

Woughton Community Council

Disciplinary Procedure

These procedures are provided for information only and do not form part of your contract of employment, although these procedures may be referred to in your Contract of Employment (or Terms and Conditions).

Disciplinary procedure

The primary aim of this procedure is to provide a framework within which managers can work with employees to maintain satisfactory performance standards and to ensure improvement where necessary.

It is our policy to ensure that concerns over performance and/or conduct are dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond at a hearing before any formal action is taken.

The rules set standards of performance and behaviour whilst the procedures are designed to help promote fairness and order in the treatment of individuals. It is our aim that the rules and procedures should emphasise and encourage improvement in the conduct of individuals, where they are failing to meet the required standards, and not be seen merely as a means of punishment. We reserve the right to amend these rules and procedures where appropriate.

Every effort will be made to ensure that any action taken under this procedure is fair, with you being given the opportunity to state your case and appeal against any decision that you consider to be unjust.

Disciplinary Rules

It is not practicable to specify all disciplinary rules or offences that may result in disciplinary action, as they may vary depending on the nature of the work. In addition to the specific examples of unsatisfactory conduct, misconduct and gross misconduct shown in this handbook, a breach of other specific conditions, procedures, rules etc. that are contained within this handbook or that have otherwise been made known to you, will also result in this procedure being used to deal with such matters.

Rules covering unsatisfactory conduct and misconduct.

(these are examples only and not an exhaustive list)

1) You will be liable to disciplinary action if you are found to have acted in any of the following ways:

- a) failure to abide by the general health and safety rules and procedures;
- b) smoking in designated non smoking areas;
- c) persistent absenteeism and/or lateness;

- d) unsatisfactory standards or output of work;
- e) rudeness towards residents, members of the public or other employees, objectionable or insulting behaviour, harassment, bullying or bad language;
- f) failure to devote the whole of your time, attention and abilities to our organisation and its affairs during your normal working hours;
- g) failure to carry out all reasonable instructions or follow our rules and procedures;
- h) unauthorised use or negligent damage or loss of our property;
- i) unauthorised use of e-mail and internet;
- j) failure to report immediately any damage to property or premises caused by you;
- k) use of our vehicles without approval or the private use of our commercial vehicles without authorisation;
- l) failure to report any incident whilst driving our vehicles, whether or not personal injury or vehicle damage occurs;
- m) if your work involves driving, failure to report immediately any type of driving conviction, or any summons which may lead to your conviction;
- n) carrying unauthorised passengers in our vehicles or the use of our vehicles for personal gain;
- o) loss of driving licence where driving on public roads forms an essential part of the duties of the post; and
- p) failure to abide by the rules and regulations issued by the Community Council.

Serious Misconduct

- 1) Where one of the unsatisfactory conduct or misconduct rules has been broken and if, upon investigation, it is shown to be due to your extreme carelessness or has a serious or substantial effect upon our operation or reputation, you may be issued with a final written warning in the first instance.
- 2) You may receive a final written warning as the first course of action, if, in an alleged gross misconduct disciplinary matter, upon investigation, there is shown to be some level of mitigation resulting in it being treated as an offence just short of dismissal.

Rules covering Gross misconduct.

Occurrences of gross misconduct are very rare because the penalty is dismissal without notice and without any previous warning being issued. It is not possible to provide an exhaustive list of examples of gross misconduct.

However, any behaviour or negligence resulting in a fundamental breach of contractual terms that irrevocably destroys the trust and confidence necessary to continue the employment relationship will constitute gross misconduct. Examples of offences that will normally be deemed as gross misconduct include serious instances of:

- a) theft or fraud;
- b) physical violence or bullying;
- c) deliberate damage to property;
- d) deliberate acts of unlawful discrimination or harassment;
- e) possession, or being under the influence, of drugs* at work;

*For this purpose, the term 'drugs' is used to describe **both** illegal drugs and other psychoactive (mind-altering) substances which may or may not be illegal.

- f) breach of health and safety rules that endangers the lives of, or may cause serious injury to, employees or any other person;
- g) maltreatment of residents; by neglect, omission and/or commission;
- h) failure to report an incident of abuse, or suspected abuse of a resident;
- i) abandoning duty without notification or sleeping on duty or Community Council/residents premises;
- j) acceptance of gifts & hospitality in contravention of the Bribery Act 2010;
- k) failure to give notice of any pecuniary interest of which you are aware, in a contract which has been, or is proposed to be, entered into by the organisation;
- l) wilful misrepresentation at the time of appointment including:
 - 1. Previous positions held
 - 2. Qualifications held
 - 3. Falsification of date of birth
 - 4. Declaration of health
 - 5. Failure to disclose a criminal conviction/caution within the provisions of the Rehabilitation of Offenders Act;
- m) wilful misrepresentation at any time during employment in connection with qualifications held;
- n) deliberate disclosure of privileged confidential information to unauthorised people;

- o) negligent or deliberate failure to comply with the requirements of the organisation's policy & procedure concerning medicines;
- p) working whilst contravening an enactment, or breach of rules laid down by statutory bodies;
- q) any act or omission constituting serious or gross negligence/or dereliction of duty;
- r) consumption of alcohol on a residents or Community Council premises prior to and/or during hours of duty;
- s) failure to attend or gain access to visits and not reporting to Manager/ on call; and
- t) conviction for a criminal offence which clearly indicates unsuitability for the role employed to undertake.

(The above examples are illustrative and do not form an exhaustive list.)

Disabilities

Consideration will be given to whether poor performance or cause for concern may be related to a disability and, if so, whether there are reasonable adjustments that could be made to your working arrangements, including changing your duties or providing additional equipment or training. We may also consider making adjustments to this procedure in appropriate cases.

If you wish to discuss this or inform us of any medical condition you consider relevant, you should contact your line manager or the Head of Business Support.

Confidentiality

Our aim is to deal with performance matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with a matter which is subject to this disciplinary procedure.

You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure. You will normally be told the names of any witnesses whose evidence is relevant to your capability hearing, unless we believe that a witness's identity should remain confidential.

Notification of a Disciplinary hearing

If we consider that there are grounds for taking formal action over alleged disciplinary issue, you may be required to attend a disciplinary hearing.

An impartial investigator will be allocated to the case, and you will be asked to attend an investigation interview, this is merely an evidence gathering exercise. It is an opportunity for you to answer and respond to the allegation(s) in your own words. This meeting will be formally minuted, upon conclusion of the investigative interview the investigator must review all evidence submitted to the case alongside your responses and reasons. The investigator should submit a conclusion report of their findings to the individual who will carry out the disciplinary hearing. The investigator may conclude **no further action needs to be taken** or they may recommend that the disciplinary procedure should be continued (and they must provide ample reason for this.)

The investigative interview is used as on an evidence based and factual basis, opinions or assumptions are **not permitted** to be included in the report or used as any reasoning towards their recommendation.

We will notify you in writing of our concerns, the reasons for those concerns, and the likely outcome if we decide after the hearing that your performance has been unsatisfactory. We will also include the following where appropriate:

- A summary of relevant information gathered as part of any investigation;
- A copy of any relevant documents which will be used at the disciplinary hearing;
- A copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible while maintaining confidentiality.

We will give you written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time, usually 2 to 5 working days, to prepare your case based on the information we have given you.

Right to be accompanied at hearings

You may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion may be a work colleague or trade union representative. You must tell the manager conducting the hearing who your chosen companion is, in good time before the hearing. Your companion may make representations, ask questions, and sum up your case, but will not be allowed to answer questions on your behalf. You may confer privately with your companion at any time during the hearing.

A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.

If your choice of companion is unreasonable, we may require you to choose someone else, for example:

- If in our opinion your companion may have a conflict of interest or may prejudice the hearing; or
- If your companion works at another site and someone reasonably suitable is available at the site at which you work; or
- If your companion is unavailable at the time a hearing is scheduled and will not be available for more than 5 working days.

Procedure at disciplinary hearings

If you or your companion cannot attend the hearing you should inform us immediately and we will usually arrange an alternative time. You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason, or are persistently unable to do so (for example, for health reasons), we may have to take a decision based on the available evidence.

The hearing will normally be held by your line manager or a more senior manager and may be attended by the Council Manager or a member of the Councillor Group (usually Chair of Operations, Chair of Council or Council Leader) if available.

You may ask relevant witnesses to appear at the hearing, provided you give us sufficient advance notice to arrange their attendance. You will be given the opportunity to respond to any information given by a witness. However, you will not normally be permitted to cross-examine witnesses

unless, in exceptional circumstances, we decide that a fair hearing could not be held otherwise. The aims of a disciplinary hearing will usually include:

- Setting out the required standards that we believe you may have failed to meet, and going through any relevant evidence that we have gathered;
- Allowing you to ask questions, present evidence, call witnesses, respond to evidence and make representations;
- establishing the likely causes of concern including any reasons why any measures taken so far have not led to the required improvement;
- Identifying whether there are further measures, such as additional training or supervision, which may improve performance;
- Where appropriate, discussing targets for improvement and a time-scale for review.

If dismissal is a possibility, establishing whether there is any likelihood of a significant improvement being made within a reasonable time and whether there is any practical alternative to dismissal, such as redeployment.

A hearing may be adjourned if we need to gather any further information or give consideration to matters discussed at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

We will inform you in writing of our decision and our reasons for it, usually within 5 working days of the capability hearing. Where possible we will also explain this information to you in person.

Stage 1 hearing: first written warning

Following a Stage 1 disciplinary hearing, if we decide that there has been evidence of unsatisfactory or misconduct, we will give you a first written warning, setting out:

- The areas in which you have not met the required performance standards;
- Targets for improvement;
- Any measures, such as additional training or supervision, which will be taken with a view to improving performance;
- A period for review;
- The consequences of failing to improve within the review period, or of further unsatisfactory performance.

A first written warning may be authorised by a manager.

The warning will normally remain active for 12 months from the end of the review period, after which time it will be disregarded as active, but will be kept on file for reference.

Stage 2 hearing: final written warning

If further instances of unsatisfactory conduct, misconduct or gross misconduct occur, or the issue from the first stage does not improve within the review period set out in a first written warning, while your first written warning is still active, we may decide to hold a Stage 2 disciplinary hearing. We will send you written notification as set out above.

Following a Stage 2 disciplinary hearing, if we decide that there is evidence for further action as outlined in the rules above, we will give you a final written warning, setting out:

- The areas in which you have not met the required performance and/or conduct standards;
- Targets for improvement;
- Any measures, such as additional training or supervision, which will be taken with a view to

- improving performance;
- A period for review; and
- The consequences of failing to improve within the review period, or of further unsatisfactory performance.

A final written warning may be authorised by a senior manager.

A final written warning will normally remain active for 12 months from the end of the review period. After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

Your performance will be monitored during the review period and we will write to inform you of the outcome:

- If your line manager is satisfied with your performance, no further action will be taken;
- If your line manager is not satisfied, the matter may be progressed to a Stage 3 disciplinary hearing; or
- If the manager feels that there has been a substantial but insufficient improvement, the review period may be extended.

Stage 3 hearing: dismissal or redeployment

We may decide to hold a Stage 3 disciplinary hearing if we have reason to believe:

- Your performance has not improved sufficiently within the review period set out in a final written warning;
- Your performance is unsatisfactory while a final written warning is still active; or
- If there are further instances of unsatisfactory conduct, misconduct or gross misconduct – this does not have to be relating to the previous disciplinary issue, any instance of non-compliance will result in next stage disciplinary
- Your performance has been grossly negligent (gross misconduct) such as to warrant dismissal without the need for a final written warning.

We will send you written notification of the hearing as set out above.

Following the hearing, if we find that your performance is unsatisfactory, we may consider a range of options including:

- Dismissing you;
- Redeploying you into another suitable job at the same or (if your contract permits) a lower grade;
- Extending an active final written warning and setting a further review period (in exceptional cases where we believe a substantial improvement is likely within the review period);
- Giving a final written warning (where no final written warning is currently active).

The decision may be authorised by the Operations Manager, Council Manager or, in exceptional circumstances, a member of the Council.

Dismissal will normally be with full notice or payment in lieu of notice, unless your performance has been so negligent as to amount to gross misconduct, in which case we may dismiss you without notice or any pay in lieu.

Appeals against disciplinary action

If you feel that a decision made in your disciplinary hearing under this procedure is wrong or unjust you should appeal in writing, stating your full grounds of appeal, to the Operations Manager or

Council Manager within 5 working days of the date on which you were informed in writing of the decision.

If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful you will be reinstated with no loss of continuity or pay.

If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light we will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing.

We will give you written notice of the date, time and place of the appeal hearing. This will normally be 2 to 5 working days after you receive the written notice.

The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at our discretion depending on the circumstances of your case. In any event the appeal will be dealt with as impartially as possible.

Where possible, the appeal hearing will be conducted by a more senior manager who has not been previously involved in the case. The Council Manager, Operations Manager or another Service Manager, where available, and/or the manager who conducted the disciplinary hearing will also usually be present. You may bring a companion with you to the appeal hearing (see above).

A hearing may be adjourned if we need to gather any further information or give consideration to matters discussed at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Following the appeal hearing we may:

- Confirm the original decision;
- Revoke the original decision; or
- Substitute a different penalty.

We will inform you in writing of our final decision as soon as possible, usually within 5 working days of the appeal hearing. Where possible we will also explain this to you in person. There will be no further right of appeal.

Last review date:	February 2021
Next review date:	February 2022
Lead:	Operations Manager
Overseeing Committee:	Operations
Approved:	
Review cycle:	Annually and/or as per legislation