

**Report for:** Staffing & Remuneration Committee, 26 November 2019

**Title:** Review of Council Disciplinary Policy

**Report authorised by:** Richard Grice – Director of Customers, Transformation and Resources

**Lead Officer:** Ian Morgan, Reward Strategy Manager

**Ward(s) affected:** N/A

**Report for Key/  
Non-Key Decision:**

## **1 Describe the issue under consideration**

1.1 Policies are not statutes or straightjackets for the reaching of judgments. Rather, the purpose of policy is to enable employers to exercise discretion fairly and lawfully and to provide employees with a degree of certainty as to how that discretion will be exercised.

1.2 As part of the Council's requirement to conduct a rolling review of all HR policies, Members are asked to consider the revised Disciplinary Policy (attached as Appendix 1) and Practice Notes (attached as Appendix 2).

## **2 Cabinet Member Introduction**

2.1 Not applicable.

## **3 Recommendations**

3.1 That the Committee approve the new Disciplinary Policy and Practice Notes ready for implementation with effect from 1st January 2020. A series of training sessions and workshops is planned for both HR staff and line managers during January to update them on the changes.

3.2 That the Director of Customers, Transformation and Resources be delegated the power to make minor changes to the policy and practice notes.

## **4 Reason for Decision**

4.1 The policy currently in use was introduced in October 2012. As a key policy it is important to take on board the lessons learned from six years of operation and have a policy that more accurately reflects the organisational changes which have taken place and captures current thinking with regard to good HR practice.

## **5 Alternative options considered**

5.1 The rolling review of HR policy is a requirement of the Internal Audit recommendations.

## **6 Background information**

6.1 The policy covers all current employees other than teachers directly employed by the Council and all staff appointed by schools operating under local management of schools, which have their own procedure. Senior managers, who have their own policy, as set out in their conditions of service.

6.2 Disciplinary cases that began before 1st January 2020 will be dealt with using the current policy until the conclusion or resolution of their case. Disciplinary cases undertaken on or after 1st January 2020 will be dealt with under the new policy and practice.

6.3 The key changes that have been incorporated include

- a. The policy and procedure have been revised to simplify the process. The policy and procedure have been made clearer and more accessible to all staff across the organisation.
- b. The new procedure clarifies the role and responsibilities of all staff involved in the process.
- c. The levels of sanctions that can be imposed have been reduced and brought in line with recent case law (removing verbal warning as these are no longer used). Timelines have also been added to the policy to ensure consistent sanctions across the organisation. There are now five types of sanctions that can be imposed:
  - First written warning, usually active for six to twelve months.
  - Second written warning, usually active for twelve to twenty-four months.
  - Final written warning, usually active for twenty-four months or more.
  - Summary dismissal without notice.
  - Withholding an increment, usually active for twelve months.
- d. The process for suspending staff has been clarified:
  - The suspension risk assessment has been included to help managers assess the need for a suspension.

- The roles and responsibilities in suspending a member of staff is clarified.
  - Staff will have the right to be accompanied to suspension meetings.
  - A regular review of the suspension will be every ten-days, this is to ensure suspensions don't continue for unnecessarily long periods of time.
- e. The procedure includes all forms and processes needed to undertake a disciplinary in the appendix. Managers have called for a more 'self-service' approach to disciplinaries, where they can manage low level disciplinaries and seek support for more complex cases.

## **7 Contribution to strategic outcomes**

Not applicable.

## **8 Statutory Officers' comments**

### **8.1 Chief Finance Officer**

This report proposes the adoption of a revised Disciplinary Policy and associated Practice Notes. Training sessions and workshops on the changes are planned for both HR staff and line managers and the cost of these will be contained within existing HR budgets. There are no other financial implications arising from this report.

### **8.2 Assistant Director of Corporate Governance**

The Assistant Director of Corporate Governance has been consulted in the preparation of this report. Legal Services has been involved in reviewing the proposed Disciplinary Policy and Practice Notes and confirms that it complies with all relevant legislation.

## **9 Use of Appendices**

Appendix 1 - Disciplinary Policy

Appendix 2 - Disciplinary Policy Practice Notes

## **10 Local government (Access to Information) Act 1985**

Not applicable.

# Appendix 1 - Disciplinary Policy

September 2019

## Table of Contents

1.	Purpose .....	4
2.	Scope .....	5
3.	General Principles.....	5
3.1	Aims of the Policy .....	5
3.2	Standard Setting .....	5
3.3	Right to be Accompanied .....	6
3.4	Suspensions .....	6
3.5	Investigations and Hearings.....	6
3.6	Sanctions.....	7
3.7	Appeals.....	7
3.8	Other Considerations .....	7
4.	Further References .....	7

## 1. Purpose

The Council expects a high standard of behaviour and conduct from all employees, as set out in its Code of Conduct; the Disciplinary Policy should be used when an employee's behaviour does not meet those standards.

## 2. Scope

This policy applies to all Council employees with the exception of:

- teachers directly employed by the council and all staff appointed by schools operating under local management of schools, which have their own policy
- senior managers, who have their own policy, as set out in their conditions of service.

Allegations of misconduct from agency workers should be addressed through their employing agency.

## 3. General Principles

This policy sets out the general principles that the Council will use when dealing with any conduct or behaviour which is in breach of the Council's Code of Conduct

### 3.1 Aims of the Policy

The Council's Code of Conduct sets out the high standard of conduct and behaviour expected from all employees; the aim of the Disciplinary Policy is to resolve issues when an employee's behaviour does not meet those standards.

All allegations of a disciplinary offence are treated very seriously by the Council as the outcome in some instances may mean dismissal. The Council is therefore committed to a basic set of principles to ensure that there is fairness throughout the process.

All disciplinary matters will be dealt with:

- informally where appropriate
- promptly
- sensitively
- consistently
- impartially
- transparently.

In some cases, the behaviour may be found to be so serious that it will be regarded as Gross Misconduct which could lead to an employee's summary dismissal without notice. Further information and examples of Gross Misconduct can be found in the Code of Conduct.

### 3.2 Standard Setting

Where appropriate, some concerns of substandard behaviour or conduct may be resolved promptly through day-to-day management interventions. Line managers should take every opportunity to raise concerns informally with employees in order to clarify the standards required. Individuals should be given sufficient time in which to demonstrate improved standards.

However, should the employee's behaviour fail to improve, or their behaviour is viewed as wilful non-compliance or misconduct, then formal disciplinary action may be taken.

### **3.3 Right to be Accompanied**

An individual has the statutory right to be accompanied at any formal stage of a disciplinary, including a suspension meeting. They may be accompanied by a fellow worker, a trade union representative, or an official employed by a trade union. Legal representation is only permitted where there is potentially a serious ongoing consequence of a disciplinary decision in respect of future employment or career of the employee. Requests for legal representation must be requested in advance of the hearing at a minimum of five working days. These requests will be considered by the Head of Human Resources.

### **3.4 Suspensions**

In cases where the allegation is sufficiently serious that the employee's continued presence in the workplace cannot be sanctioned, either because the alleged conduct is too serious or because their presence could impede the investigation, then the individual may be suspended.

Suspensions can only be approved by an Assistant Director or above, after consultation with the Human Resources team.

The decision to suspend can be made at any point during the disciplinary process. A suspension from duty is a neutral act and is not a presumption of guilt and will only be used to allow for a full and prompt investigation of the allegation. To ensure that suspension periods are kept to a minimum they will be frequently and regularly reviewed to ensure the suspension is still appropriate.

### **3.5 Investigations and Hearings**

Investigations into alleged misconduct will be carried out without undue delay. The purpose of the investigation will be to establish the facts of the case and decide whether there is a case to answer in respect of the allegations and to prepare for the disciplinary hearing.

Disciplinary investigations will be dealt with in a reasonable timeframe and carried out or overseen by the employee's line manager, where this not appropriate an investigator will be nominated by HR. A hearing will be arranged as soon as is reasonably practicable after the completion of the investigation report.

The purpose of the hearing will be to:

- hear the allegations and the findings of the disciplinary investigation
- allow the individual to respond to the allegation, ask questions and discuss the evidence
- allow the employee to put their case including any mitigating circumstances
- provide a full account of the case to inform the outcome of the hearing
- hear from witnesses for either the employer or employee and to allow questions

The outcome of the hearing will be based on the evidence that has been presented and will reach a conclusion based on the balance of probabilities.

### 3.6 Sanctions

Where the hearing has concluded that the allegations were substantiated, it may be appropriate to recommend sanctions, depending on the nature and seriousness of the misconduct, up to and including summary dismissal without notice for cases of gross misconduct.

Any sanction made will be consistent with the infringement of the Council's Code of Conduct. For lesser cases of misconduct or where there are pertinent mitigating factors the sanction may be either one or a combination of the following:

- first written warning, usually active for six to twelve months
- second written warning, usually active for twelve to twenty-four months
- final written warning, usually active for twenty-four months or more
- withholding an increment, usually active for a maximum of twenty-four months but will be reviewed at twelve months.

The outcome of the disciplinary hearing will be communicated to the employee in writing within five working days of the decision, and will set out the findings made by the chair and the disciplinary sanction and the reasons why this sanction is appropriate and why other sanctions were not appropriate this taking into account any mitigation put forward.

### 3.7 Appeals

The individual may appeal the outcome of the disciplinary hearing.

- appeals lodged against a sanction less than dismissal will be reviewed by an officer more senior level than the officer who chaired the original hearing
- appeals against dismissal will be heard by a panel of members.

### 3.8 Other Considerations

Any attempt to frustrate the conduct of the disciplinary process, the investigation or the business of the hearing or a subsequent appeal, may in itself be viewed as a disciplinary matter.

Should an employee choose to resign during a disciplinary to circumvent the disciplinary process, they may be required to serve a notice period. In this case all efforts should be made to conduct and conclude the disciplinary before the end of their notice period.

## 4. Further References

Disciplinary Policy Practice Notes

[Code of Conduct](#)

[Dignity at Work Policy](#)

[ACAS Code of Practice on Disciplinary and Grievance Procedures](#)

[Grievance Policy](#)





## Document Control

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0.2	29/09/2019	Draft with further HR comments	IM
0.3	11/10/19	Draft with TU and network comments	SB

# Appendix – 2 Disciplinary Policy Practice Notes

## CONTENTS

<b><u>1.</u></b>	<b><u>Introduction</u></b> .....	<b>11</b>
<b><u>2.</u></b>	<b><u>Scope</u></b> .....	<b>11</b>
<b><u>3.</u></b>	<b><u>Roles and Responsibilities</u></b> .....	<b>12</b>
	<b><u>3.1 Individual</u></b> .....	<b>12</b>
	<b><u>3.2 Line Manager</u></b> .....	<b>12</b>
	<b><u>3.3 Staff Representative</u></b> .....	<b>12</b>
	<b><u>3.4 Human Resources</u></b> .....	<b>13</b>
	<b><u>3.5 Investigator</u></b> .....	<b>13</b>
	<b><u>3.6 Chair</u></b> .....	<b>13</b>
	<b><u>3.7 Appeal Chair</u></b> .....	<b>14</b>
	<b><u>3.8 Commissioning Manager</u></b> .....	<b>14</b>
	<b><u>3.9 Members</u></b> .....	<b>14</b>
<b><u>4.</u></b>	<b><u>Confidentiality</u></b> .....	<b>14</b>
<b><u>5.</u></b>	<b><u>Standard Setting</u></b> .....	<b>14</b>
<b><u>6.</u></b>	<b><u>The Right to be Accompanied</u></b> .....	<b>15</b>
<b><u>7.</u></b>	<b><u>Suspension</u></b> .....	<b>16</b>
<b><u>8.</u></b>	<b><u>Fact Finding and the Preliminary Investigation</u></b> .....	<b>17</b>
<b><u>9.</u></b>	<b><u>Formal Action</u></b> .....	<b>17</b>
	<b><u>9.1 Investigation</u></b> .....	<b>17</b>
	<b><u>9.2 Disciplinary Hearing</u></b> .....	<b>17</b>
	<b><u>9.2.1 Simplified Process</u></b> .....	<b>18</b>
	<b><u>9.2.2 Full Process</u></b> .....	<b>18</b>
	<b><u>9.3 Outcome</u></b> .....	<b>19</b>
<b><u>10.</u></b>	<b><u>Appeal</u></b> .....	<b>19</b>

<b><u>11.</u></b>	<b><u>Support</u></b> .....	<b>20</b>
<b><u>12.</u></b>	<b><u>Appendices</u></b> .....	<b>20</b>
	<u>A – Suspension Risk Assessment</u> .....	<u>20</u>
	<u>B – Suspension Letter Template</u> .....	<u>22</u>
	<u>C – Flow Chart (standard setting)</u> .....	<u>24</u>
	<u>D – Flow Chart (Formal Process)</u> .....	<u>24</u>
	<u>E – Disciplinary Report Template</u> .....	<u>25</u>
	<u>F – Invitation to Hearing Template</u> .....	<u>27</u>
	<u>G – Procedures for Conducting a Formal Disciplinary Hearing</u> .....	<u>28</u>
	<u>H – Sanction Letter Template</u> .....	<u>30</u>
	<u>I – Examples of Gross Misconduct</u> .....	<u>32</u>
	<u>J – Examples of Misconduct</u> .....	<u>33</u>

## 1) Introduction

The Council expects a high standard of behaviour and conduct from all employees; the disciplinary policy and practice notes provide a framework for employers to take appropriate corrective action where those standards are not met. These standards are set out within the Council’s Code of Conduct.

The effective handling of unsatisfactory behaviour contributes to the maintenance of high standards of behaviour from all employees in line with our values:

- Human
- Ambitious
- Accountable
- Professional

These practice notes are should be read in alongside the Disciplinary Policy to ensure the appropriate, consistent and effective handling of a disciplinary.

## 2) Scope

The disciplinary policy applies in cases of employee misconduct; and applies to all Haringey Council employees.

Except:

- Teachers directly employed by the Council and all staff appointed by schools operating under local management of schools, which have their own policy.
- Senior managers, who have their own policy, as set out in their conditions of service.

N.B. Managers should refer to the Council's Probationary Procedure where an individual is still within their probationary period. Allegations of misconduct from agency workers should be addressed through their employing agency.

### **3) Roles and Responsibilities**

#### **1.1 Individual**

- To co-operate fully at all stages of the disciplinary procedure.
- Prioritise attendance at all meetings to enable facts to be established as promptly and fully as possible.
- Maintain confidentiality.
- Answer questions open and honestly.
- Make own arrangements to be accompanied at formal meetings by a recognised trade union or work colleague

#### **1.2 Line Manager**

- To ensure employees are fully aware of the standards expected from them through the Council's Code of Conduct and this Disciplinary Procedure.
- Wherever possible and appropriate seek to resolve the issue informally and at the earliest opportunity.
- Act as the commissioning manager where possible.
- If applicable, attend a disciplinary hearing to present the management case.
- Prioritise meetings and maintain confidentiality.
- Seek advice and support from HR where necessary.

#### **1.3 Staff Representative**

- Represent or accompany members at formal meetings.
- At formal meetings, address the meeting to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the meeting.

- They cannot answer questions on the employee's behalf, address the meeting if the employee does not wish it or prevent the Council from explaining their case.
- Prioritise meetings and maintain confidentiality.

## 1.4 Human Resources

- To provide impartial advice and guidance to all parties involved on the application of the Disciplinary Policy and Procedure.
- Make the final decision in the event of an objection from an employee to a particular manager's involvement in the formal process.
- Maintain a pool of suitably trained investigators, chairs and panel members.
- Retain master copies of all documentation gathered as part of the process in line with our retention schedules.
- Record and monitor disciplinaries across the organisation.
- Train newly appointed and existing line managers in the disciplinary procedure.
- Prioritise meetings and maintain confidentiality.

## 1.5 Investigator

- Carry out a thorough and impartial investigation without unreasonable delay.
- To keep accurate records of all meetings, conversations and queries from line managers, individuals and their representatives.
- Gather all the information to produce a report to the agreed deadline.
- Be in contact with the employee regularly to update them on the progress of the disciplinary investigation.
- Have regular contact with the Head of Service and the line-manager ensuring progress and updates are provided on a regular basis.
- If applicable, attend a disciplinary hearing to present the investigation findings.
- Prioritise meetings and maintain confidentiality.
- Use the guidance provided by ACAS where necessary  
[www.acas.org.uk/investigations](http://www.acas.org.uk/investigations)

## 1.6 Chair

- Review and thoroughly consider the investigation findings.
- Chair the disciplinary hearing and make a decision in relation to the case.
- If applicable, attend an appeal hearing to present the management case.
- Prioritise the hearing and maintain confidentiality.

- Confirm the decision in writing as soon as possible.

## **1.7 Appeal Chair**

- Review all documentation thoroughly and chair an appeal hearing.
- Carefully consider all of the information presented at a final hearing and make a final decision in relation to the appropriateness of the disciplinary sanction.
- Prioritise the hearing and maintain confidentiality.
- Confirm the decision to appellant in writing within 3 days.

## **1.8 Commissioning Manager**

- To begin the disciplinary process as soon as the incident happens or comes to light.
- To undertake a suspension risk assessment where necessary.
- To organise for the investigation to take place.
- To ensure that the disciplinary process is progressing and communicate this will those involved on a regular basis.
- To organise the chair of the hearing, supported by HR.

## **1.9 Members**

- Attend an appeal against a dismissal.
- Attend a tribunal where necessary.

## **4) Confidentiality**

Many aspects of the disciplinary procedure are confidential and those involved in it should avoid disclosing the nature of the case or the outcome to any person who is not party to the process except when seeking technical advice from Legal or Human Resources.

## **5) Standard Setting**

Setting expectations and standards throughout employment is the best way of preventing misconduct, however, if issues of misconduct occur early intervention is crucial. Where possible, managers should try to deal with issues informally as part of day-to-day management supervision before they turn into a more serious problem, e.g. smoking in a smoke free zone for the first time.

An informal conversation from an employee's line-manager is often all that is required to resolve an issue, this way the employee is made aware of the problem and can correct it within a reasonable timeframe.

This should be a supportive process aimed at pointing out any issues and to establish any difficulties or problems the employee may be facing. The emphasis should be on supporting the employee to make improvements so that they can meet the councils expected standards.

The line-manager should try to resolve issues in the first instance by:

- Privately talking with the employee concerned
- Pointing out any issues of misconduct
- Using constructive criticism
- Listening to the employee's point of view and mitigating circumstances
- Agreeing improvements to be made
- Agree on a reasonable timeframe for improvements

At this stage it's advisable for the manager to keep notes of the discussion and any action agreed.

The manager should make it clear that this is not a formal disciplinary and so there is no right to be accompanied, however, if their conduct fails to improve the next step would involve formal measures.

## **6) The Right to be Accompanied**

Individuals attending any disciplinary meeting, including a suspension meeting, have the statutory right to be accompanied by a work colleague, a trade union representative or an official employed by a trade union if the disciplinary meeting could result in a formal warning or some other disciplinary action.

The companion is allowed to address the disciplinary meeting, or hearing on behalf of the employee, to present evidence, ask questions of the witnesses and sum up the employee's case, and if required, to respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the meeting.

There is no general right to be legally represented during a disciplinary. Legal representation will usually only be permitted where the employee is a member of a profession and there may be potentially serious ongoing consequences as a result of a disciplinary decision in respect of the future employment or career of the employee. Requests for legal representation must be requested in advance of the hearing at a minimum of five working days. These requests will be considered by the Head of Human Resources.

## 7) Suspension

In some instances, it may be necessary to suspend an employee as the alleged misconduct is so serious that their presence will no longer be tolerated in the workplace.

This might be in one or more of the following circumstances:

- There is no reasonable alternative to suspension
- There are grounds for believing that the employee's continued presence in the workplace could result in a repeat offence or hinder the investigation or disciplinary process

In cases where a decision to suspend is less clear, a Suspension Risk Assessment (Appendix A) should be carried out by the line manager as soon as the incident happens, or comes to light, to determine whether an employee should be suspended or not. The decision to suspend can be made at any point during the disciplinary process.

A decision to suspend must be approved by an Assistant Director after consultation with HR.

A suspension meeting should be held as soon as possible and chaired by the manager or Head of Service, supported by HR. The meeting will be recorded. The employee has the right to be accompanied at a suspension meeting, however, if the employee's companion is not able to attend the meeting may go ahead as planned.

At the meeting the chair will:

- Outline the reason for suspension
- How regularly the suspension will be reviewed
- That the suspension will be on normal pay, unless otherwise agree with the Head of HR
- That the employee must be contactable and available for work during normal working times and must follow the normal rules for sickness, leave etc.
- That the employee must not contact any Council employee except their manager, the Investigating Officer and their Trades Union representative or work colleague (who will accompany them during the process)

The decision to suspend should be confirmed in writing as soon as possible following the suspension meeting, using the Suspension Letter provided by HR. A period of suspension should be kept as brief as possible and regularly reviewed, at a minimum of, every ten days to ensure it is still necessary.

Non-compliance with the process on the part of the employee may result in their pay being withheld or further disciplinary sanctions made.



## **8) Fact Finding and the Preliminary Investigation**

In some cases where it is unclear whether a full investigation is necessary it may be appropriate to undertake a preliminary investigation by the employee's line manager as soon as practicable, and within five working days of the incident.

An employee who is the subject of a preliminary investigation will be told promptly that the investigation is taking place and why.

The preliminary investigation will determine if there is a disciplinary case to answer, and whether the issue is potential misconduct or gross misconduct.

## **9) Formal Action**

### **1.10 Investigation**

A formal investigation will be carried out by the employee's line manager, where this is not appropriate HR will nominate a trained investigator. This will not normally be the same person who chairs the disciplinary meeting. The investigating manager will look to gather evidence as follows:

- A clear account of the allegation / issue / conduct and its implications.
- Evidence of the expected standard e.g. Code of Conduct.
- Evidence of the breach e.g. documents, witness statements
- The employee's version of events
- Mitigation e.g. issues at work or away from work affecting conduct

Formal investigations should be dealt with in a reasonable timeframe and in any event within 28 calendar days unless a revised deadline has been agreed by all parties.

The investigating manager will prepare a report using the Disciplinary Report template (Appendix E) which includes their recommendation and whether there is a case to answer at a formal disciplinary hearing or whether it should be dealt with informally. The employee will be informed of the decision within five working days, unless there is justifiable reason for delay.

N.B. Further guidance for carrying out investigations can be found on the ACAS website, [www.acas.org.uk/investigations](http://www.acas.org.uk/investigations)

### **1.11 Disciplinary Hearing**

Where a disciplinary hearing is needed, a chair will be nominated by the appropriate Head of Service after consultation with HR. Where possible the chair will have had no

previous involvement in the case. In cases where the possible outcome is dismissal the chair must be a Head of Service or above.

The chair will write to the employee to notify them of the allegations against them and the basis of those allegations and invite them to the hearing. The invitation letter will include a copy of the evidence to be considered at the hearing. It will also confirm any witness's management will be calling and provide the employee a deadline to submit any documents they intend to rely upon and names of any witnesses they wish to call. In cases where the outcome may be dismissal the letter must warn the employee of this. A template invitation letter is available from HR.

The employee will be given at least 5 working days' notice of the hearing and will have the right to be accompanied at the hearing.

### **1.11.1 Simplified Process**

Where the finding and recommendations from the formal investigation are agreed by all parties or there are mitigating circumstances, and where the likely sanction will be less than dismissal, all parties can agree that the simplified process should be used.

The simplified process should be attended by the employee and their companion; line manager, chair of the hearing, a representative and a member of the HR team.

The chair will detail the disciplinary case against the employee and agree the sanction (detailed below in the paragraph headed Outcome below and must be less than dismissal) based on their admittance of the issue.

### **1.11.2 Full Process**

If the employee wishes to submit any written submissions and/or provide any names of witnesses they may wish to call to the hearing, they should do this at least five working days prior to the hearing.

The full process will usually be attended by the employee and their companion; line manager, chair of the hearing, a member of the HR team, the investigating manager and witnesses where appropriate (only while giving evidence). The hearing will be recorded.

The hearing will be conducted in accordance with the Council's Procedures for Conducting A Formal Disciplinary Hearing (Appendix G), but will generally follow these steps:

- The chair will explain the case against them and go through the evidence gathered during the investigation, including any evidence given by witnesses appearing in person.

- The employee will be allowed to set out their case and answer any allegations that have been made.
- The employee will have an opportunity to ask questions, present evidence, call relevant witnesses and be able to raise points about any information provided by witnesses.

## 1.12 Outcome

Following the meeting, the chair will review the evidence and decide on the appropriate outcome.

In cases where facts are in dispute a decision will be made on the balance of probabilities; which is where 'there is a genuine belief that the offence(s) have occurred and there are reasonable grounds for having reached this, then the decision will be considered to be fair'.

The chair may issue a sanction:

- First written warning, usually active for six to twelve months.
- Second written warning, usually active for twelve to twenty-four months.
- Final written warning, usually active for twenty-four months or more.
- Summary dismissal without notice.
- Withholding an increment, usually active for twelve months.

The confirmation sent to the employee following the hearing must clearly outline the sanction imposed and where appropriate, the length of time that it will be in place and any potential consequences of further misconduct including dismissal, sent by the chair.

## 10) Appeal

The employee has a right to appeal against any disciplinary decision.

The appeal should be in writing and sent to H R within 10 working days of the date of the outcome of the hearing. The appeal should contain the grounds on which the employee is dissatisfied with the decision.

The commissioning manager, in consultation with HR will organise the Appeal Hearing.

- Appeals lodged against a written warning will be reviewed by an officer of a higher level than the officer who chaired the original hearing or another manager at the same level from outside the appellant's directorate.
- Appeals against dismissal will be heard by a panel of Members.

The outcome of the appeal will be communicated to the employee in writing and without unreasonable delay. The appeal outcome can confirm the original disciplinary sanction or decrease it, but not increase it as it is not a rehearing of the case.

## 11) Support

The Council recognises that the disciplinary process can be a cause of worry and anxiety to many and are committed to supporting all staff throughout their employment who may have concerns. Staff can seek advice and support through the Employee Assistance Programme, Human Resources or their trade union.

## 12) Appendices

The following appendices are templates and guidance that managers may use to support them in conducting a Disciplinary. The templates provided are for disciplinaries relating to misconduct, for templates relating to cases of gross misconduct it is recommended that managers seek support from HR who have a suit of resources that can be used in cases of gross misconduct.

### A – Suspension risk assessment

Date:			
Manager:			
HR Lead:			
Name of Employee:			
Department:			
Issue/Incident:			
Reported by:			
Evidence obtained prior to Risk Assessment:			
<b>Potential Risks</b>	<b>Is this a Risk Yes/No</b>	<b>Explanation</b>	<b>Risks Likelihood</b> 1=Rare 2=Unlikely 3=Possible 4=Likely

			<b>5=Almost Certain</b>
Risk of harm to public/service users			
Risk of harm to employees			
Risk of harm to self			
Risk of harm to council property			
Risk of harm to council (e.g reputational damage)			
Risk of Fraud			
Risk of Service Provision			
Risk of employee interfering with evidence during investigation			
Risk of employee influencing witnesses during investigation			

**Actions to be considered to reduce risk without suspending employee:**

1. Employee remains at work and duties are temporarily amended and/or
2. Employee remains at work and place of work/the team in which the employee works is temporarily changed; and/or
3. Employee remains at work under increased supervision

**Decision following Risk Analysis**

Having considered the factors and risks outlined above and whether such risks can be managed without resorting to suspension, the manager has the following option available to them.

1. Employee remains at work and no changes are made to place of work or duties; and/or
2. Employee remains at work and duties are temporarily amended and/or
3. Employee remains at work and place of work/the team in which the employee works is temporarily changed, and/or
4. Employee remains at work under suspension

Or

5. Employee is suspended

Please record the decision taken and the reasons for the decision.

**Outcome**

Outcome of Assessment and Decision

Date:

Signed:

Job Title:

Date:

Signed:

HR Lead:

**B – Suspension letter template**

**Strictly private and confidential**

**1st Class Special Delivery or  
1st Class Mail and By hand**

Dear .....

**RE: DISCIPLINARY PROCEDURE – CODE OF CONDUCT (Including Disciplinary Rules): SUSPENSION**

I am writing further to our meeting held on (insert date) to confirm the decision to suspend you from your duties with effect from (insert date of suspension meeting).

The suspension will be on normal pay and will operate until there has been time to fully investigate the allegations(s) of:

- \* (detail the allegation(s)) **Insert relevant wording from code of conduct <http://intranet/shared-service-centre/human-resources/hr-policies-and-procedures-library#cpolicies> AND detail the allegation AND date alleged to have taken place**

We reserve the right to change or add to these allegations as appropriate, in the light of our investigation.

Every effort will be made to complete the investigation as soon as practicable. You will be given every opportunity to state your position as part of the investigation. At such

time you can be accompanied by a Trade Union representative or colleague. You must make your own arrangements in this respect.

During this suspension, you are not to enter any Haringey Council premises, use council systems, nor make contact with any colleagues without the express permission of your manager.

You may access the Council's Employee Assistance Programme (EAP) scheme for emotional support and advice. The EAP scheme is provided by People at Work and is a free and confidential for all employees. You can contact them by phone on 020 3286 1545, by email [support@peopleatwork.co.uk](mailto:support@peopleatwork.co.uk) or online at

[www.peopleatwork.co.uk/my-eap/login](http://www.peopleatwork.co.uk/my-eap/login)

- Log in: **Haringey**
- Password: **Support10**

You must also make yourself available during normal working hours. If you wish to take any annual leave during the period of your suspension then this needs to be authorised by your Line Manager in the normal way. If you are sick at any point during your suspension then you must follow the normal sickness reporting procedures. If you wish to request any other leave then the normal authorisation/notification procedures apply; I enclose a guidance sheet for information.

You should be aware that if you are required to be registered with a professional organisation as part of your employment eg as a Social Worker, Teacher, Youth Worker, the Council has a duty to advise the organisation of your suspension.

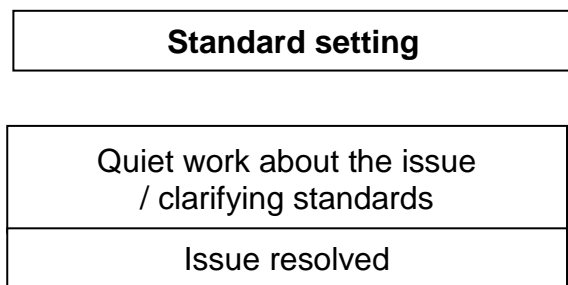
Yours sincerely

Manager Name

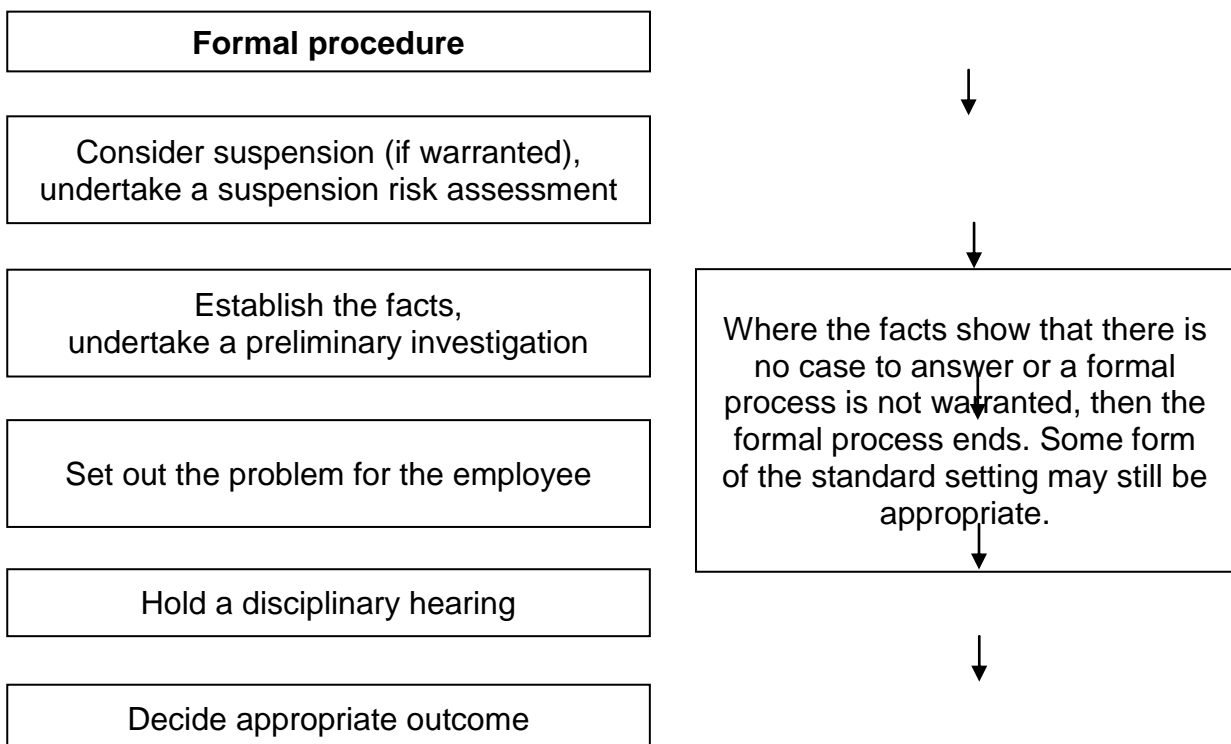
Job Title

Enc Information for Staff suspended from duty

### C – Flow chart (standard setting)



### D – Flow chart (formal process)







Allow an appeal

## E – Disciplinary report template

**Strictly confidential**

### Report of a Management Investigation

Investigation report into allegations against .....

**Name of Investigator:** .....

**Date of Report:** .....

#### 1 INTRODUCTION

13) This report is of an investigation I conducted under the Council's Disciplinary Procedure. I am ..... ( name and role length of service )

14) The investigation was instigated by..... following allegations against ..... made by in respect of .

15) ..... was suspended from duty on.....in order to fully investigate the following serious allegations:

16) The above constitutes an allegation of gross misconduct i.e a serious breach of the Councils Disciplinary Code of Conduct.

#### 2. BACKGROUND

1. ....has been an employee of Haringey Council since . He/ she was appointed as a.....

2. The ..... Service ..... (describe service provided ).

3. The main expectations of ..... role are that .

### 3. CONDUCT OF THE INVESTIGATION

1) I met with ..... on .....to ascertain the initial fact finding conducted into the case .....

2) I interviewed ..... and .....on witness statements were compiled on the basis of these interviews, which are included on pages ... to .....

3) I interviewed .....on..... . A transcript of the interview is on page .....

4) The investigation was conducted impartially and in accordance with the Council's policies and procedures.

### 4. FINDINGS

1) In his/her interview on..... .... states that.....

2) In his/ her witness interview ..... states that .....

3) In an email dated ..... from ... to .....she /he states that .....

4) Document.....dated ...set out .....

### CONCLUSIONS

Having interviewed all those described above, I have come to the following conclusions

*For example;*

1) ..... admitted .....(the allegation) and has (apologised/ explained the mitigating circumstances)

2) The witness statement provided by ..... corroborates .....’s claim that .....

3) The information provided in ... (documents) demonstrate that .....

4) The contradictions in the statements of ....and..... are in my opinion more than can be accounted for by an honest difference in perception.

### 4. RECOMMENDATION

I recommend that this matter is brought before a disciplinary hearing to consider the

following allegations of gross misconduct:

- 1) that .
- 2) that .

Signed xxxxxxxx

Date: \*\*.

## F – Invitation to hearing template

### DISCIPLINE - REQUEST TO ATTEND A DISCIPLINARY HEARING - MISCONDUCT

**Strictly Private and Confidential**

**By Hand or  
1st Class Mail and  
1st Class Recorded Delivery**

Dear .....

#### **RE: DISCIPLINARY CODE OF PRACTICE: DISCIPLINARY HEARING**

I am writing to inform you that you are required to attend a disciplinary hearing, which will be chaired by (name of manager hearing the case and their title) on .....(date) at ..... (time) in..... (place).

The hearing will consider an allegation of misconduct, specifically:

\* (Detail the allegation(s)).

I enclose a copy of the procedure that will be used at the disciplinary hearing and the documents (as listed) that will be referred to by management during the hearing. Management will be calling the following witness(es): ..... (name(s) of witness(es)).

You are required to provide management with copies of any documents you will be referring to at the hearing and any witnesses that you may be calling, at least two working days before the hearing. You are advised that you are entitled to be represented by a Trade Union representative or colleague and should make your own arrangements to this end.

I must also advise you that, should you be unable to attend the hearing due to

sickness, then you must obtain and provide, prior to the hearing, a medical certificate/statement from your doctor specifically stating that you cannot attend the hearing due to sickness. A general medical certificate covering the day in question will not be sufficient. In this circumstance, the hearing officer will make the decision whether to defer the case or to hear it in your absence

Yours sincerely

Name  
Title

## **G – Procedures for conducting a formal disciplinary hearing**

### **HR ADVISORY NOTE: Disciplinary Hearing Formal Procedure**

#### Introductions

The Chair will ask those present to introduce themselves and explain the purpose of the hearing:

This disciplinary hearing has been convened to hear all relevant and appropriate evidence about the alleged gross misconduct against EMPLOYEE X specifically:

- DETAILS OF ALLEGATIONS AS DETAILED IN LETTER
- That you acted in a way that could bring the Council into disrepute

The hearing also provides **EMPLOYEE X** with an opportunity to present her/his defence.

***As the decision maker, I need to be clear that I have heard all the evidence and information to be able to reach a fair and balanced decision.***

#### Summary of the hearing procedure

##### **Management Case**

1. The case against the employee will be presented first, including calling any witnesses.
2. The employee, or their representative, will have the opportunity to ask questions of the manager and any witnesses that may have been called.
3. The Chair, and adviser/s, may ask questions of the manager and any witnesses that may have been called.
4. Following questions the manager has the opportunity to re-examine the witness.

### **Employee side Case**

5. Then the employee and/or their representative will present their defence including calling any witnesses.
6. The manager will have the opportunity to ask questions of the employee, or their rep, and any witnesses that may have been called.
7. The Chair, and HR Adviser, may ask questions of the employee, and/or their rep, and any witnesses that may have been called.
8. Following questions the employee or rep has the opportunity to re-examine their witness.

### **All Parties have presented their Cases**

#### **Case Summary by all Parties**

9. Once the case and defence have been presented both sides will have an opportunity to give the hearing a summary of their cases. The case against the employee will be summarised first. No new evidence can be introduced in closing statements.
10. During the employees closing statement any mitigation as to why a particular sanction should not be imposed will also be given.

#### **Chair's Deliberation**

11. The Manager presenting the case and the employee and rep will leave the hearing to allow the Chair and HR Adviser to deliberate in private. The parties can be recalled to clarify any points of uncertainty.
12. Having deliberated, the Chair will generally recall both parties to the room in order to give a decision on the case. It may sometimes be necessary for the Chair to give a decision on the case at a later date if the deliberations are likely to last a long time.

#### **Close of Hearing**

## H – SANCTION LETTER TEMPLATE

### DISCIPLINE - WRITTEN WARNING - MISCONDUCT

**Strictly Private and Confidential**

[Insert date]

[Insert Name]

This matter is being dealt with by: [insert name]

[ADD1]

Telephone: 020 8489 [insert ext]

[ADD2]

Email: [insert email]@haringey.gov.uk

[ADD3]

Delivery By: 1<sup>st</sup> Class & Special Delivery

Dear [Insert Name]

**RE: DISCIPLINARY PROCEDURE – CODE OF CONDUCT (Including Disciplinary Rules): WRITTEN WARNING**

I am writing to confirm my decision made at the disciplinary hearing on ..... (date) at ..... (location) at which you were represented by ..... (name and union) (or "at which you chose not to have a representative present").

The hearing considered the following:

- \* (detail the allegation(s), as in the letter calling the employee to the hearing)

After very careful consideration of all the relevant evidence produced at the hearing, ( I found the allegation(s) substantiated) (or " on the balance of probabilities, I find the allegation(s) substantiated") and this amounts to misconduct.

- \* (detail the reasons why the allegation(s) was/were substantiated)

**Consequently, I am issuing you with this written warning which will be held on your file but disregarded for disciplinary purposes after a period of six/twelve months.**

I must however inform you that any further breaches of conduct in this period could make you liable to further disciplinary action under Section 6.7 of the Council's

Disciplinary procedures which could result in further disciplinary sanction/s.

**RIGHT OF APPEAL**

You have the right of appeal against the sanction. The appeal will be a review conducted by a more senior manager than the person who imposed the original sanction. If a Second or First Tier manager made the decision another manager at the same levels may conduct the appeal.

If you decide to appeal, you are required to do so in writing within 10 working days of the date of the letter confirming the decision of the disciplinary hearing by completing the enclosed Appeal Submission Form.

The grounds of appeal must clearly layout full reasons for making the appeal including whether it is:

- against the basis on which the allegation/s was found to be proven
- against the level of sanction imposed
- that the process followed at the original hearing was incorrect
- to take into account evidence which came to light after the hearing and which you believe to have a material effect on the outcome of the case

Failure to supply full reasons for making the appeal will render the appeal suspended until full reasons are supplied. This will be the decision of the Head of Human Resources, Alexandra House, 10 Station Road, Wood Green, London, N22 4TR.

Yours sincerely

Name  
Title

**DISCIPLINARY PROCEDURE: APPEAL SUBMISSION FORM**

Employees who receive a formal sanction of a written warning or above have a right of appeal against this decision. The appeal must be made in writing using this form. The completed form must be returned within 10 working days of the date of the decision letter and must be completed in full, outlining the reasons for the appeal.

<b>Name</b>		<b>Service</b>	
-------------	--	----------------	--

<b>Job Title</b>		<b>Contact Telephone</b>	
<b>Line Manager</b>		<b>Trade Union Rep</b>	
<b>Summary of Finding at Final Hearing:</b>			
1. Dismissal 2. Other sanction – (please specify)			
<b>Indicate your reason for making the appeal</b>			
1. Against the basis on which the allegation was found to be proven		2. Against the level of sanction imposed	
3. That the process followed at the original hearing was incorrect		4. To take into account evidence which came to light after the hearing and which you believe to have a material effect on the outcome of the case	
<b>Please outline your appeal, giving as much detail as you can (including any evidence you have to substantiate your appeal) (please include your name on any supplementary sheet submitted)</b>			
<b>Please note that your appeal will not be lodged until the form is completed in full.</b>			
<b>Signature</b>		<b>Date</b>	
<b>The completed form must be returned to:</b> <b>HEAD OF HR, LEVEL 5 ALEXANDRA HOUSE, 10 STATION RD, WOOD GREEN, LONDON N22 7TR</b>			

## I – EXAMPLES OF GROSS MISCONDUCT

In line with our values, there are some acts that could be described as gross misconduct, for example:



- removing, deliberately damaging or misusing council property
- using the internet, email, social media, electronic software and information systems inappropriately
- acts of dishonesty, including theft and fraud
- deliberate falsification of statements, time sheets, expenses claims, etc.
- inappropriate or offensive behaviour towards customers or colleagues including bullying, sexual or racial harassment
- physical violence
- improper use of your position or the Council's name for personal gain including the soliciting or acceptance of bribes
- being under the influence of alcohol or drugs at while at work
- deliberate failure or refusal to carry out reasonable management instructions relevant to the duties of your post.
- carelessness or negligence, causing loss, damage or injury; or a serious breach of health and safety practice.

These are just examples and are not intended to be exhaustive.

## **J – EXAMPLES OF MISCONDUCT**

Misconduct is any action which are deemed as a lower level misconduct but where it is not appropriate to be dealt with informally or where there is a repetition of minor misbehaviour/misconduct following the informal stage.

Examples of misconduct:

- Persistent lateness
- Not following a manager's instruction
- Not following the Council policies or procedures
- Using inappropriate language

## Document Control

Key Information	
Title	Disciplinary Policy Practice Notes
Document Type	Practice Notes
Document Status	
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Owner	Human Resources
Contact	HR Policy Officer, Haringey
Date of Publication	To be agreed
Date of Review	To be agreed

Revision History			
Version	Date	Summary of Changes	Name
0.1	25/09/2019	Draft	SB
0.2	30/09/2019	Draft with HR comments	SB
0.3	14/10/19	Draft with TU and Network comments	SB
0.4	01/11/19	Final draft	SB