter will be investigated by a Clerk (in the case of a Clerk - the Members of the Audit and Governance Committee).
7. Investigation will take place by way of a Formal Interview. The notice must contain details of the matter to be investigated, together with a reminder of the employee's rights to be accompanied by his/her representative as appropriate.
8. The employee, together with his/her representative if she/he so wishes, must be given the opportunity to defend or explain his/her actions. Account will be taken of statements of any available witnesses.

9. As a result of the Formal Interview the Clerk (in the case of the Clerk - Members of the Audit and Governance Committee) may decide there is no case to answer.
10. If it is found that disciplinary action is warranted, then one of the following actions will be taken:
- Issue a Formal Verbal Warning
 - Issue a First Written Warning
 - Issue a Second Written Warning
 - Issue a Final Written Warning
11. Dismiss the employee:
Normally, for a further offence after a First Written Warning, a Second Written Warning will be given but the appropriate level of disciplinary action will depend upon the seriousness of the fault found. The formal warning will be delivered verbally by the Clerk (in the case of the Clerk – by the three Members of the Audit and Governance Committee) and, confirmed in writing, after consideration of all the facts during the Formal Interview. (The degree of seriousness with which the Council will view a particular level of warning depends on the proper and equitable application of the Disciplinary Procedure).
12. Written warnings must be sent to the employee concerned within 5 working days (Mon-Fri – excluding public holidays) of the Formal Interview. All written warnings should specify the nature of the misconduct or unsatisfactory performance, the remedial action required of the employee and the time period allowed for such remedies to be implemented. It must also state what assistance is to be provided by his/her manager (in the case of a Clerk: three Members of the Audit and Governance Committee).
13. The warning must include the steps required by an employee to initiate an appeal against the disciplinary action. It must also refer to the fact that a copy of the warning will be included on the employee's personal file.
14. If an employee wishes to appeal against a first or second written warning s/he should:
- Consult with his/her representative and write to the Chairman of the Audit and Governance Committee within 10 working days of receiving written confirmation of the warning stating that s/he wishes to exercise his/her right of appeal and on what ground s/he is exercising that right.
15. The Chairman of Audit and Governance Committee will arrange an appeal meeting within 20 working days of receiving the appeal with: two Members who have not been involved directly in the Disciplinary Process, the disciplined employee, the disciplined employee's representative (if the employee so wishes)
16. The appeal will be heard, and a decision given orally at the end of the meeting and confirmed in writing within 5 working days. If the appeal is allowed, the record of the disciplinary action appealed against will be expunged from the employee's personal file.
17. For a Final Written Warning, the Appeal will be heard by the Chairman of Audit and Governance Committee and two Members of Council who have not been involved directly in the Disciplinary Process. In the case of a Clerk, the appeal will be heard by the full Council. There is no further right to appeal against a Final Written Warning.

18. Written Warnings will remain on file for the periods listed below, after which, if there is no further warning, the warning will be removed from the file and destroyed.

- Formal Verbal Warning 6 months
- First Written Warning 12 months
- Second Written Warning 18 months
- Final Written Warning 24 months

19. If a decision (in the case of a Clerk – Council adopting a Audit and Governance Committee Recommendation) is taken to dismiss, the employee should be informed immediately, and the decision must also be confirmed in writing within 5 working days. The written confirmation will set out the reasons for the dismissal, the period of notice (if any), the arrangements for working of such notice and the employee's rights of appeal.

20. If an employee is to be dismissed it is essential it is done in fair and consistent manner. Legal grounds for dismissal are:

- Continued poor performance and/or inadequate qualifications for him/her to perform adequately in his/her current position, neither of which have been remedied satisfactorily through the use of warning procedures.
- Gross misconduct which is of such nature that the Council cannot reasonably allow the continued presence of the employee at the place of work. In such circumstance's dismissal may take place without prior use of the warning's procedure. (For examples of gross misconduct, see Appendix B). In cases of alleged gross misconduct, it may be appropriate that an employee be suspended; or transferred temporarily to other duties to enable investigations to be made; and/or where there are grounds for doubt about the suitability of the employee to continue work.
- Some other substantial and specific reason

21. An employee who wishes to appeal against his/her dismissal must notify the Council within 10 working days from the date of the decision to dismiss. The full Council will consider the appeal within 15 working days of the date from the date of notification. (The procedure is at Appendix A).

22. The decision of the Council will be confirmed in writing to the employee within 5 working days. This appeal is the final level of consideration within The Council.

23. If confronted with a situation in which suspension or dismissal seems probable, **seek advice from National Association of Local Councils and/or the Staffordshire Parish Councils' Association before resorting to dismissal in any circumstances.**

Note

- The time limits referred to in this Disciplinary Procedure may, by **mutual agreement**, be modified by all parties involved at that particular stage.
- The employer shall provide an individual to take notes of all meetings or hearings attended by parties involved in this Procedure.
- Councillors are not permitted to act as an Employee's Representative.

Signed: J Bernard

Dated: 8th May 2024

Minute Reference: 05/24/26.14

Appendix A

PROCEDURE FOR HEARING APPEALS BY COUNCIL

1. The full Council shall hear appeals against dismissal.
2. Upon receipt of an appeal against dismissal, the Audit and Governance Committee shall meet to determine the most appropriate person to represent the Employer's current position at the hearing.
3. The Appellant and his/her representative (if any) should be given notice at least 5 working days in advance of the time and place of the hearing. She/He should present his/her case in writing or have it put by his/her representative, or present it jointly with his/her representative, and should be enabled to call witnesses and produce documents relevant to the case. In order to make suitable arrangements, the parties appearing at the hearing should inform the Council of the names of witnesses intended to be called. Witnesses will remain in attendance at the hearing only if expressly required to do so by the Council. The Council may resolve to extend or adjourn the hearing.
4. The Employer's Representative will put his/her case and call such witnesses as she/he wishes in the presence of the Appellant.
5. The Appellant will put his/her case and call such witnesses as she/he wishes in the presence of the Employer's Representative.
6. The Employer's Representative and Council will then have the opportunity to ask questions of the Appellant and any witnesses whom she/he may have called.
7. Council Members will have the opportunity to ask questions in general.
8. The Employer's Representative and then the Appellant will have the opportunity to sum up their respective cases if they so wish.
9. The Employer's Representative and the Appellant and any witnesses will withdraw.
10. The Council will deliberate in private (with the Clerk – if appropriate - and/or any other advisers), recalling the Appellant and the Employer's Representative only to clear up points of uncertainty on evidence given already. If recall is necessary, both parties are to return even if one only is concerned with the point giving rise to doubt.
11. The Council will announce its decision to the Appellant and the Employer's Representative orally at the end of the Hearing, or adjournment thereof.

Appendix B

EXAMPLES OF GROSS MISCONDUCT

Examples of actions likely to be treated as gross misconduct include, but are not limited to, the following;

- Theft, fraud, deliberate falsification of records
- Arson
- Corrupt practices
- Submission of false references/information or failure to disclose relevant information when requested in connection with an application for appointment with the Council
- Disorderly or indecent conduct, fighting at work or threatening physical violence
- Drunkenness or use of illegal drugs on duty
- Misuse of the Council's property, time or name
- Bringing the Council into serious disrepute
- Deliberate damage to Council property or that of other agencies or employees
- Persistent or substantial failure to follow Council documentary procedures
- Breaking statutory provisions which would render the Council or its employees liable to prosecution
- Serious breach of health and safety rules
- Serious breach of confidence/confidential information
- Serious or persistent acts of harassment and/or bullying
- Incitement to discriminate or actual acts of discrimination in contravention of the Council's Equal Opportunities Statement.