

DISCIPLINARY PROCEDURE

INFORMAL ACTION

In cases of minor misconduct or unsatisfactory performance it is normal practice for a manager to discuss any matters of concern with their staff on a day-to-day basis. Such informal discussions will be outside the disciplinary procedure. In many cases the right word at the right time and in the right place may be all that is needed and will often be a more satisfactory method of dealing with unsatisfactory performance or conduct than formal disciplinary proceedings. The aim should be to offer such positive advice, assistance and guidance which will help the employee overcome any shortcomings.

INTRODUCTION AND DEFINITIONS

The Disciplinary Procedure applies to all Council employees. This policy replaces the previous Disciplinary Procedure and is effective immediately.

1. "Designated Officers" are the officers responsible for the implementation of this procedure as specified in Appendices A - C
2. "Misconduct" for the purpose of this procedure is deliberate or careless behaviour in breach of the rules or reasonable expectations of the District Council.
3. "Incapability" for the purpose of this procedure is the employee's incapability of performing their work properly because of their lack of aptitude, health, or other physical or mental condition.
4. "Independent Person" means a person appointed in connection with an investigation into alleged misconduct by the Chief Executive, Monitoring Officer or Head of Paid Service.
5. Misconduct can be of two kinds;

Ordinary misconduct may attract a series of warnings which should be aimed at explaining to the employee what the employer regards as unacceptable, how the employee should improve and the likely consequences if they do not improve. An employee should not be dismissed for a single breach of discipline except in the case of gross misconduct.

Gross misconduct is serious misconduct such that the employer is justified in no longer tolerating the continued presence of the employee at their place of employment. The contract of employment may be brought to an end immediately without notice and without going through the warning procedure. Examples of gross misconduct are given later because it is important that employees should know the kinds of misconduct that would have this result. However, the examples are not intended to be an exhaustive definition of gross misconduct, but illustrate the gravity of offence that will be treated as such.

6. **Incapability** requires a positive approach from both employer and employee. Not only should the employee do all they can to meet the needs of the employer but the employer should use reasonable endeavours to help and guide the employee to achieve the standard expected. Although the procedure involves a series of warnings, these should be given in a positive way. The employee should be told in what way their performance is unsatisfactory, how they might improve, what standards they should aim for and achieve, and what help and advice is available. The employee should be given a reasonable time in which to demonstrate and sustain improvement. **Cases of incapability on ill health grounds should not be dealt with under this procedure.**

GENERAL

DISCIPLINARY PROCESS – What are the steps?

- (a) Stage 1 – Formal verbal warning
 - (b) Stage 2 – First written warning
 - (c) Stage 3 – Final written warning
 - (d) Stage 4 - Dismissal
1. Subject to any statutory conditions to the contrary, and save as varied by the conditions applicable to the officers specified in appendices A to C this procedure applies to all employees of the District Council.
 2. The effect of any grievance raised by an employee subject to this procedure, and during the course of its application, must be considered. Depending upon the circumstances it may be appropriate to suspend the disciplinary procedure for a short period or ask for it to be handled by another person. In every case, legal or HR advice should be sought.

3. In the case of trade union officials, no disciplinary action should be taken until the circumstances have been discussed with a full time official.

INVESTIGATION

4. In almost all cases, either of suspected misconduct, gross misconduct or incapability, some investigation will need to be carried out. (Either at the outset, or as a result of matters coming to light in the course of the investigation, it may be appropriate to suspend the employee on full pay – see paragraph 8 below).
5. In determining who should carry out any investigation, the employee's manager should consider whether they should undertake the investigation or if it could be more appropriately undertaken by someone else. In the case of any suspected financial irregularity the manager must inform the Head of Resources.
6. The investigation will almost certainly require the employee concerned to attend one or more investigatory interviews. At these the employee will have the right to be accompanied and represented by a friend, trade union representative or fellow employee and to be made aware of the nature of the allegations or concerns being expressed.
7. All such investigations shall be concluded as quickly as is reasonably practicable. Once concluded the investigation report must then be passed to a Designated Officer who must take a view as to whether the matter should be taken no further under this procedure, whether the matter is one of potential misconduct or incapability (in which case paragraphs 9 to 19 should be followed), or whether the matter is one of potential gross misconduct (in which case paragraphs 22 to 31 should be followed). (The investigating officer shall not also hear the subsequent disciplinary case as a Designated Officer.)

SUSPENSION

8. An employee may be suspended from duty on full pay where there is alleged gross misconduct, or where suspension is necessary to enable a thorough investigation or for some other good reason. Suspension may only be authorised by the relevant Head of Service or Strategic Director in consultation with the Head of Customer Services, or the Chief Executive in respect of the Head of Customer Services. Suspension is not to be implemented without good reason and serious consideration should also be given to temporarily transferring the employee to other work as an alternative. In any case it should be made clear that suspension on full pay is not a form of disciplinary action but rather a stage in the procedure. The continued need for suspension of the employee should be kept under constant review.

HEARINGS (Fuller explanation at Appendix J)

9 Before any warning, whether oral or written, is issued the employee shall be given the opportunity to hear the allegations and to explain their conduct or alleged inefficiency to a different officer as outlined in para 7.

10 The employee shall be given at least seven working days notice of the hearing, the nature of the allegations and an outline of the evidence to support those allegations. Any new allegations should not be introduced at the hearing itself. If new matters come to light in the course of a hearing, not being matters which could have been previously raised by the employee, the hearing shall be adjourned.

11 If written documents are to be relied upon these should be circulated by both parties beforehand.

12 Both parties should ensure that only those witnesses whose attendance is necessary to the fair conduct of the hearing are called. The investigating officer will notify the witnesses of time and place of Hearing.

13 The employee shall be given the opportunity to be represented by a trade union representative, friend or fellow employee.

WARNINGS

14 In cases of either misconduct or incapability it may be necessary to issue a formal warning, the severity of which will depend on the seriousness of the misconduct or the level of incapability. The hierarchy of warnings is not, therefore, intended to be sequential, but a judgment needs to be made about the level of sanction appropriate to the circumstances.

15 In the case of minor misconduct or when dealing with incapability the first formal warning will normally be an oral warning. The giving of the warning shall be recorded on the employee's personal file.

16 Where an oral warning is still valid, or in other appropriate circumstances, a written warning may be given. The letter conveying the warning and its implications should also indicate the nature of the complaint(s) in respect of which the warning is given.

The employee should be asked to sign and return a copy to indicate its receipt.

- 17 If a written warning is intended to be a final warning, it shall say so and mention specifically the possibility of dismissal if there is further unsatisfactory conduct. The format of the letter should be similar to that described in paragraph 16 and its receipt should be similarly acknowledged. In the case of the alleged incapability particular regard should be had to the definition of Incapability in Paragraph 6 of Introduction and Definitions.

TIME LIMITS ON WARNINGS

- 18 Ordinarily, formal disciplinary warnings will be disregarded for any subsequent disciplinary purpose after a specified period of satisfactory conduct. That period which should be stated in the warning letter, will be:

Oral warning	6 months
Written warning	12 months
Final written warning	24 months

APPEALS AGAINST DISCIPLINARY WARNINGS

- 19 An employee, aggrieved by the issue of a warning to him/her, must be advised of their right to appeal against it. The appeal should be made in writing to the Head of Customer Services within 14 working days of receipt of the warning. The appeal will be heard by the Designated Officer in Appendices A – C.
- 20 If, having heard the relevant parties to the appeal, the Designated Officer decides to uphold the appeal, he/she may withdraw the warning or replace it with a lesser warning.

GROSS MISCONDUCT

- 21 Gross misconduct is serious misconduct such that the employer is justified in no longer tolerating the continued presence of the employee at their place of employment, and will normally lead to summary dismissal without going through the warning procedure described.
- 22 The procedure does not attempt to define all types of conduct that may be regarded as gross misconduct but some examples are:
- a. Harassment or abuse of any person, whether or not an employee, on grounds of race, gender, sexual orientation, religious belief or disability, or deliberate discrimination on such grounds.
 - b. Bullying or any form of serious abuse towards, or assault upon, employees, or members of the public
 - c. Deliberately misusing, damaging or losing Council property

- d. Removing Council property without authority
- e. Theft, dishonesty or fraud
- f. Improper completion of time sheets or claims for expenses or overtime
- g. Gross disregard for the health, safety or well-being of any other person
- h. Being under the influence of alcohol and/or drugs whilst on duty. (This excludes prescribed drugs and their possible effect.) Please refer to the Alcohol and Substance Misuse Policy for further guidance.
- i. Gross insubordination or wilful disobedience
- j. Providing false information to support an application for employment
- k. Breaches of confidentiality or other action seriously prejudicial to the interests of the Council
- l. Corruptly soliciting or receiving any benefit or advantage from any person or organisation
- m. Gross disregard of data protection legislation
- o. Criminal offences which the employee had admitted or which, after proper enquiry, the Designated Officer believes the employee has committed. However, criminal offences should not be treated as automatic reasons for dismissal regardless of whether the offences are relevant to the individual's employment. The main consideration should be whether the offence is one that makes the individual unsuitable for this type of work. Employees should not be dismissed solely because a charge against them is pending or because they are remanded in custody.
- p. A serious breach of the Code of Conduct for Employees (details of which can be found as Appendices I to this procedure.
- q. Using Council equipment to download, or distribute pornographic material or the sending of images or text that may be classed as harassing, obscene, racist, sexist, homophobic, or otherwise offensive.

The purpose of these examples is to define conduct that may result in dismissal. Every case has to be treated on its merits and the context considered. For consistency the Human Resource Manager (Employee Relations) must be consulted before any action is taken.

DISMISSAL PROCEDURE

23 In cases where dismissal may be considered, a Designated Officer may dismiss an employee for gross misconduct or where previous warnings about misconduct or incapability have proved ineffective.

24 A Designated Officer may also agree with the employee that the following lesser penalties should be applied as an alternative to dismissal:

- Transfer to a similar post elsewhere or
- Demotion to another post, paid on a lower scale

25 Before a Designated Officer decides to impose any sanction mentioned in the previous paragraph, he/she shall write inviting the employee to a hearing specifying,

- a. The time and date of the hearing
 - b. The nature of the allegations and evidence to support those allegations
 - c. That the hearing may result in the employee's dismissal
 - d. That the employee may be represented at the hearing by a trade union representative, friend or fellow employee.
- Ordinarily only one person should present the case for each party.
- 26 The written notice to the employee shall be sent to the employee ten days before the date of the hearing. A postponement may be granted where to do otherwise would seriously prejudice the ability of either party to present their case.
- 27 At least five working days before such a hearing both parties should circulate to all those involved any written documents upon which they intend to rely. Any person who will give evidence at the hearing shall provide a written summary of that evidence.
- 28 The person conducting the hearing should also circulate in advance the procedure to be followed at the hearing, including the names of those who will be present.
- 29 The person conducting the hearing shall give the employee or their representative the opportunity to answer the allegations, and arrange that a note of the hearing be kept. They will normally inform the employee of their decision at the end of the hearing.
- 30 After the hearing the person conducting it shall notify the employee in writing of their decision. If the person conducting the hearing decides to impose any of the sanctions referred to in paragraphs 24/25, he/she shall give the reason for their decision and state that the employee has the right to appeal to elected Members by written notice to the Monitoring Officer within 14 working days of receipt of the letter. (In the event that the person conducting the hearing takes a less serious view and no more than a warning is issued, any appeal shall follow the process set out at paragraph 20 and the Designated Officer hearing the appeal shall be another Strategic Director.) The employee's notice of appeal shall include a statement in writing of the grounds on which they wish to challenge the decision.
- 31 The appeal by an employee against the decision of a Designated Officer to impose any sanction referred to at paragraphs 24/25 will be heard by an Employment Committee. The hearing will be held no later than 30 working days after notice of appeal is lodged, unless both parties agree otherwise.

PROCEDURE OF THE EMPLOYMENT APPEAL PANEL

32. The Employment Appeal Panel shall comprise of 5 Councillors. All panel members shall be trained in hearing employment appeals. No panel members shall sit on an appeal where they have had previous involvement in the case subject to that appeal.

BEFORE THE HEARING

- I The Monitoring Officer shall notify the employee in writing at least 14 working days in advance of the time, date and place of the hearing
- II either party may be represented if they wish
- III the Designated Officer shall send the employee and the Monitoring Officer, at least 14 working days before the hearing, a note of the disciplinary hearing, copies of any documents which he/she intends to refer, the names of any witnesses to be called and the name of any representative
- IV the employee shall send the Designated Officer and the Monitoring Officer at least 7 working days before the hearing, a statement in writing setting out any essential findings of facts with which they are dissatisfied, any documents to which they intend to refer, the names of any witnesses to be called and the name of any representative.
- V The Monitoring Officer shall send the members of the Employment Appeal Panel copies of all documents supplied

33. AT THE HEARING (Fuller explanation at Appendix J)

- I the Designated Officer shall put his/her case and may call witnesses, who may be questioned by the employee and the Committee
- II the employee shall put their case and may call witnesses, who may be questioned by the Designated Officer and the Committee
- III the Designated Officer and then the employee may sum up
- IV the parties shall withdraw while the Committee, with the Monitoring Officer or his representative present, come to a decision
- V the Committee may uphold the Designated Officer's decision or the appeal or make any other decision the Designated Officer may have made (including exonerating or re-instating the employee or issuing a warning) *
- VI when a decision has been reached, the parties shall be recalled and informed of the decision and the reason for it

* Reinstatement of an employee shall negate the previous decision to dismiss, and the Employee shall be entitled to payment of salary for the period of the original "dismissal."

34. AFTER THE HEARING

The proceedings shall be confidential and only the operative decision shall be published or made public in any way. Any decision shall be confirmed in writing, and any confirmation of dismissal shall inform the employee of any rights they may have to complain to an Employment Tribunal of unfair dismissal.

Designated Officer

(A) Use of the procedure for Staff Below Head of Service Level

In respect of staff below Head of Service level the following officers shall be Designated Officers with authority to apply the sanction specified below:

- a) Formal Verbal Warning or First Written Warning - Line Manager or more senior officer
- b) Formal Written Warning - Head of Service or more senior officer
- c) Dismissal - Strategic Director and Head of Customer Services (Agreement of both is required)

Appeals

Appeals against warnings shall be considered by a more senior manager than the officer who applied the sanction, save that the appeals from the decision of a Strategic Director shall be considered by another Director.

Appeals against dismissal shall be considered by the Employment Committee

(B) Use of the procedure for Head of Service (Excluding Heads of Resources and Customer Services)

- a) Formal Verbal Warnings or First Written Warning - Strategic Director
- b) Final Written Warning - Strategic Director
- c) Dismissal - Strategic Director and Head of Customer Services

Appeals

Appeals against warnings shall be considered by the Chief Executive.

Appeals against dismissal shall be considered by the Employment Committee.

(C) Use of procedure for Strategic Directors, Head of Resources, Head of Customer Services and Monitoring Officer

The Chief Executive shall have authority to apply sanctions at all stages of the procedure, up to and including dismissal.

Appeals

An appeal against any disciplinary action shall be to the Employment Committee.

Appeals against dismissal shall be to the Employment Committee.

N.B.:

Where necessary, in the interests of the efficient discharge of the service, the responsibilities of the Head of Customer Services under this procedure may be delegated to another Human Resources officer of the District Council.

DISCIPLINARY PROCEDURE IN RELATION TO THE CHIEF EXECUTIVE

PRELIMINARY INVESTIGATIONS

Where a question of discipline is raised in connection with the Chief Executive, The Employment Committee will consider any allegations. If the Employment Committee consider that further investigation is required, it will instigate a preliminary investigation.

The Chairman of the Employment Committee will advise the Chief Executive in writing of the allegations as soon as reasonably practicable, and the Chief Executive will be given the opportunity to make representations on them, and to comment on any evidence before the Committee decides whether any or all of the allegations are to be investigated further.

If the Employment Committee conclude that there is a question of substance as to the Chief Executive's capability, it should advise the Chief Executive of the issues, and the manner in which performance should improve (unless there has been a previous warning or there is evidence of serious incapability which is not likely to be remedied within a reasonable time) and set a period of time after which the matter will be reviewed. The period should be sufficient to allow the Chief Executive a reasonable opportunity to show an improved performance.

If, having considered the allegations and any representations made by the Chief Executive, the Committee decide that there is a case to answer in respect of misconduct, or otherwise a case to answer in respect of competence that could result in dismissal, the Committee may suspend the Chief Executive for a maximum period of two months for the purpose of investigating the allegations (unless such period is extended with the consent of the Independent Person). Suspension should only be affected where the Committee decides it is necessary for the efficient conduct of the investigation, or is otherwise necessary in the interests of the proper running of the Council.

APPOINTMENT OF AN INDEPENDENT PERSON

If the Employment Committee determines that there is a case to answer, the Chief Executive and the Council will be notified of the requirement to agree the appointment of an Independent Person and in default of agreement between the Council and the Chief Executive such Independent Person shall be nominated by the Secretary of State.

DISCIPLINARY HEARING

If the Independent Person recommends any disciplinary action in his report to the Council, the Monitoring Officer shall write to the Chief Executive inviting him to a hearing of the Employment Committee and providing;

- (a) Fourteen working days notice of the time and date of the hearing

- (b) That the Chief Executive may be represented at the hearing by a trade union representative or other advisor

The Chief Executive shall provide to the Monitoring Officer at least seven working days before the hearing, a statement in writing of the grounds on which he challenges any findings of fact or the recommendations of the Independent Person, any documents to which he intends to refer, the name of any witnesses to be called and the name of any representative.

The Monitoring Officer shall send the members of the Employment Committee copies of all documents supplied.

AT THE HEARING

The Chief Executive shall put his case and may call witnesses who may be questioned by the Committee and the Independent Person

The Independent Person shall put his case in respect of any finding of fact challenged by the Chief Executive or any recommendation contained in the report

The Chief Executive and then the Independent Person shall sum up.

The parties shall withdraw while the Committee, with the Monitoring Officer or his representative present, come to a decision.

The Committee may adopt or decline to adopt the recommendation of the Independent Person but shall not make any other decision.

When a decision has been reached, the parties shall be recalled and informed of the decision and the reasons for it.

Where the Committee adopt a recommendation of the Independent Person that the Chief Executive be dismissed, the resolution of the Committee shall be to recommend to the Council the dismissal of the Chief Executive

AFTER THE HEARING

Where the Committee adopts a recommendation of the Independent Person that the Relevant Officer be dismissed, the resolution shall not be referred to Council until:

- (a) The Monitoring Officer has notified every member of the Executive of the proposed resolution to recommend dismissal, any particulars relevant to the dismissal, and the period within which any objection to the dismissal is to be made by the Executive Leader on behalf of the Executive to the Monitoring Officer.

And either

- (b) The Executive Leader has within the period specified in the notice under paragraph (a) notified the Monitoring Officer that neither he nor any member of the Executive has any objection to the dismissal or

- (c) The Employment Committee is satisfied that any objection received from the Executive Leader within the period is not material or well founded.

Any decision whether in respect of recommended dismissal or some lesser sanction shall be confirmed in writing, advising the Chief Executive of a right to appeal.

The Chief Executive must exercise a right of appeal by written notice to the Monitoring Officer within 14 working days of receipt of the letter including a statement in writing of the grounds on which he challenges any findings of fact, or the recommendations of the Independent Person.

MEETING OF THE COUNCIL

A meeting of the Council shall be called by the Monitoring Officer to take place after the 14 working day period for registering an appeal has passed.

The Monitoring Officer shall send to the Chief Executive a copy of a note of the hearing before the Employment Committee at least 7 working days before the Council meeting

The Council shall consider any documents before the Employment Committee, and shall consider any representations from the Chief Executive, (if exercising the right of appeal) the Independent Person, and the Chairman of the Employment Committee. Following consideration of the matter, the Council shall determine whether to adopt or decline to adopt the recommendation of the Independent Person.

Disciplinary Procedure In Relation To The Monitoring Officer and Head of Resources

PRELIMINARY INVESTIGATIONS

Where a question of discipline is raised in connection with the Monitoring Officer or the Head of Resources ("the Relevant Officers") the Chief Executive will consider any allegations. If the Chief Executive considers that further investigation is required, he will instigate a preliminary investigation to be conducted by a Strategic Director.

The Chief Executive will advise the Relevant Officer in writing of the allegations as soon as reasonably practicable, and the Relevant Officer will be given the opportunity to make representations on them, and to comment on any evidence before the Chief Executive decides whether any or all of the investigations are to be investigated further.

If the Chief Executive concludes that there is a question of substance as to the Relevant Officer's capability, he should advise the Relevant Officer of the issues and the manner in which performance should improve (unless there has been a previous warning or there is evidence of serious incapability which is not likely to be remedied within a reasonable time) a period of time after which the matter will be reviewed. The period should be sufficient to allow the Relevant Officer a reasonable opportunity to show an improved performance.

If, having considered the allegations and any representations made by the Relevant Officer, the Chief Executive decides that there is a case to answer in respect of misconduct, or otherwise a case to answer in respect of competence that could result in dismissal, the Chief Executive may suspend the Relevant Officer for a maximum period of two months for the purpose of investigating the allegations (unless such period is extended with the consent of the Independent Person). Suspension should only be effected where the Chief Executive decides it is necessary for the efficient conduct of the investigation, or is otherwise necessary in the interests of the proper running of the Council.

APPOINTMENT OF AN INDEPENDENT PERSON

If the Chief Executive determines that there is a case to answer, the Relevant Officer and the Council will be notified of the requirement to agree the appointment of an Independent Person and in default of agreement between the Council and the Relevant Officer, such Independent Person shall be nominated by the Secretary of State.

DISCIPLINARY HEARING

If the Independent Person recommends any disciplinary action in his report to the Council, the Chief Executive shall write to the Relevant Officer inviting him to a disciplinary hearing to be chaired by the Chief Executive and providing;

- (d) Ten working days notice of the time and date of the hearing
- (e) That the Relevant Officer may be represented at the hearing by a trade union representative or other advisor

The Relevant Officer shall provide to the Chief Executive at least five working days before the hearing, a statement in writing of the grounds on which he challenges any findings of fact or the recommendations of the Independent Person, any documents to which he intends to refer, the name of any witnesses to be called and the name of any representative.

AT THE HEARING

The Relevant Officer shall put his case and may call witnesses who may be questioned by the Chief Executive and the Independent Person

The Independent Person shall put his case in respect of any finding of fact challenged by the Relevant Officer or any recommendation contained in the report

The Relevant Officer and then the Independent Person shall sum up.

The parties shall withdraw while the Chief Executive, with any legal or personnel advisor present, come to a decision.

The Chief Executive may adopt or decline to adopt the recommendation of the Independent Person but shall not make any other decision.

When a decision has been reached, the parties shall be recalled and informed of the decision and the reasons for it.

AFTER THE HEARING

Where the Chief Executive adopts a recommendation of the Independent Person that the Relevant Officer be dismissed, the Chief Executive shall not issue notice of dismissal until:

- (a) The Chief Executive has notified every member of the Executive of the name of the Relevant Officer whom the Chief Executive wishes to dismiss, any particulars relevant to the dismissal, and the period within which any

objection to the dismissal is to be made by the Executive Leader on behalf of the Executive to the Chief Executive.

And either

- (b) The Executive Leader has within the period specified in the notice under paragraph (a) notified the Chief Executive that neither he nor any member of the Executive has any objection to the dismissal or
- (f) The Chief Executive is satisfied that any objection received from the Executive Leader within the period is not material or well founded.

Any decision, whether in respect of dismissal or some lesser sanction shall be confirmed in writing, advising the Relevant Officer of the right to appeal.

The Relevant Officer must exercise a right of appeal by written notice to the Chief Executive within 14 working days of receipt of the letter including a statement in writing of the grounds on which he challenges any findings of fact, or the recommendation of the Independent Person.

The appeal by the Relevant Officer against the decision of the Chief Executive to apply any sanction as recommended by the Independent Person will be heard by the Employment Committee.

The procedure to be followed by the Employment Committee shall be the same as prescribed in the main body of this procedure save that the Employment Committee may uphold or decline to uphold the decision of the Chief Executive but may not make any other decision.

INVITATION TO ATTEND INVESTIGATORY INTERVIEW

Dear

I write to confirm that you are required to attend for an investigatory interview*
on * at *.

**At this interview the question of disciplinary action against you, in accordance
with the Council's disciplinary procedure, will be considered with regard to
*

The names of the investigating officers are

**The purpose of this interview is to investigate the following areas of concern:

a)....

I attach a copy of the Council's Disciplinary procedures.

You are entitled , if you wish, to be accompanied by your Union representative or
any other person of your choice.

Please confirm your attendance accordingly.

Yours sincerely

Appropriate Manager

APPENDIX E

DISCIPLINARY HEARING

Dear

I write to confirm that you are required to attend a disciplinary hearing * on * at * . *(at least 7 working days notice)*

**At this interview the question of disciplinary action against you, in accordance with the Council's disciplinary procedure, will be considered with regard to * *(specify allegations)*

The evidence collected as part of the investigation and which will be considered at the hearing is *(list here)*.

Copies of the information referred to above are enclosed/will be forwarded in advance of the hearing.

You are entitled, if you wish, to be accompanied by your Union representative or any other person of your choice.

Please confirm your attendance accordingly.

Yours sincerely

Appropriate Manager

APPENDIX F

Dear XXX

STAFF DISCIPLINARY PROCEDURE (SUSPENSION)

In accordance with the staff disciplinary procedure, at our meeting on XXXXXX you were given verbal details of an alleged breach of conduct namely:

As a result you were suspended from duty, on full pay, pending an investigation to assess the circumstances whereby the xxxxxxxxxx. You will be notified of the date, time and place of the investigation and the names of the investigating officers within the next 7 working days.

You are entitled , if you wish, to be accompanied at an investigatory interview by your Union representative or any other person of your choice.

In light of the allegations it was considered necessary to suspend you from duty pending the outcome of the investigation. The suspension is not a finding of guilt but I must advise you that depending on the outcome of the investigatory interview, disciplinary procedures may be invoked.

Yours sincerely

APPENDIX G

DISCIPLINARY HEARING – POTENTIAL GROSS MISCONDUCT

Dear

I write to confirm that you are required to attend a disciplinary hearing * on * at * .
(*at least 10 working days notice*)

**At this interview the question of disciplinary action against you, in accordance with the Council's disciplinary procedure, will be considered with regard to * (*specify allegations*). I must advise you that the allegations, if proven, would amount to gross misconduct and may result in your dismissal.

The evidence collected as part of the investigation and which will be considered at the hearing is (*list here*).

Copies of the information referred to above are enclosed/will be forwarded at least five days in advance of the hearing.

The following people will be asked to attend the hearing to give evidence (*list people here*). Copies of their interview notes are attached/will be forwarded at least five days before the hearing.

Please ensure that at least five working days before the hearing you;

- (a) Provide to me copies of any documents that you intend to rely on
- (b) Details of any persons who you will ask to speak in your support, including a written summary completed by them of their evidence.

The hearing will be chaired by (*Strategic Director*) who will be supported by the Head of Customer Services.

The format of the hearing will be as follows (*specify the process for presenting the case, questions, summing up etc*)

You are entitled , if you wish, to be accompanied by your Union representative or any other person of your choice.

Please confirm your attendance accordingly.

Yours sincerely

Appropriate Manager

STANDARD LETTER

NOTICE OF ORAL/FIRST/FINAL WRITTEN WARNING

Dear *

You attended a disciplinary hearing on * accompanied by your chosen representative/Unison representative* (name). I am writing to confirm the decision taken that you be given an oral/first written/final written warning* under the Council's Disciplinary Procedure.

A copy of the warning will be placed in your personal file and will be removed from your file once the period specified in the disciplinary procedure has expired (*or the misconduct was considered so serious in this case that it has been decided that this warning will not be disregarded for the purposes of any future disciplinary action, and accordingly will never be removed from your file.*)

- a) The nature of the unsatisfactory conduct* or performance* was:
- b) The conduct* or performance* improvement expected is:
- c) The timescale within which the improvement is required is:
- d) The likely consequence of further misconduct* or insufficient improvement* is:
Final written warning/dismissal*.

You have the right of appeal against this decision (in writing) to
.....within.....days of receiving this disciplinary warning.

Please sign and return immediately the attached copy of this communication.

Yours sincerely

APPROPRIATE MANAGER

Note: * The wording should be amended as appropriate.

Place copies with - The employee's file
- Head of Customer Services

APPENDIX I

CODE OF CONDUCT FOR EMPLOYEES (REVISED NOVEMBER 2007)

1.1.1 INTRODUCTION

This Code sets out general standards of conduct expected from employees of the District Council. It should be regarded as an overarching framework to be read in conjunction with such other codes, protocols and policies affecting the conduct and performance of staff which the Council may adopt from time to time.

1.1.2 HONESTY, INTEGRITY, IMPARTIALITY AND OBJECTIVITY

1. An employee must perform his or her duties with honesty, integrity, impartiality and objectivity.

This provides a short overarching statement of the qualities expected of council employees, regardless of their position within the authority¹.

1.1.2.1 ACCOUNTABILITY

2. An employee must be accountable to the council for his or her actions.

This underlines the general concept of accountability of an employee to his or her employer.

General Obligations

1.1.2.2 RESPECT FOR OTHERS

3. An employee must –
 - (a) treat others with respect;
 - (b) not discriminate unlawfully against any person; and
 - (c) treat members and co-opted members of the council professionally

This makes any failure to comply with these provisions a breach of the conditions of employment.

Harassment or serious abuse may be viewed as gross misconduct under the Council's disciplinary procedure.

1.1.2.3 STEWARDSHIP

¹ The words in italics throughout this document are explanatory notes.

4. An employee must –
- (a) use any public funds entrusted to or handled by him or her in a responsible and lawful manner; and
 - (b) not make personal use of property or facilities of the council unless properly authorised to do so and in accordance with the council's policies.

1.1.2.3.1.1

1.1.2.3.1.2 *This makes any failure to comply with these provisions a breach of*

the conditions of employment.

Misuse of council property, or theft, dishonesty or fraud, may be viewed as gross misconduct under the Council's disciplinary procedure

PART 2

INTERESTS

1.1.3 PERSONAL INTERESTS

5. An employee must not in his or her official or personal capacity –
- (a) allow his or her personal interests to conflict with the council's requirements or;
 - (b) use his or her position improperly to confer an advantage or disadvantage on any person.

Paragraph 5 articulates further the requirement in paragraph 1. It deals with the need for employees to ensure that their personal interests do not conflict with their public duty. For example, it might be that an officer's spouse is an employee of a firm tendering to provide a service to the council. It would be inappropriate for that officer to take part in the tender evaluation process.

Employees must not use their employment or any information gained through it to improperly influence a decision where they are an interested party.

This paragraph reflects the fact that the activities of a council employee outside the working environment are under public scrutiny in a way that the private sector employees are not; the Code therefore requires higher standards of conduct from them.

1.1.4 REGISTRATION OF INTERESTS

6. An employee must comply with any requirements of the council –
- (a) to register or declare interests; and
 - (b) to declare hospitality, benefits or gifts received as a consequence of his or her employment.

This provision deals with the registration of employees' interests that may have a bearing on the way in which the functions of the council are discharged.

Employees will be required to complete and keep up to date an entry on the register of staff interests where they occupy a politically restricted post (or are employed in the Audit team).

Employees who are not obliged to complete an entry on the register of staff interests must notify the Head of Service and act upon his or her instructions if one of the following scenarios arise:

- (a) Either they, or a member of their family tendered for or are proposing or have entered into a contract with the Council.***
- (b) The employee is involved in or likely to be involved in any meeting at which members of the Council will be present, and which will consider matters directly affecting the employee's employment.***

PART 3

1.1.5 REPORTING PROCEDURES

7. An employee must not treat another employee or former employee of the council less favourably than other employees because that other employee has done, intends to do or is suspected of doing anything under the Council's Whistleblowing Policy.

This makes any failure to comply with these provisions a breach of the conditions of employment. Bullying may be viewed as gross misconduct under the Council's disciplinary procedure.

1.1.6 OPENNESS

8. An employee must –

- (a) not disclose information given to him or her in confidence by anyone, or information acquired which he or she believes is of a confidential nature, without the consent of a person authorised to give it, or unless he or she is required by law to do so; and
- (b) not prevent another person from gaining access to information which that person is entitled to by law.

Paragraph 8(b) reinforces the provisions in section 100H of the Local Government Act 1972 which introduced a criminal offence for anyone who intentionally obstructs a person from gaining access to information to which they are entitled. This part of the code applies, among other things, to the information to which a person is entitled by virtue of any regulations made under section 22 of the Local Government Act 2000, for example, access to committee meetings which are open to the public, written records of decisions made and reasons for those decisions, background papers and other relevant documents.

This makes any failure to comply with these provisions a breach of the conditions of employment. Breaches of confidentiality or other acts or omissions which are seriously prejudicial to the Council's interests, such as preventing any person gaining access to information to which they are legally entitled, may be treated as gross misconduct under the Council's disciplinary procedure.

APPOINTMENT OF STAFF

9. *(1) An employee must not be involved in the appointment or any other decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee, who is a relative or friend.*

(2) In this paragraph –

(a) "relative" means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and

(b) "partner" in subparagraph (a) above means a member of a couple who live together.

"friendship connotes a relationship going beyond regular contact with colleagues in the course of employment.... Social contact is likely to be a strong indicator of friendship, but not necessarily the only one".

DUTY OF TRUST

10. *An employee must, at all times, act in accordance with the trust that the public is entitled to place in him or her.*

Paragraph 10 emphasises the need for local government employees to carry out their duties in a way that secures public confidence in their actions

