

Disciplinary Policy

A process for dealing with employee misconduct.

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Disciplinary Policy

1. Purpose

The City Council strives to provide the best possible service to its residents. In order to achieve this high standards of behaviour are required from its staff. Managers are responsible for communicating these standards and employees for maintaining them.

This policy provides a framework for dealing with incidents of improper behaviour and misconduct.

2. Key Principles

The following key principles underpin the disciplinary policy and all parties must act in accordance with them -

- The principle of natural justice (procedural fairness) should be implicit in all actions taken under this policy. An employee must be informed of allegations made against them and the detail; they should be given the opportunity to challenge this before decisions are made; they should be allowed representation (at all stages of the formal process) and the right of appeal.
- Managers will act reasonably, pairing a fair procedure with sensible and fair decision making. There should be a reasonable belief following a thorough and open minded investigation that an offence has been committed before any case proceeds to hearing. Decisions made in the process will be made by an appropriate person and be reasonable based on the evidence available and circumstances of the case (i.e. they will not be unduly harsh / lenient or obviously inconsistent).
- The use of the disciplinary process is necessary in some cases, however it should not be a substitute for good day to day management of staff whereby expectations are clearly communicated and minor issues quickly dealt with.
- Employees are required to cooperate with this policy and any subsequent requirements on them personally (for example complying with investigatory process, acting as a witness or attending proceedings).
- Timeliness in application of this process is crucial, procrastination or delay caused by any party involved needs to be addressed in the interests of a fair outcome which is in everyone's interests.

This procedure takes account of the ACAS (Advisory, Conciliation and

Arbitration Service) code of practice on disciplinary procedures and will be reviewed periodically in line with developments in good practice.

3. Scope

This document applies to all staff employed by the Council. This policy does not apply to school based staff.

The Procedure will not apply to:-

- Unsatisfactory performance during a probationary period. These issues are addressed under Procedure for Managing Employees During Probation;
- Where an employee's work or omission is such as to call into question his or her competence or capability. These issues are addressed under the Capability Procedure. (Unsatisfactory work performance which is willful or caused by deliberate omission / inaction or carelessness will however be classed as misconduct and dealt with under the disciplinary policy).
- Non-attendance due to long term sickness which will be dealt with under the 'Managing Attendance Policy and Procedure'.
- Dismissal in the event of redundancy which will be dealt with under the appropriate arrangements.

Overlapping Issues

Issues raised about treatment under the Disciplinary Policy should be dealt with within this policy. If issues are raised under the Grievance / Dignity at Work Policy; which the employee feels are separate to the live disciplinary process; then the Hearing Officer / Appeal Hearing Officer will review the complaint. They have the discretion to decide if they should deal with the issues raised as part of the Disciplinary process or if there is a need to temporarily hold the proceedings whilst the complaint is dealt with separately.

4. Sources of support for managers

There are high expectations of managers for the role they take in this policy and they must be accountable for the steps they take. This is a necessary part of a management role and professionalism. Managers should make use of available support in developing their skills and conducting their role.

Examples of support can be accessed on the intranet.

5. Setting Standards of behaviour

Informal action is fundamental to effective management. Setting clear standards about expected behaviour, and being open about what is acceptable or otherwise is a key part of a manager's role. Publicising policies, continually reinforcing standards and taking immediate informal action to manage minor infringements is vital as it may negate the need to resort to formal disciplinary action later.

Misconduct

Where an employee will not respond to reasonable requests to modify their behaviour or where they conduct acts of more serious misconduct then a manager will need to use the disciplinary policy to enforce improvement. Breaches of the disciplinary rules classed as misconduct are outlined in the appendix on Disciplinary Rules; such instances can result in disciplinary warnings at Stages 1, 2 or 3 of the Disciplinary Procedure. Previous interventions or warnings which do not lead to a sustained improvement will influence the perceived seriousness of subsequent misconduct (and hence result in an escalation of warning issued). Repeated breaches of the disciplinary rules or acts of misconduct may result in an employee's dismissal. Individual Departments may supplement these corporate rules with service-specific rules and guidelines in agreement with trade unions via the Directorate joint consultative committees.

Expunged warnings may not be used for the "totting-up" process.

Gross Misconduct

Gross misconduct is regarded as an incident or incidents of misconduct so serious, that the action fundamentally breaches the contractual relationship between the employee and the City Council and justifies that the Council in no longer accepting the employee's continued employment.

In the case of any act committed which is considered by the Hearing Officer to constitute gross misconduct, and after due regard has been given to any mitigating circumstances put forward, the employee may be summarily dismissed (without notice and irrespective of whether the employee has any previous warnings) i.e. with effect from the time the decision of the Hearing Officer is given.

Breaches of the disciplinary rules normally classed as gross misconduct that may result in summary dismissal are outlined in the appendix on Disciplinary Rules. Directorates may supplement these corporate rules with service-specific rules and guidelines.

6. Disciplinary process

The stages of the procedure are as follows:

Step 1 - Investigation

Conducting an Investigation

Before any decision is made to hold a disciplinary hearing a full investigation will be carried out by an appropriate manager (the Investigating Officer). The employee should be advised of the nature, and as it becomes available, the detail of the allegation/complaint in writing. If there are any alterations made to the allegations as the investigation progresses, then the employee should be informed accordingly.

The investigating officer will meet with as many witnesses as is appropriate and practicable. This will include holding an investigatory meeting with the employee against whom allegations are being made. The employee and witnesses have a right to be accompanied at interview. The investigating Officer will ensure that adequate notes are taken of investigatory meetings.

Other sources of information and data should be collated and analysed if they are relevant to the case.

Suspension

Suspension can arise at the start of the investigation or during the investigation if subsequent evidence comes to light which justifies it.

Suspension from duty with contractual pay is a precautionary measure which the Investigating Officer may apply if they feel it is warranted. This should not be considered a disciplinary sanction and is not an indication of guilt.

Considerations which may lead to suspension are given below.

- Where it is believed not to be in the interests of the Council's service users, employees or stakeholders that an individual should continue to work pending completion of a disciplinary investigation.
- Where it is believed that the continued presence of the employee might prejudice enquiries or influence witnesses.
- Where there has been physical violence (or threats of it) or a heated outburst. If there are risks to property or other parties by continued presence.
- Where there is a possibility that the allegations, if proven, may constitute gross misconduct.

- Management should consider the possibility of the employee working in another area/role temporarily or in a more supervised environment and determined by a balanced risk assessment.

The employee's right to be accompanied at the point they are suspended, should not delay affecting the suspension where opportune representation cannot be arranged.

Immediately following suspension, the Investigating Officer will prepare a letter to the individual concerned outlining the reason for the suspension; the terms of the suspension and the consequences of breaching those conditions; as well as details of any appropriate administrative arrangements that have been made at that time.

Where any employee has been suspended and following an investigation, the Investigating Officer believes that the issue is not a disciplinary matter or suspension is no longer necessary then the suspension will be lifted at the earliest opportunity, the individual will return to work and this will be confirmed in writing.

Outcome of the Investigation

If following investigation, the Investigating Officer believes that there is proven behaviour which potentially warrants a disciplinary sanction then he/she will initiate a disciplinary hearing. At this hearing the Investigating Officer will present the findings of their investigation and their conclusion. The case will be heard by a different officer (the Hearing Officer) who will be a more senior grade and will not have been directly involved in the investigation so as to make them impartial.

Where the Investigating Officer believes that the issue is not a disciplinary matter or should be dealt with out of the formal policy the employee will be informed of this at the earliest opportunity.

Step 2 - Hearing

Arranging the Hearing

The rights of representation and the role the representative can play are the same as outlined in the investigation section. A letter will be sent to the employee confirming the arrangements for the hearing and a statement of the final form of the allegations being made against the employee. All documents to be referred to by the Investigating Officer (the evidence pack) will be sent to the employee with enough time for them and their representative to prepare for the hearing. A period of 10 working days must be allowed before the date of the hearing. A copy of the evidence pack should also be sent to the nominated representative at the same time as the employee.

The employee/their nominated representative will send any information to which they intend to refer (which is not already included in the evidence pack) to the Investigating Officer to arrive at least three working days before the date of the hearing.

Rescheduling the Hearing

It is in everyone's interest to avoid delays and hence it is not expected that once the date is set for the hearing (having sought to agree dates with any relevant trade union representatives) that this should change; except in exceptional circumstances. If hearings need to be rescheduled this should be done within a week of the original hearing unless there is a compelling reason that this cannot happen. If the employee is persistently unable or unwilling to attend without good cause the employer should make a decision on the evidence available although other options should be offered as appropriate (for example submit written statements, nominate another to attend on their behalf or offer an offsite location). Where the employee is unable to attend due to certified sickness the Occupational Health Unit (OHU) may be contacted to establish if the employee is fit to attend a hearing, or if any arrangements can be made that would make that possible. If an employee fails to reasonably engage with the OHU for this purpose the manager may decide to offer other options as mentioned above or to proceed in their absence.

Where agreement is not reached, the Hearing Officer will make a decision regarding the need to change the date taking account of all factors

Conduct of the Hearing

The Hearing Officer will be responsible for the conduct of the Disciplinary Hearing, the order of which is set out below. The Hearing Officer will outline the process and set out any ground rules, they will take all steps necessary to reassure themselves that it is a fair hearing and that all information they need is provided to them in order they can make a sound decision. For clarification purposes the Hearing Officer may ask questions of any party at any time during the hearing, they may also adjourn the proceedings at any stage if this appears necessary or desirable. If adjourning for the purpose of enabling further information to be obtained the Hearing Officer will specify the nature of that information to be obtained, by what method and any bearings on the proceedings to both parties. The Hearing Officer will ensure that all such information is shared with both parties with an opportunity to comment.

1. Investigating Officer presents the case and calls witnesses if applicable (where witnesses are required they will only attend that part of proceedings where they are giving their evidence and answering questions).
2. Employee (or his/her representative) questions the Investigating Officer and witnesses.
3. Hearing Officer questions Investigating Officer and witnesses.

4. Employee (or his/her representative) presents his/her case and calls witnesses if applicable.
5. Investigating Officer questions employee and witnesses.
6. Hearing Officer questions employee and witnesses.
7. Investigating Officer sums up.
8. Employee (or his/her representative) sums up.
9. Both parties withdraw and the Hearing Officer deliberates (a HR rep may be present) in order to reach a decision. If it is necessary to recall one of the parties for further information or consider any further documents before a decision is taken, both parties shall be recalled.

The Hearing Officer will ensure that adequate notes are taken of the disciplinary hearing. Notes of meetings are management notes of the pertinent points of the meeting and are not required to be verbatim minutes. The employee and their representative are free to take their own notes at any point. Notes made by the Hearing Officer should be shared with the employee if an appeal is lodged.

Confirming the Decision

A decision will be given by the Hearing Officer as soon as possible, and ordinarily within 3 working days of the conclusion of the hearing. All decisions will be confirmed in writing detailing the allegations; response of the employee and any mitigation given, together with the reasons for arriving at the decision. It is vital that the comprehensive logic followed in reaching a decision is clearly explained within this letter so that it is understandable to all parties. The letter will be produced by the Hearing Officer and a copy will be forwarded to the employee and their representative.

Sanctions

The following formal sanctions may be applied under the Disciplinary Procedure:

Stage	Sanction	Live period for sanction
One	Verbal Warning	6 months
Two	Written Warning	6 months
Three	Final Written Warning	6 months
Final	Dismissal - Summary or with notice	n/a

The penalties for misconduct will normally follow incrementally, i.e. Stage 1; Stage 2; Stage 3. There will be instances, however, where specific circumstances dictate a higher stage of disciplinary action without proceeding through this sequence. The penalty for Gross misconduct is normally summary dismissal.

Gross misconduct – consideration of alternatives to dismissal.

When an allegation which constitutes gross misconduct is found proven, as part of the process of ensuring that a dismissal is fair in terms of employment law, there is a need to consider whether there is an alternative response which is short of dismissal from the City Council. When it is concluded that the circumstances of the case may allow consideration of the potential to assign the employee to a different post it must be as an alternative to dismissal from the City Council (rather than a free-standing disciplinary sanction) and accompanied by a final warning. In the event that such an offer of an alternative post is accepted this offer will not be subject to appeal.

Step 3 - Appeal

Lodging an Appeal

An employee has a right of appeal against any disciplinary sanction to the Head of Service / Strategic Director (or their nominated representative). All appeals (including those against dismissal) must be made, in writing, within ten working days of the confirmation letter being received. The reason for the appeal must be stated in writing at the time the appeal is submitted.

The Appeal Hearing

The appeal hearing officer will be of the appropriate seniority and impartiality and will conduct a full rehearing of the case. If an employee has a preference for a paper review of their case, or for an appeal based on their stated grounds (rather than a full rehearing) they can request this in writing and if all parties are agreeable they can proceed on this basis.

In cases of dismissal, summary or with notice, the right of appeal will in addition be to a panel of Elected Members called the Employee Appeals Committee. This appeal is based on the grounds raised by the employee, the process for Employee Appeals Committee including the pro-formas which need completing should this process be utilised are available on the intranet.

Outcome of the Appeal

The range of decisions open to the Appeal Body will be as follows:

- allow the appeal and revoke the disciplinary sanction or substitute other informal action instead;
- allow the appeal in part and substitute a lesser disciplinary sanction;
- disallow the appeal and uphold the original disciplinary sanction;

The Appeal Officer will ensure that adequate notes are taken of the appeal hearing in order that they may refer back to them in making their decision. Notes of meetings are management notes of the pertinent points of the

meeting and are not required to be verbatim minutes. The employee and their representative are free to take their own notes at any point.

All decisions will be confirmed promptly in writing by the Appeal Officer ordinarily within 3 working days of the conclusion of the appeal hearing. The letter will detail the main points made by the employee together with the outcome and the reasons for arriving at this decision. It is vital that the comprehensive logic followed in reaching a decision is clearly explained within this letter so that it is understandable to all parties.

Representation

The employee can be accompanied by a Trade Union Representative, a workplace colleague or a friend; they cannot be accompanied to internal proceedings by a solicitor or legal professional. The representative can submit evidence; make a case; ask questions and respond to views expressed on behalf of the employee. They cannot however respond to questions asked directly to the employee though they may explain and clarify prior to the questions being answered. They also cannot prevent the employer from making their case.

Records

Correspondence is needed at all stages of the process to make it clear what action is being taken and the reasons why.

A copy of the letter containing the sanction will be retained on employee file. These records should be kept confidential and retained in accordance with the Data Protection Act 1998.

In cases involving allegations of abuse of children or vulnerable adults (or any behaviour which may indicate a pattern that they may be unsuitable to work with Children or vulnerable adults), records of the allegations, investigation, hearing and outcome must be retained until the employee reaches normal retirement age, or for 10 years, whichever is the longer.

7. Appendix 1 - Decision making guidance for Investigating Officers and Hearing Officers.

Step 1 - Investigation

The Investigating Officer is responsible for undertaking a thorough investigation of the circumstances to establish a balanced view based on facts and reasoned judgment. Full regard will be given to relevant Council Policies. The investigating officer should scope out their investigation at the start and produce a plan to complete it within a reasonable timescale. They should not allow unnecessary time delays to this plan as this can have a negative impact on the employee, service and viability of any further action taken.

Although the employee has the right to be represented, this should not slow down the investigation unduly and so requests must be reasonable. The employee can be accompanied by a Trade Union Representative, a workplace colleague or a friend; they cannot be accompanied to internal proceedings by a solicitor or legal professional. The representative can submit evidence; make a case; ask questions and respond to views expressed on behalf of the employee. They cannot however respond to questions asked directly to the employee though they may explain and clarify prior to the questions being answered. They also cannot prevent the employer from making their case.

The Investigating Officer will ensure that adequate notes are taken of investigatory meetings. The Investigating Officer will also decide if witness statements (the witnesses own statement of their version of events as they occurred) are required or if notes of meetings (for example when structured questions have been used) are more appropriate. In some cases they may decide the circumstances warrant both (for example where a witness was interviewed more than once or where it will aid the memory of the witness to produce their own statement). Any witness statements should be signed and dated – for the avoidance of any doubt as to their validity. Notes of meetings are management notes of the pertinent points of the meeting and are not required to be verbatim minutes. Any witness statements or notes of interviews should be presented and witnesses should be available to be questioned if needed by either party. The employee and their representative are free to take their own notes at any point. Any notes made by the Investigating Officer should be shared with the employee (and their rep if applicable). They should respond if they disagree with the accuracy of any points made.

Employees with disabilities should be offered any necessary support to enable them to make their case fully.

Safeguarding considerations.

In the case of allegations of abuse against children and vulnerable adults by employees engaged in regulated or controlled activity there are additional requirements necessary. Where such allegations are made, separate

procedures are followed to ensure the safeguarding of the child or adult concerned. These procedures are operated alongside the Disciplinary Procedure, and may involve the police and other agencies. The allegations may be referred to the Independent Safeguarding Authority (ISA) in line with ISA's referral process, who will decide whether or not the employee is suitable to work with children or vulnerable adults). Where allegations are made to ISA, individual's are informed and advised of the reason for the referral.

In such cases, where an employee leaves the Council e.g. through resignation, retirement or redundancy, before allegations of abuse have been investigated, the Council is nevertheless required to complete the investigation, and reach a view on whether or not disciplinary action would have been taken if the employee had not left. This decision is then referred to the ISA, who will decide if further action is necessary. The Council is not permitted to enter into a compromise agreement with the employee in these circumstances.

Safeguarding investigations shall be treated as paramount and any action under the Council's Disciplinary procedure may, therefore, have to await criminal investigations, but will be undertaken as soon as practically possible to prevent delay. If however, it is possible to conduct an investigation with a view to potential disciplinary action this should be undertaken without delay, provided this does not interfere with any criminal investigation/proceedings.

A range of investigative actions to expedite the investigation might include any or all of the following:

- Examination of documentary evidence such as files, incident reports, daily logs or medical reports (where approval has been granted by the Child's parents/guardians and or the vulnerable adult).
- Interviews with witnesses and or complainants and others who are able to provide information relating to any incident.
- Joint interviews with other agencies where it is the best interest of the investigation and in order to prevent further anxiety to the child or vulnerable adult

Criminal Offences or other external proceedings

In cases where the police are investigating a matter or court case is pending, the application of the disciplinary procedure may not have to wait the outcome of such external investigations or proceedings. The burden of proof in internal disciplinary proceedings has to be established on "a balance of probabilities" (i.e. it is more likely than less likely that an event has occurred) - whereas in criminal cases the evidence has to be proven "beyond reasonable doubt" i.e. with certainty). However criminal offences or convictions outside employment should not be considered as automatic reasons for dismissal. The main consideration should be whether the offence is one that makes employees

unsuitable for their type of work or brings the City Council into disrepute.

Trade union officials

Although normal disciplinary standards should apply to trade union officials in relation to their conduct as employees, if disciplinary action is contemplated then the case should be discussed with a senior trade union representative or a full-time trade union official before any action is initiated under the disciplinary policy.

Suspensions.

Suspension should not be carried out as an automatic action because an investigation is required, it should only be used when there has been careful consideration if it is necessary. This must be because there is a genuine belief it is needed for one of the considerations outlined in the procedure. Before suspending consideration should first be made as to whether transferring the employee to a different work area would be a suitable alternative to suspension. Care must be taken as suspension without reasonable grounds, or unnecessarily prolonged suspensions, can amount to a breach of the implied term of trust and confidence between the employer and the employee.

For suspension to be fair it should always be kept under review to ensure that it does not become unnecessarily protracted.

The letter confirming suspension will advise the employee that they must be available to attend meetings and hearings associated with the investigation and/or disciplinary process, and may not visit their workplace or other non public area of the Council without the express prior consent of the Investigating Officer. Additionally they should be informed that any attempt to pressurise, coerce or intimidate colleagues, witnesses service users and/or other work contacts may potentially be viewed as a further disciplinary matter.

In order that the suspension process may be managed effectively and that suspensions do not carry on longer than necessary the Assistant Chief Executive (People) will monitor all suspensions. For any suspensions which managers wish to continue beyond two months express permission must be sought. Only in cases where strong reasons are given to justify continuance will permission be granted, otherwise the suspension must be lifted and the employee returned to work.

Step 2 - Hearing

Arranging the Hearing

When arranging the Hearing if a nominated representative is to attend they should be contacted with the aim of setting a timely and mutually suitable date

The final allegations, as outlined in the letter, should be specific and also be clearly and precisely worded. Where possible reference will be made to the rules breached and the potential consequences.

Making a decision at a Disciplinary Hearing

Before proceeding to making their decision the Hearing Officer should feel satisfied the Disciplinary Procedure has been applied fairly and in accordance with the principles of natural justice. They must be satisfied on the following points -

- That the employee has been told what they are being accused of (in clear and unequivocal terms) and the potential implications in cases where dismissal is an option.
- That they have been given the opportunity to state their case and they have been offered representation in order to do so.

The Hearing Officer should also consider whether the investigation was sufficient to enable them to make a decision, namely -

- That the Investigating Officer carried out as thorough an investigation as was reasonable, in the circumstances.
- That sufficient regard has been paid during the investigation to any explanation put forward by or on behalf of the employee.

If satisfied on the above points the Hearing Officer considers if they feel allegations of misconduct have been proven “on the balance of probabilities” (To a standard of proof so that the hearing officer is satisfied that 'it is more likely than not'). In order to do so they must feel satisfied on the following considerations -

- That they have a genuine belief formed on an open mind that the employee committed the act (i.e. which allegations are proven if any).
- That there is reasonable evidence to sustain this viewpoint (and that the evidence is corroborated where necessary).

If the Hearing Officer does not feel they are able to make a fair decision based upon the information presented at the Hearing they may:

- Recall any witnesses for further questioning (this should be done in the presence of both parties)
- Direct further enquiries, including adjourning for a specified reason/period, if necessary. Examination of the outcome of these enquiries should be carried out in the presence of both parties at a reconvened hearing.

If equipped to reach a decision the Hearing Officer must then decide what, if any; disciplinary sanction is appropriate to the proven misconduct and the circumstances of the case. Consideration of this may be influenced by:

- Reference to any standard / policy or procedure that has been breached or reference to the relevant disciplinary rule that has been broken. This should help define the seriousness of the offence and hence give direction on treatment (though this must be taken in context of the other considerations listed here).
- Mitigating circumstances put forward by or on behalf of the employee including the individual's previous employment record.
- Whether the employee was aware of the gravity of the offence and the consequences of committing it.
- Reference to consistency and previous action taken in similar circumstances (each case must however be taken on its merits as circumstances are never identical).

The organisational view of the seriousness of the act. In order to reach this determination a range of factors should be considered such as potential to cause harm to residents or employees; to damage Council reputation; to reduce effectiveness of services or the extent to which the action is against the values or ethos of what the City Council stands for.

In cases involving allegations of abuse of children or vulnerable adults, the Hearing Officer is required to consider whether the employee's actions have posed or could pose a risk to those client groups. In order to reach this view, it will be necessary to consider any available information relating to previous similar allegations, irrespective of whether or not they were dealt with at the time by the issuing of formal warnings. This is to enable potential patterns of behaviour to be identified.

Gross Misconduct – alternatives to dismissal.

If transfer to another location/demotion emerges as a possibility, it must be made clear to the employee that any reassignment or a variation to the employee's contract must be based on the availability of a post which falls within the competence of the employee and is mindful of any circumstances peculiar to the disciplinary case; where a suitable post exists the reassignment/variation in terms and conditions must be agreed by the employee. The Hearing Officer should then also consider if a final written warning should be issued in conjunction with this acceptance of an alternative to dismissal. If no appropriate post can be identified or the alternative is not accepted then the original sanction of dismissal will apply.

Confirming the Decision in writing.

As a minimum the letter confirming disciplinary action will contain the following information:

- The date on which the hearing took place and those present and their roles
- The offence(s) to which it relates and the conclusion of the Hearing Officer in relation to that (those) offence(s) – with clear logic for the decision making;
- The disciplinary action being taken (first stage warning / second stage warning / final warning / dismissal with notice / summary dismissal/transfer / demotion);
- In the case of warnings, the duration of the warning and the consequences of any further act of misconduct within the currency of the warning;
- Right of appeal open to the employee.

For template letters please see the intranet.

8. Appendix 2 - Disciplinary Rules.

It is fundamental to the employment relationship that employees will not act in a way that harms or compromises their employer, neither will they deliberately disregard reasonable directions from management or allow negligent / careless or reckless behaviour to have a negative impact on the service the City Council provides.

The City Council also expects that its employees will adopt its values and ethos in how they conduct their duties, and that they will be good role models for delivery of public services. This is the reason that the City Council has explicit Values, Code of Conduct and Equal Opportunities Policies for example.

The purpose of this document is to make employees aware of the more common rules and standards applicable to them and the consequences of breaching those rules. The list is not exhaustive and may be revised from time to time.

It is important that the standards are clear and that employees understand them, this helps the City Council reinforce a good working environment but also protects employees from unwittingly breaching requirements.

Gross Misconduct

Breaches of the disciplinary rules contained below will normally be classed as gross misconduct, which may result in summary dismissal i.e. without prior warning or notice.

Breaches of Key Rules, Policies and Procedures.

Serious breach of City Council Rules or Policies.

Examples may include (but are not limited to) -

- Employee Code of Conduct; Equal Opportunities Policy; Recruitment and Selection Guidelines etc.
- Deliberately failing to observe the Council's confidentiality, data protection and information security policies resulting in misuse, unauthorised disclosure, loss or theft of protected information assets and potential harm to individuals, commercial/ partner organisations and/or the reputation of the Council.

Theft, Fraud and falsifying records.

Falsifying records or employee practices which lead to theft, fraud or financial dishonesty, that result in the personal or financial gain of the employee or others.

Examples may include (but are not limited to) -

- Misuse of time keeping systems or records.
- Engaging in paid work without permission when notified as absent.
- Falsifying personnel or other records (e.g. expenses, claimant fraud or council tax evasion).

- Acceptance of bribes or other corrupt practices.

Misuse or abuse of Council Property or information.

Failure to account for or to adhere to regulations and guidelines regarding the security of cash, valuables, equipment, data, information or property belonging to the Department or service users. Wilful damage to Authority property.

Discrimination.

Serious or unlawful acts of discrimination or harassment.

Breach of Safe Working Practices.

Reckless behaviour or violation of safety regulations which potentially could endanger self and/or others.

Breaches of Trust and Confidence.

Conduct inside or outside work which leads to a serious loss of trust and confidence in an individual as an employee and makes continued employment with the City Council untenable.

Any action which is likely to bring the City Council into serious disrepute.

Examples may include (but are not limited to) -

- Using his/her position as an employee to gain advantage for self or others, or allowing one's private interests or activity to conflict with the best interests of the City Council.
- Accepting inappropriate or excessive gifts from service users or other working contacts.
- Deliberately misrepresenting the City Council; or disclosing information to external organisations to this effect.
- Wilful hindering of work - self or others.

Disorderly or Abusive Behaviour.

Conduct which is clearly unacceptable and /or offensive to a degree which makes ongoing employment untenable.

Examples may include (but are not limited to) -

- Fighting/assault on another employee, client or member of the public.
- Intimidation/coercion of/or threatening other employees, service users or public.
- Indecent conduct whilst undertaking official duties.

Gross Negligence.

Gross negligence in performance of duties where this behaviour may have caused detriment to the City Council or service users.

Breach of Contract.

Serious breach of contract which makes ongoing employment untenable.

- Refusal to follow reasonable management instruction or gross insubordination.
- Sleeping on duty.
- Serious breach of professional ethics or professional misconduct.

- Prolonged unauthorised absence without just cause.
- Providing false information during the recruitment process or during ongoing professional registration.
- Failure to inform the City Council of any changes in circumstances that materially effect their employment.

SECTION 2 - Misconduct

Minor infringements of work related rules, policies or standards and breaches of the disciplinary rules contained below will normally be classed as misconduct. This may result in disciplinary warnings, and if repeated ultimately dismissal.

- Lateness/bad timekeeping.
- Unauthorised absence.
- Poor attendance not related to ill health.
- Disorderly conduct or disruptive behaviour.
- Inadequate or bad work not related to incapability.
- Habitual and wilful carelessness or recklessness.
- Breach of professional ethics or professional misconduct.
- Intentional and/or deliberate waste or abuse of materials and/or equipment, including telephones.
- Abuse of normal break times (excluding flexitime - see flexitime regulations for action required).
- Interference with the work of other employees.
- Falsifying personnel or other records.
- Unacceptable behaviour likely to cause offense to others

Service Specific Rules

Breach of service-specific rules and guidelines may also be regarded as misconduct or gross misconduct, dependant upon circumstances. Service specific rules will be itemised separately by individual Services / Directorates.

There are specific requirements for staff in relation to their conduct with Children or Vulnerable adults when they are working in regulated or controlled activities (as defined in the Safeguarding Vulnerable Groups Act 2006). Breaches of these requirements will normally be classed as Gross Misconduct, examples are itemised by the relevant services.